

NORTHERN TERRITORY OF AUSTRALIA

BUSHFIRES MANAGEMENT ACT 2016

As in force at 1 February 2022

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 February 2022

BUSHFIRES MANAGEMENT ACT 2016

An Act to provide for the protection of life, property and the environment through the mitigation, management and suppression of bushfires, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Bushfires Management Act 2016*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Definitions

In this Act:

acting in an official capacity, in relation to a fire control officer, fire warden or authorised bushfire volunteer, means the officer, warden or volunteer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

approved form means a form approved under section 105.

area fire management plan means a plan prepared under section 83(1).

authorised bushfire volunteer means an authorised bushfire volunteer appointed under section 51.

bush includes trees, shrubs, plants, scrub, stubble, grass and undergrowth, whether alive or not and whether standing or not.

Bushfires NT means the unit of the Agency known by that name.

chief fire control officer means the chief fire control officer appointed under section 16.

control, in relation to a fire, includes extinguish.

Council means the Bushfires Council established by section 21.

executive director means the public sector employee holding or occupying the position of executive director of Bushfires NT.

fire ban area, see section 66.

fire ban period means a fire ban period declared under section 65.

firebreak means an area clear of bush and other flammable material.

firebreak notice, see section 93(1).

fire control officer means a fire control officer appointed under section 18.

fire danger area, see section 63.

fire danger period means a fire danger period declared under section 62.

fire management area means a fire management area declared under section 60(a).

fire management zone means a fire management zone declared under section 58.

fire protection zone means a fire protection zone declared under section 56.

fire warden means a fire warden appointed under section 43.

flammable material includes:

- (a) matter capable of combustion:
 - (i) by the application of heat; or
 - (ii) by means of a spark or flame; or
 - (iii) by spontaneous causes; and
- (b) matter prescribed to be flammable material.

flammable material notice, see section 93(2).

in the open air means any place other than in a permanent structure.

land includes land covered with water.

light a fire, see section 4.

occupier, in relation to land, means a person in charge or control of the land and, in relation to land in respect of which a licence is held under the *Crown Lands Act 1992* (other than under section 91 of that Act), includes the holder of the licence.

owner, in relation to land, means the person in actual receipt of, or entitled to receive, the rents and profits of the land or who, if the land was let, would be entitled to receive the rents and profits including as beneficiary, trustee, executor or mortgagee in possession or as agent or attorney for another person.

permanent structure means a structure of a permanent kind consisting of a roof and fully or partly enclosed sides including a caravan but not including a tent.

permit means a permit issued under section 46.

property fire management plan means a plan prepared under section 70.

public notice, see section 5.

regional bushfire management plan means a plan endorsed under section 78(3).

regional committee means a regional bushfires committee established by section 32.

senior fire control officer means a senior fire control officer appointed under section 17.

small fire means a fire lit for the purpose of:

- (a) camping; or
- (b) cooking; or
- (c) boiling water; or
- (d) disposing of the carcass of an animal.

statutory charge, see section 4 of the *Land Title Act 2000*.

vehicle includes:

- (a) any means of conveyance that runs on wheels; and

- (b) a train or part of a train; and
- (c) an aircraft.

volunteer bushfire brigade means a volunteer bushfire brigade established under section 54(1).

Note for section 3

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

4 Light a fire

For this Act, a person is taken to **light a fire** if the person:

- (a) lights, maintains or uses the fire; or
- (b) aids, counsels or procures another person to light, maintain or use the fire; or
- (c) causes the fire to occur; or
- (d) does any act that is likely to result in spreading the fire; or
- (e) as the owner or occupier of the land on which the fire is lit – permits another person to light, maintain or use the fire.

5 Public Notice

For this Act, a person gives **public notice** of a matter by publishing notice of the matter:

- (a) in a newspaper circulating in the Territory or in the part of the Territory to which the matter relates; or
- (b) on a radio or television station broadcasting in the Territory or in the part of the Territory to which the matter relates; or
- (c) on roadside message boards in the Territory or in the part of the Territory to which the matter relates; or
- (d) on the Internet; or
- (e) in any other manner as the executive director considers appropriate.

6 Application

This Act does not apply to an area declared to be an emergency response area under section 4 of the *Fire and Emergency Act 1996*.

7 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

8 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 8

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Administration

Division 1 Role of the Minister

9 Minister must consider advice of Council

- (1) This section applies to any decision by the Minister relating to mitigating, managing or suppressing bushfires in the Territory.
- (2) In making a decision, the Minister must consider any advice given by the Council relating to the matter to be decided.
- (3) As soon as practicable after making a decision relating to a matter on which the Council had given advice, the Minister must, by written notice given to the Council:
 - (a) specify how the Minister treated that advice in making the decision; and
 - (b) if the decision is not consistent with that advice – the reason why.

10 Acquisition and maintenance of vehicles etc.

The Minister may acquire, by purchase or otherwise, and maintain any vehicle or equipment that the Minister considers necessary for preventing or controlling bushfires.

11 Provision of financial assistance

The Minister may provide to the owner or occupier of any land any financial or other assistance, on any terms that the Minister considers appropriate, to assist that owner or occupier in preventing and controlling bushfires on their land.

12 Delegation

The Minister may delegate any of the Minister's powers and functions under this Act to a person.

Division 2 Bushfires NT

13 Role of Bushfires NT

Bushfires NT is, through the Chief Executive Officer, responsible for assisting the Minister in administering this Act.

14 Executive director

- (1) Subject to the direction and control of the Chief Executive Officer, the executive director is responsible for the management of Bushfires NT.
- (2) Without limiting subsection (1), the functions of the executive director are:
 - (a) to implement measures for the mitigation, management and suppression of bushfires; and
 - (b) to assist the Council and each regional committee generally in the exercise of its powers and the performance of its functions and duties; and
 - (c) to determine how Government funded firefighting assets are to be allocated among volunteer bushfire brigades.
- (3) The executive director has the powers necessary to perform the executive director's functions.
- (4) Without limiting subsection (3), the executive director may, by written notice given to the captain of a volunteer bushfire brigade, direct the captain to transfer Government funded firefighting assets held by the brigade and specified in the notice to another brigade specified in the notice.
- (5) The executive director may delegate any of the executive director's powers and functions under this Act to a public sector employee.

- (6) The Chief Executive Officer:
- (a) has, and may exercise, all the powers of the executive director; and
 - (b) may perform any of the functions of the executive director.

15 General orders

- (1) The executive director may, from time to time, issue any general orders and instructions that are necessary to ensure the effective and efficient operation of Bushfires NT and volunteer bushfire brigades.
- (2) Without limiting subsection (1), the general orders and instructions may, subject to this Act, provide for any of the following:
- (a) operating procedures for Bushfires NT and volunteer bushfire brigades;
 - (b) the appointment of authorised bushfire volunteers;
 - (c) training standards and requirements for public sector employees employed in Bushfires NT and authorised bushfire volunteers;
 - (d) arrangements for implementing the chain of command in responding to bushfire incidents;
 - (e) response arrangements in relation to incidents not involving a bushfire.

Division 3 Fire control officers

16 Chief fire control officer

- (1) The Minister may, by *Gazette* notice, appoint a public sector employee to be the chief fire control officer.
- (2) Subject to the direction and control of the executive director, the chief fire control officer is responsible for managing the operational activities of Bushfires NT and the volunteer bushfire brigades.
- (3) The chief fire control officer has the powers necessary to perform the chief fire control officer's functions.
- (4) The executive director:
- (a) has, and may exercise, all the powers of the chief fire control officer; and

- (b) may perform any of the functions of the chief fire control officer.
- (5) The chief fire control officer may delegate any of the chief fire control officer's powers and functions under this Act to a public sector employee.
- (6) Without limiting subsection (3), the chief fire control officer has all the powers of a fire control officer under this Act.

17 Senior fire control officers

- (1) The Minister may, by *Gazette* notice, appoint a person to be a senior fire control officer.
- (2) The function of a senior fire control officer is to assist the chief fire control officer in the exercise and performance of the powers and functions of chief fire control officer.
- (3) A senior fire control officer has the powers necessary to perform the function mentioned in subsection (2).
- (4) Without limiting subsection (3), a senior fire control officer has all the powers of a fire control officer under this Act.

18 Fire control officers

The Minister may, by written notice, appoint all persons who hold or occupy a particular position in Bushfires NT to be fire control officers.

19 Identity card

- (1) The Minister must give a person who is a fire control officer an identity card stating the person's name and that the person is a fire control officer.
- (2) The identity card must:
 - (a) show a recent photograph of the fire control officer; and
 - (b) show the card's date of issue; and
 - (c) be signed by the officer.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

20 Return of identity card

- (1) A person who ceases to be a fire control officer must return the person's identity card to the Minister within 21 days after the cessation.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

Division 4 Bushfires Council

21 Bushfires Council

- (1) The Bushfires Council is established.
- (2) The Bushfires Council:
- (a) represents the Territory; and
 - (b) enjoys the privileges, rights or immunities of the Crown in right of the Territory; and
 - (c) is within the shield of the Crown in right of the Territory.

22 Function

The function of the Council is to advise the Minister on measures to be taken to mitigate, manage and suppress bushfires in the Territory.

23 Powers of Council

- (1) The Council has the powers necessary to perform its function.
- (2) The Council may at any time direct the chairperson of a regional committee to call a meeting of that committee.

24 Terms of reference

- (1) The Minister may, by written notice given to the Council, determine terms of reference for the Council.
- (2) In performing its function, the Council must comply with any terms of reference determined under subsection (1).

25 Members

- (1) The Council consists of not less than 9 members appointed by the Minister by *Gazette* notice.
- (2) The Minister must ensure that at least one member of each regional committee is appointed as a member of the Council.
- (3) The Minister must, by *Gazette* notice, appoint a member of the Council as chairperson of the Council and another member as deputy chairperson.

26 Term of appointment

Subject to this Act, a member holds office for the period, not exceeding 3 years, specified in the instrument of appointment and is eligible for reappointment.

27 Acting appointments

- (1) The Minister may, in writing, appoint a person to act as a member of the Council:
 - (a) during a vacancy in the office of a member; or
 - (b) during any period, or during all periods, when a member is absent or unable to act.
- (2) A person acting in the office of member:
 - (a) has, and may exercise, all the powers of the member for whom the person is acting; and
 - (b) may perform any of the functions of that member.

28 Termination of appointment

- (1) The Minister may terminate the appointment of a member of the Council who:
 - (a) in the opinion of the Minister, is guilty of misbehaviour or incompetence; or
 - (b) ceases to be ordinarily resident in the Territory.

- (2) The Minister must terminate the appointment of a member of the Council who:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of remuneration for their benefit; or
 - (b) in the opinion of the Minister, is of unsound mind; or
 - (c) is absent from 3 consecutive meetings of the Council, except on leave granted by the Council.
- (3) A member of the Council may resign by giving written notice to the Minister.

29 Meetings

- (1) Subject to this section, the Council must meet as often as the chairperson considers necessary for the efficient conduct of its affairs.
- (2) Subject to this Act, the chairperson of the Council may determine the procedure for:
 - (a) calling meetings of the Council; and
 - (b) the conduct of the meetings.
- (3) A quorum at a meeting of the Council is 5 members.
- (4) The chairperson must preside at any meeting of the Council at which the chairperson is present and, if the chairperson is not present, the deputy chairperson must preside.
- (5) If neither the chairperson nor the deputy chairperson of the Council is present at a meeting, the members present must elect one of their number to preside at the meeting.
- (6) Questions arising at a meeting of the Council must be determined by a majority of the votes of the members present and voting.
- (7) The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (8) The Council must keep minutes of all its meetings.

30 Exercise of power not invalid

The exercise of a power or the performance of a function by the Council is not affected by a vacancy in its membership.

31 Conflicting interests

- (1) A member of the Council who has a direct or indirect pecuniary interest in a matter being considered at a meeting of the Council must disclose the interest to the Council.
- (2) The Council may direct a member who has disclosed an interest in a matter under subsection (1) to refrain from taking part in the deliberations of the Council in relation to that matter.
- (3) A member of the Council who has been given a direction under subsection (2) must be disregarded for the purpose of determining whether a quorum has been formed.
- (4) Without limiting subsection (1), a member of the Council has a direct or indirect pecuniary interest in a matter if:
 - (a) a company has a direct or indirect pecuniary interest in the matter; and
 - (b) the member owns or controls a share in, or is a director or employee of, the company.

Division 5 Regional bushfires committees

32 Regional bushfires committees

- (1) A regional bushfires committee is established for each fire management zone.
- (2) A regional bushfires committee:
 - (a) represents the Territory; and
 - (b) enjoys the privileges, rights or immunities of the Crown in right of the Territory; and
 - (c) is within the shield of the Crown in right of the Territory.

33 Functions

The functions of a regional committee are:

- (a) to make recommendations to the Council on measures to be taken to mitigate, manage and suppress bushfires in its fire management zone; and
- (b) to endorse a regional bushfire management plan prepared by Bushfires NT for its fire management zone.

34 Powers of regional committee

A regional committee has the powers necessary to perform its functions.

35 Terms of reference

- (1) The Minister may, by written notice given to a regional committee, determine terms of reference for the committee.
- (2) In performing its functions, a regional committee must comply with any terms of reference determined under subsection (1).

36 Members

- (1) A regional committee consists of not less than 6 members appointed by the Minister by *Gazette* notice.
- (2) The Minister must, by *Gazette* notice, appoint a member of the regional committee as chairperson of the committee and another member as deputy chairperson.

37 Term of appointment

Subject to this Act, a member holds office for the period, not exceeding 3 years, specified in the instrument of appointment and is eligible for reappointment.

38 Acting appointments

- (1) The Minister may, in writing, appoint a person to act as a member of a regional committee:
 - (a) during a vacancy in the office of a member; or
 - (b) during any period, or during all periods, when a member is absent or unable to act.

- (2) A person acting in the office of member:
 - (a) has, and may exercise, all the powers of the member for whom the person is acting; and
 - (b) may perform any of the functions of that member.

39 Termination of appointment

- (1) The Minister may terminate the appointment of a member of a regional committee who:
 - (a) in the opinion of the Minister, is guilty of misbehaviour or incompetence; or
 - (b) ceases to be ordinarily resident within the fire management zone of the regional committee.
- (2) The Minister must terminate the appointment of a member of a regional committee who:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of remuneration for their benefit; or
 - (b) in the opinion of the Minister, is of unsound mind; or
 - (c) is absent from 3 consecutive meetings of the regional committee, except on leave granted by the committee.
- (3) A member of a regional committee may resign by giving written notice to the Minister.

40 Meetings

- (1) Subject to this section, a regional committee must meet as often as the chairperson considers necessary for the efficient conduct of its affairs.
- (2) The chairperson of a regional committee must call a meeting of the committee if directed to do so by the Council under section 23(2).
- (3) Subject to this Act, the chairperson of a regional committee may determine the procedure for:
 - (a) calling meetings of the committee; and
 - (b) the conduct of the meetings.
- (4) A quorum at a meeting of a regional committee is 3 members.

- (5) The chairperson must preside at any meeting of a regional committee at which the chairperson is present and, if the chairperson is not present, the deputy chairperson must preside.
- (6) If neither the chairperson nor the deputy chairperson is present at a meeting of a regional committee, the members present must elect one of their number to preside at the meeting.
- (7) Questions arising at a meeting of a regional committee must be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting of a regional committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) A regional committee must keep minutes of all its meetings.

41 Exercise of power not invalid

The exercise of a power or the performance of a function by a regional committee is not affected by a vacancy in its membership.

42 Conflicting interests

- (1) A member of a regional committee who has a direct or indirect pecuniary interest in a matter being considered at a meeting of the committee must disclose the interest to the committee.
- (2) A regional committee may direct a member who has disclosed an interest in a matter under subsection (1) to refrain from taking part in the deliberations of the committee in relation to that matter.
- (3) A member of a regional committee who has been given a direction under subsection (2) must be disregarded for the purpose of determining whether a quorum has been formed.
- (4) Without limiting subsection (1), a member of a regional committee has a direct or indirect pecuniary interest in a matter if:
 - (a) a company has a direct or indirect pecuniary interest in the matter; and
 - (b) the member owns or controls a share in, or is a director or employee of, the company.

Division 6 Fire wardens

43 Fire wardens

- (1) The executive director may, by written notice, appoint a person to be a fire warden for a fire management zone for a period specified in the notice.
- (2) A person appointed to be a fire warden is eligible for reappointment.

44 Identity card

- (1) The executive director must give a person who is a fire warden an identity card stating the person's name and that the person is a fire warden.
- (2) The identity card must:
 - (a) show a recent photograph of the fire warden; and
 - (b) show the card's date of issue; and
 - (c) be signed by the warden.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

45 Return of identity card

- (1) A person who ceases to be a fire warden must return the person's identity card to the executive director within 21 days after the cessation.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

Division 7 Powers of fire control officers and fire wardens

46 Power to issue permits

- (1) A person may apply to a fire control officer or fire warden for a permit to light a fire in the open air on land:
 - (a) within a fire protection zone; or
 - (b) within a fire danger area during a fire danger period.

- (2) A person may apply to a fire control officer or fire warden for a permit to light a fire on land within a fire management zone by deploying an incendiary device from an aircraft in flight.
- (3) A fire control officer or fire warden to whom an application is made under subsection (1) or (2) must determine the application by:
 - (a) issuing a permit, either conditionally or unconditionally; or
 - (b) refusing to issue a permit.
- (4) A permit issued under this section must:
 - (a) be in writing; and
 - (b) specify:
 - (i) the land to which it relates; and
 - (ii) the period during which it is in force; and
 - (c) contain any conditions that the fire control officer or fire warden who issues it considers appropriate.
- (5) A fire control officer or fire warden who determines an application by refusing to issue a permit must give the applicant written notice of the refusal.
- (6) An applicant may appeal to the executive director against a refusal within 7 days after receiving notice of the refusal.
- (7) On an appeal, the executive director may:
 - (a) confirm the refusal to issue the permit; or
 - (b) direct the fire control officer or fire warden to issue a permit to the applicant, either conditionally or unconditionally.
- (8) A permit may be varied or revoked orally by a fire control officer or fire warden.
- (9) An oral variation or revocation must be confirmed by written notice to the permit holder with 5 days after the variation or revocation.

47 Powers in relation to bushfires

- (1) Subject to section 89, in responding to a bushfire incident, a fire control officer or fire warden has power to do anything necessary for or incidental to:
 - (a) controlling the bushfire; or

- (b) protecting property, or the life of any person, from existing or imminent danger arising out of the bushfire.
- (2) Without limiting subsection (1), power conferred by that subsection includes the power:
- (a) to enter any land or building and for that purpose to break open any lock, or cut any chain, on a door or gate; and
 - (b) to pull down, cut or remove any fence or gate; and
 - (c) to pull down, or destroy, any building or structure, wholly or partially; and
 - (d) to close any road or public place to traffic and the movement of persons; and
 - (e) to destroy living or dead vegetation or flammable material; and
 - (f) to establish, by using fire or otherwise, firebreaks, despite any other provision of this Act; and
 - (g) to take and use water from any source, other than water:
 - (i) in a tank, dam or well connected to a dwelling; and
 - (ii) used by a person as a supply of drinking water; and
 - (h) to do any other act necessary for, or incidental to, the exercise of any of the powers mentioned in this section.

48 Ancillary powers

- (1) A fire control officer may:
- (a) at any time, without warrant, enter any land:
 - (i) to examine a fire burning in the open air on that land or on any neighbouring land; or
 - (ii) to investigate the cause of a bushfire (whether during or after the bushfire); or
 - (iii) if the officer suspects on reasonable grounds that an offence against this Act has been committed on the land – to investigate the offence; or

- (b) at any time, require a person whom the officer suspects on reasonable grounds of having committed an offence against this Act:
 - (i) to state their full name and place of residence; and
 - (ii) to produce any permit held by them; or
 - (c) at any time, require a person who has lit, or is maintaining or using, a fire in contravention of this Act to extinguish the fire immediately, or before leaving it, as the officer considers appropriate; or
 - (d) at a reasonable time without warrant, enter any land to assess whether it is necessary for firebreaks to be established on, or bush or other flammable material to be removed from, the land.
- (2) In conducting an investigation mentioned in subsection (1)(a)(ii) or (iii), the fire control officer may:
- (a) carry out a search of the land; or
 - (b) carry out a search of any vehicle or vessel on the land; or
 - (c) seize anything found on the land, vehicle or vessel that the officer believes on reasonable grounds is connected with the cause of a bushfire or the commission of an offence against this Act.
- (3) Before carrying out an assessment mentioned in subsection (1)(d), if there is a person on the land who is or appears to be the occupier of the land, the fire control officer must show their identity card to the person.
- (4) A fire control officer may direct a fire warden to exercise a power that the fire control officer may exercise under this section.
- (5) If a fire warden is directed to do a thing by a fire control officer under subsection (4), the fire warden has power to do that thing.

49 Offence to contravene requirement

- (1) A person commits an offence if the person contravenes a requirement under section 48(1)(b) or (c).

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

50 Obstruction

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
 - (b) the other person is a fire control officer, fire warden or authorised bushfire volunteer; and
 - (c) the fire control officer, fire warden or authorised bushfire volunteer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b).

- (3) In this section:

obstruct includes hinder and resist.

Division 8 Authorised bushfire volunteers

51 Authorised bushfire volunteers

- (1) The executive director may, by written notice, appoint a person who is over the age of 16 years to be an authorised bushfire volunteer for a period specified in the notice.
- (2) A person appointed to be an authorised bushfire volunteer is eligible for reappointment.

52 Identity card

- (1) The executive director must give a person who is an authorised bushfire volunteer an identity card stating the person's name and that the person is an authorised bushfire volunteer.
- (2) The identity card must:
- (a) show a recent photograph of the authorised bushfire volunteer; and
 - (b) show the card's date of issue; and
 - (c) be signed by the volunteer.

- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

53 Return of identity card

- (1) A person who ceases to be an authorised bushfire volunteer must return the person's identity card to the executive director within 21 days after the cessation.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

Division 9 Volunteer bushfire brigades

54 Establishment of volunteer bushfire brigades

- (1) The Minister may, by *Gazette* notice, establish a volunteer bushfire brigade, with the name specified in the notice, for an area within a fire protection zone.
- (2) A notice under subsection (1) must:
- (a) specify the area for which the brigade is established; and
 - (b) appoint a person to be the first captain of the brigade.

55 Protection of employment rights of volunteer members

- (1) This section applies to a member of a volunteer bushfire brigade who:
- (a) is requested by the executive director to respond to a bushfire in the course of duty as a volunteer member; and
 - (b) because of so responding to the bushfire, is absent from the member's usual employment at any time during or immediately after the bushfire.
- (2) The volunteer member is not, only because of the absence mentioned in subsection (1), liable:
- (a) to be dismissed; or
 - (b) to lose long service leave, sick leave, recreation leave or any other benefit to which the member may be entitled under the industrial award or agreement applicable to the employment.

- (3) This section applies whether or not the employer consented to the absence.

Part 3 Fire zones and areas

Division 1 Fire protection zones

56 Declaration of fire protection zone

The Minister may, by *Gazette* notice, declare any land to be a fire protection zone.

57 Purpose of declaring fire protection zone

The purpose of declaring a fire protection zone is to apply the controls mentioned in Part 4, Divisions 1 and 2 to land within the zone.

Division 2 Fire management zones

58 Declaration of fire management zone

The Minister may, by *Gazette* notice, declare any land to be a fire management zone.

59 Purpose of declaring fire management zone

The purpose of declaring a fire management zone is:

- (a) to establish an area for which a regional committee may be established; and
- (b) to establish an area for which a regional bushfire management plan may be prepared; and
- (c) to apply the controls mentioned in Part 4, Division 3 to land within the zone.

Division 3 Fire management areas

60 Declaration of fire management area

The executive director may, by *Gazette* notice:

- (a) declare any land to be, for the period specified in the notice, a fire management area with the name specified in the notice; or
- (b) vary the boundaries, or name, of a fire management area.

61 Purpose of declaring fire management area

The purpose of declaring a fire management area is, for a limited period:

- (a) to establish an area for which an area fire management plan must be prepared; and
- (b) to establish an area within which the executive director may require the owners or occupiers of land to prepare a property fire management plan; and
- (c) to apply the controls mentioned in Part 4, Division 4 to land within the area.

Division 4 Fire danger areas

62 Declaration of fire danger period

The executive director may, by public notice, declare a period specified in the notice to be a fire danger period in:

- (a) the part of the Territory specified in the notice; or
- (b) the whole of the Territory.

63 Fire danger area

The area specified in a declaration under section 62 is a **fire danger area** for the period specified in the notice.

64 Purpose of declaring fire danger area

The purpose of declaring a fire danger area is to apply, for a limited period, the controls mentioned in Part 4, Division 2 to land within the area.

Division 5 Fire ban areas

65 Declaration of fire ban period

The executive director may, by public notice, declare a period, not exceeding 24 hours, specified in the notice to be a fire ban period in:

- (a) the part of the Territory specified in the notice; or
- (b) the whole of the Territory.

66 Fire ban area

The area specified in a declaration under section 65 is a **fire ban area** for the period specified in the notice.

67 Purpose of declaring fire ban area

The purpose of declaring a fire ban area is to apply, for a limited period, the controls mentioned in Part 4, Division 5 to land within the area.

Part 4 Controls on fire activities in zones and areas

Division 1 Controls in fire protection zones

68 Requirement to establish firebreaks

(1) The owner or occupier of land within a fire protection zone commits an offence if there is not a prescribed firebreak:

- (a) around the perimeter of the land; or
- (b) in another approved position on, or close to, the land.

Maximum penalty: 20 penalty units and 2 penalty units for each day during which the offence continues.

(2) The owner or occupier of land within a fire protection zone commits an offence if:

- (a) there is on the land:
 - (i) a house or other permanent structure; or
 - (ii) a stationary engine; or
 - (iii) flammable material; and
- (b) there is not a prescribed firebreak around the thing mentioned in paragraph (a).

Maximum penalty: 20 penalty units and 2 penalty units for each day during which the offence continues.

(3) An offence against subsection (1) or (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.

(5) This section does not affect the requirement to obtain a permit for the lighting of a fire in order to create a firebreak by burning.

(6) In this section:

approved position means a position approved in writing by the executive director at the request of the owner or occupier.

prescribed firebreak means a firebreak that:

- (a) is no less than 4 m wide; and
- (b) is created by burning, grading, scraping, ploughing, mowing, slashing, spraying or grazing; and
- (c) does not have any vegetation on it that is more than 50 mm high; and
- (d) does not have any slash or dead material lying on it.

69 Prohibition etc. by notice

(1) The Minister may, by public notice, if satisfied that the prohibition or requirement is necessary for the protection from bushfire of land within a fire protection zone, prohibit or require the doing of an act on the land, and within the period, as specified in the notice.

(2) Without limiting subsection (1), a notice under that subsection may:

- (a) require the owner or occupier of land within a fire protection zone to establish a firebreak on the land of a kind specified in the notice; and
- (b) provide that the owner or occupier of land must obtain the approval of Bushfires NT for any firebreak established on the land under the notice.

(3) A notice under subsection (1) does not affect the requirement to obtain a permit for the lighting of a fire in order to create, by burning, a firebreak required by the notice.

(4) A person commits an offence if:

- (a) a notice has been issued under subsection (1); and
- (b) the person intentionally engages in conduct; and

- (c) the conduct results in a contravention of the notice and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (5) Strict liability applies to subsection (4)(a).

70 Property fire management plans within fire protection zone

- (1) The executive director may do any of the following:
 - (a) conduct a risk assessment of land within a fire protection zone;
 - (b) direct a fire control officer or other person to conduct a risk assessment of land within a fire protection zone;
 - (c) by written notice given to the owner or occupier of land within a fire protection zone, require the owner or occupier to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land;
 - (d) prepare a property fire management plan for land within a fire protection zone and give it to the owner or occupier of the land.
- (2) In determining whether to do any of the things permitted under subsection (1), the executive director may consider any factors the executive director considers relevant.
- (3) Without limiting subsection (2), the executive director may consider:
 - (a) previous non-compliance by the owner or occupier of the land with their obligations under this Act; and
 - (b) the likely scale and urgency of the risk of fire to human safety or the environment.
- (4) A property fire management plan prepared under this section must specify adequate arrangements for the mitigation, management and suppression of fire on the land.
- (5) If an owner or occupier of land is given notice under subsection (1)(c) and the submitted plan is not, in the opinion of the executive director, adequate, the executive director may return the plan to the owner or occupier to make the amendments required by the executive director.

- (6) The executive director, a fire control officer or a person directed by the executive director may enter land within a fire protection zone to carry out a risk assessment as permitted by this section.
- (7) If a property fire management plan requires the doing of a specified act by the owner or occupier of the land within a specified period and the owner or occupier fails to do the act within that period, the executive director may authorise, in writing, a person to:
 - (a) enter the land, with or without equipment and machinery; and
 - (b) do the act required to be done.
- (8) The cost to the Territory of work carried out under subsection (7) is:
 - (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

70A Offences about property fire management plans within fire protection zone

- (1) A person commits an offence if:
 - (a) the person is the owner or occupier of land, within a fire protection zone, to which a fire management plan applies; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in contravention of the fire management plan and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (4) A person commits an offence if:
 - (a) the person is the owner or occupier of land within a fire protection zone; and
 - (b) the person is given written notice under section 70(1)(c) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
 - (c) the person intentionally engages in conduct; and

- (d) the conduct results in contravention of the written notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (5) Strict liability applies to subsection (4)(a) and (b).
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

Division 2 Controls in fire protection zones and fire danger areas

71 Application

- (1) Subject to subsection (2), this Division applies to land:
- (a) within a fire protection zone; or
 - (b) within a fire danger area during a fire danger period.
- (2) The Minister may, by public notice, declare that the provisions of this Division specified in the notice do not apply to land in a specified fire protection zone.
- (3) On a declaration being made under subsection (2), the provisions specified in the declaration do not apply to the land during the period specified in the notice.

72 Offence to light small fire near flammable material

- (1) A person who lights a small fire in the open air commits an offence if:
- (a) the place where the fire is lit is:
 - (i) within a fire protection zone; or
 - (ii) within a fire danger area during a fire danger period; and
 - (b) the fire is less than 4 m away from bush or other flammable material.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

73 Offence to light fire unless authorised by permit

- (1) A person commits an offence if:
- (a) the person intentionally lights a fire (other than a small fire) in the open air; and
 - (b) the fire is:
 - (i) within a fire protection zone; or
 - (ii) within a fire danger area during a fire danger period; and
 - (c) the person is not authorised by a permit to light the fire and is reckless in relation to that circumstance.

Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) For this section, a person is only authorised by a permit to do a thing if any conditions set out in the permit for the doing of that thing are complied with.

74 Fires not to be left unattended

- (1) A person commits an offence if:
- (a) the person intentionally lights a fire in the open air; and
 - (b) the fire is:
 - (i) within a fire protection zone; or
 - (ii) within a fire danger area during a fire danger period; and
 - (c) the person intentionally leaves the fire without extinguishing it.

Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant had, before leaving the fire, in circumstances in which it was reasonable to do so, arranged with another person who was maintaining or using the fire, to not leave the fire unless that person:
- (a) extinguishes the fire; or

- (b) makes the same arrangement with another person who is maintaining or using the fire.

75 Matter not to be thrown

- (1) A person commits an offence if:
 - (a) the person throws, from a vehicle or otherwise, a thing that is burning or smouldering; and
 - (b) the place where the thing is thrown is:
 - (i) within a fire protection zone; or
 - (ii) within a fire danger area during a fire danger period; and
 - (c) the place where the thing lands is within 4 m of any bush or other flammable material.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

76 Spark arresters

- (1) A person commits an offence if:
 - (a) the person starts an engine on land that is:
 - (i) within a fire protection zone; or
 - (ii) within a fire danger area during a fire danger period; and
 - (b) the engine is not fitted with equipment in good working order designed to prevent the escape of sparks, flames or burning material from the engine's exhaust.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

77 Grinding, welding or cutting equipment

- (1) A person commits an offence if:
 - (a) the person uses grinding, welding or cutting equipment in the open air in such a position that it is likely to result in igniting bush or other flammable material on land:
 - (i) within a fire protection zone; or
 - (ii) within a fire danger area during a fire danger period; and
 - (b) there is not readily available a fire extinguishing device that is:
 - (i) in good working order; and
 - (ii) appropriate to the type of equipment being used and the potential fire hazard.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Division 3 Controls in fire management zones

78 Regional bushfire management plan

- (1) The executive director may, by written notice:
 - (a) direct Bushfires NT to prepare within a specified period, in consultation with the regional committee for a fire management zone, a draft regional bushfire management plan for the zone; and
 - (b) specify matters to be addressed by the plan.
- (2) As soon as practicable after preparing a draft regional bushfire management plan, Bushfires NT must submit it to the regional committee for endorsement.
- (3) On endorsement by the regional committee, the plan has effect as a regional bushfire management plan for the fire management zone.
- (4) As soon as practicable after endorsing a regional bushfire management plan, the regional committee must give written notice of the endorsement to the executive director.

- (5) As soon as practicable after being given notice under subsection (4), the executive director must give public notice of the plan.

79 Contents of regional bushfire management plan

A regional bushfire management plan must:

- (a) specify arrangements for the mitigation, management and suppression of bushfires on land within the fire management zone; and
- (b) deal with the matters specified under section 78(1)(b).

80 Prohibition etc. by notice

- (1) The Minister may, by public notice, if satisfied that the prohibition or requirement is necessary for the protection from bushfire of land within a fire management zone, prohibit or require the doing of an act on the land, and within the period, as specified in the notice.
- (2) A person commits an offence if:
 - (a) a notice has been issued under subsection (1); and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in a contravention of the notice and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsection (2)(a).

81 Property fire management plans within fire management zone

- (1) The executive director may do any of the following:
 - (a) conduct a risk assessment of land within a fire management zone;
 - (b) direct a fire control officer or other person to conduct a risk assessment of land within a fire management zone;
 - (c) by written notice given to the owner or occupier of land within a fire management zone, require the owner or occupier to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land;

- (d) prepare a property fire management plan for land within a fire management zone and give it to the owner or occupier of the land.
- (2) In determining whether to do any of the things permitted under subsection (1), the executive director may consider any factors the executive director considers relevant.
- (3) Without limiting subsection (2), the executive director may consider:
 - (a) previous non-compliance by the owner or occupier of the land with their obligations under this Act; and
 - (b) the likely scale and urgency of the risk of fire to human safety or the environment.
- (4) A property fire management plan prepared under this section must specify adequate arrangements for the mitigation, management and suppression of fire on the land.
- (5) If an owner or occupier of land is given notice under subsection (1)(c) and the submitted plan is not, in the opinion of the executive director, adequate, the executive director may return the plan to the owner or occupier to make the amendments required by the executive director.
- (6) The executive director, a fire control officer or a person directed by the executive director may enter land within a fire management zone to carry out a risk assessment as permitted by this section.
- (7) If a property fire management plan requires the doing of a specified act by the owner or occupier of the land within a specified period and the owner or occupier fails to do the act within that period, the executive director may authorise, in writing, a person to:
 - (a) enter the land, with or without equipment and machinery; and
 - (b) do the act required to be done.
- (8) The cost to the Territory of work carried out under subsection (7) is:
 - (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

81A Offences regarding property fire management plans within fire management zone

- (1) A person commits an offence if:
- (a) the person is the owner or occupier of land, within a fire management zone, to which a fire management plan applies; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in contravention of the fire management plan and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

- (4) A person commits an offence if:
- (a) the person is the owner or occupier of land within a fire management zone; and
 - (b) the person is given written notice under section 81(1)(c) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in contravention of the written notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (5) Strict liability applies to subsection (4)(a) and (b).
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

82 Offence to conduct aerial burning unless authorised by permit

- (1) A person commits an offence if:
- (a) the person intentionally lights a fire by deploying an incendiary device from an aircraft in flight; and

- (b) the fire is within a fire management zone; and
- (c) the person is not authorised by a permit to light the fire by that method and is reckless in relation to that circumstance.

Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) For this section, a person is only authorised by a permit to do a thing if any conditions set out in the permit for the doing of that thing are complied with.

Division 4 Controls in fire management areas

83 Area fire management plans

- (1) Bushfires NT must prepare an area fire management plan for a fire management area as soon as practicable after the declaration of the area under section 60(a).
- (2) Bushfires NT must, as soon as practicable after preparing an area fire management plan, publish notice of the plan, and of where a copy of it may be inspected, in the *Gazette*.

84 Property fire management plans within fire management area

- (1) The executive director may do any of the following:
 - (a) by public notice, require each owner or occupier of land within a fire management area to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan;
 - (b) conduct a risk assessment of land within a fire management area;
 - (c) direct a fire control officer, or another person, to conduct a risk assessment of land within a fire management area;
 - (d) by written notice given to the owner or occupier of land within a fire management area, require the owner or occupier to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land;
 - (e) prepare a property fire management plan for land within a fire management area and give it to the owner or occupier of the land.

- (2) In determining whether to do any of the things permitted under subsection (1), the executive director may consider any factors the executive director considers relevant.
- (3) Without limiting subsection (2), the executive director may consider:
 - (a) previous non-compliance by the owner or occupier of the land with their obligations under this Act; and
 - (b) compliance generally of the owners or occupiers of the land within the fire management area with their obligations under this Act; and
 - (c) the likely scale and urgency of the risk of fire to human safety or the environment.
- (4) A property fire management plan prepared under this section must specify adequate arrangements for the mitigation, management and suppression of fire on the land.
- (5) If an owner or occupier of land is given notice under subsection (1)(a) or (d) and the submitted plan is not, in the opinion of the executive director, adequate, the executive director may return the plan to the owner or occupier to make the amendments required by the executive director.
- (6) The executive director, a fire control officer or a person directed by the executive director may enter land within a fire management area to carry out a risk assessment as permitted by this section.
- (7) If a property fire management plan requires the doing of a specified act by the owner or occupier of the land within a specified period and the owner or occupier fails to do the act within that period, the executive director may authorise, in writing, a person to:
 - (a) enter the land, with or without equipment and machinery; and
 - (b) do the act required to be done.
- (8) The cost to the Territory of work carried out under subsection (7) is:
 - (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

84A Offences about property fire management plans within fire management area

- (1) A person commits an offence if:
- (a) the person is the owner or occupier of land, within a fire management area, to which a fire management plan applies; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in contravention of the fire management plan and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

- (4) A person commits an offence if:
- (a) the person is the owner or occupier of land within a fire management area; and
 - (b) public notice is given under section 84(1)(a) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in contravention of the public notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (5) Strict liability applies to subsection (4)(a) and (b).
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

- (7) A person commits an offence if:
- (a) the person is the owner or occupier of land within a fire management area; and

- (b) the person is given written notice under section 84(1)(d) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in contravention of the written notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (8) Strict liability applies to subsection (7)(a) and (b).
- (9) It is a defence to a prosecution for an offence against subsection (7) if the defendant has a reasonable excuse.

85 Prohibition etc. by notice

- (1) The executive director may, by public notice, if satisfied that the prohibition or requirement is necessary for the protection from bushfire of land within a fire management area, prohibit or require the doing of an act on the land, and within the period, as specified in the notice.
- (2) A person commits an offence if:
 - (a) a notice has been issued under subsection (1); and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in a contravention of the notice and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsection (2)(a).

Division 5 Controls in fire ban areas

86 Prohibition on fires in fire ban areas

- (1) A person commits an offence if:
 - (a) the person intentionally lights a fire in the open air; and

(b) the fire is lit in a fire ban area during a fire ban period.

Maximum penalty: 500 penalty units or imprisonment for 5 years.

(2) Strict liability applies to subsection (1)(b).

(3) Subsection (1) does not apply if:

(a) the fire is lit for cooking or boiling water; and

(b) there is not any bush or other flammable material within 4 m of the fire; and

(c) the fire is not left unattended at any time while lit; and

(d) the fire is extinguished without delay on it ceasing to be used.

87 Fires to be extinguished

(1) If a person who lit a fire in the open air in an area that, on the commencement of a fire ban period, will be a fire ban area, is unable to extinguish the fire before that commencement, the person must, without delay, notify a fire control officer or fire warden of that fact.

(2) A fire control officer or fire warden who is notified of a fire under subsection (1) may give to the notifier any directions for controlling the fire that the officer or warden considers appropriate.

(3) A person commits an offence if:

(a) the person has, before the commencement of a fire ban period, intentionally lit a fire in the open air; and

(b) the area in which the fire is lit is, on the commencement of the fire ban period, a fire ban area; and

(c) the person fails, before the commencement of the fire ban period, to:

(i) extinguish the fire; or

(ii) notify a fire control officer or fire warden in accordance with subsection (1).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(4) Strict liability applies to subsection (3)(b) and (c).

- (5) A person who contravenes a direction given to the person under subsection (2) commits an offence.

Maximum penalty: 100 penalty units.

- (6) An offence against subsection (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (5) if the defendant has a reasonable excuse.

88 Permits suspended

Despite any other provision of this Act, a permit does not authorise the lighting of a fire in a fire ban area during a fire ban period.

Part 5 Fire-fighting

Division 1 Chain of command

89 Chain of command in response to bushfire incidents

- (1) The chain of command in responding to a bushfire incident descends from the chief fire control officer through senior fire control officers, fire control officers, fire wardens and authorised bushfire volunteers.
- (2) A person responding to, or in attendance at, a bushfire is not required to take command at the bushfire only because the person is higher in the chain of command than another person who is participating in the chain of command at the bushfire.
- (3) A fire control officer or fire warden lower in the chain of command than another person participating in the chain of command at a bushfire may only exercise a power conferred by Part 2, Division 7 on the officer or warden in accordance with the directions of the other person.
- (4) An authorised bushfire volunteer only has power to do a thing in responding to a bushfire incident if directed to do that thing by a person who has power to do that thing.
- (5) An authorised bushfire volunteer may only exercise a power mentioned in subsection (4) to do a thing in accordance with the directions of the person directing the volunteer to do the thing.

Division 2 Duty of persons to control fires

90 Duty of owner or occupier to control fires

- (1) The owner or occupier of land must take all reasonable steps:
 - (a) to protect property on the land from fire; and
 - (b) to prevent or inhibit fire spreading from the land to other land.
- (2) If the owner or occupier of land is unable to control a fire on the land, the owner or occupier must take all reasonable steps to notify the following of that fact:
 - (a) a fire control officer or fire warden;
 - (b) the occupier of any land to which the fire is likely to spread or a person apparently over the age of 16 years present on that land.
- (3) A person who is the owner or occupier of any land commits an offence if:
 - (a) there is a fire on the land (whether or not the person lit it); and
 - (b) the fire has the potential to spread to other land and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally fails to take reasonable steps:
 - (i) to control the fire; or
 - (ii) if unable to control the fire – to notify a person mentioned in subsection (2)(a) or (b).

Maximum penalty: 500 penalty units or imprisonment for 5 years.

91 Duty of person who lights fire to control it

- (1) A person who lights a fire on land must take all reasonable steps:
 - (a) to protect property on the land from the fire; and
 - (b) to prevent or inhibit the fire spreading from the land to other land.

- (2) If a person who lights a fire on land is unable to control the fire, the person must take all reasonable steps to notify the following of that fact:
- (a) a fire control officer or fire warden;
 - (b) the occupier of any land to which the fire is likely to spread or a person apparently over the age of 16 years present on that land.
- (3) A fire control officer or fire warden who is notified of a fire under subsection (2)(a) may give to the notifier any directions for controlling the fire that the officer or warden considers appropriate.
- (4) A person commits an offence if:
- (a) the person intentionally lights a fire on land; and
 - (b) the fire has the potential to spread to other land and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally fails to take reasonable steps:
 - (i) to control the fire; or
 - (ii) if unable to control the fire – to notify a person mentioned in subsection (2)(a) or (b).

Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (5) A person who contravenes a direction given to the person under subsection (3) commits an offence.

Maximum penalty: 100 penalty units.

- (6) An offence against subsection (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (5) if the defendant has a reasonable excuse.

Division 3 Firebreaks and removal of flammable material

92 Establishment of firebreaks or removal of flammable material

- (1) This section applies if the executive director considers that it is necessary for firebreaks to be established on, or for bush or other flammable material to be removed from, land.

- (2) The executive director may serve a warning notice in the approved form on:
 - (a) the owner, lessee, licensee, mortgagee in possession of or occupier of the land; or
 - (b) the person managing or controlling, or apparently managing or controlling, the use of the land.
- (3) A warning notice must:
 - (a) state that the executive director intends to serve a firebreak notice or flammable material notice in respect of the land; and
 - (b) indicate the contents of the proposed notice; and
 - (c) invite the person on whom the warning notice is served to give the executive director, within 72 hours after that service, reasons why the proposed notice should not be served.
- (4) If no reasons are given to the executive director, or the executive director considers that the reasons given are insufficient, the executive director may serve on the person on whom the warning notice was served a firebreak notice or flammable material notice, in respect of the land.
- (5) The executive director must advise the Council, at its next meeting following the service of a notice under subsection (4), of the terms of the notice.

93 Contents of firebreak notices or flammable material notices

- (1) A **firebreak notice** is a notice that requires firebreaks to be established on land as specified in the notice and may:
 - (a) specify the method of establishing those firebreaks; and
 - (b) require that the firebreaks be maintained to the satisfaction of a fire control officer for a period specified in the notice.
- (2) A **flammable material notice** is a notice that requires bush or other flammable material to be removed from the land as specified in the notice and may require the destruction or disposal of that material by a method specified in the notice.
- (3) A firebreak notice or flammable material notice:
 - (a) must specify the time within which the act specified in the notice is to be completed; and

- (b) must state that the person on whom it is served may, within 7 days after the service of the notice, request the Minister to review its terms.
- (4) A firebreak notice or flammable material notice must be in the approved form.

94 Review by Minister

- (1) A person on whom a firebreak notice or flammable material notice is served under section 92(4) may, within 7 days after the service of the notice, apply in writing to the Minister:
 - (a) requesting the Minister to review the terms of the notice; and
 - (b) setting out the reasons for the application.
- (2) The Minister may confirm, cancel or vary the notice as the Minister considers appropriate.
- (3) The Minister must notify the applicant in writing of the decision as soon as practicable after making it.

95 Offence not to comply with notice

- (1) A person commits an offence if the person fails to comply with a notice served on the person under section 92(4) within the following time:
 - (a) if a request is not made under section 94(1) – the time specified in the notice;
 - (b) if a request is made under section 94(1) and the Minister confirms or varies the notice – 7 days after the person is notified of the Minister's decision under section 94(3).

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (4) Subsection (5) applies if a person served with a notice under section 92(4) fails to comply with it.
- (5) A person authorised in writing by the executive director may enter the land that is the subject of the notice and do any things that are necessary to comply with the notice.

- (6) A person may enter land under subsection (5):
- (a) personally or by employees, agents, licensees, servants or contractors; and
 - (b) with or without equipment and machinery.
- (7) The cost to the Territory of work carried out under subsection (5) is:
- (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

96 Contribution for firebreaks

A person served with a notice under section 92(4) who incurs expenditure in complying with the notice may recover as a debt due to the person:

- (a) if the person is not the owner of the land specified in the notice – from the owner of that land the amount of that expenditure; or
- (b) if the person is a joint owner of that land – from the other owners of that land the proportion of that expenditure that the court considers appropriate.

Part 6 Miscellaneous matters

97 Entry on Aboriginal land

- (1) This section applies if:
- (a) a person is empowered by this Act to enter land of which the person is not the occupier; or
 - (b) it is necessary or convenient for a person to enter land for the purpose of carrying out a function or duty, or exercising a power, conferred or imposed on the person by this Act.
- (2) The person may enter the land despite:
- (a) the land being Aboriginal land as defined in section 3 of the *Aboriginal Land Act 1978*; and
 - (b) the person not holding a permit under that Act to enter or remain on the land.

98 Territory may recover expenses

- (1) The Territory may, in a court of competent jurisdiction, recover from a person any expenditure incurred by the Territory as a result of the person's contravention of a provision of this Act.
- (2) An amount recoverable under this section is a debt due to the Territory.

99 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of the Council or a regional committee.
- (2) Subsection (1) does not affect any liability that the Territory, the Council or a regional committee would, apart from that subsection, have for the act or omission.
- (3) A fire control officer, fire warden or authorised bushfire volunteer acting in accordance with a direction given by a person participating in the chain of command at a bushfire is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the course of so acting.
- (4) A fire warden acting in accordance with a direction given by a fire control officer under section 48(4) is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the course of so acting.
- (5) Subsection (3) or (4) does not affect any liability that the Territory would, apart from that subsection, have for the act or omission.

100 Damage

- (1) A person who causes damage in the course of exercising in good faith a power conferred on the person by this Act, or carrying out work or doing any other act in good faith on land that the person is authorised to carry out or do under this Act, is not civilly or criminally liable in respect of that damage.
- (2) Damage occurring to property, through the exercise of a power mentioned in section 47 by a person authorised to exercise the power, must, for any insurance policy against fire that covers the property, be taken to be damage arising out of a bushfire.

- (3) A provision, stipulation, covenant or condition in any agreement (whether made before or after the commencement of this section) that negatives, limits or modifies, or purports to negative, limit or modify, the operation of subsection (2) is void and of no effect.

101 Confidentiality of information

- (1) A member of the Council or of a regional committee commits an offence if the member:
- (a) obtains information in the course of performing functions connected with the administration of this Act; and
 - (b) intentionally engages in conduct; and
 - (c) the conduct results in the disclosure of the information and the member is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) Subsection (1) does not apply if:
- (a) the member discloses the information:
 - (i) for the administration of this Act; or
 - (ii) with the consent of the person to whom the information relates; or
 - (iii) for legal proceedings arising out of the operation of this Act; or
 - (b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a member who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

102 Misleading information

- (1) A person commits an offence if:
- (a) the person intentionally gives information to another person; and
 - (b) the other person is a fire control officer or fire warden; and

- (c) the information is misleading and the person has knowledge of that circumstance; and
- (d) the fire control officer or fire warden is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is a fire control officer or fire warden; and
- (c) the document contains misleading information and the person has knowledge of that circumstance; and
- (d) the fire control officer or fire warden is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the fire control officer or fire warden's attention; and
- (b) to the extent to which the person can reasonably do so – gives the fire control officer or fire warden the information necessary to remedy the misleading aspect of the document.

(5) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

103 Evidence in proceedings

In proceedings for an offence against this Act, a certificate purporting to be signed by the executive director to the following effect is, in the absence of proof to the contrary, evidence of the matter stated in the certificate:

- (a) that a specified day was within:
 - (i) a fire danger period; or
 - (ii) a fire ban period;
- (b) that a specified area of land was, at a specified time, within:
 - (i) a fire protection zone; or
 - (ii) a fire management zone; or
 - (iii) a fire management area; or
 - (iv) a fire danger area; or
 - (v) a fire ban area;
- (c) that a specified fire was a fire the lighting of which had been prohibited under section 80(1) or 85(1) on the land on which it was burning;
- (d) that a specified person was, on a specified day, a fire control officer, fire warden or authorised bushfire volunteer.

104 Service of notices

A notice required or permitted by this Act to be served on, or given to, a person may be so served or given:

- (a) by handing it or tendering it to that person; or
- (b) by post; or
- (c) by leaving it with a person apparently over the age of 16 years at the last known or usual place of residence or business of the person on whom it is to be served or to whom it is to be given; or
- (d) if the address of the person on whom it is to be served or to whom it is to be given is not known – by publishing the notice in the *Gazette*.

105 Approved forms

The executive director may approve forms for this Act.

106 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) The Regulations may:
 - (a) prescribe a penalty not exceeding 85 penalty units for an offence against a regulation; or
 - (b) apply, adopt or incorporate (with or without changes) the whole or part of a document as in force or existing at a particular time or from time to time.

Part 7 Repeals and transitional provisions

Division 1 Acts repealed

107 Acts repealed

The Acts specified in Schedule 1 are repealed.

Division 2 Transitional matters for Bushfires Management Act 2016

108 Definitions

In this Act:

commencement means the commencement of this Part.

repealed Act means the *Bushfires Act 1980* as in force immediately before the commencement.

109 Continuation of certain things and offices

Despite the repeal effected by section 107:

- (a) a person holding office as the Chief Fire Control Officer or a Senior Fire Control Officer immediately before the commencement continues to hold office as the chief fire control officer or a senior fire control officer as if appointed under section 16 or 17; and

- (b) a person holding office as a fire control officer for a fire control region immediately before the commencement continues to hold office as a fire control officer as if appointed under section 18; and
- (c) a permit issued under the repealed Act and in force immediately before the commencement continues in force as if it were a permit issued under section 46; and
- (d) a volunteer bushfire brigade established under the repealed Act and in existence immediately before the commencement continues in existence as if it had been established under section 54(1); and
- (e) a fire protection zone declared under section 33 of the repealed Act and in existence immediately before the commencement is taken to be a fire protection zone declared under section 56; and
- (f) a fire control region declared under section 10 of the repealed Act and in existence immediately before the commencement is taken to be a fire management zone declared under section 58.

110 Continuation of Regulations

- (1) Despite the repeal effected by section 107, the former regulations continue in force under this Act, on and after the commencement, as the amended regulations.
- (2) In this section:

amended regulations means the *Bushfires Management (Volunteer Bushfire Brigades) Regulations 2006*.

former regulations means the *Bushfires (Volunteer Bushfire Brigades) Regulations 2006* as in force immediately before the commencement.

Schedule 1 Repealed Acts

section 107

<i>Bushfires Act 1980</i>	Act No. 33 of 1980
<i>Bushfires Amendment Act 1982</i>	Act No. 26 of 1982
<i>Bushfires Amendment Act 1984</i>	Act No. 32 of 1984
<i>Bushfires Amendment Act 1985</i>	Act No. 70 of 1985
<i>Bushfires Amendment Act 1988</i>	Act No. 25 of 1988
<i>Bushfires Amendment Act 1989</i>	Act No. 48 of 1989
<i>Bushfires Amendment Act 1992</i>	Act No. 13 of 1992
<i>Bushfires Amendment Act 2003</i>	Act No. 6 of 2004

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Bushfires Management Act 2016 (Act No. 14, 2016)***

Assent date	7 June 2016
Commenced	1 November 2016 (<i>Gaz</i> S111, 17 October 2016)

Environment Legislation Amendment Act 2021 (Act No. 22, 2021)

Assent date	18 November 2021
Commenced	pt 7: 31 March 2022; rem: 1 February 2022 (<i>Gaz</i> G51, 22 December 2021, p 1)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 3, 6, 97, 108 and 110.

4 LIST OF AMENDMENTS

s 5	sub No. 22, 2021, s 4
s 68	amd No. 22, 2021, s 5
s 70	sub No. 22, 2021, s 6
s 70A	ins No. 22, 2021, s 6
s 81	sub No. 22, 2021, s 7
s 81A	ins No. 22, 2021, s 7
s 84	sub No. 22, 2021, s 8
s 84A	ins No. 22, 2021, s 8
s 91	amd No. 22, 2021, s 9
s 111	exp No. 14, 2016, s 111(5)
pt 8 hdg	exp No. 14, 2016, s 121
pt 8	
div 1 hdg	exp No. 14, 2016, s 121
ss 112 – 119	exp No. 14, 2016, s 121

ENDNOTES

pt 8	
div 2 hdg	exp No. 14, 2016, s 121
s 120	exp No. 14, 2016, s 121
pt 8	
div 3 hdg	exp No. 14, 2016, s 121
s 121	exp No. 14, 2016, s 121
sch 2	exp No. 14, 2016, s 121