

Regulatory Impact Statement

Country Fire Authority Regulations 2014

August 2014

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Summary

The Country Fire Authority Regulations 2004 (existing regulations) are due to sunset on 26 January 2015. The proposed Country Fire Authority Regulations 2014 (proposed regulations) will replace the existing regulations with limited amendments.

Broadly speaking, the content of the existing and proposed regulations can be divided into two parts. Firstly, the regulations cover a wide range of administrative matters in connection with the operation of the Country Fire Authority (CFA or 'the Authority'). Secondly, the regulations prescribe requirements for the fire danger period; also authorising the CFA to charge the prescribed fee for emergency attendances, and to determine and charge fees in connection with services it provides, which fall outside its core fire prevention and suppression functions.

Specifically, the regulations broadly contain:

1. Matters relating to the internal management of CFA employees and members

These matters include the registration and functioning of brigades including forestry industry brigades; a range of disciplinary processes, such as the establishment of disciplinary offences and penalties, processes for hearings in relation to alleged offences and appeals against findings. They also include provisions for compensation of volunteers for personal injury and/or property losses incurred while undertaking service as a member of the CFA.

2. Matters relating to fire prevention and suppression functions and the ability to charge fees for CFA services

These matters include prescribing fire danger period requirements and the issuing of fire prevention notices, while regulations also authorise fees to be charged for the provision of services, including for fire protection, property protection and loss mitigation, road accident rescue and emergency attendances. In three cases, the regulations authorise the CFA to determine fees administratively. In the fourth case, a specific fee is prescribed in the regulations for emergency attendances.

Overview of the regulations

Administrative regulations

Parts 1 and 2 of the proposed regulations are preliminary in nature, while parts 3 to 6 deal with internal administration of the CFA and administration of forestry industry brigades. Specifically:

- Part 3 deals with employee management;
- Part 4 deals with forming and administering brigades; and
- Part 6 deals with paying compensation to volunteers.

The Department of Justice considers that the elements of the regulations that deal with the management of CFA employees and volunteer members do not impose significant costs on the

community, except for the Part 5 requirements on forestry plantation owners to form forestry industry brigades. Rather, the regulations relating to these matters simply specify aspects of management practice. For example, Part 3 establishes certain disciplinary offences and specifies processes for investigating possible offences, laying of charges, conducting hearings, levying penalties, and hearing appeals. Part 6 ensures that volunteers who suffer injury or loss to property while working with the CFA receive compensation.

These regulatory aspects are intended to contribute to the CFA's efficient operation, and ensure employees and members are treated fairly. Fair treatment of volunteers is important to ensure people continue to be willing to volunteer their time and that the CFA continues to benefit from the ability to deploy these additional resources. Treating employees and members fairly also contributes to organisational efficiency and effectiveness. Therefore, these administrative regulations aim to ensure the operational effectiveness of the organisation and indirectly benefit the community it serves. Such matters are usually dealt with within organisations via internal policies and/or industrial agreements, however the Country Fire Authority Act 1958 (CFA Act) clearly envisages that these matters are to be specified in regulation so requirements are as transparent as possible and consistently applied.

Given the legislative basis for these matters to be specified in regulation, failure to include them in the scope of the regulations may inhibit the ability of the CFA to carry out its functions effectively and efficiently. For example, the Act does not go into detail about the governance arrangements for the CFA and unless these matters are prescribed in regulation, there is no certainty as to what constitutes the boundaries of the CFA's legal authority and giving effect to the Act would be difficult.

There was no formal consultation on these aspects of the regulations prior to publication of this RIS. However, no significant concerns with the operation of the current regulations have been identified or raised by CFA members, or employees or their representatives. As a consequence, the RIS acknowledges the availability of alternatives to the existing administrative regulations but no formal assessment of alternatives was undertaken.

Stakeholder views are invited to assist in identifying any feasible alternatives to improve the operation of the administrative regulations, as described above. Given the lack of formal consultation on this issue prior to the publication of the RIS, stakeholder views are particularly invited on:

- ***The disciplinary arrangements established in the current regulations and replicated substantively in Part 3 of the proposed regulations.***
- ***The arrangements established in the current regulations and replicated substantively in Part 4 of the proposed regulations regarding forming and administering brigades.***
- ***The current compensation arrangements, substantively retained in the proposed regulations, and whether any specific improvements can be identified.***

Forestry industry brigades

Part 5 of the proposed regulations deals with the formation of forestry industry brigades. The CFA Act empowers the Authority to designate areas of the country Victoria in which it is appropriate for forestry plantation owners to form forestry industry brigades. The Act also empowers the CFA to

require forestry plantation owners to establish brigades and equip them at their own expense. Within this context, the proposed regulations for establishing forestry brigades primarily deals with two matters:

1. Setting out criteria to determine when forestry industry brigades must be formed – the proposed regulations maintain the existing threshold of 500 ha , and where no other firefighting resources are available to adequately protect the plantation holdings; and
2. Prescribing the equipment and staffing requirements on relevant owners in establishing forestry industry brigades.

The proposed regulations are unchanged from the existing regulations in this area, except to reflect changes to the CFA Act, made through the *Justice Legislation Amendment Act 2014*, to enable forestry industry brigades to assist the CFA outside of their own plantation holdings for fire prevention. The legislative changes provide appropriate indemnities for forestry industry brigade members and officers when operating outside of their plantation holdings, in accordance with the CFA Act and the regulations. The amendments to the Act were made after forestry industry brigades requested the changes. As discussed below private and public benefits derive from allowing plantation owners to deploy their resources outside their plantations at the request of the CFA.

Setting criteria to establish forestry industry brigades could be considered cost-reducing (in relation to the legislative requirement) because it limits the scope of the use of this power and the costs that can be imposed. Conversely, the regulatory requirement in relation to staff and equipment provision may impose costs on private landholders, but these are expected to be relatively small considering the significant private incentives landowners have to resource an appropriate firefighting capability.

No specific consultation was undertaken before publishing this RIS on the appropriateness of the current thresholds for potentially establishing a forestry industry brigade, or in relation to current staff and equipment requirements, though as indicated above, forestry industry brigades have sought the ability to assist the CFA outside of their forestry plantations with fire prevention and suppression activities. Volunteer Fire Brigades Victoria (VFBV), was consulted on the legislative changes described above, as the peak body for volunteer members. VFBV indicated that the legislative changes appeared to be a logical reform to the arrangements.

Further comments from stakeholders are invited on alternative approaches to Part 5 of the proposed regulations, to improve the future administration of forestry industry brigades under the regulations. Stakeholder comment is particularly invited on whether consideration should be given to adopting a different minimum plantation size threshold for formation of a forestry industry brigade and, if so, what would be the key justifications for such change. Stakeholder comment is also sought on the appropriateness of the proposed regulations related to minimum apparatus (equipment) requirements.

Fees regulations

The fee setting provisions of the Act enable the CFA to provide a number of services outside its core remit of fire prevention and suppression, on a 'fee for service' basis. These include recovering costs for emergency callouts from false alarms or other non-fire-emergency related attendances and

services. Charging fees in these areas is mostly to ensure the cost of providing these services is borne by appropriate parties. This improves equity and, in some cases, efficiency outcomes. CFA's core funding for emergency fire response is provided through the Fire Services Property Levy, paid by property owners through municipal Council rates. The State Government also contributes funding to the CFA, while costs recovery arrangements constitute the remainder of CFA's funding.

There is merit in funding non-emergency service provision on a user-pays basis to prevent cross-subsidisation from property owners for services that do not confer a benefit on those property owners. For example, fees for attendances at incidents on vessels, at hazardous materials incidents or for road accident rescue are not recouped through the Fire Services Property Levy. To the extent that these fees do not reflect full cost recovery of recoverable costs, cross-subsidisation by property owners would occur. Fees for false alarm call-outs also provide incentive for property owners to properly manage their alarm systems to reduce false alarms and avoid unnecessary use of CFA resources.

The proposed fees regulations would mirror those currently in place, with the exception of the fee prescribed for emergency attendances. The proposed fee regulations, and their current impact are:

Fire Protection Charges

Proposed Regulation 99 would authorise the CFA to set fees in relation to three different fire protection related activities.

1. Fees may be charged for inspections of applications under the *Building Act 1993*. This involves CFA advising on fire prevention and suppression equipment to be incorporated in building designs where these proposals differ from the "deemed to satisfy" provisions of the National Construction Code. This also includes assessing non-compliant water supply and access requirements for class 1a buildings in areas affected by the 2009 bushfires.
2. The CFA is empowered to charge a fee for provision of advice on fire prevention and suppression matters more broadly.

In both these areas, fees are charged at an hourly rate and adjusted by the CFA. They currently equate to \$110 plus GST.

These two activities are conducted on a small scale by the CFA, with total revenue from these fees of about \$170,000 in 2012-13.

3. The CFA is empowered to charge fees for testing and inspecting fire prevention and suppression equipment. These fees are approved from time to time by the CFA Board on the advice of a specialist advisory committee, and are set to reflect the value of the service provided in a competitive market. Specific fees are set for maintaining specific types of fire extinguisher. Attendance fees are also specified. There is a high demand for CFA service provision in this area, particularly in rural and remote areas where other service providers may not be available, or may only be able to provide services at high cost. However, CFA competes in this area with commercial providers around the state. The CFA provides these services using a mix of employees, members and (where its own resources are insufficient to

meet demand and it can do so while generating net revenue) Victorian Government-approved external contractors.

The CFA generated gross revenue from these fees of \$8.1 million in 2012-13. These fees therefore account for most fee revenue received by the CFA, which totalled \$13.4 million in 2012-13. The revenue from these fees significantly exceeds the costs of service provision, even after competitive neutrality payments (totalling \$800,000 in 2012-13) are made to the Department of Treasury and Finance (DTF). Therefore, net revenue received from fire protection activities is applied to funding other CFA activities and increases its available operational resources in the other service areas.

Emergency attendances

Proposed regulation 100 also enables the CFA to charge property owners, or other liable parties, for emergency callouts caused by false alarms and other, non-fire related causes. The CFA has discretion to charge a fee in specific cases of false alarm call-outs and exercises this discretion in conformity with an internal charging policy. Charging generally occurs where a property has been the subject of more than one false alarm and/or where the CFA believes due care has not been taken to avoid false alarms.

This is the only fees regulation that specifies the amount charged, as distinct from enabling the CFA to determine the amount of the fee.

Importantly, it is also intended to simplify this fee by replacing the current three-part structure with a single fee. The current structure differentiates fees according to the number of employees on duty and in effect, charges lower fees where more volunteer labour is used. The proposed single fee reflects the view that the value of the services provided by volunteer firefighters is equal to that provided by employee firefighters of the same classification and should therefore attract the same fee. The proposed fees would also be increased by approximately 30%, from 30.21 fee units to 39.45 fee units per appliance attending, per 15 minutes or part thereof¹. The single fee will attract higher fee increases where services are provided by brigades with one or no employees on duty, as set out in Table S1, below, however CFA advises that most emergency attendances are by brigades with more than one employee on duty, in which case most users will incur a 30.6% fee unit increase.

Table S1: Proposed increases in fees for emergency attendances

Fee	Current (fee units)	Proposed (fee units)	Increase (%)
For attendance by a brigade where more than 1 employee is on duty	30.21	39.45	30.6%
For attendance by a brigade where only 1 employee is on duty	22.36	39.45	76.4%
For attendance by any other brigade	12.71	39.45	210.4%

¹This comparison is made in relation to the provision of services by brigades that are staffed by more than 1 employee, as these brigades mostly provide emergency attendance services.

The proposed fee increase is expected to increase revenue from this source from approximately \$2.1 million in 2012-13 to approximately \$2.8 million in its first full year of operation. However, the net increase in revenue due to this fee increase may decline over time if the higher fee level encourages owners of fire alarm systems to manage them more effectively to reduce the number of false alarm call-outs.

Property protection and loss mitigation services

Proposed regulation 101 would authorise the CFA to charge fees for the provision of services for property protection and loss mitigation. Section 97C(1) of the Act enables the CFA to enter into an agreement with any person to provide such services to that person, and sub-section (2) authorises the CFA to charge for those services. Specifically, this section enables the CFA to enter into agreements to provide property protection or loss mitigation services "...for the prevention of, or to deal with, the effects of any emergency or hazard".

This regulatory power is rarely used in practice. As indicated in table 5.1, it has not been possible to identify revenue obtained in relation to this regulation over the last five years, except for revenue associated with attendance at the Philip Island Motorcycle Grand Prix. This means that no reliable information is available on charging practices under this regulation to enable a meaningful analysis of the costs and benefits. Nonetheless, services proposed by this regulation would be provided competitively which promotes the efficient allocation of resources. The CFA proposed regulation 101, is not substantively different from existing regulation 99, and does nothing other than to enable the CFA to set a fee for these services, subject to the general direction of the Minister under section 6A of the Act.

Road accident rescue

Proposed regulation 102 empowers the CFA to levy charges on the Transport Accident Commission (TAC) or Victorian Workcover Authority (VWA) for road accident attendances. Fees must be set out in a prior agreement between the CFA and the TAC or VWA. Charging a fee in this area ensures that the cost of road accident rescue is reflected in the TAC or VWA charge, which insures against personal injury in the event of road accidents, rather than being met by property owners through fire services levies.

Annual revenue from this source was approximately \$1.6 million in 2012-13.

Identification and assessment of feasible alternatives

Two alternatives to the proposed fees regulations were considered. Option 2 differs from the proposed regulations in that it would specify the fees to be charged pursuant to proposed regulations 99(1)(a), (b) and (c), for certain fire protection charges, in the body of the regulations themselves, rather than leaving these fees to be set at the discretion of the CFA.

The key benefit of this alternative is that it provides greater transparency and accountability in relation to these fees. That said, the fee for assessment of applications under the *Building Act 1993* and for the provision of advice on fire prevention and suppression (i.e. proposed regulations 99(1)(a),(b) and (c)) would necessarily be specified only as an hourly rate, given varying time inputs required in this area.

A second practical benefit of specifying the hourly rate in the regulations is that it would, as required under the *Monetary Units Act 2004*, be specified in terms of "fee units", and would therefore be automatically adjusted on an annual basis to maintain its real value at the time. By contrast, while the fee is set administratively, the current hourly fee is unchanged in dollar terms since 1996.

This alternative would be less flexible because amending regulations would be required to make any changes in the real value of fees. This is a potentially significant fees issue for inspection and maintenance of fire suppression equipment (proposed regulation 99(1)(c)), given that these fees have frequently been amended according to advice from the CFA's expert advisory committee in order to reflect the value of the service provided given the CFA's provision of these services in a competitive market. This issue is compounded by CFA's provision of these services in a competitive market and the need to set fees that are competitive with the market price for those services.

Option 3 is to remake the existing fees regulations without amendment. This option differs from the proposed regulations only in that it would make no changes to fees for emergency attendances. Keeping these fees as they are seems appropriate considering the lower cost of providing these services in the 10 years since current regulations were adopted. Moreover, the current calculated level of cost recovery of approximately 77% seems an appropriate outcome considering the CFA's adoption of a partial cost recovery approach for the assessment of applications under the *Building Act 1993*, and the provision of advice on fire prevention and suppression.

That said, option 3 would not provide incentives to property owners to reduce their call on CFA resources due to false alarms on the basis of total cost to society. Further, it would continue to give rise to cross-subsidisation of fees for emergency attendances, the costs of which would be funded from other revenue where there are private and public benefits and contributions.

It is therefore likely that annual revenues for the three options would be approximately:

- \$14.1 million, for the proposed regulations (Option 1);
- \$14.3 million, for Option 2; and
- \$13.4 million for Option 3.

These estimates are made on a 'steady state' basis, reflect the prices and service volume of 2012-13 and vary only by the specific changes proposed in each case.

Multi-Criteria Analysis

The relative merits of the three options cannot be assessed entirely on their respective short-term revenue implications. Given the difficulty of quantifying the various benefits and costs of the options, a multi-criteria analysis was undertaken to determine the preferred option.

Three assessment criteria were identified and are discussed below. Each option was assessed against these criteria and scored from -10 to +10. Proposed regulations replace sunseting regulations so the base case against which the options were assessed was one where no regulations apply. To clarify; a positive score was considered preferable to an unregulated alternative, and a negative score less preferable to an unregulated alternative.

The three criteria were considered of similar importance to determine the preferred option and were therefore weighted equally.

Criterion 1: Transparency and accountability

Transparency and accountability are favoured if the fees set are widely published and available to stakeholders, and if the basis for fee setting is also made clear via a RIS and external scrutiny. This implies that fees set in regulations must generally be preferred to those set at the discretion of an agency under a general fee setting authority. In this case, Option 2 is preferred to Options 1 and 3 because it would specify an hourly rate under proposed regulation 99(1) for fire protection charges, as well as set specific fees under proposed regulation 100(3) for emergency attendances. Given that Option 2 still allows some fees to be set subject to agreement rather than in regulation, Option 2 scores less than the maximum possible score, with + 7.

Options 1 and 3 receive a lower score of +6. The limited difference between the options on this criterion indicates that, while Options 1 and 3 would not set the fees for testing and inspecting fire prevention and suppression equipment (which comprise almost two thirds of all CFA fee revenue) in regulation, the setting of this fee would continue to be determined by the Board subject to the advice of an expert committee with strong stakeholder representation. Given this, and the fact that the resulting fees are consistently published on the CFA website, it is considered that a high level of transparency and accountability are maintained under these existing arrangements.

Criterion 2: Consistency with fees and charges guidelines

Fees regulations are required to be consistent with the DTF Cost Recovery Guidelines. These guidelines generally require that regulatory fees should be set at levels consistent with full cost recovery unless there is a clear public policy rationale for departing from full cost recovery.

Given this, Options 1 and 2, which would set the emergency attendance fee on a full cost recovery basis, are both preferred to Option 3.² Option 2 would also set fees under proposed regulation 99(1) for fire protection services at cost recovery levels, so it is preferred to Option 1. While there is no formal impediment to adopting a full cost recovery based fee under Option 1 for certain fire protection charges, practical experience indicates that this outcome has not been achieved administratively. The fact that costs incurred in this area are relatively small, these two options score similarly. Accordingly, Option 2 scores +8, option 1 scores +7 and Option 3 scores +4.

² As is noted in Box 5.2 on page 46, Options 1 and 2 depart from full cost recovery in relation to emergency attendances by valuing volunteer labour at market rates to ensure that the cost of charges for false alarm call-outs reflects the true cost to society of false alarms. However, this fee is described as a full cost recovery fee for simplicity.

Criterion 3: Flexibility and responsiveness

Fees may potentially need to be revised on a relatively frequent basis, if the nature of the services provided changes, the means of delivering them or the costs of the resources used to deliver them change significantly. Setting fees in the regulations themselves ensures that they are automatically adjusted by the annual rate specified by the Treasurer in the budget context (a rate that is usually in parity with the Consumer Price Index) and will therefore broadly maintain their real value over time.

However, setting fees in regulation means that regulatory amendments are required before substantive changes can be implemented. In the current context, the factors affecting the appropriate fee level relate to the costs of providing very specific services, which may not change in a manner closely related to CPI changes over time. On balance, the options that leave regulations to be set administratively (subject to general regulatory provisions) are preferred for this criterion, as they enable the emergency attendance fees to better reflect the actual costs of providing the services, and also enable the fees for inspections under the *Building Act 1993* and for fire prevention and suppression advice, to better reflect both the market price and cost.

This means that Options 1 and 3 are preferred to Option 2. Of particular note is that both options allow for variation in the fee for testing and inspecting fire prevention and suppression equipment without the need for regulatory change, given that this function accounts for such a significant proportion of CFA revenue.

Options 1 and 3 therefore score +8 on this criterion. Option 2 scores +5.

Table S2 summarises the scores for the above analysis.

Table S2: Scoring on Multi-Criteria Analysis

Option	Transparency and accountability	Consistency with fees and charges guidelines	Flexibility and responsiveness	Total
Option 1 (Status quo but for full cost recovery emergency attendances)	+6	+7	+8	+21
Option 2 (as for Option 1, plus specification of Regulation 99(1)(a),(b), (c) fees)	+7	+8	+5	+20
Option 3 (Status quo)	+6	+4	+8	+18

Table S1 shows that all three options receive large positive scores and are preferred to the base case option of allowing the existing regulations to lapse.

The three options score similarly. However, Option 3 (maintaining the status quo by remaking the current regulations without amendment) scores lowest with +18. This largely reflects its poor score on the criterion of consistency with the DTF fees and charges guidelines. Option 1 is slightly preferred to Option 2, scoring +21 points compared with Option 2's +20 points. This partly reflects the lower score of Option 2 on the criterion of flexibility and responsiveness.

Consequently, the proposed regulations are preferred.

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1. Introduction

The proposed regulations will replace, with limited amendments, the existing Country Fire Authority Regulations 2004, which are due to sunset on 26 January 2015 as a result of the operation of the *Subordinate Legislation Act 1994*.

The regulations deal primarily with the internal operation of the Country Fire Authority (CFA), addressing matters such as disciplinary issues in relation to CFA employees and members, provide for compensation, establishment of CFA brigades and forestry industry brigades, and matters relating to membership of those brigades. They also prescribe requirements related to the fire danger period and provide for the issuing of fire prevention notices. Part 7 of the regulations authorises the CFA to levy charges in respect of certain services.

1.1. The CFA

Organised Country Fire Brigades have been in operation for well over a century, with the first having been established under the authority of the *Fire Brigades Act 1890*. The CFA was established in 1945 to better coordinate country fire services in the wake of major bushfires occurring in 1939 and 1945.

The CFA has fire prevention and suppression responsibilities in the country area of Victoria, which is defined in the CFA Act, as that part of Victoria that lies outside the metropolitan district, but does not include forests, national parks and protected public land. Specifically, within the country area of Victoria, CFA has jurisdiction and duties as set out in sections 14 and 20 of the CFA Act:

- Section 14 vests in CFA the control of the prevention and suppression of fires; and
- Section 20 vests in CFA the duty of taking, superintending and enforcing all necessary steps for the protection of life and property in case of fire.

The Metropolitan Fire and Emergency Services Board (MFB) has fire jurisdiction over the metropolitan district, while DEPI has fire jurisdiction over forests, national parks and protected public land.

Specifically, the CFA has responsibilities in the country area of Victoria, in a range of fire and emergency related areas, including:

- wildfire suppression;
- structural fire suppression;
- transport related fire suppression;
- road accident rescue;
- hazardous materials transport and storage incidents;
- technical rescue;

- formation of forestry industry brigades;
- industrial accident response;
- other emergency activities including flood assistance;
- technical services, including building code related inspections and post incident investigations;
- fire safety planning for major community risks and fire prevention and land use planning at municipal level; and
- community awareness, education and safety programs.

The CFA is comprised of a total of 1,218 brigades, including 177 brigades serving predominantly urban communities and 905 brigades serving predominantly rural brigades³. In 2012-13, the CFA attended 43,084 incidents in addition to conducting a range of community education and fire preparedness-related activities, including conducting 2,224 home bushfire advice service visits, holding 1,005 Fire Ready Victoria workshops and 567 Community Fireguard sessions, as well as conducting 932 school and youth program sessions.

The CFA uses a mix of operational and support employees who are paid and members who are volunteers. Its employees numbered 1,875 as at 30 June 2013, of whom 810 were operational. However, these employees are significantly outnumbered by the 57,608 volunteers, including 38,099 operational volunteers, who add substantially to the CFA's capability as a primarily volunteer-based emergency service.⁴

Funding arrangements for both the CFA and the MFB have recently been substantially reformed by the Victorian Government. While the Government continues to make significant contributions to the operational costs of the fire services, the basis upon which property owners contribute to these costs has changed. The previous Fire Services Levy was applied to most property insurance premiums while contributions to the new Fire Services Property Levy are calculated based on the capital improved value of the property, and is levied through local council rates.

These funding arrangements, which operate on an insurance principle, mean that property owners are not charged directly for firefighting services provided.

However, the CFA does have the ability to levy user charges in a limited range of circumstances. These are:

- where fire protection services are provided, including inspecting applications made under the *Building Act 1993*, providing advice on fire prevention and suppression matters and testing and inspecting fire prevention and suppression equipment;
- for emergency attendances, where there is no fire, including attending hazardous materials incidents;
- for providing road accident rescue services; and
- for providing property protection and loss mitigation services.

³ The total also includes 96 fire brigades, 23 forestry industry brigades and 17 coast guard brigades.

⁴ In this document, references to "employees" mean staff paid by the Authority and references to "members" means CFA volunteers.

The proposed regulations, in common with the existing regulations, will provide for the fees to be set administratively, with the exception of the fee for emergency attendances, which will be prescribed. This is discussed further below.

2. Nature and Extent of the Problem

2.1. Overview

As noted above, the existing *Country Fire Authority Regulations 2004* are due to sunset. The material covered in those regulations remains fundamental to the effective management of the CFA in a number of areas. These relate particularly to:

- disciplinary issues in relation to employees (paid) and members (volunteers);
- the formation and management of brigades, including forestry industry brigades;
- certain basic elements of financial management;
- compensation for injury and loss incurred on duty by volunteers;
- requirements related to the fire danger period and issuing fire prevention notices;
- the establishment and management of fire prevention committees; and
- the ability to levy fees and charges in appropriate circumstances.

The following discussion highlights the problems, which regulations in these areas seek to address and, in doing so, clarifies the need to remake the regulations.

2.2. Administrative regulations

In essence, the need for the management related matters cited above to be regulated derives from the form of the principal legislation (the *Country Fire Authority Act 1958*), which clearly contemplates that a range of management-related matters shall be specified in subordinate legislation. Section 110 of the Act, which authorises the making of regulations, sets out a wide range of matters that can be dealt with in regulation, with 56 different matters being specified in this regulation. Consistent with this, a significant number of the provisions of the Act authorise matters to be dealt with "subject to the regulations". For example:

- Section 11(2) states that "*Subject to the regulations, the Authority may appoint any number of its members to be a committee...*"
- Section 23AA(1) states that "*The Authority may from time to time in accordance with the regulations designate areas in the country area of Victoria in which it is appropriate to establish industry brigades.*" and
- Section 39E(1) states that "*A person must not (a) conduct; or (b) engage in the conduct of a high fire risk activity in the open air in the country area of Victoria during a fire danger period except in accordance with the regulations.*"

As is common in Acts regulating the activities of public authorities, the specification of requirements and procedural matters is considered to be more transparent and subject to higher standards of accountability if set out in regulatory instruments. Thus, the Act sets out the broad outlines of requirements relating to the matters noted above, while creating regulatory powers enabling the specification of more detailed and specific material in subordinate legislation. Failure to specify these matters in regulation would be inconsistent with the clear intent of the Act. Importantly, it would compromise the effectiveness of CFA management in these areas, since uncertainty would arise as to the authority of the CFA to conduct these functions and activities in particular ways and there would potentially be substantial scope for challenge to its decisions, thus tending to undermine the operational and management effectiveness of the organisation.

Conversely, if administrative matters are specified in regulation in ways that are not accepted by CFA employees and members as fair and reasonable, it may negatively affect the organisation's ability to recruit employees and/or members, and function effectively. At a broader level, effective and fair administrative regulation should contribute to a positive environment within the organisation, thus promoting organisational effectiveness directly and indirectly.

Within the context of the administrative elements of the regulations, the provisions relating to the payment of compensation to volunteers for injury and loss sustained during service as a member is of particular importance. Failing to provide for compensation may negatively impact on the willingness of people to volunteer to serve with the CFA, which is effectively a volunteer-based emergency service organisation. In the absence of clear regulations in this area, potential volunteers may be uncertain as to whether, when and to what extent, compensation is payable.

No direct evidence of the potential problems highlighted above can be adduced, since the regulations have always been in place to support operation of the Act. However, as long as the Act remains in its current form, there will be a continuing need to specify these matters in regulation, as envisaged in the Act.

Forestry industry brigades

In relation to the establishment of forestry industry brigades, the key problem to be addressed by the regulations is that of creating certainty, or predictability, as to the ways in which the powers established under the Act will be exercised in practice in specific circumstances. The Act delegates the prescribing of criteria for formation of industry brigades to the regulations. This delegation necessitates regulations to be developed in order for the formation of forestry industry brigades, to give effect to the intention of Parliament. Moreover, the Act provides that the regulations will set out where brigades are required to be established, and that regulations be used to specify the level of staffing and equipment required to be supplied by owners responsible for forestry industry brigades.

The context is one of rapid growth in plantation area in recent times. Between 2000 and 2012 plantation area in Victoria expanded by 36.1% from 319,000 ha to 433,000 ha, even though most of

this growth occurred in the first half of the period. Nationally, plantation area is approximately equally split between hardwood and softwood plantations⁵.

Limited research data on issues related to bushfires in plantations appears to be available. However, one 2006 paper indicates that the fire risk posed by hardwood plantations appears to be significantly less than initially anticipated, and fire risk in softwood plantations is substantially greater. In many cases the latter can be extreme. In relation to hardwood plantations, the largest single fire occurring in Australia in the 12 years to 2006 burned 350 ha. Of a total of 30 hardwood plantation fires identified during this period, only three burned more than 100 ha, while the remaining 27 burned fewer than 40 ha⁶. While the total area burned was not reported, these statistics suggest that it was between 1,000 ha and 1,500 ha. By contrast, the paper reports that as of 2004 there were approximately 716,000 ha of hardwood plantations established nationally and 168,000 ha in Victoria.

CFA data on plantation fires covering the past two years is set out in Table 2.1.

Table 2.1: Fires in forestry plantations, 2012-13 & 2013-14

Type	Total fires	Ha burnt	Appliances despatched	Average appliances despatched
Softwood	66	272	430	6.5
Hardwood	22	1,944	97	4.4
Total	88	2,216	527	6.0

Source: CFA

Table 2.1 shows a total of 88 plantation fires in Victoria over the past two years, or an average of 44 per annum. Despite the fact that plantation area is approximately equally distributed between softwood and hardwood, as noted above, three quarters of these fires occurred in softwood plantations. Conversely, the great majority of the damage caused by these fires, in terms of hectares burned, occurred in hardwood plantations. However, this reflects the strong influence on the total statistics of a single fire in hardwood plantation that burned 1,800 ha. The remaining 21 fires in hardwood plantations therefore burned only 144 ha.

Table 2.1 also shows that a total of 527 appliances were dispatched to plantation fires by the CFA over the period, with an average of six appliances being despatched per fire. This underlines the points made above, to the effect that plantation fires lead to a significant call on CFA resources, notwithstanding the establishment of forestry industry brigades.

⁵ Department of Agriculture, Forests and Fishery (2013). *Australian Plantation Statistics 2013 Update*, p 6. [Http://data.daff.gov.au/data/warehouse/aplnsd9ablf002/aplnsd9ablf0022013/AustPlantationStats_2013_v.1.0.0.pdf](http://data.daff.gov.au/data/warehouse/aplnsd9ablf002/aplnsd9ablf0022013/AustPlantationStats_2013_v.1.0.0.pdf)

⁶ David Geddes (2006). *Fire Behaviour in Hardwood Plantations*. Paper presented to the Australian Forest Growers Conference 2006.

2.3. Fees regulations

As noted above, the Government has changed the way in which the fire services funding is calculated and the manner in which it accrues. The revised property-based funding has involved the primary funding source for the fire services changing from a levy imposed on a wide range of property insurance policies to a property levy collected by local government via the property rates system. This change is intended to improve the equity of the funding arrangements, in particular, by:

- avoiding cross-subsidisation of the costs of funding fire services to uninsured property owners by insured property-owners; and
- ensuring that there is a clear proportionate relationship between the value of a property and the size of the funding contribution made.

The revised funding arrangements continue to incorporate a contribution to fire services funding from the Victorian Government, reflecting the public benefits of the provision of fire prevention and suppression services.

The change from an insurance-based levy to a property-based rate addresses the question of the most appropriate means of funding core CFA activities (such as fire prevention and suppression), however the changes do not affect the related but separate issue of how other activities, which the CFA is authorised to perform under the Act, are funded. The CFA Act enables the Authority to provide services in a number of areas that go beyond its core business. It equally establishes powers for regulations to be made establishing fees to be charged. This provision of a fee setting power reflects the fact that providing these services, that also support the core functions of the CFA, on a 'fee for service' basis is consistent with the user pays principle and the efficiency and equity criteria which underlie the DTF Cost Recovery Guidelines. These guidelines are based on the view that government service provision – including the provision of regulatory services – should reflect levels that fully recover the costs of provision in most cases, with departure from full cost recovery only where a specific rationale can be identified that would justify a different approach.

As discussed above, the current regulations authorise the CFA to charge fees in the following circumstances:

- where fire protection services are provided, including inspecting applications made under the *Building Act 1993*, testing and inspecting fire prevention and suppression equipment and providing advice on fire prevention and suppression matters;
- for emergency attendances where there is no fire, including hazardous materials incidents;
- for providing road accident rescue services; and
- for providing property protection and loss mitigation services.

The revenue obtained via these fees represents a small but not insignificant part of the overall CFA budget. According to the 2013 CFA Annual Report, income from the "sale of goods and services" was equal to \$16 million, of which \$12 million was derived from the rendering of services. This compares with a total income for the year of \$475.7 million.

The following sets out the problems, addressed through the charging of fees in respect of each of these areas of service provision.

Full cost recovery for emergency call-outs due to causes other than fire

A significant issue for all fire services is that 15.6 per cent of emergency callouts are due to false alarms. Where false alarms occur, the responding units are not available to respond to other emergency calls. If there is a high incidence of false alarm calls, the result can be that the number of appliances required to be maintained by the Authority in order to provide an adequate level of responsiveness to emergency calls will be higher than otherwise required. This implies that a high level of false alarm calls will have real and significant resource costs for fire services.

False alarm call-outs are necessarily wasteful of resources, since resource costs are incurred in a context in which there is no actual harm to be addressed (i.e. fire to be fought). Hence, minimising false alarm call-outs yields real resource savings, with progress in this area representing a potentially important source of efficiency gains. The imposition of fees in respect of false alarms can also be seen as having equity implications. While, as noted above, property owners collectively contribute most of the CFA's budget through the Fire Services Property Levy – essentially a mandatory fire insurance concept – this does not imply that they should not be charged in respect of false alarms. Failure to levy false alarm charges would effectively create a situation in which property owners who fail to manage and maintain their alarm systems properly, resulting in a high incidence of false alarms, are effectively subsidised by other owners who address this issue appropriately and by those whose properties are not equipped with alarms. Given that false alarms constitute up to a sixth of all fire alarm call-outs (see below), the size of this equity issue is significant.

Recognising this, fire services have implemented a charging regimen, under which property owners responsible for false alarms will, in certain circumstances, be charged for significant fees. This approach defrays the resource costs incurred by the fire service in responding to false alarms and provides incentives for property owners to better manage and maintain their alarm systems to reduce false alarm callouts and unnecessary emergency calls.

The primary objective of setting the fees at full cost recovery is to align with DTF Cost Recovery Guidelines and address what is currently an inefficient allocation of resources, reflected through cross-subsidisation of the costs associated with attending false alarms, which constitute the majority of the non-fire emergency attendances. Notwithstanding, setting the emergency attendance fee at full cost recovery is also likely to reflect a fee that is closer to the social marginal cost of compliance, and one that provides a greater incentive for property owners to adequately maintain their fire alarm systems.

The regulatory impact statement in respect of the current MFB regulations⁷, demonstrated clearly a significant degree of success which the adoption of a charging regime and associated initiatives have had in reducing the number of false alarms to which the MFB was required to respond. The RIS shows that false alarm callouts peaked at 28,297 in 1989-90 and fell steadily to 13,793 (or less than half their peak number) by 2003-04 despite continuing increases in the number of fire alarms installed in the intervening period.

⁷ Jaguar Consulting (2005). *Regulatory Impact Statement: Metropolitan Fire Brigade (General) Regulations 2005*. Available at www.vcec.vic.gov.au.

The CFA context for consideration of these fees is one in which the degree of success achieved to date in reducing false alarm callouts is much more limited than that reported in the MFB RIS above. In 2002 the CFA noted in its Annual Report that:

"...the number of false alarms as a proportion of total incidents remains at unacceptable levels - representing a large unproductive commitment of around one in every five call outs." (CFA (2002), p 8).

In that year, there were 7,636 false alarms of a total of 34,139 incidents. By comparison, the 2013 CFA Annual Report also highlighted the number of false alarms, indicating that approximately 7,000 false alarm callouts occurred in 2012-13, out of a total of approximately 45,000 incident responses. Thus, there has been only a very small decrease in the number of false alarm callouts in more than a decade, even though false alarms now account for a somewhat smaller proportion of total incident responses (i.e. 15.6% approximately in 2012-13 compared to 21.9% in 2001-02). These figures imply that management of false alarms remains an important challenge for the CFA and one that must be taken into account in setting fees for attending these callouts. In this context, it can be noted that the emergency attendance fees charged by the CFA in respect of false alarms⁸ currently recover only part of the costs incurred in responding to the alarm, whereas the MFB fees were set at full cost recovery levels at the time that the current MFB regulations were made in 2005.

Appropriate cost allocation within government: Road accident rescue

The CFA Act enables regulations to be made specifying a fee to be charged in respect of road accident rescue services provided by the organisation. In practice, these fees are set by agreement between the CFA and the TAC or VWA. The key issue which setting fees addresses in this context is that of ensuring that cross-subsidisation between different user groups is avoided and appropriate prices and incentives are also reflected in the costs to road users in terms of their contributions to the TAC or VWA.

By definition, the users of services provided by CFA in a road accident rescue context are road users, rather than property owners. Failure to set a fee for provision of these services would effectively mean that property owners would fully subsidise the provision of these services to road users. This outcome is clearly sub-optimal on general equity grounds. Moreover, the TAC already operates a compulsory insurance scheme, which covers all costs associated with personal injuries due to road accidents. This means that it is feasible to recover CFA costs from users, as a collective group, without either imposing personal hardship or giving rise to high transactions costs (i.e. the costs that would be associated with levying fees on individuals and pursuing payment from them).

Recovery of specific additional costs: Hazardous Materials Incidents

Regulation 98 of the current regulations provides for the making of fees in respect of attendances at hazardous materials incidents that are not fires. Such incidents frequently occur in the context of

⁸ As discussed below, the CFA exercises discretion as to when these fees are charged, with a view to ensuring equity considerations apply, while recognising the fact that false alarms are unlikely ever to be totally eliminated and therefore attempting to avoid creating inequities by charging fees in inappropriate circumstances.

road transport of these materials, rather than the context of their storage. This implies that responsibility for the incidents does not lie with the property owners who pay the levies that are the primary source of funding for CFA's operations. Moreover, property levies are explicitly earmarked for the provision of fire services. Thus, failure to set a fee in this area would again give rise to cross-subsidisation of a specific user group – those involved in the transport, storage and use of hazardous materials – by property owners who have paid fire levies.

The size of these cross-subsidies is potentially significant, given that effectively addressing hazardous materials incidents can require the use of expensive and specialised equipment and can also result in significant use of expensive consumables. Thus, the combination of the fact that fire services levies are not intended to fund non-fire related service provision and the fact that responding to hazardous materials incidents is likely to be particularly costly provides two rationales for enabling the charging of a fee in this area.

Recovery of costs for provision of non-emergency services

The CFA provides fire safety-related services in three types of non-emergency contexts⁹. These are:

- inspecting applications made under the *Building Act 1993*, to determine whether the proposed fire safety arrangements are in conformity with the legislative requirements;
- providing advice on fire prevention and suppression matters more generally; and
- testing, inspecting and servicing fire prevention and suppression equipment.

The bulk of the non-emergency related service provision in respect of which these fees are charged relates to the testing and inspecting of fire prevention and suppression equipment. The issue underlying appropriate fee setting in this regard is that of the rationale for CFA involvement in service provision in this context. That is, as a general observation, there is a competitive market in the provision of these services in many areas of country Victoria. This raises the issue of what purpose is served by a public authority such as the CFA engaging in a competitive market for the provision of these services.

CFA participation in this market assumes that operators of small commercial and other premises in rural and remote areas have lacked effective access to these services, as the cost of service provision by commercial providers tends to be especially high, particularly due to the high travel costs that can be involved where there are no commercial service providers located nearby. This is particularly problematic in respect of smaller premises, where the actual inspection/servicing costs involved are relatively small, yet the inclusion of travel costs substantially raises the overall price.

To this extent, a key rationale for CFA operating in this competitive market is ensuring that affordable services are available across the State and not just in metropolitan areas, and thus helping to ensure a high level of compliance with regulatory requirements to maintain fire suppression equipment in good working order. This, in turn, implies that fee setting must take account of this affordability rationale and indicates that equity objectives are significant in this context.

⁹ In addition to false alarm call-outs that are ex post known to be “non-emergencies”, but are treated ex ante as emergency responses.

However, data provided in following sections of this RIS also indicates that the CFA's operations in this regard actually generate significant net revenue for the organisation. That is, the revenues generated significantly exceed the costs of providing these services. This outcome appears to reflect, in part, the fact that significant amounts of volunteer labour is used to provide these services, together with the widely distributed network of CFA brigades helping to reduce average travel costs. Thus, CFA involvement in service provision also has the effect of providing a source of revenue that can be used in other areas of CFA operations. This effectively enhances the CFA's ability to provide emergency services.

Ensuring access to services to deal with hazards and emergencies

Section 97C(1) of the Act authorises the CFA to enter into an agreement with any person to provide property protection or loss mitigation services to deal with the effects of any emergency or hazard. Section 97C(2) authorises the CFA to charge for the provision of such services, pursuant to the regulations.

These legislative and regulatory provisions envisage the CFA taking on a broader role, that extends beyond its core fire prevention and suppression remit, when requested by property holders. Given the wide geographical scope of CFA operations, this provision of the Act is believed to reflect recognition of the fact that the CFA may be the only available provider of emergency services in some areas, or maybe one of very few service providers with relevant expertise in other areas. This provision helps to ensure the availability of such emergency services, and does so by drawing on existing CFA resources.

Within this context, the problem to be addressed in the regulations is to ensure that the provision of these services occurs on a user pays basis. This reflects the fact that, while the services are to be provided in response to an emergency or hazard, they are not provided as an "emergency service" per se, as indicated by the requirement that any charging is undertaken subject to agreement with the property owner. Service provision in this area is therefore considered outside the core emergency services remit of the CFA and appropriately subject to user pays charges.

However, this problem is considered relatively minor, as the provision of services under this legislative head of power rarely occurs in practice and consequently,¹⁰ charging pursuant to it is also rare.

Ensuring access to services and enhancing CFA's resource base: testing and inspection of fire prevention and suppression equipment

Periodic testing and inspecting of fire prevention and suppression equipment must be undertaken wherever this equipment is required to be provided as part of the emergency services elements of the National Construction Code. This periodic inspection requirement aims to ensure that this equipment is kept in working order and the fire safety performance of the building is maintained over time.

Various commercial service providers deliver these services. However, problems of service availability arise in many rural and remote areas, where it is either not possible to obtain the

¹⁰ Except for attendance at the Philip island Motorcycle Grand Prix.

requisite services from commercial providers, or is only possible at a prohibitive cost. Where services are not available or are unduly costly, non-compliance with the safety-related requirements in relation to equipment maintenance is likely to increase over time.

The CFA has a wide geographical base and is, therefore, able to provide services in most rural and remote areas. Moreover, the combination of the use of volunteer labour and the location of brigades close to where service provision is required means that it is able to offer services at relatively low cost.

The CFA provides these services primarily as a means of enhancing fire protection performance and enabling higher levels of compliance with fire safety regulations in practical terms. However, it also experiences strong demand for its services even in many areas in which private providers operate. In these cases, it is able to generate net revenue from these activities (i.e. to charge prices in the competitive market which more than cover cost) and can divert additional resources to its core activities.

Consequently, the problem being addressed via provision of these services can be seen as a combination of the need to act as a 'provider of last resort' and a need to maximise the availability of resources to carry out CFA's core emergency fire response functions.

A number of other organisational objectives are also served by the CFA providing services in this area. The CFA's Fire Equipment Maintenance policy of July 2008 explicitly addresses the organisation's rationale for participating in the provision of these services, as follows:

CFA supports and administers the provision of FEM services because the following outcomes are achieved:

- (a) the risk from fire is reduced by ensuring fire equipment is maintained at an appropriate standard;*
- (b) the firefighter is able to become familiar with the premises to facilitate incident planning;*
- (c) the commercial and industrial sector is engaged in fire prevention;*
- (d) it supports brigade fundraising;*
- (e) member training in relevant competencies is enhanced; and*
- (f) FEM services are provided in communities where there are no other service providers.*

Setting fees in regulations compared to provision of discretion on fee setting to the CFA

The CFA Act authorises regulations to be made establishing fees for the provision of all of the service types highlighted. The current regulations prescribe fees in relation to emergency attendances (such as where a false alarm call-out attracts a fee), but for most fees, provides discretion to the CFA in relation to fee setting in the case of the remaining fees. As noted above, the extent of this discretion varies in practice. Key constraints on this discretion are that:

- the CFA is required to reach agreement with the TAC or VWA in relation to fees charged for attendance in road accident rescue contexts; and

- the fees charged in relation to testing and inspection of fire prevention and suppression equipment must be competitive within a broader market context and must also meet the requirement that services be affordable for consumers in rural and remote areas.

The issue to be addressed in determining whether fees should be set explicitly in the regulations or whether the regulations should provide discretion on fee setting is essentially that of the relative importance of transparency and accountability, on the one hand, and the flexibility to ensure that fees can be set at appropriate levels in a range of different circumstances, on the other.

Regulations which expressly prescribe the fee(s) to be charged for service provision clearly favour transparency and accountability. For this reason, most regulatory instruments do specify fee amounts, even though it is generally in terms of 'fee units', so the real value of fees can be maintained over time via automatic adjustments.

But this approach to fee setting largely assumes the cost of service provision can be estimated accurately *ex ante* (either absolutely or on a per unit basis) and that a clear and consistent view can be taken as to the extent of cost recovery that is appropriate.

By contrast, providing discretion to an agency to set fees can provide additional degrees of flexibility which can help achieve the underlying objectives of fee setting. For example:

- In the case of fees in respect of attendance at road accident rescues, the current regulations, which require fees to be set via agreement between CFA or VWA and TAC, arguably provide for an additional degree of accountability. This is because any fees must be arrived at through a process of bilateral negotiation and agreement between two significant organisations, each with specific expertise.
- In the case of fees in respect of inspection, testing and inspecting of fire prevention and suppression equipment, providing a regulatory power for CFA to set its own fees enables these fees to be set at different levels from time to time to ensure that they remain market competitive. This avoids unnecessarily foregone revenue (as would occur if fees set in regulation were too low) or inability to operate effectively in the market (as would occur if fees were set too high).

In determining fee setting options, the relative importance of these considerations must be weighed in the specific contexts relevant to the individual fees in question.

3. Objectives

The primary objective of the proposed regulations is to contribute to the protection of life and property in non-metropolitan areas of Victoria by facilitating the effective operation of the CFA. The specific objectives that must be met in order to achieve this primary objective are to:

- provide a clear and transparent framework for the management and administration of the CFA, its employees and its members and brigades, as envisaged by the Act, thus contributing to efficient and effective governance; and
- provide for the setting of appropriate fees for the provision of certain services other than those relating to the core emergency fire response functions of the CFA.

In determining the appropriate fees to be set, the specific objectives to be achieved are:

- to promote equity and efficiency by avoiding cross-subsidisation between groups, as required by the DTF Cost Recovery Guidelines; and
- to provide appropriate incentives for users to efficiently manage their call on CFA resources, particularly regarding false-alarm call-outs, and thereby contribute to efficient resource allocation.

4. Summary of the proposed regulations

As noted above, the proposed regulations would replace the existing regulations with only minor amendments. The following provides a brief summary of the proposed regulations, while an exposure draft of the proposed regulations is also attached as Appendix 2.

4.1. Administrative regulations

Parts 1 & 2

Part 1 of the regulations is preliminary in nature, setting out the authorising provisions in the CFA Act, commencement arrangements and definitions. Part 2 of the regulations provides the CFA with the authority to regulate its own meetings subject to the Act and regulations and makes provision for two days' written notice of meetings to be given and for meeting minutes to be kept.

Part 3: Employees

Part 3 of the proposed regulations deals with a range of matters affecting CFA employees. Division 1 deals with disciplinary matters, defining what constitutes a disciplinary offence and what sanctions are available. The offences created are:

- participation in unauthorised activities in relation to firefighting or emergency response;
- contravening directions from the Chief Fire Officer;
- being negligent, incompetent or inefficient in the discharge of duties;
- disgraceful or improper conduct; or
- conviction of a criminal offence.

The available penalties established for these offences are an admonition, a reprimand, a fine of up to \$2,000, a reduction in rank or salary, a transfer or termination of employment. One or more of the penalties may be applied simultaneously. Provisions are made for the appointment of a person to investigate a potential offence and a written report must be provided.

Any charge is to be laid within 30 or up to 60 days of the receipt of the written report and a copy of the charge must be provided to the accused employee. If a hearing is to proceed, 21 days notice of a hearing must be given to the accused and the Chief Executive Officer must conduct the hearing.

Some process requirements in relation to these hearings are established, including the rights of the accused person to representation and requirements for procedural fairness and just decision-making. However, it is also provided that the person conducting the hearing may generally conduct the hearing in any manner they see fit.

An employee charged with a criminal offence punishable by imprisonment may be suspended and all pay accruing during the suspension withheld. However, should the charges be dismissed, the normal amount of remuneration for the period of suspension must be paid to the accused officer. Provisions are also set out for appeals against the findings of the disciplinary hearings to be made to the Fire Services Commission.

The proposed regulations would make no substantive change to the existing regulatory regulations in this area.

Part 4: Brigades

Part 4 of the regulations deal with the establishment and operation of CFA brigades, including the adoption of constitutions and the enrolment of volunteer members of brigades. It provides requirements for the enrolment of members, including the limitation of duties for which a person may be enrolled if the person is not physically capable of performing all the duties of a member. Probationary membership is provided for, as well as the possibility of cancelling probationary membership if a person is not found to be fit and proper to be a member. The conditions of resignation of members are also established.

Provisions for the election of officers are established, and division 4 sets out a number of provisions in relation to the conduct and duties of members. The chief officer may require a member to undertake a physical examination, while an obligation is also established for members to notify the chief officer if they become aware of a matter that would substantially affect their capacity to perform their duties. Members are required to undertake training as directed.

Similar provisions in relation to offences, penalties, hearings and appeals to those set out above in relation to part 3 are also established in part 4 as applying to brigade members.

Division 5 of part 4 deals with financial management requirements. They include a requirement that the brigade must appoint a secretary and may appoint a treasurer to keep financial records and prepare financial statements for the brigade for submission to the CFA in the format specified by the CFA.

The CFA is also given authority over the distribution of the property of any brigade that is deregistered. There is a prohibition on this property being distributed among the members of the former brigade.

The proposed regulations would make no substantive change to the existing regulations in this area.

Part 5: Forestry Industry Brigades

Part 5 of the proposed regulations sets out requirements in relation to the designation by the CFA of areas in which forestry industry brigades should be formed. These include a requirement that the CFA consult with a committee appointed by the Minister to advise on this matter, with the regulations specifying matters in relation to the membership of such committees. There is also a

requirement that forestry plantation owners within the area proposed to be designated must have advance notification of the proposed formation of a forestry industry brigade.

Part 5 sets out explicit criteria for the formation of forestry industry brigades. These focus, in part, on the avoidance of duplication in the provision of these services, as well as that the capacity of the proposed forestry industry brigade to provide a fire response capability for the designated area.

Forming forestry industry brigades is the responsibility of the relevant owner or group of relevant owners. Part 5 sets out the process requirements for the notification of plantation owners that a brigade is to be formed, and provides for consultation on specific requirements regarding minimum equipment requirements (e.g. a minimum water carrying capacity of 800 litres and at least 30 metres of 19 millimetre hose connected to a firefighting nozzle and a pump of at least 5 horsepower). Part 5 also sets out processes for the registration of forestry industry brigades, and the responsibilities of plantation owners who are responsible for the brigades.

Provisions in relation to training and in relation to the cancellation of forestry industry brigades are also established.

No substantive changes are proposed to the current regulations in relation to forestry industry brigades.

Part 6: Compensation

Part 6 of the proposed regulations provides for compensation for members, and others, in respect of personal injury or damage to personal property occurring in the course of service as a member. In general, these compensation rights can be regarded as "residual" in nature, in the sense that the amount payable by the CFA will be no greater than the value of the net loss caused to the member (after any other compensation or insurance payment to which they are entitled has been paid). The proposed regulations also provide that compensation payable may be reduced where the member has already received an award, payment or settlement in relation to the injuries or loss the subject of the claim. There is an obligation on the member to repay the relevant proportion of the amount initially paid by the CFA, where subsequent compensation is paid.

This part also includes process requirements for the making of a claim to the CFA in respect of such personal injury or property damage, as well as setting out the manner of dealing with such claims. In addition, provisions relating to the payment of claims and the obligations of members who are in receipt of payments from the CFA are set out. Arrangements for the modification and termination of such payments are also established.

Division 2 of part 6 sets out similar arrangements in respect of casual firefighters and volunteer auxiliary workers.

The proposed regulations make no substantive changes to the current provisions in relation to compensation for CFA volunteer members. However, the current regulations were amended (with effect from 1 July 2014), to reflect broader legislative changes in relation to accident compensation, made by the Victorian government. The proposed regulations will, necessarily, reflect these recently adopted changes.

Specifically, on 1 July 2014, the *Workplace Injury and Rehabilitation Compensation Act 2013* (WIRC Act) came into effect to replace the *Accident Compensation Act 1985*. The WIRC Act governs injury rehabilitation and compensation for any injuries sustained on or after 1 July 2014. The WIRC Act does not change the entitlements provided under the *Accident Compensation Act 1985*. However, it aims to simplify the administration of the compensation scheme, in particular the process for making a claim. It also aims to make it easier for employers and workers to understand their rights, obligations and responsibilities.

Part 6 of the *Country Fire Authority Regulations 2004* was amended on 1 July 2014 to clarify the application of the WIRC Act to compensation claims for injuries sustained on or after 1 July 2014. The *Accident Compensation Act 1985* will continue to apply to member compensation claims for injuries sustained prior to commencement of the WIRC Act on 1 July 2014.

The relevant provisions of the proposed regulations will be identical to those adopted in the current version of the existing regulations (i.e. that which took effect from 1 July 2014), as described above.

4.2. Fees regulations

Part 7 of the regulations contained four fee-setting regulations, which largely mirror those contained in the existing regulations. They are:

- **Fire protection charges.** Regulation 99 would empower the CFA to set fees for the inspection of applications made under the *Building Act 1993*, the provision of advice on fire prevention and suppression matters, and the testing and inspection of fire prevention and suppression equipment.
- **Emergency attendances.** Regulation 100 would empower the CFA to levy fees where CFA appliances have responded to an emergency callout, which is due to a cause other than fire (such as false alarms). The regulations specify a fee of 39.45 fee units per appliance attending the call, for each 15 minutes or part thereof that the appliance was involved in responding to the call. This regulation also empowers the CFA to charge additional fees to recover the costs of materials used, equipment hire, or other expenses incurred in the course of responding to a hazardous materials incident. The CFA is empowered to determine the fee that is charged in relation to these additional costs for attending a hazardous material incident.
- **Property protection and loss mitigation services.** The CFA would be empowered by regulation 101 to set charges under section 97C(2) of the Act for the provision of these services.
- **Road accident rescue.** Regulation 102 would empower the CFA to recover the costs of its road accident rescue attendances from the TAC or VWA.

The only substantive difference between the existing and proposed regulations in respect of fees relates to fees for emergency attendances. Three changes are proposed in this regard, covered by a single fee. Firstly, the existing three-part fee structure, which differentiates fees according to the

level of volunteer involvement in the brigade responding to the emergency has been replaced by a single fee. Secondly, the fee has been increased to 39.45 fee units in order to fully recover the costs incurred in the provision of this service. This represents an increase of around 30% from the current fee of 30.21 fee units payable where attendance is by a brigade where more than one employee is on duty. Finally, the definition of an “appliance” will be changed to include any vehicle despatched to respond to an incident, rather than being limited to vehicles of over three tonnes in mass, as at present. The CFA contend that the three tonne limit is an arbitrary limitation on their ability to fully recover their costs for emergency attendances.

5. Expected benefits and costs of the proposed regulations

5.1. Administrative regulations

Section 4.1, above, summarises the content of the administrative regulations, the substantive elements of which are contained in Parts 3, 4, 5 and 6 of the proposed regulations. Part 3 deals with the management of staff, part 4 with the formation and administration of brigades and part 6 with the payment of compensation to volunteers. Part 5, which deals with forestry industry brigades, is discussed separately in the next section, as it addresses matters external to the CFA.

As a general observation, this RIS has applied a principle of proportionality to focus on the aspects of these regulations that the Department considers to have the most substantive impacts on the community,

5.1.1. Expected benefits and costs

Part 3: Disciplinary arrangements

As noted above, Part 3 of the regulations addresses disciplinary matters in relation to CFA staff. The key benefit associated with including these matters in regulation is the achievement of a high level of transparency in relation to both the issue of what constitutes a disciplinary offence and how by they will be dealt with¹¹. This means that there is little basis for challenging whether certain conduct amounts to an offence, while it will also be clear whether it has been dealt with appropriately. The direct costs associated with specifying these matters are, conceptually, the additional costs incurred by the CFA and any disciplined employees in undertaking these arrangements, vis-à-vis some less formal process that could be envisaged as an alternative. However, it is not possible to quantify these costs, as the cost of discipline-related matters are not accounted for separately by the CFA.

Key issues addressed in which it is possible to envisage different substantive provisions being adopted are:

- Specification of offences – a wider or narrower range of conduct could be specified as constituting a disciplinary offence.
- Allocation of responsibility for investigation or for laying charges – a specific officer could be nominated as responsible for laying charges in all cases.
- Hearing of an offence – the current requirement that the CEO hears charges against non-operational employees and the chief officer hears charges against operational employees could be varied, possibly to substitute a hearing panel arrangement, rather than allocating this role to one officer.

¹¹ Note that Division 1 deals with substantive hearings, while Division 2 sets out appeals processes.

- Conduct of hearings – different requirements could be adopted in this area, for example by forbidding charged persons from having representation if a less formal approach were considered warranted, or by requiring the rules of evidence to be followed if, conversely, a more formal process were considered preferable.
- Appeals – the regulations could specify the grounds on which appeals could be brought, rather than allowing appeals without any restriction, as at present.

The proposed regulations differ from the existing regulations, only in placing an additional obligation on the CFA to provide reasons for a decision and penalty imposed, at a hearing. This change is intended to increase the transparency of the hearing process and, by implication, persons charged are afforded a better understanding of the reasoning that underpins a disciplinary decision. Apart from this change, the proposed regulations make no other substantive changes in any of these areas, vis-à-vis the current regulations. This reflects the fact that CFA considers, from a management perspective, that the current arrangements are mostly appropriate and fit for purpose, as it has received no representations from staff or their associations favouring substantive changes in any of these areas of the regulations. While it has not conducted formal consultation on this issue, the CFA considers that the current arrangements remain appropriate.

Stakeholder question: *Given the lack of formal consultation on this issue prior to the publication of the RIS, stakeholder views are invited on the disciplinary arrangements established in the current regulations and replicated substantively in Part 3 of the proposed regulations.*

Part 4: Formation and administration of brigades

As discussed above, Part 4 sets out arrangements for establishing and managing CFA brigades. The need for these matters to be specified arises from the decentralised nature of the CFA and the semi-autonomous nature of brigades.

A primary benefit of specifying processes and requirements for the establishment of brigades is that these mechanisms enable an efficient approach to be undertaken, helping to ensure that overlap and duplication in the provision of brigade services is avoided. In addition, the specification of a range of management related issues in relation to brigades serves a similar purpose to that served by part 3 of the regulations in relation to the CFA itself.

In addition, the specification of matters in relation to physical fitness, training requirements and disciplinary matters also contributes to the efficient operation of brigades, once constituted. The provisions in this regard can be seen as prescribing a base level as opposed to being overly prescriptive, as far as possible. This approach ensures a consistently trained and equipped CFA, while encouraging training brigades and members to exceed the base level.

A further benefit that can be identified is that, by providing for the election of officers of brigades, the regulations encourage the participation of brigade members in brigade management and, in so doing, potentially improve the motivation of people to volunteer to join brigades, thereby possibly enhancing the availability of firefighting resources.

No substantive incremental costs have been identified in respect of the specification of these matters relating to the establishment and management of CFA brigades in regulation.

The proposed regulations make no substantive changes in any of these areas, vis-à-vis the current regulations. This reflects the fact that CFA considers, from a management perspective, that the current arrangements remain appropriate and fit for purpose. Moreover, it would be anticipated that the presence of any significant concerns or problems in this area would have a negative impact on the establishment of new brigades and/or the recruitment and retention of volunteers to provide firefighting services within these brigades. As the CFA has not identified any such difficulties, it has a relatively high level of confidence in the continued appropriateness of these provisions. Moreover, the CFA has not received representations from volunteers or brigade officers favouring substantive changes in any of these areas.

Given these factors, the CFA believes that the current arrangements are widely accepted by both parties and remain appropriate. It has arrived at this view for the above reasons, and notwithstanding the fact that it has not conducted formal consultation on this issue prior to the publication of this RIS.

Stakeholder question: *Given the lack of formal consultation on this issue prior to the publication of the RIS, stakeholder views are invited on the arrangements established in the current regulations and replicated substantively in Part 4 of the proposed regulations.*

Part 6: Payment of compensation to volunteers

As discussed in section 4, part 6 of the regulations sets out arrangements which ensure volunteers will be compensated for injury or loss of property occasioned while they are undertaking firefighting services with the CFA brigades. The proposed regulations would reinstitute the current arrangements without substantive amendment, noting that the existing regulations were amended to clarify the application of the WIRC Act to compensation claims for injuries sustained on or after 1 July 2014.

Expected benefits and costs

The provision of compensation to volunteers is primarily undertaken in pursuit of equity benefits and implies that the CFA effectively accepts similar responsibilities for volunteers as for employees (i.e. paid staff). The essential entitlement is to pay compensation for losses sustained, subject to the exclusion of any amounts paid by other bodies, under other insurance or compensation schemes, from the quantum of the CFA's liability.

However, another benefit that can be identified in association with the payment of compensation is that it avoids the possibility that potential providers of volunteer services to the CFA will be discouraged from volunteering due to concern at the potential costs that they would be liable for, should no such compensation arrangements be in place. Considering that some of the work of emergency services involves risk to employees and volunteers, this is a considerable benefit.

Clearly, the costs associated with these provisions are equal to the cash cost of paying compensation to CFA volunteers, as well as the administrative costs of receiving and processing claims for such compensation. Table 5.1 provides data on the number of claims made to the CFA in recent years and the cost of paying those claims.

Table 5.1: Compensation claims and payments made to volunteers

Year	Number of Claims	Total Compensation Paid	Average cost per claim
2008-09	304	\$ 2,782,150.50	\$9,152
2009-10	153	\$ 5,184,872.20	\$33,888
2010-11	114	\$ 3,691,260.12	\$32,379
2011-12	119	\$ 3,637,820.58	\$30,570
2012-13	176	\$ 4,172,161.33	\$23,705
2013-14	166	\$ 5,054,019.88	\$30,446
6 year averages	172	\$ 4,087,047.44	\$ 26,690.10

Source: CFA

Notes:

1. Number of claims refers to claims lodged in each year.
2. Total compensation paid refers to amounts actually disbursed in each year.
3. Average cost per claim is therefore notional, as payments made in a given year do not necessarily relate to claims made in the same year.

Table 5.1 shows that there is some year-to-year variation in the number of claims received, which the CFA advises is likely largely to reflect different activity levels due to variations in fire conditions from year to year. There has been an average of 172 compensation claims made per annum over the last six years. The average cost per claim was \$26,690 over this period, while the CFA has paid out an average of \$4.1 million per annum approximately in total compensation payments over the period. Compensation payments therefore constitute slightly less than 1% of the current annual budget of the CFA, which totals almost \$500 million.

Few options can be envisaged in respect of the provisions contained within these compensation arrangements. In common with the other aspects of the administrative regulations discussed above, no formal consultation has been undertaken with volunteers by the CFA in advance of the publication of this RIS for public comment.

Stakeholder question: *Stakeholder comment is invited on the current compensation arrangements, substantively retained in the proposed regulations, and whether any specific improvements can be identified.*

5.2. Forestry industry brigades

5.2.1. Overview

Section 23AA of the CFA Act gives the CFA the power to designate areas within the country area of Victoria in which it is appropriate to establish "industry brigades". The Act enables the CFA to require that land owners or a group of owners responsible for the designated area, establish an industry brigade. Currently, only forestry industry brigades are registered under section 23AA. Forestry industry brigades are equipped and managed by the respective forestry plantation owners.

As discussed above, part 5 of the proposed regulations provides additional guidance, or detail, in relation to a limited range of matters connected with this legislative obligation. This particularly relates to the criteria to be used in determining when industry brigades should be established. The CFA is generally required, under proposed regulation 64 (which mirrors the equivalent provisions of the existing regulations), to ensure that a landholder has at least 500 ha of land and that there is no industry brigade in another designated area capable of providing adequate fire protection services in the proposed designated area, before determining that a new industry brigade should be formed.

Proposed regulation 66 states that the CFA must, when requiring the establishment of an industry brigade, set out the staffing and equipment requirements for that brigade. As with regulation 64, these provisions essentially clarify powers provided to the CFA under the legislation. The specification of the required staffing and equipment is undertaken at an administrative level, pursuant to regulation 66. However, regulation 67 specifies minimum requirements in respect of apparatus.

The 2013 CFA Annual Report indicates that a total of 23 forestry industry brigades are currently in existence. The relevant page of the CFA website¹² clarifies the current requirements in this area and, in particular, notes that these industry-based fire brigades are operated by the plantation company but are under the operational control of CFA. Industry brigades are only required to service the companies' plantation assets for wildfire response and fire management planning. However if the parent plantation company desires, the brigade is empowered to operate outside their designated area.

5.2.2. Discussion of benefits and costs

Consistent with the existing regulations, the proposed regulations will continue to provide that forestry industry brigades should only be required to be established where significant landholdings are concerned and where appropriate firefighting coverage does not currently exist. A fundamental consideration in relation to this obligation is that the establishment of plantation forests necessarily substantially increases fire risks, as a large quantity of close-planted, combustible material is necessarily being grown. The fact that this is a core characteristic of the business necessarily implies that business-owners should take on significant responsibility for managing the risks created.

¹² <http://www.cfa.vic.gov.au/plan-prepare/forest-industry-plantations/>

The 2013 CFA Annual Report indicates several factors specific to the plantation forestry industry underline this conclusion. In particular:

- Different methods of fire suppression and specialist equipment are used in plantation fires. The provisions in relation to forestry industry brigades ensure that a larger number of appropriate appliances, notably slip-on configured tankers (such as Patrol or Land Cruiser-type chassis equipped with a small pump and 400ltr water tank) are available to support bulldozer based dry firefighting operations. The fact that specialised resources are required implies that it is not appropriate to rely largely or solely on general firefighting capabilities.
- There is frequently a shortage of volunteers in areas in which plantations are located, due to the impact of plantation establishment in displacing farming activities and, consequently, rural populations.
- Plantation fires can often burn for longer periods than other types of fires and incidents, and pose challenges for firefighting. The requirements for the establishment of forestry industry Brigades reduce the plantation industries' subsidisation by the local community because plantation company's staff are able to continue working at the fire when high staffing levels are no longer required, enabling the earlier release of volunteers.

It is important to recognise that the substantial private incentives to manage the threat of fire mean it is probable forestry-specific fire management expertise would be engaged by forestry plantation owners and operators to manage those risks, even in the absence of regulatory intervention. Insurance arrangements for plantations tends to underline this point, because insurers are likely to require that adequate firefighting capabilities were in place, or at least to charge higher premiums where this was not so.

However, Section 26 of the Act prohibits any persons from operating as a fire brigade in Victoria, unless it is registered under the Act and its officers and members are enrolled. A range of commercial fire management services could be retained in lieu of organised firefighting brigades. However, the assumption underlying this legislative provision is that fire brigades and associated equipment including fire engines, are the most effective means of undertaking fire prevention and suppression to protect forestry plantation assets. Based on this assumption, the prohibition in the Act necessitates the authorisation and regulation of forestry industry brigades under the Act and regulations in order for forestry plantation owners to employ the most effective means to managing the threat of fire. If the regulations were not in place, the legality of forestry industry brigade formation and management would also be doubtful – an outcome that is not desirable.

While forestry industry brigades are currently able to assist the CFA with fire suppression outside of plantation designated areas, the *Justice Legislation Amendment Act 2014*, amends the CFA Act to enable forestry industry brigades to provide assistance to the CFA, outside of their designated areas, for fire prevention, fire suppression or the protection of life or property. The impetus for the changes to the Act through the *Justice Legislation Amendment Act 2014* and stems from forestry industry brigades. Forestry industry brigades expressed concern that they were not adequately covered by the legislation, for undertaking fire prevention activities outside of their plantation areas, and sought an additional immunity for any fire prevention and suppression activities undertaken by them in this context. This immunity is being provided as a result of the legislative amendments

noted above. Accordingly, forestry industry brigades support the amendments and the peak body representing CFA volunteer members, Volunteer Fire Brigades Victoria, indicated the amendments constitute logical reforms to the existing arrangements.

The regulations dealing with forestry industry brigades aim to promote a seamless and integrated approach to fire management around forestry plantations. That is, enable coordination and where required, integration of the firefighting capacities of the forestry industry brigades with those of other CFA brigades. Forestry industry brigade assistance provided to the CFA outside of plantation designated areas is at the discretion of the relevant plantation owner or group of owners, at the request of the CFA. It is reasonable to consider that such assistance would be agreed to where a fire has started on the plantation and spread outside, or a fire outside the plantation is threatening the plantation.

Guidelines for the Management of Forestry Industry Brigades set minimum training requirements for forestry industry brigades, to ensure that members and officers of forestry industry brigades are comparably skilled to other CFA brigades, in appropriate fire prevention and suppression competencies for forest plantations.

The above factors suggest that several important benefits flow from the CFA's legislated power to require the establishment of forestry industry brigades. In particular:

- it clarifies that plantation-owners have primary responsibility in this area, thus ensuring that appropriate firefighting resources are provided;
- it ensures that specialist resources are available to address the specific firefighting needs associated with plantations; and
- it provides equity benefits, in that the fire risk associated with plantations would mean that plantation owners would not otherwise make an appropriate contribution to firefighting costs through the standard fire services funding model, based on a "fixed plus ad valorem" formula that only takes land value into account.

As noted above, the major impact of this aspect of the regulations is to limit the use of the legislative power to require the establishment of forestry brigades by setting clear criteria for its use. To this extent, and given the existence of the legislative head of power, this regulation could be seen as cost-reducing, *via-a-vis* the alternative of not setting out specific criteria to guide the use of the power to require the establishment of forestry brigades.

On the other hand, the proposed (and existing) regulations also specify minimum requirements for appliances and equipment required to be provided, thus potentially yielding cost impacts on affected parties. However, there are clearly strong private incentives for on plantation owners to ensure that appropriate firefighting resources are available, since they are likely to incur the largest economic losses in the event of fire breaking out on, or crossing, their land. The incremental cost of any specifications made by the CFA pursuant to this aspect of the regulations is likely to be limited.

Moreover, given that no substantive changes are being made to the regulations in this area, no new expenditures will arise as a result of the making of the proposed regulations.

Feasible options in respect of forestry industry brigade regulations

As discussed above, this aspect of the regulations is primarily concerned with determining the threshold plantation size above which the CFA can require a brigade to be established, and with the determination of minimum equipment requirements.

In relation to threshold plantation size, it is clearly possible to envisage setting the threshold at either a large or a smaller area than the 500 ha currently proposed. However, it is important to recognise that the criterion set in this regard is a two part one. In addition to the minimum threshold plantation size being met, the CFA must also determine that no suitable firefighting resources are already available. Thus, even were a lower threshold plantation size to be set, it is likely that this second threshold requirement would also be met in a small proportion of cases where smaller plantations (i.e. those with an area of less than 500 ha but more than some lower, alternative threshold level) were under consideration.

In general terms, reducing the threshold plantation area would tend to increase costs on some smaller plantation owners, who could be required to invest in establishing brigades where they would otherwise not choose to do so, but would necessarily provide somewhat greater assurance of fire safety. On the other hand, increasing the threshold would tend to reduce regulatory burden on owners of moderate sized plantations, while increasing the risk of fires spreading both within and beyond the confines of the affected plantations.

Stakeholder question: *stakeholder comment is particularly invited on whether consideration should be given to adopting a different minimum plantation size threshold for formation of a forestry industry brigade and, if so, what would be the key justifications for such change. Stakeholder comment is also sought on the appropriateness of the proposed regulations related to minimum apparatus (equipment) requirements.*

5.3. Fees regulations

As discussed above, proposed regulations 99 to 102 would authorise the CFA to charge fees for the provision of a range of services, with these provisions generally reflecting those set out in the current regulations (regulations 96 to 100). Both economic efficiency and equity benefits accrue from this aspect of the regulations. Efficiency benefits arise because appropriate incentives are provided to users of CFA's non-emergency services and, in the case of fees in respect of false alarm call-outs, because price signals encourage building owners to maintain and operate their alarm systems in a manner that reduces false alarms, thus minimising the unproductive use of resources required to respond to these alarms. Equity benefits arise because cross-subsidisation from property owners and taxpayers that fund CFA's emergency functions to users of these various services is avoided.

As another example, the proposed regulations reflect charging mechanisms in respect of road accident rescue services that ensures the cost of these CFA services is borne by the TAC or VWA and, through it, road users, rather than by property owners. Thus, the price of third party personal injury insurance appropriately reflects the full costs of providing these services.

Table 5.2 sets out the revenue generated by the CFA pursuant to the various fees regulations over the last five years.

Table 5.2: CFA Fees revenue

	2012-13	2011-12	2010-11	2009-10	2008-09
Structural fire safety (Reg 96(1)(a) & (b))	\$172,101	\$152,316	\$192,896	\$153,378	\$156,931
Fire equipment maintenance (Reg 96(1)(c))	\$8,124,585	\$8,239,304	\$8,434,681	\$7,188,044	\$7,212,655
Emergency attendances (Reg. 97)	\$2,148,585	\$1,899,642	\$1,810,504	\$1,767,857	\$1,507,202
Hazardous materials incidents (Reg. 98)	\$1,361,365	\$457,949	\$430,749	\$449,830	\$350,134
Property Protection and Loss Mitigation (Reg. 99)	NA	NA	NA	NA	NA
Road accident rescue (Reg. 100)	\$1,575,011	\$1,532,858	\$1,495,471	\$1,462,563	\$1,419,896
Total	\$13,381,647	\$12,282,069	\$12,364,301	\$11,021,672	\$10,646,818

Table 5.2 shows that the CFA received at least \$13.4 million in fee revenue¹³ in the most recent financial year, while fee revenues have risen steadily from \$10.6 million in 2008-09 to \$13.4 million in 2012-13, with the major areas of revenue growth being hazardous materials incidents (up \$1 million or around 300%), fire equipment maintenance fees (up \$900,000) and false alarm attendances (up \$600,000). The total revenue of \$13.4 million collected from these fees in 2012-13 is equal to 2.9% of the total expenses of \$456.9 million reported in the 2013 CFA Annual Report¹⁴.

Some \$8.1 million, or more than 60% of total 2012-13 fee revenue, was earned from the provision of fire equipment maintenance services pursuant to Regulation 96(1)(c), while emergency attendances due to false alarms were the next largest revenue generator, accounting for \$2.1 million, or around 16% of total fee revenue. Road accident rescue services and hazardous materials incidents accounted for \$1.6 million and \$1.4 million in revenue respectively, while structural fire safety services accounted for very little revenue, totalling less than \$200,000 in the most recent year.

The majority of the fees regulations provide discretion to the CFA to set the fee itself. The details of these arrangements, including that of how the CFA exercises this fee setting power in practice and the nature of the market in which the services are provided are discussed in turn below.

5.3.1. Fire Protection Charges (Regulation 99 (a) & (b))

¹³ As noted, this total excludes revenues from property protection and loss mitigation services, for which data are unavailable.

¹⁴ "Total expenses from transactions", Annual Report, p 36.

These sub-regulations enable the CFA to set fees in respect of the inspection of applications made under the *Building Act 1993* and in respect of the provision of advice on fire prevention and suppression matters.

The CFA is a statutory referral authority in circumstances in which a building designer seeks approval for fire suppression equipment arrangements that differ from the “deemed to comply” elements of the National Construction Code in relation to fire safety equipment. In such circumstances, designers who propose alternative solutions in respect of the required emergency services commission an opinion on the effectiveness and appropriateness of these alternative solutions from an expert consultant. The CFA will then review the proposal and the expert opinion provided, then advise whether it ought to be approved by the relevant building authority.

The statutory basis of this function means that in many instances, the CFA is the only organisation able to provide this service within its area of operations¹⁵. The service currently provided under regulation 96(1)(b) essentially involves the provision of advice to the building owners on their current level of ‘fire readiness’ and on the appropriate steps that can be taken to improve their fire readiness. This can include, for example, advice on the development of an Emergency Management Plan. Distinct from the services provided as a statutory referral authority, the CFA provides advisory services to building owners on ‘fire readiness’.

In other instances these services are provided in a competitive marketplace, with numerous commercial providers operating in this area. However, there is a significant demand for the CFA to provide services, notwithstanding the availability of commercial providers. This demand appears to relate in part to the perceived authoritative nature of advice obtained from the CFA and, in part, to the fact that the \$110 hourly fee charged is less than half the most common commercially charged rate of \$250 per hour.

The CFA frequently declines requests to provide services of this kind due to resource limitations, preferring to ensure that its resources are focused on delivery of the functions required under its statutory responsibility, as outlined above. Thus, only a small amount of services are provided pursuant to this regulation. As noted in table 5.2 (above) total fee revenue under regulations 96(1)(a) and (b) amounted to only \$172,101 in 2012-13, while the majority of this fee revenue would have related to Regulation 96(1)(a). Fees were charged in respect of these activities on a total of 867 occasions in 2012-13, indicating that the average fee charged was \$198.50.

Fee determination under Regulations 96(1)(a) and (b) is in accordance with an internal CFA document known as Practice Note 21, which sets out guidance based on ensuring that all time inputs associated with the provision of this advice are identified and included in the calculation of the fee to be charged. The resulting total time input is multiplied by an hourly rate of \$110, plus GST (i.e. \$121 including GST) to determine the fee charged. An administrative fee of \$55 is also charged.

The current hourly rate was established in 1996 and has not been changed since that time, other than via the application of the GST to it from 2000. However, it is currently under review within the CFA, with the result that it will potentially increase significantly in coming years. A consultant's review commissioned by the CFA in 2011 estimated the average cost of provision of these services at

¹⁵ The MFB necessarily provide the equivalent service within its area of responsibility for metropolitan areas.

\$224 per hour, plus GST (i.e. \$246.40 including GST). Thus, this fee currently recovers slightly less than half of the costs of service provision.

Stakeholder views are invited on the proposed regulations that enable charging for the provision of these services, particularly in a competitive context.

5.3.2. Testing & inspection of fire prevention and suppression equipment (Regulation 99(1)(c))

This sub-regulation would allow the CFA to continue to set fees to be charged in connection with the testing and inspection of fire prevention and suppression equipment. Periodic testing and inspecting must be undertaken in respect of all buildings that contain fire prevention and suppression equipment as a result of the regulatory requirements established in the National Construction Code. This reflects the fact that the Code requires periodic inspection and maintenance to be undertaken to ensure that this equipment is kept in working order and the fire safety performance of the building is therefore maintained over time.

A range of commercial service providers operate in the market for provision of these services. However, CFA experiences a significant demand for its services in this area. This demand is believed to relate in part to the value of the CFA 'brand' and the associated high level of consumer confidence in the quality of the services provided. However, it also reflects the fact that it is not possible to obtain the requisite services from commercial providers, or is only possible at a prohibitive cost, in many rural and remote areas. In these areas the CFA is likely to be the only service provider.

Provision of these services by the CFA is undertaken using paid employees and volunteer members, with the latter being more widely used in more remote areas. In addition, where the CFA lacks the resources to meet the demand for these services, and private providers are willing to provide services in a particular area, CFA may sub-contract the provision of some services to private providers. In these cases, service provision will occur under the CFA brand, while a revenue-sharing arrangement ensures that CFA receives a proportion of the revenue obtained by the sub-contractor operating on its behalf. Where CFA engages a contractor, this is done according to the Victorian Government's purchasing guidelines.

Fees charged under this sub-regulation are set in accordance with another internal CFA policy, the Fire Equipment Maintenance policy of July 2008. Part of this policy document states:

CFA supports and administers the provision of FEM services because the following outcomes are achieved:

- (a) The risk from fire is reduced by ensuring fire equipment is maintained at an appropriate standard.*
- (b) The firefighter is able to become familiar with the premises to facilitate incident planning.*
- (c) The commercial and industrial sector is engaged in fire prevention.*
- (d) It supports brigade fundraising.*
- (e) Member training in relevant competencies is enhanced.*
- (f) FEM services are provided in communities where there are no other service providers.*

The policy also states:

"The maximum fees and charges payable for FEM services must not exceed the amount approved by the Board."

The CFA Board sets these fees on the basis of recommendations from a consultative committee known as the Fire and Emergency Management Advisory Council. The Council appoints a sub-committee, which recommends prices to the full Council. The full Council approves these prices and forwards them to the CFA Board for its approval.

The fee structure sets out separate fees for standard inspection and servicing schedules and covers five different service levels for each of a wide range of specific extinguisher types. In addition, they specify attendance charges. The current fees are available online:

http://www.fem.cfa.vic.gov.au/content.asp?contentID=201&topic_ID=552&parent_id=543

Advice from the CFA indicates that the fees charged in practice are set at a level that is broadly consistent with the fees set by commercial service providers in this field. This approach reflects both:

- an objective of ensuring that fee revenue covers the cost of service provision and yields revenue that can contribute to other CFA expenses; and
- a requirement to ensure that pricing conforms to the competitive neutrality requirements of the National Competition Policy.

Of note in the latter context is that the CFA is charged a Competitive Neutrality Fee by the DTF in order to ensure that these obligations are met in practice. The application of this fee is believed to reflect the significant use of volunteers in the provision of these services¹⁶.

In sum, the key accountability mechanism in respect of the use by CFA of its fee setting power in this area lies in the fact that the services are provided in the context of a competitive marketplace, however, the fact that the board specifies maximum fees and that these are recommended to it by an external committee comprised of major stakeholders provides an additional level of oversight and accountability in this regard.

As noted above, this fee yields significant revenue, amounting to \$8.1 million in 2012-13. This revenue is sufficient to cover the costs involved in providing these services and yield net revenue that can be used for other CFA activities.

Considering the CFA provides these services, in some cases, in areas without adequate competitive market for these services, stakeholder views are invited on the proposed regulations that provide for these services.

¹⁶ The purpose of this fee is to offset the cost advantage obtained by the CFA due to the availability of volunteer labour and any other advantages that may accrue to it as a public sector entity operating in a commercial environment. For details on Victoria's application of competitive neutrality policy – which is an element of the National Competition Policy – see: <http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/Competitive-neutrality-policy>

5.3.3. Emergency attendances (Regulation 100)

Where an emergency call-out is the result of a false alarm, or other specified emergency attendance that is not caused by an actual fire, the CFA will be empowered to charge a fee to the person requesting the call-out. In practice, discretion is used in determining whether to charge a fee, with the use of this discretion being guided by two CFA policy documents, one relating to insured properties and one to uninsured properties. In general terms, a fee will not be levied in respect of a first false-alarm call-out, or where the CFA takes the view that the caller has undertaken significant effort to reduce or eliminate the number of false alarms generated by their system.

Data for 2012-13 shows that fees were charged for about 30% of false alarm call-outs. As noted above, approximately \$2.1 million in fee revenue was generated as a result, while the costs associated with these call-outs total around \$2.8 million.

Regulation 97 is the only fees regulation in the current CFA regulations that specifies a particular fee (i.e. where the fee is set in the regulations per se) rather than the regulations providing authority to the CFA to determine the fee actually charged. The fee is charged for each 15 minutes, or part thereof, that each appliance spends responding to the call.

Box 5.1: Definition of an appliance

As noted in Section 4, the definition of an appliance is being changed so that it will now refer to any vehicle dispatched to respond to a call, rather than being limited to vehicles of three tonnes or more. This change relates, in practice, to emergency attendance fees, as this is the only fee that references to term appliance. Advice from the CFA is that this change will have very little practical impact, as vehicles of less than three tonnes mass would only very rarely be dispatched in response to an emergency call-out. However, the change in definition reflects a view that the three tonne limit is arbitrary in nature and that there is no conceptual reason why cost recovery based charging should not occur in relation to all resources dispatched to emergency call-outs where a fee is subsequently levied.

The response time in respect of which the fee is charged includes the time taken to travel to and from the incident. Three fees are set:

- a fee for attendance by a brigade where more than one employee is on duty (30.21 fee units);
- a fee for attendance by a brigade where only one employee is on duty (22.36 fee units); and
- a fee for attendance by any other brigade of 12.71 fee units.

Based on the value of a fee unit of \$13.24 for 2014-15, these fees are equal to \$400, \$296 and \$168.30 respectively. The differentiation between fees for different brigade types is largely historical and reflects the different balance between the use of paid employees and volunteer members across various brigades.

Under the proposed regulations, this three-part fee structure would be replaced with a single fee. This would necessarily somewhat simplify the fee structure in this respect. However, the basis for this proposed change is not primarily related to the potential benefits of regulatory simplification. Rather, the adoption of this proposal would remove a distinction currently made in charging for the services of different types of brigade that is not consistent with current views on the valuation of volunteer services.

The current distinction in terms of fees charged for the attendance of different types of brigades reflects a differentiation in fees charged where services are provided wholly or predominantly by employees and where services are provided, at least in part, by volunteer members. However, while the cost to the CFA of services provided by volunteer members is necessarily significantly lower than that of services provided by employees, the value of these services to the person receiving them is the same.

Volunteer firefighters donate their services in order to provide a benefit to the community. However, the focus in this regard is on assisting the CFA in better carrying out its emergency response obligations. Given that user fees are charged only in circumstances other than attendance at fire emergencies, a policy of charging an identical rate for services provided in part by volunteers would have the effect of ensuring that the benefits of this altruistic donation of time by volunteers benefits the CFA emergency response capabilities, rather than providing a private benefit to users of other, non-fire emergency services provided by the CFA.

That said, the practical impact of this change is likely to be relatively limited. While data is not available on the revenue obtained from each of the 'sub-fees' described above, advice from the CFA is that a substantial majority of emergency attendances due to false alarm calls are undertaken by brigades wholly or predominantly staffed by employees (i.e. where "more than one employee is on duty"). This reflects the fact that such alarm systems are more likely to be found in larger, commercial and industrial buildings and that these are likely to be concentrated in regional centres, rather than rural and remote locations.

The second change proposed to be made in respect of this fee is that the fee would be increased to 39.45 fee units per appliance per 15 minutes or part thereof, from its current level of 30.21 fee units, in order to achieve full cost recovery (though in this case the fees set exceed actual direct costs to CFA – see Box 5.2).

Box 5.2: Full cost recovery and volunteer labour

The discussion of the emergency attendance fee generally refers to it being set at "full cost recovery" levels, as is generally recommended in the DTF Cost Recovery Guidelines. However, the cost base used values volunteer labour at market rates, as noted above. That is, the CFA includes costs in respect of volunteer time at the same rate as employee time. This means that the fee charged will, where volunteer labour has been used, exceed the actual cost to the CFA. The potential for the fee to exceed full cost recovery is likely to be partially offset by the cost to CFA of managing its volunteer base, which includes funding brigade training and development of volunteer members and officers. In fact, by including a market valuation of volunteer labour the fee is set to

fully recover the social costs of providing the service, rather than the costs to CFA itself. However, this fee is described as a full cost recovery fee for simplicity.

The effective size of the fee increase that users would face necessarily varies according to the fee that would be payable in specific circumstances under the current regulations. Table 5.3. summarises these increases.

Table 5.3: Proposed increases in fees for emergency attendances

Fee	Current (fee units)	Proposed (fee units)	Increase (%)
For attendance by a brigade where more than one employee is on duty	30.21	39.45	30.6%
For attendance by a brigade where only one employee is on duty	22.36	39.45	76.4%
For attendance by any other brigade	12.71	39.45	210.4%

Table 5.3 shows that fees in respect of calls responded to by brigades where more than one employee is on duty would rise by 30.6%. As noted above, while specific data are not available, advice from the CFA is that this would cover the great majority of false alarm call-outs. In a minority of cases, significantly higher fee increases would be incurred, due to the proposed replacement of the current three-part fee structure. Thus, for a false alarm callout responded to by a brigade with only one employee on duty, the increase in fee would be 76.4%, while for an attendance by "any other brigade", the increase would be 210.4%.

The total revenue accruing from this fee in 2012-13 is \$2,148,585. Thus, the revenue increase that would result from the proposed fee change would be approximately equal to:

$$\$2,148,585 \times 30.6\% = \$657,467 \text{ per annum.}$$

In practice, two factors that operate in different directions may mean that the actual change in revenue differs from this broad estimate. These are that:

- The revenue increase would be larger to the extent that call-outs resulting from false alarms are currently met by brigades without two or more employees on duty. However, as suggested above, there is expected to be a limited incidence of such cases, so that the size of this impact is expected to be small. Moreover, given that the CFA has discretion as to

whether to charge fees in these cases, it is possible that the fee may be waived in an increased proportion of such cases, where equity based concerns may arise.

- The revenue increase would be smaller to the extent that the 30% fee increase has the intended effect of encouraging alarm owners to better manage their systems and thus reduce the number of false alarm call-outs generated.

As noted above, the proposed increase in the fee to \$522.33 is intended to achieve full cost recovery. By contrast, the fee of \$351.23 set in 2004 was not only recover 60% of the cost per appliance per 15 minutes, which was estimated in the 2003 RIS to be \$587. A cost of \$587 per appliance per 15 minutes in 2004 is equal to around \$775 in 2014 dollar terms. This is about 50% more than the currently calculated cost per appliance per 15 minutes of \$522.33. This comparison indicates that the CFA has significantly improved its overall level of efficiency over the past decade.

Comparison with MFB fees

The fee payable to the MFB in respect of emergency call-outs due to false alarms is currently \$409.82 per appliance per 15 minutes or part thereof. This is clearly very similar to the current CFA fee of \$400 (in the case of brigades with more than one employee on duty). However, the current MFB fee was set in dollar terms and has been unchanged since the *Metropolitan Fire Brigades (General) Regulations 2005* came into force. The RIS in respect of these regulations, released in 2005, calculated the average cost to the MFB of emergency attendances at \$409.82 per 15 minutes, so that the fee established represented a full cost recovery based fee at that time.

The fact that the fee has remained unchanged in nominal terms since 2005 suggests that full cost recovery is no longer being achieved in this area in the MFB context. However, the expected remaking of the regulations in 2015 is likely to lead to an updating of the fee, with a significant increase anticipated.

To provide an appropriate benchmark for the proposed CFA fee, the CPI can be applied to the 2005 value of the MFB fee. This calculation shows that the value of the fee of \$409.82, at the time that it was introduced in 2005, is equal to \$521.81 in 2014 dollar terms¹⁷. This is almost identical to the proposed CFA fee. This comparison also tends to support the robustness of the cost calculation set out above and the appropriateness of the proposed fee change.

Incentive effects

As noted in Section 2, above, around 15.6% of all emergency call-outs attended by the CFA relate to false alarms. While this represents a reduction from the level of more than 20% experienced in previous years, CFA has, to date, been less successful than the MFB in addressing the issue of the number of false alarm call-outs and the resulting additional call on its resources. Providing appropriate price signals to users of CFA services is an important step in ensuring improved performance in this regard in future. This is clear on theoretical grounds and is also validated by the past experience of the MFB, which found that increasing false alarm call-out fees and applying these fees more consistently yielded a significant reduction in false alarm calls.

¹⁷ CPI all groups Melbourne Mar 2014/Mar 2005 = (105.3/82.7).

From a theoretical perspective, equity considerations overlay the application or waiving of the fee set at full cost recovery level. The purpose of charging the fee, is in part, to encourage owners of alarm systems to commit resources to managing them effectively, thus reducing the instances of false alarms. An economically efficient outcome is one in which the amount of resources committed to this function is increased until the benefit of additional investment in managing the alarm system is equal to the cost saving due to reduced false alarm fees¹⁸. Thus, a fee that reflects the full social costs of such call-outs can be expected to yield such an outcome. As noted above, the costs set out in Appendix 1 are based on the “fully distributed cost” concept (incorporating an equivalent market value of volunteer labour) and, as such do in fact capture the full cost to both the CFA and society¹⁹ of these call-outs. Thus, adopting a full cost recovery fee can be expected to yield a more economically efficient outcome than at present.

Moreover, ensuring a full cost recovery fee is charged ensures improved equity performance by ensuring that there is no subsidy of the costs of attending false alarms paid by other users of CFA services, at least in cases in which CFA officers determine that a fee should be levied.

5.3.4. Hazardous materials incidents (Regulation 100 (3))

This sub-regulation provides for additional charges to be levied in respect of attendances at hazardous materials incidents. It provides that these fees are to be set on a cost recovery basis and enumerates several categories of cost that are explicitly included in the calculation of the cost base. This reflects the need to recover the potentially significant additional costs of dealing with hazardous materials, vis-a-vis general fire call-out costs. Proposed regulation 100(3) requires that fees be charged in respect of hazardous materials incidents that do not constitute a fire.

The size of the fees charged pursuant to proposed regulation 100(3) is determined by the CFA, pursuant to the relevant internal policy document. As noted above, almost \$1.4 million in fee revenue was generated under these provisions in 2012-13, while this revenue amount has grown substantially from only around \$350,000 in 2007-08.

5.3.5. Property protection and loss mitigation services (Regulation 101)

This regulation states that:

" Subject to any direction given by the Minister under section 6A of the Act, the Authority may set charges under section 97C(2) of the Act as the Authority considers appropriate."

¹⁸ Practically speaking, this implies that higher fees will encourage alarm owners to invest greater time (or pay external service providers) to reduce false alarms generated by their system.

¹⁹ By valuing volunteer labour identically to that of paid firefighters, the social cost of their contribution is taken into account. This means, however, that where volunteers contribute to a false-alarm response for which a full cost recovery fee is charged, the fee received by the CFA would exceed the direct cost to the organisation.

Section 97C(1) of the Act enables the CFA to provide services pursuant to an agreement between the CFA and the person receiving the services. This section enables the CFA to enter into agreements to provide property protection or loss mitigation services "...for the prevention of, or to deal with, the effects of any emergency or hazard."

These legislative and regulatory provisions envisage the CFA taking on a broader emergency services role (i.e. one that extends beyond its core firefighting remit) where requested by property holders. Given the wide geographical scope of CFA operations, this provision of the Act is believed to reflect recognition of the fact that the CFA may be the only available provider of emergency services in some areas, or maybe one of very few service providers with relevant expertise in other areas. Thus, this provision helps to ensure the availability of such emergency services, and does so by drawing on existing CFA resources.

The CFA advises that this regulatory power is rarely used in practice. As indicated in table 5.2, it has not proven possible to identify any revenue obtained pursuant to this regulation over the last five years, except for services provided at the Philip Island Motorcycle Grand Prix. A corollary of this is that no information is available as to charging practices under this regulation. In at least some cases the CFA would be likely to be the sole provider of these services.

5.3.6. Road accident rescue (Regulation 102)

This regulation authorises the CFA to charge the TAC or VWA in respect of road accident rescue services provided to persons insured with the TAC. However, such charges must be rendered pursuant to an ongoing agreement between the two organisations. Where the Victorian Workcover Authority is the insurer in relation to a road accident (i.e. if the road accident occurs while someone is engaged in paid work in respect of which Workcover premiums have been paid) the regulations enable the CFA to levy the agreed fee on that Authority, rather than the TAC. No information is currently available as to the basis for calculating charges for individual rescue services. However, table 5.1 shows that revenue of approximately \$1.6 million was generated under these provisions in 2012-13.

6. Identification and assessment of feasible alternatives

As discussed above, the existing and proposed regulations contain two distinct, and largely unrelated, elements. These are the establishment of a number of fees that can be charged by the CFA in certain circumstances, and the specification of a range of provisions related to the management of the employees and members of the CFA.

These two aspects of the regulations are largely unrelated so the following discussion and analysis of feasible alternatives is considered separately for the two main elements of the regulations.

6.1. Fees Regulations

Two feasible alternatives have been identified in respect of the establishment of the proposed fees regulations. The first of these involves establishing specific fees in the regulations themselves in respect of each of the services for which the CFA currently levies user charges, rather than regulating to authorise the CFA to determine fees itself in the majority of cases. The second involves remaking the existing fees regulations without amendment. The benefits and costs of these two alternatives are discussed below. These two options are referred to as Option 2 and Option 3, respectively, with the proposed regulations being referred to as Option 1.

6.1.1. Option 2: Set specific fees in regulation, in preference to retaining CFA discretion

Specification of the alternative

As discussed above, current practice in respect of the determination of fees in all but one case (i.e. emergency callout fees relating to false alarms) is that the CFA determines the fees payable through internal processes. These processes vary between fees, as discussed above, and include the application of a number of different internal policy documents, an hourly rate approved from time to time by the Board²⁰ and the provision of advice by advisory committees including a range of stakeholders.

This approach reflects the fact that the size of the task being undertaken will, in most areas, vary widely from case to case. Given this, this alternative would, in some cases, involve specifying the hourly rate to be used in calculating the total fee to be charged in the various circumstances and setting out, in broad terms, the approach to be taken in assessing what resources input could be regarded as attributable to the particular task and what, if any, additional charges could be levied (i.e. in addition to charging based on the number of person hours committed). In other cases – notably the fees for inspection and servicing fire suppression equipment – external advice on fee setting from a committee would still be required, but the resulting fees would be specified in the regulations in terms of fee units and thus adjusted automatically on an annual basis to maintain their real value over time. This alternative would continue to levy fees in respect of attendances in response to false alarms on the same basis as at present (and as under the proposed regulations), but would also involve adopting a single fee set at a full cost recovery level.

Expected benefits of the alternative

Two key benefits can be identified in respect of this alternative. Firstly, this approach can be seen as improving the degree of transparency and accountability achieved by the regulations. That is, the

²⁰ Additional charges are also levied in certain cases, most notably in respect of hazardous materials incidents, to recover the costs of consumables used.

hourly rate to be charged to users would be generally known, thus enabling it to be benchmarked against other, comparable hourly rates, as well as assuring users that a consistent approach to charging was being taken.

Secondly, specification of the hourly rate in terms of fee units, as required under the Monetary Units Act 2004, would have the effect of ensuring that the real value of this hourly rate will be maintained over time, as it would be automatically adjusted on an annual basis, in line with most Victorian government fees.

This latter benefit is potentially significant, given that the hourly rate of \$110 (plus GST) that is currently charged by the CFA in respect of applications made under the *Building Act 1993* and in respect of the provision of advice on fire prevention and suppression has not changed since 1996 and has therefore declined substantially in real terms. Reflecting this, a 2011 report to CFA recommended that the current hourly rate should be more than doubled to \$224, plus GST. If such a rate was set in regulation, there would clearly be a significant proportionate increase in the fee revenue accruing to the CFA in respect of these activities. Conversely, the absolute impact of this change would be limited, reflecting the fact that the CFA undertakes limited activity in this area. Based on the current level of aggregate revenue from these fees, this increase in fee revenue would be likely to be in the vicinity of \$200,000 per annum. This constitutes only a small proportion of the more than \$13 million in total the revenue received during 2012-13. Thus, even a doubling of this revenue, as suggested above, would have little impact on global CFA fee revenue.

Specification of the applicable hourly rate in the regulations would help to ensure that the target level of cost recovery was achieved consistently over time, rather than continuing the current reliance on the CFA to adjust the hourly rate from time to time appropriately.

Expected costs of the alternative

The major cost that can be identified in connection with this alternative is that it reduces the flexibility available to CFA management to determine appropriate charging arrangements from time to time. As discussed above, many of the services provided by the CFA on a fee-for-service basis are provided in a market environment, with one or more alternative (usually private sector) providers also operating in the market. In such a context, the CFA could potentially benefit from the ability to modify its charging arrangements in response to changes in conditions in the market in which it is operating. Setting both the hourly rate and key aspects of charging policy in the regulations per se would largely eliminate this degree of flexibility, which the CFA has historically enjoyed.

The removal of this degree of flexibility could, therefore, reduce the CFA's ability to compete in the markets in question, reducing its ability to utilise its resources effectively and potentially reducing the net fee revenue it is able to earn.

6.1.2. Option 3: Retain the existing fees regulations

Specification of the alternative

This alternative would, in effect, involve remaking the existing fees regulations with only minor changes. The CFA would therefore continue to have the discretion to set its own fees in all areas other than that of emergency callouts which prove to be false alarms, while the existing fees in respect of these false alarm callouts would also be retained. This would also imply retaining the current three-part fee structure in relation to emergency attendances, which distinguishes between brigades based on the ration of paid employees to volunteer members in attendance. Given that the existing false alarm callout fees are specified in terms of fee units, this means that they would retain their current real value over time.

Expected benefits of the alternative

This alternative would see the retention of the status quo in respect of CFA fees. Retaining the fee in respect of emergency attendances at its current level would mean that the team would continue to be set at levels below the full cost recovery level, which has been established in Appendix 1 as being approximately \$522.33 per 15 minutes. Thus, a cost recovery level of approximately 76.6% would be retained.

This arguably has the benefit of maintaining a consistent approach to fee setting, insofar as the fees charged under current regulations 96(1)(a) and (b) are also set on the basis of an hourly rate which falls well short of full cost recovery.

Moreover, as set out in Appendix 1, the average cost (per 15 minutes) of incident response by a CFA appliance appears to have fallen significantly from level estimated in 2003 in the context of the RIS in relation to the current regulations. The RIS at that time indicated that partial cost recovery was the preferred policy position, while the fees set at that time were expected to recover only around 60% of the attributable costs. Thus, the current context is one in which efficiency gains have significantly increase the level of cost recovery being achieved, while the setting of the fee in terms of fee units mean that the real value of the fee would be maintained over time.

It is arguable that in the circumstances there is no basis to justify a significant increase in the real value of this fee.

Expected costs of the alternative

Maintenance of the false alarm callouts fee at its existing levels would necessarily lead to the continued subsidisation of the costs imposed on the CFA by property owners who give rise to repeated false alarms and would mean that the potential 30.6% increase in the revenue generated by this fee, equal to more than \$650,000 per annum, would be forgone.

This would mean that this option would fail to provide incentives to property owners to reduce their call on CFA resources due to false alarms on the basis of total cost to society.

6.2. Administrative regulations

Internal management of the CFA

Section 110(1) of the CFA Act provides that the Authority may make regulations with respect to any of a wide range of matters that relate to its internal management and which are specified individually in that Section. The Act therefore authorises regulation in respect of these matters, rather than requiring it. It is therefore feasible to decline to exercise the legislative power provided in this area. This would mean that the matters currently specified in regulation would instead be established through internal administrative processes.

This alternative would have the benefit of enhancing the flexibility available to the CFA, enabling it to make changes to various aspects of its employee management, disciplinary and other internal practices from time to time without the need for amending regulation to be adopted. This could yield some efficiency gains by enabling the organisation to respond in a more timely way to any identified deficiencies in its current processes and structures and to more easily adopt any innovative practices in these areas.

However, two key costs can be identified in respect of this option. The first is that of a loss of clarity and certainty as to management and disciplinary processes and requirements. The fact that these matters would no longer be specified in regulation would necessarily mean that they are less transparent than at present and could mean that they are less widely understood by employees, members and management in the future. Related to this, the perceived legitimacy of these arrangements would be reduced, particularly considering the Act envisages regulations being made in this area, employees and members may regard processes and requirements that rely solely on management's authority as being less acceptable and authoritative than the current, regulated arrangements. Both of these factors would have the potential to undermine, to some extent, the effective and efficient internal management of the Authority and, therefore, its ability to acquit its functions appropriately.

The costs and benefits identified above are not amenable to quantitative analysis. However, in respect of the potential benefit of greater flexibility and responsiveness in relation to management/disciplinary processes, it is notable that the relevant provisions of the current regulations have been amended only once²¹ during the ten year period in which they have been in place and then only to a limited extent. This suggests that the size of the potential flexibility benefit is likely to be relatively small. In other words, that the need to be able to amend the substance of these requirements is infrequent. Given this, it is considered that the costs of not replacing this aspect of the regulations would be likely to be greater than the expected benefits.

It is also evidently possible to envisage a range of different specific provisions in respect of the management and disciplinary aspects of the regulations. However, no substantive changes have been sought by the CFA in the context of the remaking of the current regulations and no recent representations on this issue are known to have been made by CFA employees or members. This observation is consistent with the fact that amending regulations were recently passed in relation to some aspects of the management/disciplinary regulations, as noted above, and suggest that there

²¹ The Country Fire Authority (Amendment) Regulations 2012 (SR 66/2012) made a limited number of amendments to Part 3 of the regulations that deal with discipline.

are few, if any, options currently identifiable that would yield superior outcomes in benefit/cost terms to the remaking of the current regulations in this area.

Compensation arrangements

Current regulations provide for CFA members, as defined for the purpose of part 6, to be compensated in respect of both personal injury and loss of property occurring during service with the CFA. These arrangements provide that volunteers shall be fully compensated for such losses, net of any amounts they are eligible to receive under other insurances or compensation arrangements for which they are eligible.

The proposed regulations will, in relation to compensation, simply reinstate the provisions of the current regulations, as amended with effect from 1 July 2014 to provide that all claims arising from this date onward will be dealt with under the new *Workplace Injury and Rehabilitation Compensation Act 2013*, rather than the former *Accident Compensation Act 1985*.

Member entitlements to compensation are not expected to be substantially affected.

No feasible alternative arrangements to compensation arrangements have been identified and stakeholder views are invited on these proposed regulations.

Forestry Industry Brigades

Section 23AA of the Act empowers the CFA to designate areas in which forestry industry brigades are to be established and to require landowners to establish these brigades, apply for registration of the brigade with the CFA, and to staff and equip them. The proposed regulations, which are unchanged from the current regulations, effectively provide limitations on this power, by establishing criteria for making decisions as to the requirement to establish brigades, while also setting out minimum requirements in respect of equipment levels.

Given this context, a feasible alternative is to not replace the provisions of the existing regulations in this area, effectively providing CFA with complete discretion as to the use of the powers conferred by the Act in this regard. The key benefit of this alternative is that it would enable CFA to make judgements as to whether an industry brigade should be formed and what resources should be made available that responded only to individual circumstances, without being constrained by the requirements of the regulations. This could mean that a greater degree of fire protection might be achieved in some circumstances.

However, against this there would be a significant loss of transparency on these issues. This might give rise to concerns on the part of some affected parties (essentially plantation owners) as to whether they were being treated equitably and would also reduce the predictability of the requirements, particularly for intending plantation-owners.

On balance, given the lack of significant concerns expressed by the CFA with the practical working of the current arrangements and the general desirability of ensuring transparency as to the basis for decision-making by public-sector bodies, the Department of Justice believes that there are greater net benefits associated with remaking the existing regulatory provisions in relation to forestry industry brigades.

It is also evidently possible to envisage a range of different specific provisions in respect of the forestry industry brigade-related aspects of the regulations. However, no substantive changes have been sought by the CFA in the context of the remaking of the current regulations and no representations on this issue are known to have been made by plantation owners on these issues in recent times. This suggests that there are few, if any, options currently identifiable that would yield superior outcomes in benefit/cost terms to the remaking of the current regulations in this area, however stakeholder views are invited on alternatives to the proposed regulations.

7. Conclusion

The proposed regulations would make only limited changes to the current *Country Fire Authority Regulations 2004*. This reflects the fact that the regulations as currently implemented have been assessed as being broadly effective and efficient, as well as being well accepted by stakeholders and the general community. This assumption is tempered by the fact that no formal and indepth consultation has occurred with the public and with CFA brigades across Victoria, and this document invites stakeholder views on the proposed regulations.

The subject matter of the majority of the regulations relates to the administration and management of the CFA, including the specification of disciplinary processes and other internal management matters and the terms of the provision of compensation for volunteers suffering injury or property loss while serving with CFA. These provisions do not impose any significant costs on other members of the community and would not normally be the subject of RIS analysis. For this reason, much of the above analysis has focused on those elements of the regulations that impose costs on parties outside the CFA. These are primarily the regulations dealing with fee setting by the CFA.

The only other regulatory provisions that fall into this category are those dealing with forestry industry brigades. However, these provisions largely apply constraints to the CFA's discretion in exercising powers provided to it under its Act, and are thus not considered to impose significant costs, of themselves. These provisions can be seen as cost reducing.

Fees regulations

Three options have been considered in this regard:

- **Option 1** is to adopt the proposed regulations that differ from the current regulations only in that they adopt a single, full cost recover based fee for emergency call-outs due to causes other than fires.
- **Option 2** is to adopt the same changes in respect of emergency call-out fees as under Option 1, but to also specify fees in the regulations themselves in respect of the assessment of applications under the *Building Act 1993*, the provision of advice on fire prevention and suppression and the inspection and servicing of fire suppression equipment, rather than leaving the determination of these fees to the discretion of the CFA.
- **Option 3** is to simply remake all of the existing fees regulations without amendment.

Based on the above discussion, it is likely that annual revenues in respect of the three options would be of the order of:

- \$14.1 million, for the proposed regulations (option 1);
- \$14.3 million, for option 2; and
- \$13.4 million for option 3.

These estimates are made on a 'steady state' basis, reflecting the prices and volume of services delivered in 2012-13, varied only by the specific changes proposed in each case.

However, the relative merits of the three options cannot be assessed solely in relation to their respective short-term revenue implications. Given that the benefits and costs of the options cannot be assessed in fully quantified terms, a multi-criteria analysis has been undertaken to determine the preferred option.

Three criteria have been identified and are used in assessing the relative merits of the three options. These are discussed below. Each option is assessed against each of the criteria on a scoring scale of -10 to +10. As the proposed regulations replace sun-setting regulations, the base case against which the options are assessed is necessarily one in which there are no regulations. Thus, if an option receives a positive score, it is regarded as preferable to an unregulated alternative. Conversely, it receives a negative score if it is less preferred to an unregulated alternative.

The three criteria are considered to be of similar importance in determining the preferred option and are therefore weighted equally.

Criterion 1: Transparency and accountability

Transparency and accountability are favoured if the fees set are widely published and available to stakeholders and if the basis for fee setting is also made clear via a RIS and external scrutiny. This implies that fees that are set in regulations must generally be preferred to those that are set at the discretion of an agency under a general regulatory authority. Thus, Option 2, which would specify an hourly rate under Regulation 99(1)(a) and (b), as well as setting specific fees under Regulation 99(1)(c) is preferred to Options 1 and 3. Given that Option 2 still provides for some fees to be set subject to agreement, rather than in regulation, Option 2 scores +7. Options 1 and 3 receive a slightly lower score of +6.

The limited difference between the options on this criterion primarily reflects the fact that, while Options 1 and 3 would not set the fees for testing and inspecting fire prevention and suppression equipment (which is responsible for around two thirds of all fee revenue) in regulation, the setting of these fees would continue to be determined by the Board subject to the advice of an expert committee with strong stakeholder representation. Given this, and the fact that the resulting fees are consistently published on the CFA website, it is considered that a high level of transparency and accountability are, in any case, maintained under these existing arrangements.

Criterion 2: Consistency with fees and charges guidelines

Fees regulations are generally required to be consistent with the DTF Cost Recovery Guidelines. These guidelines require that regulatory fees should be set at levels consistent with full cost recovery unless there is a clear public policy rationale for departing from this presumption.

Given this, Options 1 and 2, which would set this fee on a full cost recovery basis, are both preferred to Option 3.²² Option 2 would also set fees under Regulation 99(1)(a) and (b) at cost recovery levels, and so is preferred to Option 1. That said, there is no formal impediment to adopting a full cost recovery based fee in this area under Option 1, however, practical experience indicates that this outcome has not been achieved. Given this, and the fact that the costs incurred in this area are small, these two options score similarly. Thus, Option 2 scores +8, option 1 scores +7 and Option 3 scores +4.

3. Flexibility and responsiveness

Regulatory fees potentially need to be revised on a relatively frequent basis, if the nature of the services provided changes, the means of delivering them or the costs of the resources used to deliver them change significantly. Setting fees in the regulations themselves ensures that they are automatically adjusted by the "annual rate" specified by the Treasurer in the budget context (an amount usually similar to the CPI) and will therefore broadly maintain their real value over time. Conversely, however, setting fees in regulation means that regulatory amendments are required before substantive changes can be implemented. In the current context, the factors bearing on the appropriate level of the fees relate to the costs of providing very specific services, which may not change in a manner closely related to CPI changes over time. Therefore, on balance, options that leave the regulations to be set administratively (subject to general regulatory provisions) are preferred against this criterion.

This means that Options 1 and 3 are preferred to Option 2 on this criterion. Of particular note is that both of these options allow for variation in the fee for testing and inspecting fire prevention and suppression equipment without the need for regulatory change, as this function accounts for around two thirds of total fee revenue. Given the competitive environment in which this service is provided, the ability to respond in a timely manner to changes in market prices is particularly important.

Options 1 and 3 therefore score +8 on this criterion, while Option 2 scores +5.

Table 7.1: Scoring on Multi-Criteria Analysis

Option	Transparency and accountability	Consistency with fees and charges guidelines	Flexibility and responsiveness	Total
Option 1 (status quo but for full cost recovery false alarm fee)	+6	+7	+8	+21
Option 2 (as for Option 1, plus	+7	+8	+5	+20

²² As is noted in Box 5.2 on page 46, Options 1 and 2 depart from full cost recovery in relation to emergency attendances by valuing volunteer labour at market rates to ensure that the cost of charges for false alarm call-outs reflects the true cost to society of false alarms. However, this fee is described as a full cost recovery fee for simplicity.

specification of Regulation 99 fees)				
Option 3 (status quo)	+6	+4	+8	+18

Table 7.1 summarises the scoring of the three options under the three criteria used, as per the above discussion. It shows that all three options receive large positive scores, demonstrating that they are clearly preferred to the status quo option of allowing the existing regulations to lapse.

The three options score quite similarly. However, Option 3 (that of maintaining the status quo) scores lowest with +18. This largely reflects its poor score in relation to the criterion of consistency with the DTF fees and charges guidelines. Option 1 is slightly preferred to Option 2, scoring +21 points compared with Option 2's score of +20 points. This partly reflects the lower score of Option 2 on the criterion of flexibility and responsiveness.

Consequently, it is proposed to proceed with the making of new regulations consistent with Option 1.

8. Consultation

Specific consultation with stakeholder groups has been limited during the course of the development of the proposed regulations. CFA management and the administrative staff were consulted extensively during the development of this document, particularly in relation to requests for data and information and testing of assumptions that rely on that data and information.

Changes to compensation arrangements

The CFA has consulted Volunteer Fire Brigades Victoria on the changes to part 6, related to compensation, in the context to amendments made to align with the commencement of the WIRC Act on 1 July 2014. Consultation was undertaken with the peak body representing volunteers, Volunteer Fire Brigades Victoria (VFBV), who were supportive of those amendments and viewed them as improvements to the regulations, and those amendments are carried through in the proposed regulations.

Forestry industry brigades

As discussed above, the impetus for the changes to the regulatory arrangements relating to forestry industry brigades that have been implemented via the *Justice Legislation Amendment Act 2014* and the proposed regulations, and which has the effect of enabling forestry industry brigades to undertake fire prevention and suppression activities outside of their plantation areas, came from the forestry industry brigades. VFBV also indicated that the changes are a logical reform of the existing arrangements. The policy intent for these changes is expressed in the proposed regulations (that forestry industry brigades should be capable of assisting other CFA brigades in fire prevention and suppression activities outside of their plantation areas and that they should be covered by the same indemnity and compensation provisions that apply to brigade members and officers, when doing so).

While consultation has occurred with forestry industry brigades in the context of these legislative amendments, detailed consultation on the regulations governing forestry industry brigades has not been undertaken. Further comment regarding the administration of the regulations that govern forestry industry brigades is therefore invited in the context of the publication of this document.

Fees for inspection and maintenance of fire equipment

Moreover, it has been noted above that the fees established in respect of the inspection and maintenance of fire suppression equipment are established on the advice of a consultative committee to the CFA, which has wide stakeholder representation. These fees constitute the source of most fee revenue obtained under the existing and proposed regulations.

Given the above, the release of this RIS for public comment will constitute the main mechanism for stakeholder consultation in the context of the remaking of the regulations. The RIS will be available and public comment will be received for a period of 28 days.

Other aspects of the regulations

The lack of consultation on other aspects of the regulations reflects, in part, the fact that the proposed regulations will largely remake the existing regulations without amendment, together with the fact that amending regulations were passed as recently as 2012. The Department of Justice and the CFA believe that stakeholders are generally supportive of the existing regulations and will therefore support their remaking with limited amendments.

Request for stakeholder comment.

As set out in various parts of this document, stakeholder comment is invited on the various aspects of the proposed regulations, particularly those aspects that have not been subject to stakeholder engagement during the development of the exposure draft regulations. This includes the various administrative aspects of the regulations, where it is proposed, for the most part, to remake the existing substantive regulatory requirements for CFA governance without amendment.

9. Statement of Compliance with National Competition Policy

The National Competition Policy Agreements set out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements. Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation:

The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

- (a) the benefits of the restriction to the community as a whole outweigh the costs; and*
- (b) the objectives of the regulation can only be achieved by restricting competition.*

Clause 5(5) provides a specific obligation on parties to the agreement with regard to newly proposed legislation:

Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the restriction is consistent with the principle set out in sub-clause (1).²³

Therefore, all RIS must provide evidence that the proposed regulatory instrument is consistent with these National Competition Policy obligations. The recently released OECD Competition Assessment Toolkit²⁴ provides a checklist for identifying potentially significant negative impact on competition in the RIA context. This is based on the following three questions:

- Does the proposed regulation limit the number or range of suppliers?
- Does the proposed regulation limit the ability of suppliers to complete?

²³ Competition Principles Agreement, Clause 5. 1995. See www.ncc.gov.au

²⁴ See *Integrating Competition Assessment into Regulatory Impact Analysis*. OECD, Paris, 2007. (DAF/COMP(2007)8).

- Does the proposed regulation limit to the incentives for suppliers to compete vigorously?

According to the OECD, if all three of these questions can be answered in the negative, it is unlikely that the proposed regulations will have any significant negative impact on competition.

The only aspects of the regulations that potentially have any impact on competition are the two regulations that will authorise the CFA to charge fees in contexts in which the authority provides services that are also provided by private sector firms. These are:

- fees for the provision of advice on fire suppression and prevention matters (proposed regulation 99 (1)(b); and
- fees for testing and inspection of fire prevention and suppression equipment (proposed regulation 99 (1)(c).

An anticompetitive impact could arise if the fees were set at levels below efficient market prices as a result of the CFA exploiting advantages deriving from its position as a government entity. The key area of potential concern relates to fees for inspection and maintenance of fire suppression equipment, since these fees yield over \$8 million in annual revenue, whereas those related to the provision of advice on fire suppression and prevention matters yield well under \$100,000 per annum in revenue.

As noted above, however, the issue of competitive neutrality (which arises as a result of the widespread use of volunteer labour by the CFA) has been addressed explicitly by the DTF, which imposes competitive neutrality surcharges (currently totalling around \$0.8 million per annum) on the CFA specifically to address this issue. Given that this competitive issue has been explicitly addressed by DTF and that no change is proposed from current practice in relation to these fees, it is concluded that no anti-competitive effects arise from the proposed regulations. The CFA believes that the existing arrangements being remade deal with the issue of competitive neutrality by trying to set fees at a market rate where appropriate and through the use of sub-contractors.

Appendix 1: Outline of appliance costing methodology

A 'top down' methodology has been adopted to determine the effective hourly cost of CFA firefighting appliances. The resulting cost information has been used as the basis for setting a new fee for attendance by the CFA at emergency calls that are caused by false alarms. This top down methodology is similar to that used in the 2003 RIS in respect of the current regulation and was also adopted in the 2005 RIS in respect of the *Metropolitan Fire Brigade (General) Regulations 2005*.

The total expenditure of the CFA, as reported in the 2013 CFA Annual Report, was \$456.9 million. If grants and other transfers of \$15.6 million are subtracted from this figure, this implies total costs incurred within the CFA itself were \$443.3 million.

Data were obtained from the CFA on the total number of hours appliances spent responding to incidents. For the organisation as a whole, a total of 212,172 appliance hours were spent on incident response activities during 2012-13. Dividing this total into the above expenditure figure yields a global average cost of:

$$\text{\$443.3 million for 212,172 hours} = \text{\$2,089.34 per hour}$$

Given that fees for attendances at false alarms are charged on a "per appliance, per 15 minutes or part thereof" basis, this cost can be converted to an equivalent cost of \$522.33 per 15 minutes per appliance.

This cost estimate is significantly lower than that derived and published in the 2003 RIS in respect of the current regulations, on the basis of a similar top down methodology. The 2003 RIS concluded that the average incident attendance cost was \$587 per appliance per 15 minutes. In current dollar terms, this is equal to approximately \$776.50²⁵. This is almost 50% higher than the current cost estimate. This comparison indicates that the CFA has been successful in significantly reducing unit compliance costs over the past decade.

As noted above, the top-down methodology was also adopted by the MFB in 2005 in order to calculate the average cost of appliance attendance at incidents and thereby derive appropriate fees for attendances at false alarms. The MFB calculated average appliance attendance cost to be \$409.82 per 15 minutes. Applying the CPI to the MFB figure, the current dollar equivalent of this estimate of MFB costs is equal to \$521.81²⁶. This figure is almost identical to the current average cost figure calculated for the CFA, as shown above.

Alternative 'bottom up' cost estimation methodology

²⁵ Index ratio of March 2014 vs March 2003 CPI all groups, Melbourne = 1.322:1.

²⁶ CPI all groups Melbourne Mar 2014/Mar 2005 = (105.3/82.7).

A feasible alternative approach to estimating the average cost of attendance by an appliance in response to a callout is to calculate the average annual cost of the types of appliances that are most widely used in incident response and divide the resulting cost by an estimate of the average number of hours per annum for which they are in use.

The CFA has advised that the appliance most commonly dispatched in response to an emergency callout is a 'heavy pumper'. Data were obtained from the CFA in respect of the average purchase price of a heavy pumper, the average lifespan of vehicle, and the annual running and maintenance costs. Table A1 summarises these costs.

Table A1: heavy pumper equipment costs

Item	Capital cost	Lifespan	Equivalent annual cost
Purchase cost	\$766,000	15 - 20 years	\$43,771 ²⁷
Annual maintenance: Labour			\$8,205
Annual maintenance: parts			\$5,866
Registration			\$489
Insurance			\$518
Fuel			\$982 ²⁸
Total			\$59,832

Table A1 shows that the equivalent annual equipment costs for a heavy pumper are \$59,832. To this must be added the staffing costs associated with the equipment. Each heavy pumper is staffed by a crew of four. Table A2, below, sets out the annual labour costs for each crew and converts these to average annual costs.

Advice from the CFA is that firefighters work on an eight-day cycle, with four days on duty followed by four days off duty. The four days on duty comprise two-day shifts of 10 hours each and to night shifts of 14 hours each. Therefore, firefighters work 48 hours every eight days (excluding overtime). This is equivalent to an average 42-hour working week. Therefore, the average hourly rate figures have been calculated on the basis of this 42-hour working week.

Table A2: Crew costs - heavy pumper

Classification of firefighter	Annual salary 2014-15 \$	Equivalent hourly rate 2014-15 ²⁹	Oncosts (@ 17.5%)	Total hourly cost	Equivalent annual cost
Senior Station Officer	\$100,024	\$54.13	\$9.47	\$63.60	\$557,136

²⁷ Based on a midpoint of the estimated lifespan range, i.e. 17.5 years.

²⁸ Total fuel cost for all appliance of \$2,164,218, divided by 2,203 appliances = \$982.40 per appliance

²⁹ Hourly rate based on 220 working days of 8.4 hours each (i.e. 48 hrs worked in an 8 day cycle is equivalent to a 42 hour week). Thus 220 x 8.4 = 1,848 hours per year worked.

Station Officer	\$92,878	\$50.26	\$8.80	\$59.06	\$517,366
Leading Firefighter	\$82,162	\$44.46	\$7.78	\$52.24	\$457,622
Senior Firefighter	\$78,209	\$42.32	\$7.41	\$49.73	\$435,635
Total				\$224.63	\$1,967,759

Summing the above costs, the estimated average annual cost of a heavy pumper is around \$2,027,591, with virtually all of this cost representing the labour component. Labour costs have here been estimated here on an "incremental cost" basis. That is, they include only salaries plus labour on-costs of 17.5% and exclude the standard corporate overheads allowance of 50%.

A difficulty of this method is to determine a reasonable cost per hour figure. Conceptually, what is required is an estimate of the number of hours during which each appliance is involved in active duties, on average. Following discussions with the CFA, it was determined that was not feasible to obtain a direct estimate of this usage figure. However, data was gathered on the average number of hours for which the engines of appliances of the relevant type are in use. Engine hours data relating to four heavy pumpers, two based in Dandenong and two based in Geelong, indicates an average daily engine use time of 1.93 hours. This is equivalent to 704.45 hours per year.

Thus, the average hourly cost per appliance of incident response would, on this basis, be:

$$\$2,027,591/704.45 = \$2,879.06 \text{ per hour, or } \$719.90 \text{ per 15 minutes.}$$

This is \$197.57 or 37.8% higher than the cost figure of \$522.33 derived above via the top down methodology and arguably represents a reasonable level of agreement between the two methods – given that the top down estimates are global in nature, while the bottom up estimates relate to a subset of CFA stations.

However, CFA advise that this engine hours data will tend systematically to underestimate actual incident response time, since the engine will not be running at all times during incident response (i.e. at times when the unit is neither driving nor pumping, the engine will likely be off). Given this, an 'uplift' percentage should be applied in order to compensate for the systematic underestimation.

The size of any such uplift should reflect a reasonable view as to the extent of the likely underestimation of the true usage levels of appliances implicit in the engine hours data. As noted above, the likely underestimation relates to periods when the appliance is stationary at the call destination and the engine is not in use for pumping purposes. Discussions with SFA officials suggested a 50% uplift would be likely to be appropriate in this context.

If a 50% uplift is used, the average annual use per appliance becomes $704.45 \times 1.5 = 1056.7$ hours. Dividing this figure into the average annual cost per appliance yields an hourly cost of \$1,918.84 and a cost per 15 minutes of \$479.71.

While the bottom up methodology holds out the promise of deriving a more directly relevant cost figure, since it is based on the specific appliance type to which most charging by the CFA relates, data issues mean there is significant uncertainty in relation to the resulting average cost figure. In

particular, it is generally accepted that the recorded engine hours data represents an under-estimate of the true level of usage of appliances, but the extent of this underestimation is, effectively, unknown. Given this level of uncertainty, it has been determined that it is preferable to use the top-down approach as the basis for cost estimation and fee setting in the RIS.

However, the cost estimates obtained using the engine hours data are, when the 50% uplift is applied to the record number of hours, broadly similar to those found using the top down method has set out above. As noted, if the 50% uplift is applied, the cost of \$479.71 per 15 minutes is only 8.1% lower than the cost of \$522.33 derived using the top down method.

Thus, it is concluded that the broad polarity between the costs derived using the two different methodologies effectively demonstrates the robustness of the results obtained.

Appendix 2: Proposed Country Fire Authority Regulations 2014

Appendix 2: Proposed Country Fire Authority Regulations 2014

Exposure Draft

Country Fire Authority Regulations 2014

S.R. No. X/2014

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PART 1—PRELIMINARY

1 Objective

The objective of these Regulations is to provide for—

- (a) the proceedings of the Authority;
- (b) the management of officers and employees of the Authority;
- (c) the management and administration of fire brigades;
- (d) the issue of permits to burn and other fire prevention measures;
- (e) the financial arrangements of, and fees and charges levied by, the Authority;
- (f) compensation for personal injury and destruction, damage or loss of wearing apparel and personal effects of volunteer members of brigades, members of forestry industry brigades, casual firefighters and volunteer auxiliary workers;
- (g) the management and administration of forestry industry brigades;
- (h) to set out alarm monitoring information requirements;
- (i) other matters authorised by the Act.

2 Authorising provision

These Regulations are made under section 110 of the Act.

3 Commencement

These Regulations come into operation on 1 November 2014.

4 Revocation

The Regulations listed in Schedule 1 are **revoked**.

5 Definitions

In these Regulations—

appliance means apparatus that is a firefighting or emergency response engine or vehicle operated by a member or operational employee;

AS 1019 means Australian Standard AS 1019—2000, Internal combustion engines—Spark emission control devices, as in force from time to time;

AS 1687 means Australian Standard AS 1687—1991, Knapsack spray pumps for firefighting, as in force from time to time;

AS/NZS 1841.1 means Australian Standard and New Zealand Standard AS/NZS 1841.1:2007, Portable fire extinguishers, Part 1: General requirements, as in force from time to time;

brigade area means the area of operation designated for a brigade by the Chief Officer under section 27 of the Act;

Commission means the Country Fire Authority Appeals Commission established under section 74A of the Act;

Computer Aided Dispatch system means the Computer Aided Dispatch system operated by the Emergency Services Telecommunications Authority established

under the **Emergency Services
Telecommunications Authority Act 2004**;

employee means a person appointed under
section 17 of the Act;

financial statements means the accounting
records referred to in regulation 60;

forestry industry brigade means an industry
brigade in the forestry industry;

group of brigades or *group*, in relation to
brigades, means a group of brigades formed
under section 23A of the Act;

hazardous material incident means a hazardous
material incident or a toxic fire incident the
whole or part of which is not a fire;

member or *member of a brigade*, except in Part 6,
means a person who is enrolled by the
Authority as a volunteer officer or volunteer
member of a brigade;

mobile fire fighting unit means a vehicle suitably
equipped for enabling a forestry industry
brigade to respond to and fight a fire;

operational employee means an employee of the
Authority who is an operational staff
member within the meaning of the
**Emergency Services Superannuation Act
1986**;

plantation holdings means land which is used
primarily for tree farming or other
commercial forestry purposes;

relevant owner, in relation to a forestry industry
brigade, has the same meaning as in
section 23AA of the Act;

the Act means the **Country Fire Authority Act
1958**.

6 Application

These Regulations apply with respect to the country area of Victoria.

PART 2—THE AUTHORITY

7 Common seal

The common seal of the Authority must be kept as directed by the Authority and must not be used except as authorised by the Authority.

8 Authority to regulate its own proceedings

Subject to the Act and these Regulations, the Authority may regulate its own proceedings.

9 Meetings

- (1) The chairperson of the Authority must ensure that written notice of meetings of the Authority is served on each member of the Authority not less than 2 days before the meeting.
- (2) The notice of a meeting must specify the date, time and place of the meeting and, in the case of a special meeting, the business to be conducted at the meeting.

10 Minutes

The chairperson must ensure that—

- (a) a minute book is kept; and
 - (b) the minute book contains—
 - (i) minutes of decisions of the Authority and recommendations of committees of the Authority; and
 - (ii) names of the members of the Authority present at each meeting.
-

PART 3—EMPLOYEES

Division 1—Discipline

11 Offences

An employee, other than the Chief Executive Officer or the Chief Officer, who—

- (a) is involved in a contravention of section 20A(2) of the Act by a brigade or group; or
- (b) is involved in the contravention of section 26 of the Act by an association of persons; or
- (c) contravenes a direction of the Chief Officer given under section 30(1) of the Act; or
- (d) commits an act of misconduct; or
- (e) is negligent in the discharge of the employee's duties; or
- (f) is inefficient or incompetent and the inefficiency or incompetence arises from causes within the employee's control; or
- (g) is guilty of disgraceful or improper conduct; or
- (h) during the period of the employee's service, is convicted or found guilty of a criminal offence punishable by imprisonment—

is guilty of an offence.

12 Penalties

- (1) An employee who is guilty of an offence under regulation 11 may be subject to one or more of the following penalties—
 - (a) an admonition;
 - (b) a reprimand;
 - (c) a fine not exceeding \$2000;

-
- (d) a reduction in rank not amounting to removal under section 17;
 - (e) a reduction in classification not amounting to removal under section 17;
 - (f) a reduction in salary;
 - (g) transfer from the employee's position and appointment to another position with the Authority for a specified period or without a period being specified;
 - (h) suspension; or
 - (i) removal under section 17.
- (2) If a fine is imposed under this regulation, the Authority may deduct the amount of the fine from the pay of the employee fined, but the maximum amount that may be deducted in respect of each week must not exceed \$50.

13 Investigation

- (1) The Chief Executive Officer or the Chief Officer may appoint an employee or other person as an investigator to gather information concerning the circumstances which may have given rise to an offence under regulation 11.
- (2) Without limiting subregulation (1), the investigator must, as soon as practicable after commencing an investigation, give a written report on the circumstances to the person responsible for determining whether a charge should be laid in relation to those circumstances.

14 Laying of a charge

- (1) A senior employee, other than the Chief Executive Officer or the Chief Officer, may lay a charge for an offence under regulation 11.
- (2) A charge for an offence must be laid against an employee within the prescribed period after the

day on which the written investigation report is given under regulation 13(2).

- (3) The senior employee who lays the charge must give to the employee charged a copy of the charge setting out the circumstances of the alleged offence.
- (4) In subregulation (2), ***prescribed period*** means
 - (a) 30 days; or
 - (b) any other period not exceeding 60 days that the Chief Executive Officer or Chief Officer determines.

15 Notification of hearing

Not less than 21 days before the day set for the hearing of a charge, the Authority must give written notice of the time, date and place of the hearing to the employee charged.

16 Chief Executive Officer to conduct hearing

If a charge is laid against an employee (other than an operational employee) the Chief Executive Officer—

- (a) may suspend the employee charged until the charge is dealt with under these Regulations; and
- (b) must hear the charge (unless the Chief Executive Officer decides to dismiss the charge without a hearing) and—
 - (i) dismiss the charge; or
 - (ii) find the charge proven and impose one or more of the penalties referred to in regulation 12.

17 Chief Officer to conduct hearing

If a charge is laid against an operational employee the Chief Officer—

- (a) may suspend the employee charged until the charge is dealt with under these Regulations; and
- (b) must hear the charge (unless the Chief Officer decides to dismiss the charge without a hearing) and—
 - (i) dismiss the charge; or
 - (ii) find the charge proven and impose one or more of the penalties referred to in regulation 12.

18 Hearing of a charge

- (1) At the hearing of a charge, the person charged may be—
 - (a) self-represented; or
 - (b) represented by another person.
- (2) The person charged may call, examine and cross-examine witnesses and make submissions.
- (3) The person hearing the charge is not bound by the rules of evidence and must be informed by the best evidence available.
- (4) The person hearing the charge must—
 - (a) ensure procedural fairness; and
 - (b) in making a decision, have regard to the interests of justice and fairness.
- (5) Subject to these Regulations, the person hearing the charge may conduct the hearing in any manner he or she reasonably thinks fit.
- (6) The person hearing the charge may adjourn a hearing if he or she considers it necessary.

-
- (7) The Authority must not take adverse action against a person on the basis of evidence given by the person at the hearing of a charge.
 - (8) Subregulation (7) does not prevent—
 - (a) a charge being laid as a result of the person's evidence and the Chief Officer or Chief Executive Officer from hearing the charge in accordance with this Division; or
 - (b) the Authority taking legal proceedings or assisting in prosecutions or legal proceedings commenced by another person as a result of that evidence.

19 Notice of decision

The person hearing a charge must, within 14 days after making a decision under regulation 16(b) or 17(b), give to the person charged written notice of the decision, including any penalty imposed, and the reasons for the decision and penalty imposed.

20 Employee charged with criminal offence

An employee who has been charged with an offence punishable by a term of imprisonment may be suspended from duty by the Authority until the charge has been determined.

21 Employment and remuneration during period of suspension

- (1) An employee who has been suspended from duty under regulation 16(a), 17(a) or 20, may engage in remunerative employment, other than with the Authority, during the term of suspension.
- (2) All remuneration accruing to an employee in respect of the position from which the employee is suspended during any period of suspension must be withheld by the Authority unless the Chief Executive Officer or the Commission orders otherwise.

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- (3) If the charge in respect of which an employee has been suspended is dismissed, all remuneration withheld under subregulation (2) must be paid to the employee.
 - (4) If the charge in respect of which an employee has been suspended is found proven, all remuneration withheld in accordance with subregulation (2) is forfeited to the Authority unless the Chief Executive Officer or the Commission orders otherwise.

Division 2—Appeals to the Commission

22 Notice of an appeal

- (1) Subject to subregulation (2), a person wishing to appeal under Part VA of the Act must—
 - (a) lodge a written notice of appeal with the Commission not later than 21 days after the person is given notice of the matter against which the notice of appeal is lodged; and
 - (b) give a copy of the notice of appeal to the Authority.
- (2) An application for a remedy for unfair dismissal within the meaning of the Commonwealth Act may be made in accordance with the Commonwealth Act.

23 Procedures

The Commission must ensure that the Authority and the appellant receive not less than 14 days written notice of the time, date and place at which the hearing of an appeal will take place.

24 Notice of determination

After determining an appeal, the Commission must give written notice of its determination, including the reasons for the determination, to the Authority and the appellant.

25 Payment on successful appeal against reduction in rank, classification or salary

- (1) This regulation applies if—
- (a) an employee appeals to the Commission under section 74I(b) of the Act against a reduction in rank, classification or salary; and
 - (b) the Commission—
 - (i) allows the appeal; or
 - (ii) dismisses the appeal and varies the penalty so that the employee is not subject to a reduction in rank, classification or salary, or is subject to a lesser reduction in rank, classification or salary.
- (2) The Authority must pay the employee an amount of money which is equivalent to the difference between the remuneration the employee would have received if the decision of the Commission had been made by the Chief Executive Officer under regulation 16 or by the Chief Officer under regulation 17 and the remuneration actually received by the employee from the Authority in respect of the period since the reduction in rank, classification or salary.

26 Payment on successful appeal against removal

- (1) This regulation applies if—
- (a) an employee appeals to the Commission under section 74I(b) of the Act against removal; and
 - (b) the Commission—
 - (i) allows the appeal; or

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- (ii) dismisses the appeal and varies the penalty to a lesser penalty that may be imposed under regulation 12.
- (2) The Authority must pay the employee an amount of money that is equivalent to the amount of money that the employee would have received if the decision of the Commission had been made by the Chief Executive Officer under regulation 16 or by the Chief Officer under regulation 17.
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PART 4—BRIGADES AND GROUPS

Division 1—General

27 Application

This Part does not apply to industry brigades created under section 23AA of the Act.

28 Foundation member of brigade

The requirements set out in rule 4(2) of Schedule 2 apply to each person who seeks enrolment as a foundation member of a newly formed brigade.

29 Decision by majority vote

A decision of a brigade or group, whether described as a recommendation, acceptance, advice, determination, appointment or otherwise, must be determined by a majority of persons present and eligible to vote at a properly constituted meeting of the brigade or group.

30 Application for registration of brigades

(1) If it is proposed to apply to the Authority for registration of a brigade—

- (a) a public meeting must be held to consider the establishment of a brigade; and
- (b) a majority of those present must carry a resolution to apply for the registration of a brigade and the enrolment of officers and members of that brigade.

(2) An application for registration of a brigade must be made to the Authority in the form set out in Schedule 3.

31 Application for formation or variation of a group

(1) A group of brigades must be formed in accordance with rule 23 in Schedule 2.

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- (2) An application to the Authority for approval of the formation of a group must be in the form set out in Schedule 4.
 - (3) An application to the Authority for approval of the variation of the composition of a group must be in the form set out in Schedule 5.

32 Sufficient members and apparatus to remain in brigade area

The officer in charge of a brigade may authorise specified members and apparatus to leave the brigade area for the purpose of attending a fire if members and apparatus sufficient to protect life and property in the brigade area remain in the brigade area.

33 Brigade constitutions

- (1) A brigade may, with the approval of the Authority—
 - (a) adopt rules to govern the internal working and administration of the brigade; and
 - (b) amend those rules.
- (2) A rule adopted or amended under subregulation (1) must not be inconsistent with the Act or these Regulations.
- (3) If a brigade has not adopted any rules under subregulation (1), the rules set out in Schedule 2 apply to the brigade.

34 Group constitutions

- (1) A group of brigades may, with the approval of the Authority—
 - (a) adopt rules to govern the internal working and administration of the group of brigades; and
 - (b) amend those rules.

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- (2) A rule adopted or amended under subregulation (1) must not be inconsistent with the Act or these Regulations.
 - (3) If a group of brigades has not adopted any rules under subregulation (1), the rules set out in Schedule 6 apply to the group.

35 Uniforms and equipment

- (1) A member of a brigade who is in possession of a uniform and has served as a member of one or more brigades for an aggregate of 20 years or more may retain the uniform on leaving or retiring from the brigade.
- (2) Subject to subregulation (1), a member of a brigade who is in possession of a uniform or equipment belonging to the Authority must return the uniform or equipment to the Authority on leaving or retiring from the brigade.

Division 2—Membership

36 Applications

- (1) This regulation applies to applications—
 - (a) for membership of a brigade; or
 - (b) to transfer membership from one brigade to another brigade; or
 - (c) by a junior member to join a brigade as a senior member.
 - (2) An application must be in the form set out in Schedule 7 and be submitted to the relevant brigade.
 - (3) For the purposes of subregulation (2), in the case of an application referred to in subregulation (1)(b), the relevant brigade is the brigade to which the member is seeking to transfer.
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- (4) An application to join a brigade as a member under the age of 18 (whether as a junior member or otherwise) must be accompanied by the written consent of a parent or guardian of the applicant.
 - (5) If the brigade approves an application, the brigade must apply to the Authority to enrol the applicant in accordance with the application.
 - (6) The Authority may waive the requirement in rule 4(2)(b) of Schedule 2 in relation to senior membership of a brigade if it considers that special circumstances exist.

37 Enrolment of volunteers

- (1) A person is not a member of a brigade unless the person is enrolled by the Authority as a member of the brigade.
- (2) The Authority may enrol a person for duties specified by the Chief Officer if the Authority considers that the person is not physically capable of performing all the duties of a member without endangering the safety of others, but is capable of performing the duties specified by the Chief Officer.
- (3) The Authority may, in respect of a person who is enrolled as a member of a brigade, limit the duties for which the person is enrolled to those specified by the Chief Officer if the Authority considers that the person has become physically incapable of performing all the duties of a member without endangering the safety of others, but is capable of performing the duties specified by the Chief Officer.
- (4) The Authority may refuse to enrol a person as a member of a brigade if the Authority—
 - (a) requires the person to undergo a medical examination and the person fails the

examination or refuses to take the examination; or

- (b) considers that the person is not a fit and proper person to be a member of the brigade; or
- (c) is satisfied that some other reasonable ground exists to refuse enrolment.

38 Probationary membership

- (1) Unless the Authority otherwise determines, the enrolment by the Authority of a person as a member of a brigade will first be for a probation period of 6 months.
- (2) A person transferring from one brigade to another brigade, who is not on probation as a member of the first mentioned brigade, may apply to the Authority to waive the period of probation referred to in subregulation (1).
- (3) The Authority may vary the probation period before the expiry of the probation period.

39 Cancellation of enrolment of member on probation

The Authority may cancel the enrolment of a member on probation if the Authority receives advice from the brigade, not less than 7 days before the expiry of the probation period, that the member is not a fit and proper person to be a member.

40 Resignation

- (1) A member of a brigade who wishes to resign from the brigade must notify the secretary of the brigade in writing.
- (2) The secretary of a brigade who receives notification of the resignation of a member of the brigade must notify the Authority.

Division 3—Elections of officers of volunteer brigades and groups

41 Election of officers

- (1) For the purposes of section 25(1) of the Act—
 - (a) the prescribed manner for election of officers of a volunteer brigade is set out in Schedule 8; and
 - (b) the prescribed period of office of those officers is set out in clauses 4 and 5 of Schedule 8.
- (2) For the purposes of section 25(1) of the Act—
 - (a) the prescribed manner for election of group officers of a group of brigades is set out in Schedule 9; and
 - (b) the prescribed period of office of those group officers is set out in clauses 4 and 5 of Schedule 9.

Division 4—Conduct and duties of members

42 Physical fitness

- (1) The Chief Officer may, from time to time, require a member to undergo a medical examination or test to determine—
 - (a) the member's physical fitness; or
 - (b) the physical ability of a member to perform tasks in relation to which the member is, or is to be, enrolled.
- (2) A medical examination or test under subregulation (1) is to be conducted—
 - (a) by a person specified by the Chief Officer; and
 - (b) in relation to the brigade duties specified by the Chief Officer; and

- (c) at the Authority's expense.
- (3) If a member unreasonably fails—
- (a) to undergo the medical examination or test as directed; or
 - (b) to submit to the Chief Officer a medical certificate in relation to the examination or test—
- the Chief Officer may suspend a member from the member's brigade until the examination or test is undergone or the medical certificate is submitted.
- (4) If a member knows, or becomes aware, of a matter which would significantly affect the member's capacity to perform the duties of a member in respect of which the member is enrolled, the member must, as soon as practicable, advise the Chief Officer of the matter.
- (5) The failure of a member to comply with subregulation (4) does not disqualify the member from receiving compensation under these Regulations.

43 Training

A member must comply with the training requirements determined by the Authority to be necessary to perform the duties of the member.

44 Offences

A member of a brigade is guilty of an offence if the member—

- (a) is involved in a contravention of section 20A(2) of the Act by a brigade or group; or
- (b) is involved in the contravention of section 26 of the Act by an association of persons; or
- (c) contravenes a direction of the Chief Officer given under section 30(1) of the Act; or

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- (d) commits an act of misconduct; or
 - (e) is negligent in the discharge of the member's duties; or
 - (f) is inefficient or incompetent and the inefficiency or incompetence arises from causes within the member's control; or
 - (g) is guilty of disgraceful or improper conduct.

45 Penalties

A member who is guilty of an offence under regulation 44 may be subject to one or more of the following penalties—

- (a) an admonition;
- (b) a reprimand;
- (c) a reduction in rank;
- (d) a reduction in classification;
- (e) removal from an office in a brigade to which the member was elected or appointed and appointment to another office in the brigade;
- (f) suspension of membership of the brigade for a specified period;
- (g) a recommendation to the Authority that the enrolment of the member be cancelled.

46 Investigation

- (1) The Chief Officer may appoint an employee or other person as an investigator to gather information concerning the circumstances which may have given rise to an offence under regulation 44.
- (2) Without limiting subregulation (1), an investigator must, as soon as practicable after commencing an investigation, give a written report on the circumstances to the person responsible for

determining whether a charge should be laid in relation to those circumstances.

47 Suspension

- (1) At any time before the Chief Officer has caused an investigation to be conducted under regulation 46(1), the Chief Officer or an officer of the Authority nominated by the Chief Officer for the purpose may suspend the member from the member's brigade until the investigation report concerning the member has been given under regulation 46(2).
- (2) At any time after the Chief Officer has caused an investigation to be conducted under regulation 46(1), an officer of the Authority nominated by the Chief Officer for the purpose may suspend the member from the member's brigade until—
 - (a) the time for the laying of a charge under regulation 48(2) has expired; or
 - (b) if a charge is laid, the charge has been dismissed or found proven in accordance with regulation 49(3); or
 - (c) if an appeal has been made to the Appeal Panel, the chairperson of the Authority has given the appellant written notice of the Appeal Panel's determination.

48 Laying of a charge

- (1) The officer in charge of a brigade or an officer of the Authority nominated for the purpose by the Chief Officer may lay a charge for an offence under regulation 44.
- (2) A charge for an offence must be laid against a member within the prescribed period after the day on which the written investigation report is given under regulation 46(2).

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- (3) The officer who lays the charge must give to the member charged a copy of the charge setting out the circumstances of the alleged offence.
- (4) In subregulation (2), ***prescribed period*** means
- (a) 30 days; or
 - (b) any other period not exceeding 60 days that the Chief Officer determines.

49 Hearing

- (1) The Chief Officer must, not less than 21 days before the day set for the hearing of a charge, give written notice of the time, date and place of the hearing to—
- (a) the member charged; and
 - (b) the officer who laid the charge.
- (2) The officer who laid the charge must, not less than 14 days before the day set for the hearing of the charge, ensure that a copy of the investigation report given under regulation 46(2) is delivered to both the member charged and the Chief Officer.
- (3) The Chief Officer must hear the charge (unless the Chief Officer decides to dismiss the charge without a hearing) and—
- (a) dismiss the charge; or
 - (b) find the charge proven and impose one or more of the penalties referred to in regulation 45.

50 Hearing of a charge

- (1) At the hearing of a charge the person charged may be—
- (a) self-represented; or
 - (b) represented by another person.

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- (2) The member charged may call, examine and cross-examine witnesses and make submissions.
 - (3) The Chief Officer is not bound by the rules of evidence and must be informed by the best evidence available.
 - (4) The Chief Officer must—
 - (a) ensure procedural fairness; and
 - (b) in making a decision, have regard to the interests of justice and fairness.
 - (5) Subject to these Regulations, the Chief Officer may conduct the hearing in any manner the Chief Officer reasonably thinks fit.
 - (6) The Chief Officer may adjourn a hearing if the Chief Officer considers it necessary.
 - (7) The Chief Officer must not take adverse action against a person on the basis of evidence given by the person at the hearing of a charge or at an appeal under this Division.
 - (8) Subregulation (7) does not prevent—
 - (a) a charge being laid as a result of the person's evidence and the Chief Officer from hearing the charge in accordance with this Division; or
 - (b) the Authority taking legal proceedings or assisting in prosecutions or legal proceedings commenced by another person as a result of that evidence.

51 Notice of decision

The Chief Officer must, within 14 days after making a decision under regulation 49(3), give to the member charged written notice of the decision, including any penalty imposed, and the reasons for the decision and penalty imposed.

52 Establishment of Appeal Panel

For the purposes of this Division there is established an Appeal Panel constituted by—

- (a) the chairperson of the Authority; and
- (b) a member of the Authority nominated by the chairperson of the Authority; and
- (c) a person nominated by Volunteer Fire Brigades Victoria Inc.

53 Right to appeal

- (1) A member may appeal to the Appeal Panel against a decision of the Chief Officer or a penalty imposed by the Chief Officer, or both, under regulation 49(3).
- (2) Notice of an appeal to the Appeal Panel must be—
 - (a) in writing; and
 - (b) lodged with the chairman of the Authority not later than 14 days after the member has been given notice of the decision of the Chief Officer under regulation 51.

54 Setting down appeal

The Appeal Panel—

- (a) may, from time to time, determine the time and place at which appeals are to be heard; and
- (b) must ensure that, in respect of each appeal, the Chief Officer and the appellant receive not less than 14 days written notice of the time, date and place at which the hearing of the appeal will take place.

55 Appeal conducted as re-hearing

An appeal to the Appeal Panel is to be by way of a re-hearing.

56 Conduct of appeal

- (1) At a hearing of an appeal, the appellant may be—
 - (a) self-represented; or
 - (b) represented by another person.
- (2) The appellant may call, examine and cross-examine witnesses and make submissions.
- (3) The Appeal Panel is not bound by the rules of evidence and must be informed by the best evidence available.
- (4) The Appeal Panel must—
 - (a) ensure procedural fairness; and
 - (b) in making a decision, have regard to the interests of justice and fairness.
- (5) Subject to these Regulations, the Appeal Panel may conduct the hearing in any manner it reasonably thinks fit.
- (6) The Appeal Panel may adjourn the hearing of an appeal if it considers it necessary.

57 Determination and notification etc.

- (1) On the hearing of an appeal under this Division, the Appeal Panel—
 - (a) must set aside the order of the Chief Officer; and
 - (b) may make any order which the Appeal Panel thinks just and which the Chief Officer made or could have made; and
 - (c) may exercise any power which the Chief Officer exercised or could have exercised.
- (2) The chairperson of the Authority must, within 14 days after the making of the determination, give written notice to the appellant of the Appeal

Panel's determination, including the reasons for the determination.

58 Member charged with criminal offence

A member who has been charged with an offence punishable by a term of imprisonment may be suspended from membership of the brigade by the Authority until the charge has been determined.

Division 5—Financial management

59 Appointment of secretary and treasurer

- (1) Subject to subregulation (2), a brigade—
 - (a) must appoint a secretary; and
 - (b) may appoint a treasurer.
- (2) The secretary and the treasurer, if one is appointed, of a brigade must be a member of that or another brigade.
- (3) Subject to subregulation (4), a group of brigades—
 - (a) must appoint a secretary; and
 - (b) may appoint a treasurer.
- (4) The secretary and treasurer, if one is appointed, of a group of brigades must be a member of one of the brigades in the group of brigades.

60 Financial records must be kept

The secretary of a brigade or group, or if the brigade or group has a treasurer, the treasurer of the brigade or group, must ensure that proper accounts and records of the financial transactions, affairs and assets of the brigade or group are kept.

61 Financial statements to be prepared and submitted to the Authority

- (1) As soon as practicable after the end of each financial year, the secretary of a brigade or group

or, if the brigade or group has a treasurer, the treasurer must prepare financial statements that show the financial operations and financial position of the brigade or group for that year, and submit the financial statements to the Authority—

- (a) not later than 1 August next after the end of the financial year; or
 - (b) if the Authority specifies any other date in relation to a brigade or group, not later than that date.
- (2) The Authority must give at least 28 days written notice of a date specified under subregulation (1)(b).
 - (3) Financial statements submitted under subregulation (1) must be in the form specified by the Authority.

62 Authorisation to collect money

For the purposes of section 102 of the Act—

- (a) an authority to collect contributions or subscriptions for the purposes of any brigade, group or association must be in the form set out in Schedule 10; and
- (b) the prescribed condition is compliance with all laws relevant to any activities associated with the collection of contributions or subscriptions.

63 Property of the brigade—deregistration

If the registration of a brigade is cancelled by the Authority—

- (a) subject to paragraph (b), any personal property vested in a person on behalf of a brigade or a group of brigades must be distributed as determined by the Authority after consultation with the brigade; and

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- (b) any property referred to in paragraph (a) must not be distributed among the members of the brigade.
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PART 5—FORESTRY INDUSTRY BRIGADES

64 Designation of areas

- (1) In designating an area for the formation of a forestry industry, the Authority must—
 - (a) determine a point which is to be the central point in relation to the area that is to be designated; and
 - (b) ensure that the land in the designated area is a plantation holding.
- (2) Before designating an area for the formation of a forestry industry brigade, the Authority must consider the following matters—
 - (a) the size, location, topography, number and dispersion of the plantation holdings referred to in subregulation 1(b);
 - (b) the characteristics of the area, including—
 - (i) the location of roads;
 - (ii) the existing capacity for the prevention or suppression of fires and the saving of life at fires;
 - (iii) the past incidence of fire;
 - (iv) the risk posed by fire to plantation holdings and the community.
- (3) Before designating an area for the formation of a forestry industry brigade, the Authority must consult with a committee appointed by the Minister on the proposal to designate the area and the matters set out in subregulation (2).
- (4) The committee must consist of—
 - (a) at least one person experienced in the forestry industry; and

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- (b) at least one person experienced in fire fighting in rural Victoria; and
 - (c) the Secretary to the Department of Justice or that Secretary's nominee.
- (5) At least 30 days before designating an area for the formation of a forestry industry brigade, the Authority must give all relevant owners of land in the area a notice—
- (a) specifying the reasons for the decision to designate the area; and
 - (b) identifying in a map form the area to be designated.
- (6) The Authority must keep a register of designated areas for forestry industry brigades available for public inspection during business hours at its head office.

65 Criteria for formation of forestry industry brigades

- (1) The Authority must have regard to the criteria under this regulation in determining whether to require a relevant owner or group of relevant owners to form a forestry industry brigade for a designated area.
- (2) If the aggregate plantation holdings of a relevant owner or group of relevant owners in the designated area are 10 000 hectares or more, the Authority must be satisfied that there is no other forestry industry brigade in another designated area that is able and willing to provide adequate services for the suppression of fires and the saving of life at fires in the designated area.
- (3) If the aggregate plantation holdings of a relevant owner or group of relevant owners in the designated area are less than 10 000 hectares, the Authority must be satisfied that—

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- (a) the aggregate plantation holdings of the relevant owner or group of relevant owners are 500 hectares or more; and
 - (b) there is no other forestry industry brigade in another designated area that is able and willing to provide adequate services for the suppression of fires in the designated area; and
 - (c) the formation of the forestry industry brigade is appropriate having regard to the following—
 - (i) the adequacy of existing fire detection systems;
 - (ii) the first attack capability of the proposed brigade;
 - (iii) the apparatus available for the prevention or suppression of fires and the saving of life at fires in the designated area;
 - (iv) the availability of competent persons to become members of the brigade;
 - (v) the fire suppression capacity of any other brigade in the designated area;
 - (vi) the fire hazard characteristics of the designated area.

66 Requirement for formation of forestry industry brigade

- (1) A requirement by the Authority under section 23AA(2) of the Act must—
 - (a) be in writing; and
 - (b) state the reasons why the requirement to form the brigade has been made; and

- (c) identify the officers and members which the Authority has determined are to be provided for the brigade at the expense of the relevant owner or group of relevant owners; and
 - (d) identify the apparatus for the prevention or suppression of fires and the saving of life at fires, which the Authority has determined is to be provided for the brigade at the expense of the relevant owner or group of relevant owners; and
 - (e) state the Authority's operational and administrative requirements of the relevant owner or group of relevant owners; and
 - (f) state that the relevant owner or group of relevant owners must apply to the Authority for registration of the forestry industry brigade; and
 - (g) state that the relevant owner or group of relevant owners may apply to the Victorian Civil and Administrative Tribunal under section 23AA(4) of the Act for review of the requirement to form the brigade.
- (2) The Authority must consult with the relevant owner or group of relevant owners before determining the officers, members and apparatus to be provided for a forestry industry brigade.
- (3) A requirement under section 23AA(2) of the Act must be given to the relevant owner or each relevant owner in the group of relevant owners to whom the requirement is directed.

67 Minimum requirements for apparatus

- (1) The minimum requirement for apparatus for a forestry industry brigade to be determined by the Authority under section 23AA of the Act is, in relation to a relevant owner to whom regulation 66(2) applies, one mobile firefighting unit that—
 - (a) is capable of traversing all roads and tracks in the designated area; and
 - (b) has a minimum water carrying capacity of 2500 litres; and
 - (c) is equipped with at least 30 metres of 19 millimetre hose connected to a firefighting nozzle and a pump of at least 5 horsepower.
- (2) The minimum requirement for apparatus for a forestry industry brigade to be determined by the Authority under section 23AA of the Act is, in relation to a relevant owner or group of owners to whom regulation 66(3) applies, one or more mobile firefighting units that —
 - (a) are capable of traversing all roads and tracks in the designated area; and
 - (b) have a minimum aggregate water carrying capacity of 800 litres; and
 - (c) are equipped with at least 30 metres of 19 millimetre hose connected to a firefighting nozzle and a pump of at least 5 horsepower.
- (3) In relation to a relevant owner or group of owners to whom regulation 65(3) applies, in determining the apparatus to be provided for the prevention or suppression of fires and the saving of life at fires under section 23AA of the Act, the Authority must have regard to—

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- (a) the minimum requirements set out in subregulations (1) and (2), as applicable; and
 - (b) the size of the designated area; and
 - (c) the criteria set out in regulation 66(3)(c).

68 Application for registration of a forestry industry brigade

An application under section 23AA(2)(b) of the Act for the registration of a forestry industry brigade must provide the following information—

- (a) the name of the person engaged or employed by a relevant owner who is proposed for appointment as the officer in charge of the brigade;
- (b) the names of the persons engaged or employed by the relevant owner or group of relevant owners who are proposed for appointment as officers and members of the brigade;
- (c) a list of the apparatus to be used by the brigade for the prevention or suppression of fires and the saving of life at fires.

69 Responsibilities of a forestry industry brigade

- (1) The relevant owner, or the group of relevant owners, in relation to a forestry industry brigade—
 - (a) is responsible for the operation and command of the forestry industry brigade in relation to the designated area for which the forestry industry brigade is responsible; and
 - (b) must ensure that all apparatus and equipment of the forestry industry brigade is maintained in operational order; and
 - (c) may respond to calls to assist other brigades attending fires outside the designated area

for which the forestry industry brigade is responsible.

Notes:

1. Section 42(4) of the Act allows forestry industry brigades to assist other brigades in carrying out fire prevention and other work subject to the general direction of the Authority and Chief Officer.
 2. Section 93B(1B) of the Act enables forestry industry brigades, in specified circumstances, to assist the Authority, a group of brigades or any brigade in the prevention or suppression of a fire or the protection of life and property outside the country area of Victoria, subject to the direction and control of the person or body having authority in that place.
- (2) If a fire is detected in part of the designated area for which a forestry industry brigade is responsible, the officer in charge of the brigade must ensure that—
- (a) the nearest group of brigades is informed of the fire; and
 - (b) regular situation reports of fire suppression activities by the brigade are provided to the Chief Officer; and
 - (c) a fire incident report in a form approved by the Authority and containing any additional information that is requested by the Authority is given to the Authority in the manner required by the Authority at the conclusion of the fire incident.

70 Training

- (1) The minimum training requirements for officers and members of forestry industry brigades are the training requirements determined by the Authority under regulation 43 for members operating in forest areas.

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- (2) An officer or member of a forestry industry brigade must comply with the training requirements applicable to that officer or member.

71 Cancellation of forestry industry brigade

If the Authority decides to cancel the registration of a forestry industry brigade, it must notify the relevant owner or the group of relevant owners of the decision, the reasons for the decision and the date from which the decision takes effect.

72 Certain regulations not to apply to forestry industry brigades

Parts 3 and 4 do not apply to forestry industry brigades.

PART 6—COMPENSATION

Division 1—Compensation for members

73 Definitions

In this Division—

compensation includes compensation for losses referred to in regulation 76(1)(b) but does not include damages for personal injury;

current work capacity, in relation to a member, means a present inability arising from an injury such that the member is not able to return to the member's pre-injury employment but is able to return to work in suitable employment;

dependant means —

- (a) a person who at the time of the death of a member was wholly, mainly or partly dependant on the earnings of the member; or
- (b) a person who would, but for the incapacity of a member due to the injury, have been wholly, mainly or partly dependent on the earnings of the member;

family member, in relation to a person, means—

- (a) a spouse, domestic partner, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, step-brother or step-sister of that person; or
- (b) any person who stands in the place of a parent in relation to that person;

member means a volunteer officer, a member of a brigade, an officer or member of a forestry industry brigade or a person not formally enrolled as a member of a brigade but who has applied for membership and is performing the duties performed by a member of a brigade;

medical and like expenses means—

- (a) reasonable costs of the medical, hospital, nursing, personal and household, rehabilitation and ambulance services received by a member because of the personal injury; and
- (b) if death results from the personal injury, the reasonable costs incurred of family counselling services provided to the family members and dependants of the deceased member by a medical practitioner or registered psychologist and the reasonable costs of burial or cremation of the member;

motor car, motor vehicle, railway train and tram have the same meaning as in section 3 of the **Transport Accident Act 1986**;

notional current weekly earnings in relation to a member means the weekly earnings the Authority determines the member could earn from time to time (including, but not limited to, the amount of any current weekly earnings) in employment being the member's employment before the injury or in suitable employment, that the Authority determines the member is capable of performing despite the injury;

no current work capacity, in relation to a member, means a present inability arising from an injury such that the member is not able to return to work, either in the member's pre-injury employment or suitable employment;

personal effects does not include money;

personal injury means physical or mental injury and includes a disease or death;

senior officer means the Chief Officer, an officer in charge of a brigade or group of brigades or an officer authorised by the Chief Officer to be a senior officer for the purposes of this Division;

serious injury means an injury to a member in respect of which the member's degree of impairment is 30% or more when assessed in accordance with—

- (a) the American Medical Association's Guides to the Evaluation of Permanent Impairment (Fourth Edition)(other than chapter 15); or
- (b) the Guide to the Evaluation of Psychiatric Impairment for Clinicians;

as amended, varied or substituted from time to time under the **Workplace Injury Rehabilitation and Compensation Act 2013**;

service as a member—

- (a) means—
 - (i) an attendance at a fire or an alarm of fire in respect of which a fire and incident report has been made to the Authority; or

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- (ii) an attendance at an incident under section 20A, 97, 97A or 97B of the Act or an activity performed under section 97C of the Act in respect of which a fire and incident report has been made to the Authority; or
 - (iii) participation in, or preparation for, a fire brigade practice or training carried out with the consent of a senior officer; or
 - (iv) carrying out duties or exercising powers under the Act or these Regulations; or
 - (v) carrying out routine fire brigade duties, including building or maintenance at a fire station or other Authority premises by the order or with the consent of a senior officer; or
 - (vi) participation in, or preparation for, a fire brigade competition held under section 103 of the Act (whether as a competitor, official or organiser); or
 - (vii) attendance at a properly constituted meeting of a body or an official organ of a body established under this Act (other than the Authority), or at a meeting, recognised by the Authority, of members of that body; or
 - (viii) participation in, or preparation for, an activity designed to assist the community or any brigade or
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group of brigades, if the activity is approved by a properly constituted meeting of the brigade or group conducted in accordance with the rules of the brigade or group; and

- (b) includes travelling to and from the performance of a service referred to in paragraph (a); and
- (c) in the case of a member of a forestry industry brigade, includes—
 - (i) the services set out in paragraph (a) if those services are carried out under the command and control of the Chief Officer;
 - (ii) any service provided under section 42 or section 93B of the Act;
- (d) in relation to a forestry industry brigade member performing a service set out in paragraph (c), service —
 - (i) includes travelling to and from the performance of that service;
 - (ii) excludes any service, or travel to or from the performance of that service, on the plantation holdings in the designated area of that forestry industry brigade.

suitable employment, in relation to a member, means employment in work for which the member is currently suited—

- (a) having regard to the following—

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- (i) the nature of the member's incapacity and the details provided in medical information including, but not limited to, the medical certificate supplied by the member in accordance with regulation 79;
 - (ii) the member's age, education, skills and work experience;
 - (iii) the member's place of residence;
 - (iv) any plan or document prepared as part of the return to work process;
 - (v) any occupational rehabilitation services that are being, or have been, provided to the member; and
- (b) regardless of whether—
- (i) the work or the employment is available; and
 - (ii) the work or the employment is of a type that is generally available in the employment market;

transport accident means an incident directly caused by the driving of a motor car or motor vehicle, a railway train or a tram.

74 Entitlement to compensation

- (1) If a member, in the course of, or arising out of, performing service as a member—
 - (a) suffers a personal injury; or
 - (b) suffers destruction, damage or loss of—
 - (i) wearing apparel or personal effects worn while performing the service; or
 - (ii) a motor vehicle, equipment or property (other than aircraft) owned by, or in the

possession of, the member and used in the performance of the service—

the member is entitled to compensation.

- (2) If a member suffers a personal injury in the course of, or arising out of, performing service as a member which results in, or materially contributes to, the member's death, the family members and dependants of the member are entitled to compensation under this Division.

75 Property loss and damage

- (1) The amount of compensation payable in respect of destruction, damage or loss of wearing apparel, personal effects, a motor vehicle, equipment, or other property, is the amount the Authority considers reasonable for the indemnification for the destruction, damage or loss.
- (2) Despite subregulation (1)—
- (a) the amount of compensation payable in respect of destruction, damage or loss of wearing apparel or personal effects must not exceed an amount determined by the Authority from time to time; and
 - (b) if the member is entitled to reimbursement under any policy of insurance or from any other source, the amount of compensation payable under this regulation is an amount equivalent to any financial loss, related to the destruction, damage or loss, which remains after that reimbursement and is determined reasonable by the Authority.

76 Damages

- (1) If, in respect of a personal injury—
- (a) compensation is paid under this Division; and

- (b) an award of damages or compensation is paid by or on behalf of, or a compromise or settlement is reached with, a person or body other than the Authority—

the member or person to whom the compensation is paid must pay to the Authority an amount equal to—

- (c) if the amount paid under the award, compromise or settlement exceeds the amount of compensation paid under this Division, the total amount of compensation received under this Division; or
- (d) if the amount paid under the award, compromise or settlement is equal to or less than the amount of compensation paid under this Division, the proportion of the amount of compensation received under this Division (including medical and like expenses paid by the Authority) that is determined by the Authority.
- (2) The Authority may recover money payable to the Authority under subregulation (1) in a court of competent jurisdiction as a debt due to the Authority.
- (3) If, in respect of a personal injury—

- (a) compensation is payable under this Division; and
- (b) an award of damages or compensation is paid by or on behalf, or a compromise or settlement is reached with, of a person or body other than the Authority—

the entitlement under this Division of the member or the person to whom compensation is payable is to be reduced by an amount equal to the amount paid under the award, compromise or settlement paid to the member or person.

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- (4) If, in respect of a personal injury—
- (a) compensation is payable under these Regulations; and
 - (b) an award of damages is paid by or on behalf of the Authority—
- then the following apply in respect of that personal injury—
- (c) there is no entitlement to compensation under this Division in respect of that personal injury; and
 - (d) if any amount has been paid in compensation under these Regulations before the award of damages, an amount equal to the amount paid in compensation must be deducted from the amount of damages recoverable from the Authority.
- (5) This regulation does not apply to a compromise or settlement reached in respect of a personal injury sustained before 1 July 2014.

77 Making a claim

- (1) A claim must—
- (a) be in the form approved by the Victorian WorkCover Authority for the purposes of—
 - (i) for a claim relating to injuries sustained before 1 July 2014, the **Accident Compensation Act 1985**; or
 - (ii) for a claim relating to injuries sustained on or after 1 July 2014, the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
 - (b) in the case of a claim for destruction, damage or loss of personal property, include an estimate of the cost of the destruction, damage or loss;

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- (c) in the case of a claim for personal injury—
- (i) be in a form approved by the Authority;
and
 - (ii) if a claim for loss of income is made, be accompanied by—
 - (A) a medical certificate in the form required by subregulation (2) in respect of a period of incapacity not exceeding 28 days; and
 - (B) proof of loss of earnings, including but not limited to taxation returns, profit and loss statements, PAYG pay assessments, statements from an employer or the member's accountant; and
 - (iii) if the personal injury arose out of a transport accident, be accompanied by the police report required by regulation 83; and
 - (iv) in respect of the death of a member, be accompanied by a copy of the death certificate.
- (2) A medical certificate must—
- (a) be in the form approved by the Victorian WorkCover Authority for the purposes of of the **Accident Compensation Act 1985** or the **Workplace Injury and Rehabilitation Act 2013**, as the case may be; and
 - (b) be issued by a medical practitioner; and
 - (c) specify the expected duration of the member's incapacity and whether the member has a current work capacity or has no current work capacity during the period,
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not exceeding 28 days, stated in the certificate.

- (3) Despite subregulation (2)(c), the Authority may accept a medical certificate covering a period exceeding 28 days if the certificate states reasons why the certificate covers the longer period.
- (4) A medical certificate is of no effect to the extent that it relates to a period of time more than 90 days after the date the certificate is issued, unless the Authority otherwise determines.
- (5) Subject to regulation 79, a claim must be lodged with —
 - (a) the officer in charge of the brigade to which the member belonged; or
 - (b) if the member or the claimant is the officer in charge of a brigade, an operations manager within the region in which the brigade operated —

at the time of the destruction, damage or loss of personal property or of the personal injury, as the case may be.
- (6) If a claim for compensation or the material accompanying the claim for compensation is incomplete or is insufficient to enable the Authority to make a determination of the claim, the Authority may request further information from the member or the claimants before determining the claim.

78 Report by officer in charge

- (1) Subject to subregulation (2), the officer in charge of the brigade who receives a claim under regulation 79 must lodge with the Authority as soon as practicable—
 - (a) the claim form and medical certificate (if any); and

- (b) a statement, signed by the officer in charge of the brigade, of the circumstances of the incident giving rise to the claim for compensation and the opinion of the officer as to the claim; and
 - (c) a report from any person who witnessed the incident giving rise to the claim for compensation.
- (2) If the member or claimant is the officer in charge of the brigade, an operations manager within the region who received the claim must comply with sub-regulation (1).

79 Some personal injury claims may be lodged with Authority

- (1) A claim for personal injury may be lodged directly with the Authority if, after considering a request made under subregulation (2), the Authority is satisfied that in the circumstances it is not practicable for the member or claimants to lodge the claim in accordance with regulation 77(5).
- (2) A request must specify—
- (a) that the member or claimants propose to make a claim for personal injury; and
 - (b) that, in the circumstances, it is not practicable for the member or claimants to lodge the claim in accordance with regulation 77(5); and
 - (c) the circumstances that make lodgement of the claim, in accordance with regulation 77(5), impracticable.
- (3) The Authority must advise the member or claimants who made a request under this regulation of its decision to receive or not receive a claim for personal injury directly from the

member or claimants as soon as practicable after receiving the request.

80 Authority may request report by officer in charge

- (1) Subject to subregulation (3), if a claim for personal injury is received by the Authority directly under regulation 81, the Authority may give a copy of the claim to the officer in charge of the brigade to which the member belonged at the time of the personal injury.
- (2) Subject to subregulation (3), if a claim for personal injury is received by the Authority directly under regulation 79, the Authority may request the officer in charge of the brigade to which the member belonged at the time of the personal injury to give the Authority—
 - (a) a statement, signed by the officer in charge, of the circumstances of the incident giving rise to the claim for compensation and the opinion of the officer as to the claim; and
 - (b) a report from any person who witnessed the incident giving rise to the claim for personal injury.
- (3) If the claim for personal injury is lodged by the officer in charge of a brigade, the Authority may deal with an operations manager within the region in accordance with subregulations (1) and (2).

81 Transport accident

If a member suffers property loss or damage, or a personal injury arising out of a transport accident, the member must—

- (a) make a report to a police officer concerning the circumstances of the transport accident; and

- (b) provide a copy of the police report to the Authority when lodging the claim for compensation.

82 Determination of claims

- (1) The Authority must—
 - (a) enquire into the circumstances of every claim lodged; and
 - (b) determine the claim as soon as possible.
- (2) In determining a claim for compensation, the Authority—
 - (a) has power to do all things necessary or expedient to determine the claim for compensation; and
 - (b) must give consideration—
 - (i) for claim relating to injuries sustained before 1 July 2014, to the matters set out in sections 5, 5AC, 5AE, 5B, 82, 82A, 82B, 82C, 82D, 83, 86, 88, 89, 90, 91 (except subsection (2)), 92 (except subsection (7)), 93, 93CE, 93E, 93EA, 93F, 96, 96A, 97, 98, 98A, 99AAA, 99, 99AA, 99AC, 99AD, 99A, 100, 111 and 112 of the **Accident Compensation Act 1985**; or
 - (ii) for a claim relating to injuries sustained on or after 1 July 2014, to the matters set out in sections 92, 98 and 98A of the **Accident Compensation Act 1985** and sections 3, 6, 7, 27, 39, 40, 41, 42, 43, 44, 45, 46, 50, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 152, 156, 158, 160, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 222, 223, 224, 226, 228, 229, 231, 232, 542 of, and clause 25 of Schedule 1 to, the

**Workplace Injury Rehabilitation and
Compensation Act 2013—**

with any variations that are necessary, and
in so far as they are not inconsistent with
these Regulations;

- (c) in determining a claim for the destruction,
damage or loss of personal property owned
by, or in the possession or control of, a
member, may take into account the
negligence of the member after considering
any additional material and submissions
provided by the member; and
- (d) in determining a claim for compensation
arising from the death of a member, may take
into account the receipt by the member of—
 - (i) income from employment of, or work
performed by, the member; or
 - (ii) a pension, regular annuity or benefit
payable under a law enacted in Victoria
or any other Australian jurisdiction or
an amount payable under a policy of
insurance in respect of loss of earnings
or income.

**83 Entitlement to compensation exists regardless of
whether a member is a worker**

A member is not debarred from compensation in
respect of personal injury caused to the member in the
course of or arising out of service as a member by
reason only that the member was not, at the relevant
time, a worker within the meaning of the **Accident
Compensation Act 1985** or the **Workplace Injury
Rehabilitation and Compensation Act 2013** as the
case may be.

84 Average weekly earnings

In determining the average weekly earnings of a member, the Authority—

- (a) must take into account information supplied by or on behalf of the member; and
- (b) may take into account any or all of the following—
 - (i) the average weekly earnings payable under a relevant industrial award to a person with the member's skills, qualifications and experience;
 - (ii) the average weekly earnings of a comparable person as published by the Australian Bureau of Statistics (ABS);
 - (iii) the reasonable cost of paying a person to perform the work the member is unable to perform as a result of the personal injury suffered while serving as a member;
 - (iv) the member's employment by an employer before the injury;
 - (v) other relevant matters; and
- (c) if the member was not working under a contract of service at the time of the injury, may calculate average weekly earnings on any basis that, in the opinion of the Authority, most fairly reflects the worker's earning capacity had the injury not occurred to the member.

85 Interim payment

- (1) The Authority, before determining a claim for compensation for personal injury, may make an interim payment—

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- (a) for loss of income, calculated in accordance with regulation 84, for a period not exceeding 6 weeks; and
 - (b) for reasonable medical and like expenses for a period not exceeding 6 weeks.
- (2) A payment under subregulation (1) is subject to the provision of a medical certificate in accordance with regulation 77.
- (3) Subject to subregulation (4) and (5), if it appears to the Authority that a person may be entitled to compensation in respect of the death of a member, the Authority may, before determining the claim, make interim payments to the person as follows—
- (a) a weekly payment for a period of up to 12 weeks from the date of death of the member in an amount the Authority considers reasonable; and
 - (b) a payment for reasonable medical and like expenses up to a maximum amount determined by the Authority.
- (4) Only one spouse or domestic partner may receive interim payments under subregulation (3)(a).
- (5) The total amount of interim payments paid to each person entitled to compensation in respect of the death of a member under subregulation (3) must not exceed the maximum amount determined by the Authority.
- (6) If the Authority determines that compensation is payable, the compensation payable is to be reduced by the amount of any interim payment made under this regulation.
- (7) A payment made under subregulation (1) or subregulation (3) is not an admission of liability to pay compensation in respect of the claim.

86 Payment of medical expenses

Payments made by the Authority for reasonable medical and like expenses incurred by a member are deemed to be payments made in satisfaction of a claim lodged by, or on behalf of, the member.

87 Medical certificates and examinations

- (1) The Authority may, from time to time, require a member who is receiving compensation payments from the Authority to attend any medical, rehabilitation, vocational or like examination with a medical practitioner or health professional nominated by the Authority.
- (2) If a member—
 - (a) unreasonably fails to provide a certificate required by the Authority; or
 - (b) unreasonably fails to attend or undergo a medical or like examination required by the Authority; or
 - (c) unreasonably obstructs an examination referred to in paragraph (b)—the Authority may suspend compensation payments until the certificate is provided, the examination takes place or the obstruction ceases.
- (3) The Authority must pay the cost of medical or like examinations referred to in subregulation (1).

88 Duty to advise Authority

- (1) A member who is receiving from the Authority compensation payments for loss of income must advise the Authority of—
 - (a) an alteration in the member's weekly earnings by reason of a change in employment circumstances; and
 - (b) the member's return or partial return to work; and

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- (c) a change in the member's capacity to return, or partially return, to work.
 - (2) A member or claimant who has received or is receiving compensation from the Authority must advise the Authority of—
 - (a) any claim lodged against a person or body other than the Authority for compensation or damages for the same personal injury for which the Authority has paid compensation under this Division; and
 - (b) any award of compensation or damages payable by, or any compromise or settlement reached with, a person or body other than the Authority for the same personal injury for which the Authority has paid compensation under this Division.

89 Alteration of weekly payments by request

- (1) A member who is receiving compensation for loss of income may apply in writing to the Authority for an increase or reduction in the amount of weekly payments and must specify the reasons for the application and provide the Authority with supporting evidence.
- (2) The Authority must—
 - (a) accept or reject the application; and
 - (b) give the member a written statement of its decision and the reasons for its decision; and
 - (c) if the Authority accepts the application, specify the new level of weekly payments and commencement date (if applicable).

90 Reduction of weekly payments

- (1) The Authority may, in accordance with regulation 94, reduce weekly payments on one or more of the following grounds—

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- (a) there is not, or is no longer, an entitlement to weekly payments at the existing amount;
 - (b) the member has returned to work;
 - (c) the member's current weekly earnings have altered by reason of a change in employment circumstances;
 - (d) the Authority considers that the member unreasonably did not accept—
 - (i) an offer of suitable employment; or
 - (ii) an offer of suitable employment which would result in increased weekly earnings;
 - (e) the member's current work capacity warrants a reduction of weekly payments.
- (2) When a member has received weekly payments for loss of income in respect of an aggregate period of 156 weeks (whether consecutive or not), the Authority must reduce weekly payments, in accordance with regulation 94, to—
- (a) if the member has a serious injury as determined by the Authority or has no current work capacity for suitable employment, 90% of the member's pre-injury average weekly earnings as determined by the Authority;
 - (b) if the member has a current work capacity for suitable employment, 70% of the member's pre-injury average weekly earnings as determined by the Authority—
- less the member's current weekly earnings, or notional current weekly earnings as determined by the Authority.

91 Termination of weekly payments

The Authority may, in accordance with regulation 94, terminate weekly payments on one or more of the following grounds—

- (a) there is not, or is no longer, an entitlement to weekly payments;
- (b) the member has returned to work;
- (c) the member's current weekly earnings have altered by reason of a change in employment circumstances;
- (d) the Authority considers that the member unreasonably did not accept—
 - (i) an offer of suitable employment; or
 - (ii) an offer of suitable employment which would result in increased weekly earnings or greater employment opportunities;
- (e) if the member accepted an offer of suitable employment, the Authority considers that the member—
 - (i) did not actively take up the employment; or
 - (ii) took up the employment but did not make a reasonable attempt to continue in, or carry out that employment;
- (f) the Authority considers that the member did not make every reasonable effort to—
 - (i) participate in an occupational rehabilitation service or return to work plan; or
 - (ii) return to work in suitable employment; or
 - (iii) participate in assessments of the member's capacity, rehabilitation

progress and future employment prospects when requested to do so from time to time by the Authority or its health professionals;

- (g) the Authority considers that the member's capacity or availability for employment has been materially reduced due to a cause that—
- (i) is within the member's control; and
 - (ii) is not related to the personal injury entitling the member to weekly payments.

92 Procedure for increase, reduction or termination

The Authority may increase, reduce or terminate weekly payments of a member by serving the member with a written notice which must state—

- (a) in the case of an increase or reduction—
 - (i) the new level of weekly payments; and
 - (ii) when the new level of weekly payments will commence; and
- (b) in the case of a termination, when weekly payments will stop; and
- (c) the reasons for the increase, reduction or termination of weekly payments.

93 Redemption of weekly payments and medical expenses

The Authority, by agreement with a member entitled under this Division to weekly payments or medical and like expenses, may redeem the member's future entitlement to weekly payments or medical and like expenses under this Division by paying the member the sum agreed between the member and the Authority.

**Division 2—Compensation for casual firefighters and
volunteer auxiliary workers**

94 Claims procedure

- (1) A claim for compensation under Part V of the Act must, with any variations that are necessary, comply with regulations 79 and 83.
- (2) Subject to regulation 98, a claim must be lodged—
 - (a) in the case of a claim by a casual fire fighter, with the officer in charge of operations at the fire giving rise to the claim for compensation; or
 - (b) in the case of a claim by a volunteer auxiliary worker, with the secretary of the brigade or the group secretary of the group of brigades who appointed the person as a volunteer auxiliary worker.

95 Duty of officer in charge

The person with whom a claim is lodged under regulation 96(2) or any other officer designated by the Authority, must, as soon as practicable—

- (a) obtain a statement from any person who witnessed the incident giving rise to the claim for compensation; and
- (b) forward to the Authority the statement, together with a report of the circumstances of the incident giving rise to the claim for compensation and provide an opinion as to the claim.

**96 Some claims for compensation may be lodged with
Authority**

- (1) A claim for compensation under Part V of the Act in respect of personal injury may be lodged

directly with the Authority if, after considering a request made under subregulation (2), the Authority is satisfied that in the circumstances it is not practicable for the casual fire fighter or volunteer auxiliary worker to lodge the claim in accordance with regulation 96(2).

- (2) A request must specify—
- (a) that the casual fire fighter or volunteer auxiliary worker proposes to make a claim for personal injury; and
 - (b) that, in the circumstances, it is not practicable for the casual fire fighter or volunteer auxiliary worker to lodge the claim in accordance with regulation 96(2); and
 - (c) the circumstances that make lodgement of the claim in accordance with regulation 96(2) impracticable.
- (3) The Authority must advise the casual fire fighter or volunteer auxiliary worker who made a request under this regulation of its decision to receive or not receive a claim for personal injury directly from the casual fire fighter or volunteer auxiliary worker as soon as practicable after receiving the request.

97 Authority may provide claim to officer in charge or brigade Secretary

If a claim for personal injury is received by the Authority directly under regulation 98, the Authority may give a copy of the claim to—

- (a) in the case of a claim made by a casual fire fighter, the officer in charge of operations at the fire giving rise to the claim for compensation; or
- (b) in the case of a claim made by a volunteer auxiliary worker, the Secretary of the brigade

or the group of brigades who appointed the person as a volunteer auxiliary worker.

98 Authority may request report

If a claim for personal injury is received by the Authority directly under regulation 98, the officer in charge of operations at the fire giving rise to the claim for compensation, the relevant Secretary of the brigade or the group of brigades or any other officer designated by the Authority, must, on request by the Authority—

- (a) obtain a statement from any person who witnessed the incident giving rise to the claim for compensation in respect of a personal injury; and
 - (b) forward to the Authority the statement together with a report of the circumstances of the incident giving rise to the claim for compensation and provide an opinion as to the claim.
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PART 7—FEES AND CHARGES

99 Fire protection charges

- (1) The Authority may, from time to time, fix fees and charges for the following services provided by the Authority or officers of the Authority—
 - (a) inspections in relation to applications made under the **Building Act 1993**;
 - (b) the provision of advice on fire prevention and suppression matters;
 - (c) the testing and inspection of fire prevention and suppression equipment.
- (2) The person requesting a service referred to in subregulation (1) must pay the fee or charge fixed by the Authority for the service.

100 Emergency attendances

- (1) The following persons are liable to pay the relevant fee referred to in subregulation (3)—
 - (a) the owner, occupier or owners corporation of premises on which is installed—
 - (i) an automatic fire alarm system; or
 - (ii) equipment designed to detect a fire or other emergency conditions and transmit a signal of the detection—

for the attendance of a brigade in response to a false alarm of fire given by or originating from the system or equipment if the Authority is not satisfied that there was a reasonable excuse for the occurrence of the false alarm;
 - (b) if ordered to do so by a court, a person who has been convicted of giving or causing to be given a false report of fire under

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- section 107B of the Act, for the attendance of a brigade in response to the false report;
- (c) the owner or master of a vessel, for the attendance of a brigade in response to a fire on the vessel;
 - (d) in respect of an attendance of a brigade in special circumstances requiring the protection of life or property in case of fire, the person requiring the attendance or the owner or occupier, as the case may be;
 - (e) in respect of an attendance of a brigade in response to a hazardous material incident—
 - (i) the owner or occupier of the premises at which the incident occurred; or
 - (ii) if the incident occurred on a street, road or highway (however described), the owner or driver of the vehicle transporting the hazardous material involved in the incident.
- (2) If more than one person is liable under subregulation (1) to pay a relevant fee, each person referred to is liable to pay the fee.
 - (3) The fee in respect of each appliance in attendance for each 15 minutes or part of 15 minutes during which the appliance is absent from its station is 39.54 fee units.
 - (4) A person who is liable to pay a fee under subregulation (3) for the attendance of a brigade in response to a hazardous material incident must, in addition to the fee required under that regulation, pay a charge to the Authority which is the amount equivalent to the cost of the incident calculated in accordance with subregulation (5).
 - (5) The additional cost of attending a hazardous material incident is determined by calculating the
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expenses incurred by the Authority in attending or dealing with the effects of the incident and shall be determined by assessing the following costs—

- (a) the cost of obtaining advice as to the chemical analysis and the environmental impact of materials involved in the incident or its containment;
- (b) the cost of testing, cleaning, maintaining, repairing or replacing protective equipment;
- (c) the costs of removal and disposal of materials;
- (d) the cost of products purchased for or consumed in neutralising the hazard involved in the incident;
- (e) the cost of hiring and operating equipment and vehicles to deal with the hazard involved in the incident;
- (f) the cost of medical and like expenses in testing and treating any person injured, or at risk of injury, in attending the incident in accordance with the Act or regulations;
- (g) the cost of transporting any person to deal with the hazard involved in the incident;
- (h) the cost of any accommodation and meals for the employees or officers of the Authority and any officers and members of a brigade attending the incident;
- (i) any other costs incurred by the Authority in attending the incident or dealing with the effects of the incident.

101 Property protection and loss mitigation services

Subject to any direction given by the Minister under section 6A of the Act, the Authority may set

charges under section 97C(2) of the Act as the Authority considers appropriate.

102 Road accident rescue

- (1) In respect of road accident rescue services provided to persons entitled to compensation under section 60(2)(a) of the **Transport Accident Act 1986**, the Authority may charge the Transport Accident Commission fees agreed with the Commission, having regard to the matters set out in subregulation (4).
- (2) In respect of road accident rescue services provided to persons entitled to compensation under section 99(1)(a) of the **Accident Compensation Act 1985** in relation to injuries sustained before 1 July 2014, the Authority may charge the person or body responsible for payment of compensation under that section the fees agreed with that person or body, having regard to the matters set out in subregulation (4).
- (3) In respect of road accident rescue services provided to persons entitled to compensation under section 224(1)(a) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, in relation to injuries sustained on or after 1 July 2014, the Authority may charge the person or body responsible for payment of compensation under that section the fees agreed with that person or body, having regard to the matters set out in subregulation (4).
- (4) The fees agreed for the purposes of this regulation must take into account—
 - (a) the relevant portion of the purchase or replacement cost of vehicles, equipment and protective clothing used to provide the services and other items used for the service; and

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- (b) the operating costs of providing the services, including maintenance costs and the costs of employing staff to operate the services; and
 - (c) the organisational costs, including the cost of training people to provide the services, the co-ordination of the services, the welfare of people providing the services and the corporate support costs incurred in providing the services; and
 - (d) any other costs incurred in providing the services.
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PART 8—FIRE PREVENTION

Division 1—Fire prevention committees

103 Election of representatives of groups of brigades on regional fire prevention committees

- (1) For the purposes of section 52(2)(b) of the Act, the prescribed manner for selection of delegates of each brigade in a group of brigades is by election at a meeting of the brigade where—
 - (a) the candidate who receives a majority of votes of members present and eligible to vote is to be elected; and
 - (b) if the highest number of votes is received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must draw lots to determine who is to be elected as the delegate.
- (2) For the purposes of section 52(2)(b) of the Act, the prescribed manner for election of representatives is as follows—
 - (a) not later than 45 days after receipt of notice from the Authority that an election is required, the secretary of each group of brigades operating in the region must call a meeting of the delegates of the group;
 - (b) at the meeting, a ballot must be held and the candidate who receives the majority of the votes of persons present and eligible to vote and the person who receives the next highest number of votes of persons present and eligible to vote are to be declared elected;
 - (c) if the highest number of votes is received by 2 candidates who receive an equal number of votes, they are both to be declared elected;

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- (d) if the highest number of votes is received by more than 2 candidates who receive an equal number of votes, the person presiding at the meeting must draw lots to determine the 2 candidates to be declared elected.
 - (3) The secretary of the group must give written notice to the Authority of the names and addresses of the persons elected as representatives of the group.
 - (4) For the purposes of section 56(b) of the Act, the prescribed time within which a group of brigades must elect a representative is 90 days.

104 Election of representatives of municipal councils to regional fire prevention committees

- (1) For the purposes of section 52(2)(d) of the Act, the prescribed manner for election of representatives is set out in this regulation.
- (2) At the next council meeting after a municipal council receives written notice from the Authority that the council's nomination is required, the council must nominate a candidate.
- (3) Without delay, the council must notify the executive officer of the relevant regional fire prevention committee of the name of the nominee.
- (4) Not less than one month after the request to each municipal council requiring a nomination, the executive officer of the regional fire prevention committee must forward to each municipal council a ballot paper containing the names of all nominees and a notice specifying the closing date for returns.
- (5) After the closing date for returns, the executive officer of the regional fire prevention committee must, in accordance with Schedule 11, declare elected—
 - (a) 2 candidates as members of the regional

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- fire prevention committee; and
- (b) for the purposes of section 52(2B)(c) and (2C) of the Act, 2 candidates as deputy members of the regional fire prevention committee.
- (6) The ballot paper under subregulation (4) must—
 - (a) contain names, in alphabetical order of the nominees; and
 - (b) identify the municipal council that nominated each person; and
 - (c) call on the municipal council to elect a representative by placing numbers, in order of preference, against the name of each nominee so that the smaller the number the higher the preference.
 - (7) Ballot papers that are not received by the executive officer of the regional fire prevention committee by the closing date of returns must be disregarded in the counting of the ballot.
 - (8) A municipal council must give written notice to the Authority of the names and addresses of the persons elected as representatives of the Council.
 - (9) For the purposes of section 56(b) of the Act, the prescribed time within which a municipal council must elect representatives is 90 days.

105 Election of brigade representatives to municipal fire prevention committees

- (1) For the purposes of section 54(2)(b) of the Act, the prescribed manner for election of representatives is as follows—
 - (a) not later than 45 days after receipt of notice from the Authority that an election is required, the secretary of each brigade

operating within the area must call a meeting of the brigade;

- (b) at the meeting, a ballot must be held and the candidate who receives the majority of the votes of persons present and eligible to vote is to be declared elected;
 - (c) if the highest number of votes are received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must draw lots to determine the candidate to be declared elected.
- (2) The secretary of the group must give written notice to the Authority of the name and address of the person elected as representative of the brigade.
 - (3) For the purpose of section 56(b) of the Act, the prescribed time within which a brigade must elect a representative is 90 days.

106 Election of representatives of groups of brigades on municipal fire prevention committees

- (1) For the purposes of section 54(2)(c) of the Act, the prescribed manner for selection of delegates of each brigade in a group of brigades is by election at a meeting of the brigade where—
 - (a) the candidate who receives a majority of votes of members present and eligible to vote is to be elected; and
 - (b) if the highest number of votes are received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must draw lots to determine who is to be elected as the delegate.
- (2) For the purposes of section 54(2)(c) of the Act, the prescribed manner for election of representatives is as follows—

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- (a) not later than 45 days after receipt of notice from the Authority that an election is required, the secretary of each group of brigades operating in the area must call a meeting of the delegates of the group;
 - (b) at the meeting, a ballot must be held and the candidate who receives the majority of the votes of persons present and eligible to vote is to be declared elected;
 - (c) if the highest number of votes is received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must draw lots to determine the candidate to be declared elected.
- (3) The secretary of the group must give written notice to the Authority of the name and address of the person elected as representative of the group.
 - (4) For the purposes of section 56(b) of the Act, the prescribed time within which a representative must be elected is 90 days.

107 Minutes of meetings

The person presiding at a meeting of a municipal fire prevention committee or a regional fire prevention committee must—

- (a) cause minutes of the meeting to be made and recorded; and
- (b) send a copy of the minutes to each member of the committee and to the officer in charge of the relevant fire control region; and
- (c) make the minutes available to the Authority on request.

Division 2 — Permits granted during a fire danger period

108 Grant of permits to burn

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- (1) A permit granted during a fire danger period under section 38(1) of the Act must be—
- (a) in the form of Schedule 12 if the permit is granted to the officer in charge of a brigade to enable the brigade to burn off grass, stubble, weeds, scrub, undergrowth or other vegetation (whether dead or alive) or other material; or
 - (b) in the form of Schedule 13 if the permit is granted to a person, other than the officer in charge of a brigade, to enable the person to burn off grass, stubble, weeds, scrub, undergrowth or other vegetation (whether dead or alive) or other material; or
 - (c) in any other case, in the form of Schedule 14.
- (2) The person granting a permit under section 38(1) of the Act must—
- (a) sign the permit; and
 - (b) in the case of a permit referred to in subregulation (1)(b) or (c), send a copy of the permit to the officer in charge of the brigade in whose brigade area the fire is to be lit.

109 Production of permit on demand

The holder of a permit to light a fire during the fire danger period must, on demand by the Chief Officer, the officer in charge of a brigade, a fire prevention officer, a forest officer or a police officer, produce the permit (or a copy of the permit) for inspection.

Division 3 —Fire prevention measures

110 High fire risk activities

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- (1) For the purposes of section 39E(2)(a) of the Act, the following activities are prescribed to be high fire risk activities—
- (a) welding;
 - (b) gas cutting;
 - (c) soldering;
 - (d) grinding;
 - (e) charring;
 - (f) the use of power operated abrasive cutting discs.
- (2) For the purposes of section 39E(2)(b) of the Act, the prescribed conditions are—
- (a) that the person ensures that, in conducting or engaging in the conduct of a high risk activity—
 - (i) a shield or guard of fire resistant material is placed or erected in such a way as to prevent the emission of sparks, hot metal or slag; and
 - (ii) the area for a radius of at least 1.5 metres from the activity is clear of all flammable material or wetted down sufficiently to prevent the spread of fire; and
 - (iii) there is available for immediate use in the event of fire a reticulated water supply or an effective water spray pump of the knapsack pattern with a tank capacity of not less than 9 litres and fully charged with water; and
 - (iv) cut-offs and electrode stubs from the activity are placed directly in a fire proof receptacle; or
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- (b) that conducting or engaging in the conduct of a high risk activity is reasonable in the circumstances to—
 - (i) prevent the occurrence of a fire; or
 - (ii) extinguish or restrict the spread of a fire; or
 - (iii) protect life or property; or
- (c) that conducting or engaging in the conduct of the high risk activity is for the purpose of training in fire-fighting techniques that—
 - (i) take place at a designated training venue approved by the Chief Officer; and
 - (ii) have been approved by the Chief Officer.

111 Fire prevention notices

- (1) For the purposes of section 41(3)(a) of the Act, a fire prevention notice must be in the form set out in Schedule 15.
- (2) For the purposes of section 41A(3)(b) of the Act—
 - (a) the prescribed form of notice is set out in Schedule 16; and
 - (b) the prescribed particulars are—
 - (i) the substance of the steps to be taken to remove or minimise the threat of fire which are contained in the fire prevention notice; and
 - (ii) the date by which the owner or occupier must comply with the fire prevention notice; and

- (iii) the address of the property or properties to which the fire prevention notice relates; and
 - (iv) the name and position of the person who is serving the notice.
- (3) A fire prevention notice in the form set out under regulation 108(1) of the Country Fire Authority Regulations 2004 for the purposes of section 41(3)(a) of the Act is taken to have been in the form prescribed required by this regulation.
- (4) A form of notice set out under regulation 108(2) of the Country Fire Authority Regulations 2004 for the purposes of section 41A(3)(b) of the Act is taken to have been in the form prescribed by this regulation.

112 Vehicular heat engines

- (1) For the purposes of section 50(2)(c) of the Act, the prescribed fire suppression equipment is—
- (a) at least one water spray pump of the knapsack pattern that—
 - (i) is in proper working order; and
 - (ii) is fully charged with water; and
 - (iii) has a tank capacity of not less than 9 litres; and
 - (iv) complies with AS 1687; or
 - (b) at least one water (stored pressure) fire extinguisher that—
 - (i) is in proper working order; and
 - (ii) is fully charged with water and maintained at the correct pressure; and
 - (iii) has a tank capacity of not less than 9 litres; and

- (iv) complies with AS/NZS 1841.1.
- (2) For the purposes of section 50(5) of the Act, a spark arrester must comply with AS 1019.

113 Non vehicular heat engines

- (1) In this regulation, *fire danger period* includes a prohibited period declared under section 3 of the **Forests Act 1958**.
- (2) This regulation does not apply to—
- (a) a heat engine propelling or incorporated in a vehicle or machine to which section 50 of the Act applies; or
 - (b) a chainsaw, plant or grass trimmer or lawn mower used in green vegetation.
- (3) A person must not use a heat engine in the open air in the country area of Victoria (not including a fire protected area), unless—
- (a) the heat engine is fitted with an efficient spark arrester; and
 - (b) if a fire danger period is in force in the area of use—
 - (i) the area around the heat engine is cleared of flammable material for a radius of not less than 3 metres; or
 - (ii) subject to subregulation (4), a person, who has the capacity and the means to extinguish a fire, is in attendance at all times that ~~the~~ heat engine that is in operation together with fire suppression equipment referred to in regulation 112(1) or other fire suppression equipment of the type and number approved by the Chief Officer.

Penalty: 10 penalty units.

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- (4) The Chief Officer may exempt a person from compliance with subregulation (3)(b)(ii) where the Chief Officer considers it appropriate in the circumstances.

114 Sawmills

For the purposes of section 49 of the Act—

- (a) the disposal by burning of sawdust, bark edgings, wood or other flammable material must take place in a pit or burner—
- (i) approved by the Chief Officer; and
 - (ii) operated and maintained to the satisfaction of the Chief Officer; and
- (b) at any time a fire is burning in the pit or burner—
- (i) the number of adults specified by the Chief Officer must be present; and
 - (ii) the amount and type of fire suppression equipment specified by the Chief Officer must be available.
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PART 9—ALARM MONITORING INFORMATION

115 Information in the case of an alarm pre-connection

- (1) For the purposes of section 50AA(1) of the Act, the following information is the prescribed information in the case of a proposed alarm connection—
- (a) the name of the alarm monitoring service;
 - (b) details of the site to be monitored, including the name, street, nearest cross street, suburb and GPS co-ordinates;
 - (c) customer details, including entity name, postal address, contact name and telephone number;
 - (d) alarm number;
 - (e) whether the alarm system has previously been connected to the Computer Aided Dispatch system by another alarm monitoring service.
- (2) For the purposes of section 50AA(1) of the Act, the prescribed period for providing the information in subregulation (1) is—
- (a) 5 working days before the connection of the alarm; or
 - (b) if 5 working days before the connection is not practicable because the request to connect the alarm is made less than 5 working days before the alarm is to be connected, as close to 5 working days before the connection as is reasonably possible.

116 Information in the case of an alarm connection

- (1) For the purposes of section 50AA(1) of the Act, the following information is the prescribed information in the case of an alarm connection —
- (a) the name of the alarm monitoring service;
 - (b) details of the site being monitored, including the name, street, nearest cross street, suburb and GPS co-ordinates;
 - (c) customer details, including entity name, postal address, contact name and telephone number;
 - (d) alarm details, including the following (if available)—
 - (i) alarm number;
 - (ii) alarm signalling equipment address;
 - (iii) alarm signalling equipment location;
 - (iv) input device numbers;
 - (v) input device alarm types;
 - (vi) input device locations;
 - (vii) whether or not the input is an automatic alarm;
 - (e) date of connection;
 - (f) whether the alarm system has been tested end-to-end from the site being monitored to the Computer Aided Dispatch service provider to the Authority in real time and found to be operating correctly;
 - (g) confirmation that the direct access location has been verified on the Computer Aided Dispatch map.
- (2) For the purposes of section 50AA(1) of the Act, the prescribed period for providing the

information in subregulation (1) is within 24 hours after the connection of the alarm.

117 Information in the case of an alarm modification

- (1) For the purposes of section 50AA(1) of the Act, the prescribed information in the case of a modification is particulars of any modification of any of the following details—
 - (a) the name of the alarm monitoring service;
 - (b) details of the site being monitored, including the name, street, nearest cross street, suburb and GPS co-ordinates;
 - (c) alarm details, including the following (if available)—
 - (i) alarm number;
 - (ii) alarm signalling equipment address;
 - (iii) alarm signalling equipment location;
 - (iv) input device numbers;
 - (v) input device alarm types;
 - (vi) input device locations;
 - (vii) whether or not the input is an automatic alarm;
 - (viii) the previous alarm number (if the alarm number has changed);
 - (d) relevant fire station and key peg numbers (if provided by the Authority);
 - (e) date of modification.
- (2) For the purposes of section 50AA(1) of the Act, the prescribed period for providing the information in subregulation (1) is within 24 hours after the modification.

118 Information in the case of an alarm disconnection

- (1) For the purposes of section 50AA(1) of the Act, the following information is the prescribed information in the case of an alarm disconnection or proposed disconnection—
 - (a) the name of the alarm monitoring service;
 - (b) alarm details, including the following (if available)—
 - (i) alarm number;
 - (ii) input device numbers;
 - (iii) input device alarm types;
 - (iv) input device locations;
 - (v) whether or not the input is an automatic alarm;
 - (c) whether the disconnection relates to all or part of the alarm system and, if appropriate, which part or parts are being disconnected;
 - (d) the date of a proposed disconnection;
 - (e) whether the disconnection is, or is to be, permanent or temporary;
 - (f) the building permit number (if applicable).
- (2) For the purposes of section 50AA(1) of the Act—
 - (a) in the case of an alarm being disconnected pursuant to a building permit issued under the **Building Act 1993**, the prescribed period for providing the information in subregulation (1) is within 24 hours after the disconnection of the alarm; and
 - (b) in any other case, the prescribed period for providing the information in subregulation (1) is 6 weeks before the proposed disconnection of the alarm.

119 Information in the case of failure of alarm monitoring system

- (1) For the purposes of section 50AA(1) of the Act, in the case of a failure by an alarm monitoring system to be able to automatically process and transmit an alarm of fire, the prescribed information is the time and date of the failure.
- (2) For the purposes of section 50AA(1) of the Act, in the case of the reinstatement of a failed alarm monitoring system, the prescribed information is the time and date of the reinstatement.
- (3) For the purposes of section 50AA(1) of the Act, the prescribed period for providing the information in subregulation (1) or (2) is the period specified by the Authority in the written notice given under that subsection.

120 Isolation and testing data

- (1) For the purposes of section 50AA(1) of the Act, the prescribed information in the case of a review of the isolation and testing records of all alarms connected to an alarm monitoring service is the raw data generated by alarm signalling equipment connected to the alarm monitoring service regarding the isolation and testing of the equipment.
- (2) For the purposes of section 50AA(1) of the Act, the prescribed period for providing the information in subregulation (1) is the period specified by the Authority in the written notice given under that subsection.

121 Information for verification purposes

- (1) For the purposes of section 50AA(1) of the Act, the following information is the prescribed information in the case of the verification of all alarms connected to an alarm monitoring service is the raw data generated by alarm signalling

equipment connected to the alarm monitoring service in relation to—

- (a) the name of the alarm monitoring service;
 - (b) details of the site being monitored, including the name, street, nearest cross street, suburb and GPS co-ordinates;
 - (c) details of each alarm, including the following (if available)—
 - (i) alarm number;
 - (ii) alarm signalling equipment address;
 - (iii) alarm signalling equipment location;
 - (iv) input device numbers;
 - (v) input device alarm types;
 - (vi) input device locations;
 - (vii) whether or not the input is an automatic alarm;
 - (d) the fire station and key peg numbers (if provided by the Authority).
- (2) For the purposes of section 50AA(1) of the Act, the prescribed period for providing the information in subregulation (1) is the period specified by the Authority in the written notice given under that subsection.

SCHEDULES

SCHEDULE 1

Regulation 4

REGULATIONS REVOKED

<i>S.R. No.</i>	<i>Title</i>
S.R. No. 9/2004	Country Fire Authority Regulations 2004
S.R. No. 43/2005	Country Fire Authority (Charges) Regulations 2005
S.R. No. 42/2006	Country Fire Authority (Charges) Regulations 2006
S.R. No. 123/2006	Country Fire Authority (Amendment) Regulations 2006
S.R. No. 67/2007	Country Fire Authority (Charges) Regulations 2007
S.R. No. 89/2008	Country Fire Authority (Charges) Amendment Regulations 2008
S.R. No. 106/2008	Country Fire Authority Amendment Regulations 2008
S.R. No. 67/2009	Country Fire Authority Amendment Regulations 2009
S.R. No. 66/2010	Country Fire Authority Amendment Regulations 2010
S.R. No. 60/2011	Country Fire Authority Amendment Regulations 2011
S.R. No. 66/2012	Country Fire Authority Amendment Regulations 2012
S.R. No. 149/2013	Country Fire Authority Amendment Regulations 2013
S.R. No. X/2014	Country Fire Authority Amendment Regulations 2014

SCHEDULE 2

Regulations 28, 31(1), 33(3) and (4), 36(6)

BRIGADE MODEL RULES

PART 1—GENERAL

1 Definitions

In these Rules—

member or *member of a brigade* does not include a member on probation, a junior member or an honorary life member who is not otherwise a member;

officer in charge of a brigade means—

- (a) a person appointed by the Authority as the officer in charge of the brigade; or
- (b) if an officer in charge has not been appointed by the Authority, the highest ranking volunteer officer of the brigade;

resolution or *resolution of the brigade* means a resolution by a majority of members present and eligible to vote at a meeting held in accordance with these Rules;

the Regulations means the Country Fire Authority Regulations 2014.

2 Object of brigade

The object of the brigade is to serve the community by protecting life and property from the threat of fire or other emergency.

3 Categories of members

A brigade may have the following categories of members—

- (a) senior members;

(b) junior members.

4 Criteria for senior membership

- (1) This rule applies to a person's eligibility—
 - (a) to join, or to transfer to, a brigade as a senior member; or
 - (b) to remain a senior member of a brigade.
- (2) A person is eligible if—
 - (a) the person is capable of performing the duties of a member of the brigade without endangering the person's own safety or the safety of others; and
 - (b) the person is 16 years of age or more; and
 - (c) the person is reasonably available to carry out the functions and duties of a member of a brigade; and
 - (d) the person is a fit and proper person to be a member.

5 Membership

- (1) A person who wishes to join the brigade must—
 - (a) apply to the brigade for membership; and
 - (b) satisfy the requirements of the regulations.
- (2) Under regulation 37(4), the Authority may refuse to enrol a person as a member of a brigade.

6 Probationary membership

During the probation period under regulation 38, the member is not entitled—

- (a) to vote at meetings of the brigade; or
 - (b) to be counted as part of a quorum; or
 - (c) to stand for election as an officer of the brigade or a group.
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7 Junior members

- (1) A person who is aged 11 years or more, but less than 16 years, is eligible to be enrolled as a junior member of a brigade.
- (2) Rule 4 applies to a junior member applying for enrolment as a senior member of a brigade.
- (3) A junior member is not entitled to vote at brigade meetings or stand for election as an officer of a brigade or group.
- (4) A junior member may undertake activities including social activities, sporting activities, community service, fundraising and training in first aid and practical skills.
- (5) A junior member must not attend at a fire or other emergency.

8 Honorary life membership

The brigade may, by resolution and with the approval of the Authority, invite a person to be an honorary life member of the brigade.

9 Rules

- (1) The brigade may, by resolution and with the approval of the Authority, make rules not inconsistent with the **Country Fire Authority Act 1958** or these Regulations.
- (2) These Rules may be amended by the brigade if—
 - (a) at least one month before the proposal to amend is put to a brigade meeting, each member is given notice of the proposal; and
 - (b) at the meeting at which the proposed amendment is put to the brigade, at least two-thirds of the members present and eligible to vote support the proposal;

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- (c) the proposed amendment is not inconsistent with the **Country Fire Authority Act 1958** or these Regulations; and
 - (d) the Authority approves of the amendment under regulation 33.

PART 2—MEETINGS

10 Number of meetings

The brigade must meet—

- (a) at least once each year; or
- (b) the number of times directed by the Authority for brigades of the brigade's classification—

whichever is the greater.

11 Determination by brigade

All matters to be determined by the brigade must be determined at a meeting of the brigade held in accordance with these Rules, unless the matter is delegated to a brigade committee in accordance with these Rules.

12 Chairing of meeting

Meetings of a brigade must be chaired by—

- (a) the highest ranking volunteer officer present;
or
- (b) if the brigade has elected a member as president of the brigade—by the president;
or
- (c) despite paragraphs (a) and (b), if the meeting nominates a chairperson for the meeting—
the person so nominated.

13 Procedure

- (1) The chairperson of a meeting must—

Sch. 2

- (a) put to the vote of the meeting all matters for determination by the brigade; and
 - (b) declare as carried a motion that receives a majority of votes of persons present and eligible to vote.
- (2) If a motion, other than a motion for the election of officers or delegates of the brigade, receives an equal number of votes, the chairperson has a casting as well as a deliberative vote.

14 Eligibility to vote

Subject to these Rules, all members are eligible to vote at brigade meetings.

15 Quorum

- (1) For the purpose of all meetings, including annual general meetings and special meetings, a quorum of the brigade is the lesser of—
- (a) 15 members; or
 - (b) half the number of members of the brigade..
- (2) Despite subrule (1), a brigade may, at its annual general meeting, determine a lesser quorum for brigade meetings.

16 Annual general meeting

- (1) The brigade must hold an annual general meeting each year.
- (2) The secretary must notify each member in writing—
 - (a) of the date, place and time of the annual general meeting;

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- (b) if the election of officers of the brigade is to take place at the meeting, that nominations for officer positions are invited.
 - (3) Notification be given by—
 - (a) posting or delivering the notice to the member's last known address; or
 - (b) electronic communication to the electronic address of the member; or
 - (c) publishing the notice in a newspaper circulating in the area.

17 Matters at an annual general meeting

- (1) The secretary or, if the brigade has a treasurer, the treasurer must, at each annual general meeting—
 - (a) table the financial statements of the brigade in respect of the last financial year; and
 - (b) make a full report of the activities and financial operations and position of the brigade; and
 - (c) ensure that full reports of the activities and financial operations and position of clubs and auxiliary bodies associated with the brigade are made.
- (2) If the brigade has a management team, the president must make a full report at the annual general meeting of the team's activities since the last annual general meeting.

18 Election of officers

The president of the brigade or, if there is no president, the secretary must ensure that—

- (a) an election of officers of the brigade is held at every second annual general meeting in accordance with the Regulations; and

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- (b) officers are elected in order of rank beginning with the highest rank.

19 Nomination of officers

Unless the brigade has determined otherwise at a previous annual general meeting, a nomination for election as an officer may be made—

- (a) at the meeting at which the election is to be held; or
- (b) before that meeting.

20 Casual vacancies

If a casual vacancy arises in the office of any officer, the brigade must elect an officer to fill the vacancy in accordance with these Rules and the Regulations—

- (a) at the next meeting of the brigade after the brigade received notice of the vacancy; or
- (b) at a special meeting called to fill the vacancy.

21 Procedural matters

Except where otherwise specified in these Rules, procedural matters at meetings are to be determined by the chairperson.

22 Special meetings

- (1) A special meeting of the brigade—
 - (a) may be called at the initiative of the highest ranking elected officer; and
 - (b) must be called by the secretary if requested in writing by not less than 7 members of the brigade.
- (2) A notice calling a special meeting must—
 - (a) be in writing; and
 - (b) specify—

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- (i) the date, time and place of the meeting;
and
 - (ii) the business to be conducted at the
meeting; and
 - (c) be given to each member not less than 4 days
before the meeting.
- (3) A notice must be given under subrule 2(c) in the
manner prescribed for notification of an annual
general meeting under rule 16(3).
- (4) Business that is not specified in the notice calling
a special meeting must not be dealt with at the
special meeting.

23 Formation of a group of brigades

- (1) A group of brigades may be formed in accordance
with this rule.
- (2) At a meeting of a maximum of 2 delegates
appointed by each brigade in the area in which the
proposed group would operate—
 - (a) the meeting must elect the officers of the
group; and
 - (b) each brigade delegate has one vote; and
 - (c) a majority of votes of delegates present and
eligible to vote is sufficient to secure
election.
- (3) If 2 or more candidates receive an equal number
of votes, the person presiding at the meeting must
draw lots to determine who is to be declared
elected.

PART 3—MANAGEMENT

24 Management team

- (1) The brigade may, by resolution at a brigade
meeting, appoint a management team to manage
and administer the affairs of the brigade.

- (2) The management team consists of—
 - (a) elected officers of the brigade; and
 - (b) any other members that are elected by the brigade as members of the management team.
- (3) The brigade may elect one of the members of the management team as president of the brigade.

25 Meetings of the management team

- (1) The management team must meet as often as is necessary to carry out its functions.
- (2) The management team must be chaired by—
 - (a) the president of the brigade; or
 - (b) if there is no president, or the president is absent, the team member elected by the team to chair meetings or chair that meeting.
- (3) All team members are eligible to vote at a meeting of the management team.
- (4) A motion is carried at a meeting of the management team if it receives a majority of votes of persons present and eligible to vote.
- (5) If a motion receives an equal number of votes, the chairperson has a casting as well as a deliberative vote.

26 Delegation to management team

- (1) Subject to subrule (2), a decision of the management team has effect only when approved by a resolution of the brigade.
- (2) Subrule (1) does not apply to a matter or a class of matters responsibility for which has been delegated to the management team by a resolution of the brigade.

27 Casual vacancies

If a casual vacancy occurs in the office of a member elected as a member of the management team, the management team may co-opt a member of the brigade to the team for the remainder of the term for which the management team member was elected.

28 Sub-committees

- (1) The management team may—
 - (a) form sub-committees to advise on any matter or class of matters; and
 - (b) appoint to a sub-committee members of the management team or other members of the brigade.
- (2) The provisions of these Rules that apply to the management team apply with any modifications that are necessary to each sub-committee of the management team.

PART 4—FINANCE

29 Records

- (1) The secretary or, if the brigade has a treasurer, the treasurer must ensure that the following books or records are established and maintained—
 - (a) cash receipt book;
 - (b) cash payment book;
 - (c) bank pay-in book;
 - (d) minute book with numbered pages;
 - (e) records of approvals for fund raising activities and grants;
 - (f) financial records of fund raising activities and grants;
 - (g) petty cash book.

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- (2) The secretary or, if the brigade has a treasurer, the treasurer must ensure that—
 - (a) a document that is required to be kept as part of a book or record referred to in sub-rule (1) is kept for 7 years from the date of the document's creation; and
 - (b) each of the brigade's financial statements is kept for 7 years from the date of submission of the financial statements to the Authority under the Regulations.
- (3) The secretary or, if the brigade has a treasurer, the treasurer must ensure that a register of the assets of, and assets held on behalf of, the brigade is established and maintained.

30 Investment

- (1) Subject to a resolution of the brigade, any 2 of the secretary and officer in charge of a brigade or other officers of the brigade approved by the brigade, may invest money of the brigade in accordance with Part I of the **Trustee Act 1958** as if the brigade were a trustee within the meaning of that Part.
- (2) The determination of whether to approve a matter for the purposes of this rule must be by a resolution of the brigade.

31 Bank accounts

- (1) A brigade—
 - (a) must have one general purpose bank account; and
 - (b) may have as many special purpose bank accounts as are approved by the officer in charge of the fire control region in which the brigade is located.

-
- (2) If the brigade has only a general purpose account—
 - (a) all money received by or on behalf of the brigade must be paid into the general purpose account; and
 - (b) all payments by or on behalf of the brigade must be paid out of the general purpose account.
 - (3) If a brigade has one or more special purpose accounts there must be paid —
 - (a) into each special purpose account all money received by or on behalf of the brigade for the purpose for which the account was established;
 - (b) out of each special purpose account all payments for the purpose for which the account was established;
 - (c) into the general purpose account all money received by or on behalf of the brigade other than money required to be paid into a special purpose account; and
 - (d) out of the general purpose account all payments, other than those payments required to be paid out of a special purpose account.
 - (4) The opening of any bank account or the withdrawal of money from a bank account must be in accordance with a resolution of the brigade.

32 Petty cash

- (1) The brigade, by resolution, may advance the secretary or, if the brigade has a treasurer, the treasurer not more than \$500 as petty cash.
- (2) Each withdrawal from petty cash must—

- (a) be recorded in the petty cash book by the secretary or, if the brigade has a treasurer, by the treasurer; and
- (b) be approved by the brigade's highest ranking elected officer.

33 Purchasing

- (1) Subject to sub-rule (2), each purchase, other than a purchase out of the petty cash fund, must be approved by resolution of the brigade.
- (2) Subject to the approval of the officer in charge of the fire control region, the brigade may, by resolution, delegate to a member the power to authorise specified purchases.

34 Signatories

A brigade cheque must be signed by any 2 of the officer in charge of the brigade, the secretary, the treasurer, if the brigade has a treasurer, or an officer authorised for this purpose by resolution of the brigade.

35 Payment

- (1) The secretary or, if the brigade has a treasurer, the treasurer may authorise payment for goods or services after checking that the goods or services—
 - (a) have been received; and
 - (b) comply with the purchase order.
- (2) The secretary or, if the brigade has a treasurer, the treasurer must ensure that all payments, other than payments out of petty cash, are made by cheque or electronic funds transfer.

36 Reporting

The secretary or, if the brigade has a treasurer, the treasurer must, at each meeting of the brigade,

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report to the brigade on all transactions since the last meeting.

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SCHEDULE 3

Regulation 30

APPLICATION FOR THE REGISTRATION OF A FIRE BRIGADE

To: The Authority

Date:

Sir/Madam,

At a public meeting held at _____ on _____ a resolution was carried by a majority of those present to apply for the registration of a brigade with headquarters at _____ and the enrolment of the persons listed below as volunteer officers and members of the brigade.

Yours faithfully,

Chairperson of the Meeting:

Suggested Name of Brigade:

Name and full postal address of proposed Secretary:

Details of proposed foundation members (in alphabetical order):

<i>Surname</i>	<i>Given Names</i>	<i>Place of Residence</i>	<i>Date of Birth</i>	<i>Occupation</i>
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SCHEDULE 4

Regulation 31(2)

**APPLICATION FOR APPROVAL OF THE FORMATION OF A
GROUP**

The Country Fire Authority is notified that on _____ the delegates of the brigades listed below met and by a majority of delegates present resolved to form a group of brigades and elected as officers of the group the persons listed below. The Authority is requested to approve the formation of the group and enrol the elected officers as officers of the group.

1. The meeting was convened by:
2. Delegates of the following brigades attended the meeting:
3. The following persons were elected as officers:

<i>Office</i>	<i>Name</i>	<i>Address</i>
Group Officer		
Group Communications Officer		
Group Secretary		

Date: _____ Group Secretary: _____

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SCHEDULE 5

Regulation 31(3)

**APPLICATION FOR APPROVAL OF THE VARIATION OF THE
COMPOSITION OF A GROUP**

The Country Fire Authority is notified that at a meeting of the
Group held on _____ the delegates resolved that the Group
would be composed of the following brigades. The Authority is requested to
vary the composition of the Group accordingly.

Date: _____ Group Secretary:

SCHEDULE 6

Regulation 34(3) and (4)

GROUP MODEL RULES

PART 1—GENERAL

1 Definitions

(1) In these Rules—

brigade delegate means a person who is appointed by a brigade under the Rules of the brigade as a delegate to represent the brigade at meetings of the group and is eligible to vote at meetings of the group;

group or *group of brigades* means a group of brigades formed under section 23A of the **Country Fire Authority Act 1958**;

resolution or *resolution of the group* means a resolution by a majority of brigade delegates of member brigades present and eligible to vote at a meeting held in accordance with these Rules;

the Regulations means the Country Fire Authority Regulations 2014.

(2) A reference in these Rules to a meeting of a group of brigades is a reference to a meeting of the delegates of the brigades that are members of the group.

2 Object of the group

The object of the group of brigades is to serve the community by protecting life and property from the threat of fire or other emergency and co-ordinating activities of brigades that are members of the group.

3 Rules

- (1) The group of brigades may, by resolution and with the approval of the Authority, make rules not inconsistent with the **Country Fire Authority Act 1958** or the Regulations.
- (2) These Rules may be amended by the group of brigades if—
 - (a) at least one month before the proposal to amend is put to a group meeting, each member brigade is given notice of the proposal; and
 - (b) at the meeting at which the proposed amendment is put to the group, at least two-thirds of the brigade delegates present and eligible to vote support the proposal; and
 - (c) the proposed amendment is not inconsistent with the **Country Fire Authority Act 1958** or the Regulations; and
 - (d) the Authority approves of the amendment under regulation 34.

PART 2—MEETINGS

4 Number of meetings

Meetings of the group of brigades must be held—

- (a) at least twice in each year; or
- (b) the number of times directed by the Authority or determined by the group—

whichever is the greater.

5 Determination by group

All matters to be determined by the group of brigades must be determined at a meeting of the group held in accordance with these Rules, unless the matter is delegated to a group committee in accordance with these Rules.

6 Chairing of meeting

Meetings of a group must be chaired by—

- (a) the group officer; or
- (b) if the group, by resolution, nominates another brigade delegate or person to chair meetings or chair that meeting—that delegate or person.

7 Procedure

- (1) The chairperson must—
 - (a) put to the vote of the meeting all matters for determination by the group; and
 - (b) declare carried a motion that receives a majority of votes of persons present and eligible to vote.
- (2) If a motion, other than a motion for the election of officers of the group, receives an equal number of votes, the chairperson has a casting as well as a deliberative vote.

8 Eligibility to vote

Not more than 2 delegates of each brigade in the group may vote on any matter arising for determination at the meeting.

9 Annual general meeting

- (1) The group must hold an annual general meeting each year.
- (2) The secretary must, in writing, notify each brigade that is a member of the group—
 - (a) of the date, place and time of the annual general meeting; and
 - (b) if the election of officers of the group is to take place at the meeting, that nominations for officer positions are invited.

-
- (3) Notification must be given by posting or delivering the notice to the brigade's last known address.

10 Matters at an annual general meeting

- (1) The secretary or, if the group has a treasurer, the treasurer must, at each annual general meeting—
- (a) table the financial statements of the group in respect of the last financial year; and
 - (b) make a full report of the activities and financial operations and position of the group; and
 - (c) ensure that full reports of the activities and financial operations and position of clubs and auxiliary bodies associated with the group are made.
- (2) If the group has a management team, the president must make a full report of the team's activities at the annual general meeting.

11 Election of officers

The secretary must ensure that—

- (a) an election of officers of the group is held at each second annual general meeting in accordance with the Regulations; and
- (b) officers are elected in order of seniority of rank; and
- (c) if the group has more than one deputy group officer, that the group, by resolution, determines the relative ranking of its deputy group officers.

12 Nomination of officers

Unless the group determines otherwise at a previous annual general meeting, a nomination for

election as an officer may be made at the meeting at which the election is to be held.

13 Casual vacancies

If a casual vacancy arises in the office of any officer, the brigade delegates must—

- (a) at the next meeting of the group after the group secretary received notice of the vacancy; or
- (b) at a special meeting called to fill the vacancy—

elect an officer in accordance with the provisions of these Rules and the Regulations.

14 Procedural matters

Except where otherwise specified in these Rules, procedural matters are to be determined by the person chairing the meeting.

15 Special meetings

- (1) A special meeting of the group—
 - (a) may be called by the highest ranking elected officer; and
 - (b) must be called by the secretary if so requested in writing by not less than 7 brigade delegates.
- (2) A notice calling a special meeting must—
 - (a) be in writing; and
 - (b) specify—
 - (i) the date, time and place of the meeting; and
 - (ii) the business to be conducted at the meeting; and

-
- (c) be served on each brigade that is a member of the group not less than 4 days before the meeting.
- (3) Notification of a special meeting must be given in the same manner as notification for the annual general meeting under rule 9(3).
- (4) Business that is not specified in the notice calling a special meeting must not be dealt with at the special meeting.

PART 3—MANAGEMENT

16 Management team

- (1) The group may, by resolution at a group meeting, appoint a management team to manage and administer the affairs of the group.
- (2) The management team consists of the elected officers of the group.

17 Meetings of the management team

- (1) The management team must meet as often as is necessary.
- (2) The management team must be chaired by—
- (a) the group officer; or
 - (b) if the group officer is absent, the team member elected by the team to chair meetings or chair that meeting.
- (3) All team members are eligible to vote at a meeting of the management team.
- (4) A motion is carried at a meeting of the management team if it receives a majority of votes of persons present and eligible to vote.
- (5) If a motion receives an equal number of votes, the chairperson has a casting as well as a deliberative vote.

18 Delegation to management team

- (1) Subject to subrule (2), a decision of the management team has effect only when approved by a resolution of the group.
- (2) Subrule (1) does not apply to a matter or a class of matters responsibility for which has been delegated to the management team by a resolution of the group.

19 Sub-committees

- (1) The management team may—
 - (a) form sub-committees to advise on any matter or class of matters; and
 - (b) appoint to a sub-committee members of the management team or other members of brigades that are members of the group.
- (2) The provisions of these Rules that apply to the management team apply, with any modifications that are necessary, to each sub-committee of the management team.

PART 4—FINANCE

20 Records

- (1) The secretary or, if the group has a treasurer, the treasurer must ensure that the following books or records are established and maintained—
 - (a) cash receipt book;
 - (b) cash payment book;
 - (c) bank pay-in book;
 - (d) minute book with numbered pages;
 - (e) records of approvals for fund raising activities and grants;
 - (f) financial records of fund raising activities and grants; and

-
- (g) petty cash book.
- (2) The secretary or, if the group has a treasurer, the treasurer must ensure that—
- (a) a document that is required to be kept as part of a book or record referred to in sub-rule (1) is kept for 7 years from the date of the document's creation; and
 - (b) each of the group's financial statements are ~~is~~ kept for 7 years from the date of submission of the financial statements to the Authority under the Regulations.
- (3) The secretary or, if the group has a treasurer, the treasurer must ensure that a register of the assets of, and assets held on behalf of, the group is established and maintained.

21 Investment

Subject to the resolution of the group, any 2 of the secretary and group officer, or other officers of the group approved by the group, may invest money of the group in accordance with Part I the **Trustee Act 1958** as if the brigade were within the meaning of that Part.

22 Bank account

- (1) A group must have one general purpose bank account—
- (a) into which all money received by or on behalf of the group must be paid; and
 - (b) out of which all payments by or on behalf of the group must be made.
- (2) The opening of a bank account or the withdrawal of money from a bank account must be in accordance with a resolution of the group.

23 Petty cash

-
- (1) The group, by resolution, may advance the secretary or, if the group has a treasurer, the treasurer not more than \$500 as petty cash.
 - (2) Each withdrawal from petty cash must—
 - (a) be recorded in the petty cash book by the secretary or, if the group has a treasurer, by the treasurer; and
 - (b) be approved by the group officer.

24 Purchasing

- (1) Subject to sub-rule (2), each purchase, other than a purchase out of the petty cash fund, must be approved by resolution of the group.
- (2) Subject to the approval of the officer in charge of the fire control region, the group may, by resolution, delegate to a brigade delegate the power to authorise specified purchases.

25 Payment

- (1) The secretary or, if the group has a treasurer, the treasurer may authorise payment for goods or services after checking that the goods or services—
 - (a) have been received; and
 - (b) comply with the purchase order.
- (2) The secretary or, if the group has a treasurer, the treasurer must ensure that all payments, other than payments out of petty cash, are made by cheque or electronic funds transfer.

26 Signatories

Cheques of a group must be signed by any 2 of the group officer, the secretary, the treasurer or an officer of the group authorised for this purpose by resolution of the group.

27 Reporting

The secretary or, if the group has a treasurer, the treasurer must, at each meeting of the group, report to the group on all transactions since the last meeting.

SCHEDULE 7

Regulation 36

APPLICATION FOR MEMBERSHIP OF BRIGADE

1. Brigade and Type of Membership

Brigade name and no.

Application as a new member

as a transferring member

Type of membership—

Junior

Senior

2. Applicant's details

Family and given names:

Home address:

Postal address:

Contact Details:

Details of any relevant medical conditions:

Details of any current or past membership of CFA brigades:

Name of brigade

Volunteer no.

Applicant's signature

SCHEDULE 8

Regulation 41(1)

ELECTIONS OF OFFICERS OF BRIGADES

1 Eligibility to stand for election—brigades

- (1) A person is not eligible to stand for election as an officer of a brigade (including the office of captain) unless the person is a member, other than a junior member, of the brigade whose duties as an enrolled member are not limited under regulation 37(3).
- (2) A member of a brigade is not eligible to stand for the office of captain of a brigade unless—
 - (a) the member has served as an officer of a brigade for 2 years or more; and
 - (b) the member has the competencies specified by the Chief Officer as requirements for that office.
- (3) The Authority may waive the requirements in subrule (2).
- (4) A member of a brigade is not eligible to stand for the office of lieutenant of the brigade unless—
 - (a) the member has the competencies specified by the Chief Officer as requirements for that office; or
 - (b) the Authority waives the requirement in paragraph (a).

2 Elections of brigade officers

- (1) The Authority must determine which brigades must hold elections for brigade officers in years designated by—
 - (a) an odd number; or
 - (b) an even number.

-
- (2) A brigade must hold an election for brigade officers in the month and the year determined by the Authority for the brigade.
 - (3) A majority of votes of members present and eligible to vote is sufficient to secure election.
 - (4) If the highest number of votes is received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must—
 - (a) call for a second vote; and
 - (b) if the highest number of votes is received by 2 or more candidates who receive an equal number of votes on the second vote, draw lots to determine who is to be declared elected.

3 Brigade delegates

- (1) Each brigade in a group of brigades may, from time to time, elect delegates to represent the brigade at meetings of the group.
- (2) Each delegate must be elected separately, with a majority of votes of members present and eligible to vote being sufficient to secure election.
- (3) If the highest number of votes is received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must draw lots to determine who is to be declared elected.
- (4) At a meeting of a group of brigades, not more than 2 delegates of each brigade in the group may vote on any matter arising for determination at the meeting.

4 Term of office

- (1) Subject to rule 5, an officer of a brigade holds office for 2 years, commencing on 1 July next following the officer's election.

-
- (2) If, at the expiration of the term of office of an officer of a brigade, no person has been elected to that office in accordance with this Schedule, the term of office of the officer of the brigade is extended until a person is elected to that office in accordance with this Schedule.

5 Casual vacancies

- (1) This clause applies if, before an officer of a brigade's term of office expires, the officer—
- (a) resigns from office or is disqualified from holding office; or
 - (b) ceases to be a volunteer.
- (2) The brigade must, as soon as is practicable after receiving notice of a matter referred to in subclause (1), elect a member to replace the officer.
- (3) A member elected under subclause (2) holds office for the remainder of the term of the replaced officer.

6 Notification of the Authority

The secretary of a brigade must notify the Authority of the result of an election of officers of the brigade within 7 days after the election.

SCHEDULE 9

Regulation 41(2)

ELECTIONS OF OFFICERS OF GROUPS

1 Eligibility to stand for election—groups

- (1) A person is not eligible to stand for election as an officer of a group of brigades (including the office of a group officer) unless the person is a member, other than a junior member, of a brigade whose duties as an enrolled member are not limited under regulation 37(3).
- (2) A person is not eligible to stand for election to the office of group officer unless the person has served as an officer of a brigade or as a deputy group officer for 2 years or more.

2 Elections for officers of the group

- (1) The Authority must determine which groups of brigades must hold elections for officers of the group in years designated by—
 - (a) an odd number; or
 - (b) an even number.
- (2) A group must hold an election for officers of a group in the month and the year determined by the Authority for the group.
- (3) A majority of votes of delegates present and eligible to vote is sufficient to secure election.
- (4) If the highest number of votes is received by 2 or more candidates who receive an equal number of votes, the person presiding at the meeting must—
 - (a) call for a second vote; and
 - (b) if the highest number of votes is received by 2 or more candidates who receive an equal number of votes on the second vote, draw

lots to determine who is to be declared elected.

3 Deputy group officers

Each group must determine the relative seniority of its deputy group officers.

4 Term of office

- (1) Subject to clause 5, an officer of a group holds office for 2 years, commencing on 1 July next following the officer's election.
- (2) If, at the expiration of the term of office of an officer of a group, no person has been elected to that office in accordance with this Schedule, the term of office of the officer of the group is extended until a person is elected to that office in accordance with this Schedule.

5 Casual vacancies

- (1) This clause applies if, before the expiration of an officer's term of office, an officer of a group—
 - (a) resigns from office or is disqualified from holding office; or
 - (b) ceases to be a volunteer.
- (2) The group must, as soon as is practicable after receiving notice of a matter referred to in subclause (1), elect a member to replace the officer.
- (3) A member elected under subclause (2) holds office for the remainder of the term of the replaced officer.

6 Notification of the Authority

The secretary of a group must notify the Authority of the result of an election of officers of the group within 7 days after the election.

SCHEDULE 10

Regulation 62

**AUTHORISATION TO COLLECT CONTRIBUTIONS OR
SUBSCRIPTIONS**

I, the undersigned, certify that (full name) _____ of
(postal address) _____ whose signature appears
below is authorised under section 102 of the **Country Fire Authority Act
1958** to collect money on behalf of the

*Fire Brigade
*Group of Fire Brigades
*Association

from / / to / / and is not entitled to retain any money
as a fee or commission or for any other purpose.

Signature of Authorised Collector

(Signed)

(Signed) _____ for the Country Fire Authority

Date:

Compliance with all laws relevant to the activities conducted is a condition of
this authorisation.

* Cross out whichever is not applicable.

SCHEDULE 11

Regulation 106(5)

**ELECTIONS—MUNICIPAL COUNCIL REPRESENTATIVES
ON REGIONAL FIRE PREVENTION COMMITTEES**

1 In this Part—

continuing candidate means a candidate not already elected or excluded from the count;

returning officer means the executive officer of the relevant regional fire prevention committee.

2 Subject to clause 3, the result of an election of representatives of a municipal council as members and deputy members of regional fire prevention committees is to be determined as follows—

(a) the returning officer must declare elected as members of the regional fire prevention committee—

(i) the single candidate who received the highest number of first preference votes and the single candidate who received the second highest number of first preference votes; or

(ii) the only 2 candidates who received the equally highest number of first preference votes;

(b) of the continuing candidates, the returning officer must declare elected as deputy members of the regional fire prevention committee—

(i) the single candidate who received the highest number of first preference votes and the single candidate who received the second highest number of first preference votes; or

(ii) the only 2 candidates who received the equally highest number of first preference votes.

3 (1) If the count of votes for the election of representatives of a municipal council as members of a regional fire prevention committee does not satisfy the requirements

of clause 2(a), the result of the ballot for election of members and deputy members of that committee is to be determined in accordance with clauses 4 and 5.

(2) If—

- (a) the members of the regional fire prevention committee are declared elected in accordance with clause 2(a); and
- (b) the count of votes for the election of deputy members of the fire prevention committee did not satisfy the requirements of clause 2(b), representatives of a municipal council as deputy members of a regional fire prevention committee must be determined in accordance with clause 5.

4 (1) The result of the ballot for election of the first member of the regional fire prevention committee must be determined as follows—

- (a) the returning officer must declare elected as the first member, the candidate who received the highest number of first preference votes;
- (b) if more than one candidate received the highest number of first preference votes, the returning officer must—
 - (i) declare the candidate who received the fewest number of first preference votes an excluded candidate; and
 - (ii) distribute every ballot paper counted to the excluded candidate among the other candidates next in order of the voter's preference; and
 - (iii) determine the number of votes given to each continuing candidate; and
 - (iv) declare elected the continuing candidate with the highest number of votes;

Sch. 11

- (c) if after following the procedure in paragraph (b) more than one candidate has the highest number of votes, the returning officer must repeat the process described in paragraph (b) until a single candidate receives the highest number of votes.
- (2) After declaration of the election of the first member of the regional fire prevention committee, the ballot for the election of the second member must be determined as follows—
- (a) the returning officer must—
 - (i) re-arrange all the ballot papers under the names of the respective candidates for which a first preference vote is indicated; and
 - (ii) place every ballot paper on which a first preference vote is indicated for the elected candidate in the parcel of the continuing candidates next in order of the voter's preference; and
 - (iii) determine the number of votes given to each continuing candidate; and
 - (iv) declare elected the continuing candidate with the highest number of votes;
 - (b) if after following the procedure in paragraph (a), more than one candidate receives the highest number of votes, the returning officer must—
 - (i) declare the candidate who has received the fewest number of votes an excluded candidate; and
 - (ii) distribute every ballot paper counted to the excluded candidate among the continuing candidates next in order of the voter's preference; and
 - (iii) determine the total number of votes given to each continuing candidate; and
-

-
- (iv) declare elected the candidate with the highest number of votes;
- (c) if after following the procedure in paragraph (b) more than one candidate has the highest number of votes, the returning officer must repeat the process described in paragraph (b) until a single candidate receives the highest number of votes.
- 5 After the declaration of the election of members of the fire prevention committee (whether in accordance with clause 2 or 4) the result of the ballot for the selection of the deputy members of the regional fire prevention committee must be determined in the manner described in clause 4(2), with every ballot paper on which a first preference is indicated for an elected candidate being placed in the parcel of the continuing candidate next in order of the voter's preference.
- 6 If in any count, 2 or more candidates have an equal number of votes, and one of them has to be declared an excluded candidate, the returning officer must determine by lot who is to be the excluded candidate.
- 7 Where a matter is not covered by this Schedule, the provisions of Schedule 3 of the **Local Government Act 1989**, with any modifications that are applicable, apply to the determination of a ballot under this Schedule.
-

SCHEDULE 12

Regulation 110(1)(a)

PERMIT TO BURN BY A BRIGADE

(Not valid on a day of TOTAL FIRE BAN)

PERMIT granted to _____ (*insert name of officer in charge of the brigade*) to light a fire or fires for the purpose of allowing officers and members of the _____ Fire Brigade to burn the following specific material:

_____ (*insert type of material, e.g. grass, stubble*) during the period commencing on _____ (*insert date*) and ending on _____ (*insert date*) on the land owned, occupied or under the care and management of the following person or organisation

at

_____ (*insert address or description and location of land*).

This permit is granted subject to the following conditions—

1. The person performing the burning operation to which the permit relates must be in possession of the permit or a copy of it.
2. *If the brigade intends to conduct a burning operation on any street, road or other thoroughfare, notice of that intention must be given—
 - (a) to each owner or occupier of land that includes or is contiguous with the area to be burned between 2 and 24 hours before the burning is to commence; or
 - (b) by inserting in a newspaper circulating in the area in which the burning is to occur, at least 2 days before the burning is to occur, a notice specifying—
 - (i) the period during which the burning is likely to occur; and
 - (ii) the portion of the street, road or other thoroughfare that is to be burned.

OR

*If the brigade intends to conduct a burning operation on land that is not a street, road or other thoroughfare, notice of that intention must be given to each owner or occupier of land that includes or is contiguous with the area to be burned between 2 and 24 hours before the burning is to commence.

3. If the brigade intends to conduct a burning operation within 3 kilometres of any State forest, national park or protected public land, notice of that intention must be given to the appropriate forest officer between 2 and 24 hours before the burning is to commence.
4. Before commencing a burning operation, a fire break must be prepared around the perimeter of the area to be burned, which is—
 - * not less than metres wide (being a minimum width of 1.5 metres) and cleared of all flammable materials;OR
 - * not less than metres wide (being a minimum width of 1.5 metres) and thoroughly wetted down while the fire is within 3 metres of the wetted area.
5. Every reasonable precaution must be taken that only the material specified in this permit is burned. Any other material catching alight must be extinguished immediately.
6. Until all fires lit under this permit have been completely extinguished—
 - (a) the perimeter of the burning area must be continuously patrolled; and
 - (b) an adequate number of fire fighters and adequate fire suppression equipment or appliances must be present.
7. If in the vicinity of the area to be burned, the shade temperature exceeds 32 degrees celsius or the average wind speed exceeds 15 kilometres per hour—
 - (a) burning operations must not be commenced; or
 - (b) if burning operations have commenced all fires must be extinguished as soon as possible.
8. Additional conditions (if any)

Dated at on

(Signed) **

of the (Name of Municipal Council, Administrative Unit or Public Authority)

* Delete whichever is inapplicable.

** Fire Prevention Officer or person authorised to grant this permit.

SCHEDULE 13

Regulation 110(1)(b)

PERMIT TO BURN BY A PRIVATE PERSON

(Not valid on a day of TOTAL FIRE BAN)

PERMIT granted to *(insert name)*
of *(insert address)*
to light a fire or fires for the purpose of allowing the following specified
material to be burned:
(insert type of material e.g. grass, stubble) during the
period commencing on *(insert date)* and ending on *(insert date)*
at

(insert address or description and location of land)

This permit is granted subject to the following conditions—

1. The person performing the burning operation to which the permit relates must be in possession of the permit or a copy of it.
2. Notice of intention to conduct a burning operation must be given between 2 and 24 hours before the burning is to commence—
 - (a) to each owner or occupier of land contiguous with the area to be burned; and
 - (b) to the officer in charge of the fire brigade in whose area the burning is to take place, by telephoning the officer in charge on *(insert telephone number)*; and
 - (c) to the Emergency Services Telecommunications Authority (within the meaning of the **Emergency Services Telecommunications Authority Act 2004**) (ESTA), on 1800 668 511, or by one or more of the means of notification specified on the ESTA Internet site *(insert link to relevant page on ESTA Internet site)* or the Country Fire Authority Internet site *(insert link to relevant page on CFA Internet site)*.
3. If the area to be burned is within 3 kilometres of any State forest, national park or protected public land, notice of the intention to burn must be given to the appropriate forest officer between 2 and 24 hours before the burning is to commence.
4. Before commencing a burning operation, a fire break must be prepared around the perimeter of the area to be burned, which is—

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* not less than metres wide (being a minimum width of
1.5 metres) and cleared of all flammable materials;

OR

* not less than metres wide (being a minimum width of
1.5 metres) and thoroughly wetted down while the fire is within
3 metres of the wetted area.

5. Burning off must not commence before (*insert time*) on each day of the burning operation.
6. Every reasonable precaution must be taken that only the material specified in this permit is burned. Any other material catching alight must be extinguished immediately.
7. Until all fires lit under this permit have been completely extinguished—
 - (a) the perimeter of the burning area must be continuously monitored; and
 - (b) an adequate number of adults and adequate fire suppression equipment or appliances must be present.
8. If in the vicinity of the area to be burned, the shade temperature exceeds 32 degrees celsius or the average wind speed exceeds 15 kilometres per hour—
 - (a) burning operations must not be commenced; or
 - (b) if burning operations have commenced all fires must be extinguished as soon as possible.
9. All fires must be extinguished before sunrise on the day following the day on which they were lit.
10. Additional conditions (if any)

Dated at

on

(Signed) **

of the

(Name of Municipal Council,
Administrative Unit, Public Authority)

* Delete whichever is inapplicable.

** Fire Prevention Officer or other person authorised to grant the permit.

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SCHEDULE 14

Regulation 110(1)(c)

PERMIT TO LIGHT A FIRE FOR MISCELLANEOUS PURPOSES

(Not valid on a day of TOTAL FIRE BAN)

PERMIT is granted to _____
of _____ to light a fire or fires for the purpose of

* between _____ (*insert date*) and _____ (*insert date*)
(*under s 38(2A) of the Act a period may be specified*)

* at any time between _____ and _____

This permit is subject to the following conditions:

Date:

Signature:

Name and position:

* Delete whichever is inapplicable.

SCHEDULE 15

Regulation 111(1)

FIRE PREVENTION NOTICE

I direct _____ of
the owner or occupier of (*insert address or certificate of title number*)
to do the work specified below.

All work must be completed not later than

Work to be completed:

*(Specify the part or parts of the land affected by this notice and the steps
required to remove or minimise the threat of fire).*

Date:

Signature:

Name and position:

Fire Prevention Officer for (*insert name of municipality*)

You may lodge an objection to this notice under section 41B of the **Country Fire Authority Act 1958** and appeal the outcome of that objection under section 41C of that Act.

SCHEDULE 16

Regulation 113(2)

NOTICE TO OWNERS OR OCCUPIERS OF LAND

To the owner/occupier or owners/occupiers of land described below.

A notice to

(insert substance of steps to be taken to remove or minimise the threat of fire).

not later than *(insert date)*
has been affixed on the following properties in accordance with
section 41A(3) of the **Country Fire Authority Act 1958**.

Date:

Name and position:

Fire Prevention Officer for *(insert name of municipality)*

You may lodge an objection to this notice under section 41B of the **Country Fire Authority Act 1958** and appeal the outcome of that objection under section 41C of that Act.

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Fee Units

FEE UNITS

These regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**. The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2014 is \$13.24. The amount of the calculated fee may be rounded up to the nearest 10 cents.

The value of fee units for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published by the Government Gazette and a newspaper before 1 June in the preceding financial year.

ENDNOTES

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Definition of <i>AS1019-2000</i> in regulation 5	Australian Standard AS1019-2000, Internal combustion engines-spark emission control devices, published in 2000 by Standards Australia	The whole
Definition of <i>AS1687-1991</i> in regulation 5	Australian Standard AS1687-1991, Knapsack spray pumps for firefighting, published in 1991 by Standards Australia	The whole
Definition of <i>AS/NZS1841.1:2007</i> in regulation 5	Australian Standard and New Zealand Standard AS/NZS1841.1:2007, Portable fire extinguishers – Part 1 – General Requirements, published in 2007 by Standards New Zealand	The whole
Paragraph (a) to the definition of <i>serious injury</i> in regulation 75	American Medical Association Guides to the Evaluation of Permanent	The whole, other than Chapter 15

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	Impairment (Fourth Edition)	
Paragraph (b) to the definition of <i>serious injury</i> in regulation 75	Guide to the Evaluation of Psychiatric Impairment for Clinicians, published in the Government Gazette dated 27 July 2006.	The whole