

South Australia

# Fire and Emergency Services Regulations 2021

under the *Fire and Emergency Services Act 2005*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Fire and Emergency Services Regulations 2021*.

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Fire and Emergency Services Act 2005*;

*Australian Standard* means a standard of Standards Australia;

*incident management system* (being a system that relates to SACFS)—see regulation 5;

*operation*, in relation to the activities of SACFS, includes a practice or training session for members of an SACFS organisation;

*recognised emergency service* means—

- (a) an emergency services organisation; or
- (b) South Australia Police; or
- (c) St John Ambulance Australia South Australia Incorporated; or
- (d) SA Ambulance Service Inc;

*SA Water* means the South Australian Water Corporation.

- (2) A reference in these regulations to the *Chief Officer* is a reference to the Chief Officer of the emergency services organisation to which the relevant provision relates.

## Part 2—Constitution of Board

### 4—Constitution of Board

For the purposes of section 11(1)(e)(iii) of the Act, a person will be taken to have suitable volunteer experience if the person has undertaken voluntary effort for any common or community good within South Australia.

## Part 3—SACFS

### Division 1—Incident management system

#### 5—Incident management system

- (1) SACFS will prepare and maintain an overall plan for fighting fires and dealing with other emergencies in the country (the *incident management system*).
- (2) The objectives of the incident management system will be to achieve—
  - (a) the greatest possible protection of life, property and the environment in the case of a fire or other emergency; and
  - (b) the greatest possible effectiveness and efficiency in the operations of SACFS in the case of a fire or other emergency.

### Division 2—SACFS organisations

#### Subdivision 1—SACFS brigades

#### 6—Constitution of SACFS brigade

- (1) A group of interested persons may apply to the Chief Officer for the constitution of an SACFS brigade in relation to a particular area of the State.
- (2) An application under subregulation (1) may propose that the SACFS brigade be established for a particular purpose associated with SACFS operations in a particular area of the State.
- (3) An application under subregulation (1) must—
  - (a) be made in a manner and form approved by the Chief Officer; and
  - (b) define the area in relation to which it is proposed that the brigade be established; and
  - (c) list the full name, residential address, occupation and date of birth of each person who is applying to be a foundation member of the brigade; and
  - (d) specify the location of any proposed fire station for the brigade; and
  - (e) if the application falls within the ambit of subregulation (2)—specify the proposed purpose of the brigade; and
  - (f) propose a constitution for the brigade; and
  - (g) contain such other information as the Chief Officer may require.
- (4) If the Chief Officer establishes an SACFS brigade, the Chief Officer must furnish the brigade with a certificate in the form of Schedule 1.

#### 7—Registration of members of SACFS brigades

- (1) A person will not be recognised as a member of an SACFS brigade unless the person is registered as a member of that brigade by the Chief Officer.

- (2) The Chief Officer may refuse to register a person as a member of an SACFS brigade if—
  - (a) the Chief Officer requires the person to undergo a medical examination determined by the Chief Officer and the person fails to pass that examination; or
  - (b) the Chief Officer considers that the person is not a fit and proper person to be a member of an SACFS brigade; or
  - (c) in the case of a person who is applying to be registered as a firefighter—the Chief Officer considers that the person would not be reasonably available to respond to fires or other emergencies, or otherwise to carry out functions and responsibilities as such a member of the brigade; or
  - (d) the Chief Officer is satisfied that some other reasonable ground exists on which to refuse registration.
- (3) An application to register a person as a member of an SACFS brigade must be in a form approved by the Chief Officer.
- (4) Unless the Chief Officer otherwise determines, the registration of a person as a member of an SACFS brigade will at first be on probation for a period of 6 months.
- (5) Subregulation (4) does not apply in relation to a person—
  - (a) who has transferred from one brigade to another brigade; and
  - (b) if so determined by the Chief Officer—whose period between being a member of one brigade and becoming a member of the other brigade does not exceed a period specified by the Chief Officer for the purposes of this provision; and
  - (c) who was not on probation as a member of the brigade from which they have transferred.
- (6) If a person successfully completes the period of probation, the registration of that person as a member of an SACFS brigade will be taken to have been confirmed by the Chief Officer.
- (7) If a person fails to adequately complete probation the person's registration as a member of an SACFS brigade will, unless the Chief Officer otherwise determines, lapse.
- (8) Subject to section 70 of the Act, the Chief Officer may terminate the registration of a person as a member of an SACFS brigade on any reasonable ground.

## **8—Categories of membership**

- (1) There will be the following categories of membership in an SACFS brigade:
  - (a) cadet;
  - (b) firefighter;
  - (c) operational support member;
  - (d) honorary member.
- (2) A person is eligible to be a cadet if the person is of or above the age of 11 years and under the age of 18 years.

- (3) The following provisions apply in relation to cadets:
- (a) a cadet must not be permitted to attend a fire or other emergency;
  - (b) subject to the operation of paragraph (a), a cadet may, under the supervision of another member of the brigade, operate pumps and hoses, and travel on fire appliances;
  - (c) cadets may hold their own meetings under the supervision of the brigade captain, or another member of the brigade nominated by the brigade captain;
  - (d) a cadet may attend an ordinary meeting of the brigade, but—
    - (i) a cadet is not eligible to vote on a matter arising for determination at a meeting of the brigade; and
    - (ii) a cadet will not be counted for the purpose of determining a quorum, or any other question relating to the attendance of members of the brigade at a meeting;
  - (e) a cadet may, after attaining the age of 16 years, apply to become a firefighter or operational support member.
- (4) A person is eligible to be a firefighter or operational support member if the person—
- (a) is of or above the age of 16 years and has made an application under subregulation (3)(e); or
  - (b) is of or above the age of 18 years.
- (5) The brigade must determine the extent (if any) to which an operational support member may engage in fire-fighting activities as a member of the brigade.
- (6) The brigade must, in acting under subregulation (5), comply with any relevant policy issued by the Chief Officer.
- (7) A person is eligible to be an honorary member of an SACFS brigade if—
- (a) the person is a member of the brigade and the nomination is based on the person's service to the brigade, or SACFS more generally, over a significant period of time; or
  - (b) the person is a member of the community and the nomination is based on the person's service to the brigade, SACFS more generally, or the community.
- (8) An application to become a member of an SACFS brigade must be made to the brigade in a manner and form approved by the Chief Officer and, in the case of an application by a person under the age of 18 years, must be accompanied by the written consent of a parent or guardian of the applicant.
- (9) An application for membership must be considered at a meeting of the brigade.
- (10) If—
- (a) an SACFS brigade accepts an application; or
  - (b) the membership category of a person who is a member of an SACFS brigade changes,

the brigade must apply to the Chief Officer for registration of that person as a member, or as a member in the person's new category (as the case may be).

- (11) An application under subregulation (10) must be made by the end of the month immediately following the month during which the application for membership is accepted, or the category of membership changes.
- (12) A person may not, without the approval of the Chief Officer, be a member of 2 or more brigades at the same time.
- (13) A person who becomes an honorary member of an SACFS brigade under subregulation (7) will not be eligible to be elected to any position under these regulations by virtue of the honorary membership or vote at any meeting of the brigade.

## **9—Brigade officers**

- (1) Pursuant to section 70 of the Act, each SACFS brigade will have the following officers:
  - (a) a brigade captain;
  - (b) unless the Chief Officer otherwise determines—at least 2, but not more than 4, lieutenants (with the order of seniority of the lieutenants being decided in a manner determined by the brigade);
  - (c) with the approval of the Chief Officer—1 or more senior firefighters (with the number of senior firefighters not exceeding the number of lieutenants and the order of seniority of the senior firefighters being decided in a manner determined by the brigade).
- (2) Unless the Chief Officer otherwise determines, each position referred to in subregulation (1)(b) or (c) will be filled by election.
- (3) The specific functions of each officer are set out in Schedule 2.

## **10—Prescribed positions**

- (1) Subject to this regulation, each SACFS brigade must have, in addition to its officers—
  - (a) a communications co-ordinator; and
  - (b) a training co-ordinator; and
  - (c) an equipment co-ordinator; and
  - (d) a logistics support co-ordinator; and
  - (e) an administrative co-ordinator.
- (2) Unless the Chief Officer otherwise determines (and subject to subregulation (4)), each position referred to in subregulation (1) will be filled by election.
- (3) The specific functions that attach to each position are as determined by the Chief Officer.
- (4) Despite a preceding subregulation, a brigade captain may decide to assume personally the functions of any position under subregulation (1) and, in that event, the position need not be filled.
- (5) An SACFS brigade may, with the approval of the Chief Officer, create such other positions within the brigade as the brigade thinks fit.



- (6) Unless the Chief Officer otherwise determines, a position under subregulation (5) will be filled in a manner determined by the brigade.
- (7) A member of an SACFS brigade holding a position under this regulation is responsible to the brigade captain for the performance of the functions that attach to the position.

## **11—Brigade elections**

- (1) For the purposes of this regulation, the Chief Officer will determine whether an SACFS brigade will hold its elections in each year designated by an even number or in each year designated by an odd number.
- (2) Subject to subregulation (3), brigade elections must be held in July or August of an election year for that brigade.
- (3) The Chief Officer may, in special circumstances, allow a brigade to hold its elections at some other time.
- (4) Nominations of candidates for brigade elections will be called by the administrative co-ordinator of the brigade in accordance with the brigade's constitution.
- (5) Subject to these regulations, a person is eligible to be nominated for election to a position if the person is a registered member of the brigade.
- (6) A person is not eligible to be nominated for election to an officer rank if the person—
  - (a) would, if elected, hold the rank of group officer or deputy group officer at the same time; or
  - (b) holds a command or operational rank in another recognised emergency service; or
  - (c) has been disqualified from holding the rank by the Chief Officer.
- (7) In addition to subregulation (6), a person is not eligible to be nominated for election as brigade captain unless the person has satisfied the criteria determined by the Chief Officer.
- (8) The Chief Officer may, on the application of an SACFS brigade—
  - (a) determine that subregulation (6)(a) or (b) will not apply to a particular person; or
  - (b) dispense with a requirement under subregulation (7) if the Chief Officer is satisfied that there is no member of the brigade who satisfies the particular requirement, or that no member of the brigade who satisfies the particular requirement is willing to stand for election as brigade captain.
- (9) An election will be held by secret ballot using a method determined by the Chief Officer (unless the election is uncontested).
- (10) Each member of the brigade attending the meeting at which the elections are held is entitled to vote at the elections.
- (11) For the purposes of subregulation (10), a person will be taken to be in attendance at a meeting if the person is in communication with the meeting remotely in a manner approved by the Chief Officer.

- (12) Voting for a position if only 1 person is to be elected will be conducted as follows:
- (a) each member will vote for a candidate;
  - (b) after the votes under paragraph (a) are counted, the candidate with the most votes will be elected.
- (13) Voting for a position if 2 or more persons are to be elected will be conducted as follows:
- (a) each member will vote for candidates up to the number required to be elected;
  - (b) after the votes under paragraph (a) are counted, the candidates with the most votes will be elected to fill the positions up to the number required to be elected.
- (14) For the purposes of subregulations (12) and (13), if 2 candidates for a position have an equal number of votes, the person presiding at the election will determine the election by lot with the name drawn being the elected person.
- (15) A person elected to a position in an SACFS brigade holds that position from 1 September of the year of their election (except if a person is elected after 1 September of a particular election year, in which case the person will hold the position to which they are elected from the date of the election).
- (16) A person holds a particular position in an SACFS brigade until 31 August in the next election year of the brigade.
- (17) Subregulation (16) is subject to the following qualifications:
- (a) a person ceases to hold a position in an SACFS brigade if the person ceases to be a member of that brigade;
  - (b) unless otherwise determined by the Chief Officer in relation to the particular person, a person ceases to hold an officer rank in an SACFS brigade if the person—
    - (i) assumes the rank of group officer or deputy group officer; or
    - (ii) assumes a command or operational rank in another recognised emergency service;
  - (c) a person has resigned from a position in an SACFS brigade by written notice to the brigade;
  - (d) a person has been demoted or disqualified from a particular position by the Chief Officer;
  - (e) a person elected to a position in an SACFS brigade at a supplementary election on account of a casual vacancy holds the position for the balance of the term of the person's predecessor;
  - (f) if a person's successor is not elected by 31 August of an election year, the person may continue to hold the position until a successor is elected.
- (18) If—
- (a) a brigade election fails; or
  - (b) a casual vacancy occurs in a position in a brigade,

the brigade must hold a supplementary election in accordance with the brigade's constitution.

- (19) Pending the election of a person to fill a vacant position under subregulation (18)(b) (other than brigade captain), the brigade captain may appoint a member of the brigade to the position on an acting basis.
- (20) If the vacant position under subregulation (18)(b) is that of brigade captain—
  - (a) if the brigade is a member of an SACFS group—the group officer; and
  - (b) if the brigade is not a member of an SACFS group—the regional officer,may appoint a member of the brigade to the rank of brigade captain on an acting basis.
- (21) A person may be re-elected to a position in an SACFS brigade.

## **12—Transfer of membership and resignation**

- (1) A member of an SACFS brigade may, on written application to another brigade, apply to transfer their membership to that other brigade.
- (2) If a member of an SACFS brigade transfers to another brigade, a rank that the member holds at brigade level is not transferred.
- (3) A member of an SACFS brigade may resign by written notice to the brigade.

## **13—Suspension of operations**

- (1) The Chief Officer may suspend the operations of an SACFS brigade for a specified period if—
  - (a) the membership of the brigade has fallen to a level where, in the opinion of the Chief Officer, the brigade can no longer function effectively; or
  - (b) the brigade fails to carry out a function under the Act; or
  - (c) the brigade fails to comply with these regulations.
- (2) The Chief Officer must, in determining whether or not to act under subregulation (1), consult with the members of the brigade.
- (3) The Chief Officer may—
  - (a) extend a period of suspension under this regulation; or
  - (b) revoke a period of suspension under this regulation.
- (4) This regulation does not derogate from the power of the Chief Officer to dissolve an SACFS brigade under section 68 of the Act.

## **Subdivision 2—SACFS groups**

### **14—Constitution of an SACFS group**

- (1) Two or more SACFS brigades may apply to the Chief Officer for the constitution of an SACFS group.
- (2) An application under subregulation (1) must—
  - (a) be made in a manner and form approved by the Chief Officer; and
  - (b) propose a constitution for the group; and

(c) contain such information as the Chief Officer may require.

- (3) If the Chief Officer establishes an SACFS group, the Chief Officer must furnish the group with a certificate in the form of Schedule 3.

### **15—Membership of an SACFS group**

All the members of the SACFS brigades that make up a particular SACFS group will be members of the group.

### **16—Group officers**

- (1) Pursuant to section 70 of the Act, each SACFS group will have the following officers:
- (a) a group officer;
  - (b) unless the Chief Officer otherwise determines—at least 1, but not more than 3, deputy group officers.
- (2) Unless the Chief Officer otherwise determines, each position referred to in subregulation (1)(b) will be filled by election.
- (3) The specific functions of each officer are set out in Schedule 4.

### **17—Prescribed group positions**

- (1) Unless the Chief Officer otherwise determines, each SACFS group must, in addition to its officers, have—
- (a) a group communications co-ordinator; and
  - (b) a group training co-ordinator; and
  - (c) a group equipment co-ordinator; and
  - (d) a group finance co-ordinator; and
  - (e) a group health and safety representative; and
  - (f) a group administrative co-ordinator.
- (2) Unless the Chief Officer otherwise determines, each position referred to in subregulation (1) will be filled by election.
- (3) The specific functions that attach to each position will be as determined by the Chief Officer.
- (4) A member of an SACFS group holding a position under this regulation is responsible to the group officer for the performance of the functions that attach to the position.

### **18—Group elections**

- (1) For the purposes of this regulation, the Chief Officer will determine whether an SACFS group will hold its elections in each year designated by an even number or in each year designated by an odd number.
- (2) Subject to subregulation (3), group elections must be held in July or August of an election year for that group.
- (3) The Chief Officer may, in special circumstances, allow a group to hold its elections at some other time.

- (4) Nominations of candidates for group elections will be called by the group administrative co-ordinator in accordance with the group's constitution.
- (5) Subject to these regulations, a person is eligible to be nominated for election to a position if the person is a registered member of a brigade in the group.
- (6) Subject to subregulation (7), a person is not eligible to be nominated for election to an officer rank if the person—
  - (a) would, if elected, hold the rank and an officer rank in a brigade at the same time; or
  - (b) holds a command or operational rank in another recognised emergency service; or
  - (c) has been disqualified from holding the rank by the Chief Officer.
- (7) The Chief Officer may, on the application of an SACFS group, determine that subregulation (6)(a) or (b) will not apply to a particular person.
- (8) In addition to subregulation (6), a person is not eligible to be nominated for election as group officer unless the person has successfully completed appropriate courses of training approved by the Chief Officer.
- (9) The Chief Officer may, on the application of an SACFS group, dispense with the requirement under subregulation (8) if the Chief Officer is satisfied that it is appropriate in the circumstances of the particular case.
- (10) An election will be held by secret ballot using a method determined by the Chief Officer (unless the election is uncontested).
- (11) One representative from each brigade within the group who is in attendance at the meeting at which the elections are held is entitled to vote at the elections.
- (12) For the purposes of subregulation (11), a person will be taken to be in attendance at a meeting if the person is in communication with the meeting remotely in a manner approved by the Chief Officer.
- (13) Voting for a position if only 1 person is to be elected will be conducted as follows:
  - (a) each brigade representative will vote for a candidate;
  - (b) after the votes under paragraph (a) are counted, the candidate with the most votes will be elected.
- (14) Voting for a position if 2 or more persons are to be elected will be conducted as follows:
  - (a) each brigade representative will vote for candidates up to the number required to be elected;
  - (b) after the votes under paragraph (a) are counted, the candidates with the most votes will be elected to fill the positions up to the number required to be elected.
- (15) For the purposes of subregulations (13) and (14), if 2 candidates for a position have an equal number of votes, the person presiding at the election will determine the election by lot with the name drawn being the elected person.

- (16) A person elected to a position in an SACFS group holds that position from 1 September of the year of the person's election (unless a person is elected after 1 September of a particular election year, in which case the person will hold the position to which the person is elected from the date of the election).
- (17) A person holds a particular position in an SACFS group until 31 August in the next election year of the group.
- (18) Subregulation (17) is subject to the following qualifications:
- (a) a person ceases to hold a position in an SACFS group if the person ceases to be a member of a brigade in the group;
  - (b) unless otherwise determined by the Chief Officer in relation to the particular person, a person ceases to hold an officer rank in an SACFS group if the person—
    - (i) assumes a rank in a brigade; or
    - (ii) assumes a command or operational rank in another recognised emergency service;
  - (c) a person has resigned from a position in an SACFS group by written notice to the administrative co-ordinator of the group;
  - (d) a person has been demoted or disqualified from a particular position by the Chief Officer;
  - (e) a person elected to a position in an SACFS group at a supplementary election on account of a casual vacancy holds the position for the balance of the term of their predecessor;
  - (f) if a person's successor is not elected by 31 August of an election year, the person may continue to hold their position until a successor is elected.
- (19) If—
- (a) a group election fails; or
  - (b) a casual vacancy occurs in a position in a group,
- the representatives of the brigades in the group must hold a supplementary election in accordance with the group's constitution.
- (20) Pending the election of a person to fill a vacant position under subregulation (19)(b) (other than group officer), the group officer may appoint a member of a brigade in the group to the position on an acting basis.
- (21) If the vacant position under subregulation (19)(b) is that of group officer—
- (a) the regional officer may appoint a deputy group officer in the group to the rank of group officer on an acting basis; or
  - (b) if, despite reasonable efforts, the regional officer has not been successful in making an appointment under paragraph (a), the regional officer may, after consultation with the brigades in the group, appoint an SACFS member of a brigade in the group to the rank of group officer on an acting basis; or

- (c) if, despite reasonable efforts, the regional officer has not been successful in making an appointment under paragraph (a) or (b), the regional officer may, after consultation with the brigades in the group, appoint an SACFS member of a brigade outside the group (but within the SACFS region of the regional officer) to the rank of group officer on an acting basis; or
  - (d) if, despite reasonable efforts, the regional officer has not been successful in making an appointment under paragraph (a), (b) or (c), the Chief Officer may, after consultation with the brigades in the group, appoint an SACFS member of a brigade outside the group to the rank of group officer on an acting basis.
- (22) A person may be re-elected to a position in an SACFS group.
- (23) While a person holds the rank of group officer or deputy group officer, the person will be regarded as being on leave of absence from their brigade without loss of continuity of service.

### **Subdivision 3—Accounts, audits and reporting**

#### **19—Accounts and audits**

- (1) Each SACFS organisation that holds any money must open and maintain an operating account at an ADI.
- (2) An SACFS organisation must ensure that proper accounting records are kept of the financial affairs of the organisation.
- (3) An SACFS organisation must, as soon as practicable after the end of each financial year (but in any event before 31 August immediately following the financial year), prepare an annual financial report for the organisation in a form determined by the Chief Officer.
- (4) A copy of the annual financial report of an SACFS organisation for a financial year must be presented to the members of the organisation by 31 August immediately following that financial year.
- (5) An SACFS organisation must, at the request of the Chief Officer, cause the annual financial report for the organisation and the accounts and accounting records of the organisation to be audited by a person, or person of a class, specified by the Chief Officer.
- (6) A member of an SACFS organisation must, at the request of the Chief Officer—
  - (a) produce accounts or other financial records of the organisation in the member's possession for the Chief Officer's inspection; and
  - (b) provide the Chief Officer with explanations or information relating to the financial affairs of the organisation that the Chief Officer requires.
- (7) A person who fails to comply with subregulation (6)(a) commits an offence.  
Maximum penalty: \$2 000.

## **20—Annual returns**

Each SACFS organisation must, on or before 31 August in each year, deliver to the Chief Officer a return (in a form determined by the Chief Officer) containing—

- (a) the following information for each member of the organisation at the date of the return:
  - (i) full name and date of birth;
  - (ii) residential address and contact telephone number;
  - (iii) rank and any position held in the organisation, including a position that the member has been elected to hold commencing on 1 September of that year;
  - (iv) any other information reasonably required by the Chief Officer; and
- (b) a copy of the financial report of the organisation for the preceding financial year; and
- (c) such other information as the Chief Officer may require.

## **Subdivision 4—Conduct and discipline of members**

### **21—Conduct and discipline of members**

- (1) A member of an SACFS organisation who, in the performance of official duties or otherwise—
  - (a) contravenes or fails to comply with—
    - (i) a provision of the Act or these regulations; or
    - (ii) a provision of a code of conduct for SACFS published by the Chief Officer; or
    - (iii) a direction or order given to the person as a member of SACFS by a person with authority to give that direction or order; or
    - (iv) a provision of the SACFS organisation's constitution; or
  - (b) behaves in a manner that—
    - (i) reflects or is likely to reflect adversely on SACFS; or
    - (ii) is prejudicial to good order and discipline in SACFS; or
  - (c) without sufficient cause, disobeys a lawful direction to carry out official duties promptly and diligently; or
  - (d) is negligent in carrying out a lawful duty or direction; or
  - (e) improperly obtains or seeks to obtain a benefit or advantage for themselves or another person from their position or rank as a SACFS member; or
  - (f) makes improper use of SACFS property or equipment,

is liable to disciplinary action.
- (2) If an SACFS officer suspects on reasonable grounds that a member of an SACFS organisation may be liable to disciplinary action, the SACFS officer may prepare a written report in relation to the matter.



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- (3) The SACFS officer must inform the member (orally or in writing) of the preparation of a report under subregulation (2).
  - (4) If a report is prepared in respect of an SACFS member by an officer who is not the member's commanding officer, the report must be delivered to the member's commanding officer.
  - (5) The member's commanding officer must (whether they have prepared the report under subregulation (2) or received the report under subregulation (4)) determine, in accordance with a policy in respect of volunteer discipline approved by the Chief Officer, whether the report requires referral to the regional officer of the member's SACFS organisation for consideration and determination.
  - (6) The regional officer must, on receipt of a report under this regulation, determine whether or not to carry out an investigation in relation to the matter.
  - (7) If the regional officer determines to not carry out an investigation in relation to the matter, the regional officer must provide comments and recommendations to the member's commanding officer as the regional officer thinks fit.
  - (8) If an investigation is to be carried out, the regional officer must—
    - (a) give the member written notice of the investigation, setting out the grounds on which the investigation is being conducted; and
    - (b) give the member a reasonable opportunity to appear (either personally or by representative) and make submissions in relation to the matter.
  - (9) The Chief Officer may, pending the outcome of an investigation and if the Chief Officer thinks fit, suspend the member from service with SACFS.
  - (10) The regional officer may, at the completion of an investigation, make a recommendation to the Chief Officer as to whether or not it is considered, on the balance of probabilities, that there are grounds for disciplinary action.
  - (11) If a recommendation is made to the Chief Officer that there are grounds for disciplinary action, the Chief Officer—
    - (a) must give notice in writing of that fact to the member; and
    - (b) may—
      - (i) after observing the requirements of section 70(12) of the Act, determine to take action under section 70(11) of the Act (on reasonable grounds); or
      - (ii) determine not to take action in relation to the matter.
  - (12) However, the Chief Officer must not take action under section 70(11) of the Act until the time for lodging an appeal under subregulation (13) has expired.
  - (13) The member may, within 14 days after notice is given to the member in accordance with subregulation (11), appeal to the Chief Officer against the recommendation of the regional officer.
  - (14) For the purposes of section 70(11)(d) of the Act, the following additional disciplinary powers are prescribed:
    - (a) the power to reprimand;
    - (b) the power to suspend a member for a specified period.

- (15) Nothing in this regulation—
  - (a) prevents the making of preliminary investigations by an officer of SACFS prior to the presentation of a report under this regulation; or
  - (b) limits the operation of the principles of natural justice.
- (16) If the position of the regional officer is vacant, or the regional officer is absent, another officer determined by the Chief Officer may exercise and perform the powers and functions of the regional officer under this regulation.

## **Subdivision 5—Miscellaneous matters**

### **22—Incident reports**

- (1) When an SACFS organisation attends a fire or other emergency, the commanding officer of that organisation must ensure that the Chief Officer is furnished with a report on the incident and its handling by the SACFS organisation.
- (2) When an entity other than an SACFS organisation attends and assumes control at a fire or other emergency in the country, the highest ranking officer with responsibility for that other entity at the fire or other emergency must ensure that the Chief Officer is furnished with a report on the incident and its handling by the entity.
- (3) A report under this regulation must—
  - (a) be furnished to the Chief Officer within a period determined by the Chief Officer; and
  - (b) be in a form determined by the Chief Officer; and
  - (c) contain the name of each member of the SACFS organisation or other entity who attended the fire or other emergency.

### **23—Absence from SACFS duties**

- (1) A member of an SACFS organisation may apply to their commanding officer for leave of absence.
- (2) A commanding officer may grant up to 3 months leave of absence.
- (3) If an applicant requires more than 3 months leave of absence, the application must be forwarded to the regional officer for the member's SACFS organisation, together with a recommendation on the application from the commanding officer.
- (4) The regional officer may, on receipt of an application under subregulation (3), grant such leave of absence as the regional officer thinks fit.
- (5) In deciding whether or not to grant leave of absence (or to recommend such leave), a commanding officer must take into account the effect (if any) that the granting of the leave would have on the ability of the relevant SACFS organisation to perform its functions under the Act effectively and efficiently.
- (6) If a member of an SACFS organisation, without reasonable excuse, fails to regularly attend as required without leave of absence, the organisation may cancel the member's membership.

- (7) Before taking action in respect of a person under subregulation (6), the SACFS organisation must—
- (a) give the person a reasonable opportunity to make submissions in relation to the proposed course of action; and
  - (b) take a vote of the members of the organisation on the proposed cancellation.

#### **24—Dissolution of SACFS organisation—consultation requirements**

- (1) This regulation sets out the requirements contemplated by section 68(8) of the Act.
- (2) The Chief Officer must, before determining to dissolve an SACFS organisation—
- (a) consult in relation to the matter with—
    - (i) the members of the organisation; and
    - (ii) the Country Fire Service Volunteers Association; and
  - (b) give notice of the proposed dissolution—
    - (i) on a website determined by the Chief Officer; and
    - (ii) in a newspaper circulating throughout the local area in relation to which the SACFS organisation is constituted; and
    - (iii) to any member of the House of Assembly whose electoral district includes any part of the area in relation to which the SACFS organisation is constituted.
- (3) For the purposes of subregulation (2)(a), the Chief Officer must—
- (a) organise a meeting at which the Chief Officer, or a representative or representatives of the Chief Officer, can meet with the members of the organisation (or their representative or representatives); and
  - (b) invite the Country Fire Service Volunteers Association to—
    - (i) make written submissions to the Chief Officer in relation to the matter; or
    - (ii) have a representative, or representatives, attend a meeting with the Chief Officer or a representative or representatives of the Chief Officer,as the Association sees fit.

#### **25—Brigades formed by various government agencies**

Except to such extent as the Chief Officer may otherwise determine, this Part may extend to a brigade formed or operated by a government department, or another agency or instrumentality of the Crown, for the purpose of fighting fires in the country.

## Division 3—Industry Brigades

### 26—Designation of area

- (1) For the purposes of section 69B of the Act, in preparing a written notice to designate an area of land for the establishment of an industry brigade, the Chief Officer must—
  - (a) in the case of an industry brigade being established in respect of a forestry plantation—
    - (i) identify the designated area, within a radius of 25 km of a central point determined by the Chief Officer, with 1 or more plantation holdings amounting to an aggregate of not less than 500 ha—
      - (A) located wholly or partially within the area; or
      - (B) contiguous with plantation holdings located wholly or partially within the area; and
    - (ii) consider the following matters:
      - (A) the size, location, topography, number and dispersion of the plantation holdings that will form the designated area;
      - (B) the characteristics of the area, including—
        - the location of roads; and
        - the existing capacity for the suppression of fires; and
        - the past incidence of fire; and
        - the risk posed by fire to plantation holdings and the community; and
    - (iii) be satisfied that—
      - (A) there is no other 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; and
      - (B) there is sufficient availability of competent persons to become members of the brigade; or
  - (b) in the case of an industry brigade established for any other purpose—
    - (i) identify the designated area, within a radius specified in the notice of a central point determined by the Chief Officer located wholly or partially within the area; and
    - (ii) consider the following matters:
      - (A) the size, location, topography, amount and dispersion of vegetation within the designated area;
      - (B) the assets and infrastructure within the designated area;
      - (C) the characteristics of the area, including—

- the location of roads; and
  - the existing capacity for the suppression of fires or other emergencies; and
  - the past incidence of fire or other emergencies; and
  - the risk posed by fire to vegetation, assets, infrastructure and the community; and
- (D) any other risk factors identified within the designated area, including the use or presence of chemicals, explosives or flammable materials; and
- (iii) be satisfied that—
- (A) there is no other 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 or other emergencies in the designated area; and
  - (B) there is sufficient availability of competent persons to become members of the brigade.
- (2) Before designating an area for the establishment of an industry brigade, the Chief Officer must—
- (a) consult all owners and occupiers of land in the area by—
    - (i) specifying the reasons for the decision to designate the area; and
    - (ii) providing a map of the area to be designated; and
  - (b) at least 28 days before designating the area, give notice of the proposed designated area—
    - (i) on a website determined by the Chief Officer; and
    - (ii) in a newspaper circulating throughout the local area in which the proposed designated area is located.
- (3) The Chief Officer must keep a register of designated areas for industry brigades available on a website determined by the Chief Officer.

## **27—Formation of industry brigade**

A notice under section 69C(1) of the Act must—

- (a) state the reasons why the requirement to form the brigade has been made; and
- (b) identify the officers and members which the Chief Officer has determined are to be provided for the brigade at the expense of the prescribed person; and
- (c) identify the equipment or apparatus for undertaking the responsibilities of the industry brigade, which the Chief Officer has determined is to be provided for the brigade at the expense of the prescribed person; and
- (d) state the Chief Officer's training, operational and administrative requirements of the prescribed person; and
- (e) state that the prescribed person must apply to the Chief Officer for registration of the industry brigade.

## Division 4—Fire prevention authorities and plans—country areas and urban bushfire risk areas

### 28—Bushfire Management Area Plans

For the purposes of section 73A(7)(c) of the Act, a period of 6 weeks is prescribed.

## Division 5—Fire prevention

### Subdivision 1—Preliminary

#### 29—Interpretation

- (1) In this Division, unless the contrary intention appears—

**aircraft** does not include model aircraft (other than fuel powered model aircraft) or hot air balloons;

**commercial premises** means a building or other structure that is fixed to the ground and connected to a reticulated or stored water supply and that is used for retail or manufacturing;

**domestic premises** means a building or other structure that is fixed to the ground and connected to a reticulated or stored water supply and that is occupied as a place of residence but does not include a caravan;

**flammable gas** means liquefied petroleum gas, reticulated gas, compressed natural gas or acetylene;

**foreshore** means the foreshore of the sea along the coastline of the State and includes the area from low water mark to the nearest bush, standing grass or road (as the case may be);

**gas fire** means an appliance that only uses flammable gas as a fuel and includes hot air balloons;

**land holding** means a continuous area of land subject to the same occupation (and for the purposes of this definition, separate parcels of land subject to the same occupation divided by a road or railway will be regarded as being continuous);

**portable water spray** means—

- (a) a knapsack spray pump that—
  - (i) is fully charged; and
  - (ii) complies with Australian Standard 1687-1991: *Knapsack spray pumps for firefighting*; or
- (b) a water fire extinguisher that—
  - (i) is fully charged; and
  - (ii) has a tank capacity of at least 9 L; and
  - (iii) complies with Australian Standard 1841.2-2007: *Portable fire extinguishers—Part 2: Specific requirements for water type extinguishers*; and

- (iv) is maintained in accordance with Australian Standard 1851-2012:  
*Routine service of fire protection systems and equipment;*

***properly constructed fire place*** means a fire place constructed so that the perimeter of a fire within the fire place is contained by nonflammable material such as stone, metal or concrete;

***spark arrester*** means a device fitted to a flue or exhaust system that is designed to prevent the escape of burning material.

- (2) For the purposes of this Division, an engine or vehicle exhaust system complies with this Division if—
- (a) all engine exhaust emitted by the engine or vehicle exits through the system; and
  - (b) the system, or a device or devices forming part of the system, is designed to prevent the escape of burning material from the system; and
  - (c) the system, or a device or devices forming part of the system, is designed to prevent heated parts of the system from coming into contact with flammable vegetation; and
  - (d) the system is in good working order.
- (3) For the purposes of subregulation (2)(a), engine exhaust emitted by a turbocharged engine, or a vehicle fitted with a turbocharged engine, by means of a device of a kind commonly known as a waste gate will be taken to exit through the exhaust system of the engine or vehicle.

## **29A—Certain acts to constitute lighting and maintaining fire**

- (1) Pursuant to section 148(2) of the Act, the following acts will, for the purposes of the Act, be taken to constitute lighting and maintaining a fire:
- (a) gas welding, soldering with an exposed flame, metal cutting, metal grinding or metal abrasion;
  - (b) the use of fireworks;
  - (c) the use of an appliance used to generate smoke for the manipulation of bees;
  - (d) the use of a rabbit fumigator;
  - (e) the use of a bird scarer (within the meaning of regulation 42);
  - (f) the use of explosive materials,
- other than such an act carried out by a member of SACFS or another recognised emergency service in an emergency to protect life or property.
- (2) Pursuant to section 148(2) of the Act, the operation of a gas fire or electric element for cooking purposes will, for the purposes of this Act, be taken to constitute lighting and maintaining a fire.
- (3) Nothing in this regulation limits a provision of the Act, or any other provision of these regulations.

## Subdivision 2—Fires during the fire danger season

### 30—Fires permitted under section 79(2) of Act

- (1) For the purposes of section 79(2) of the Act, a fire may be lighted or maintained in the open air in the following circumstances:
  - (a) a fire for cooking or personal comfort may be lighted or maintained provided that—
    - (i) the fire is contained in a properly constructed fire place, a portable cooking appliance or a trench at least 30 cm deep; and
    - (ii) the space immediately around and above the fire is cleared of all flammable vegetation to a distance of at least 4 m; and
    - (iii) the fire does not occupy an area in excess of 1 m<sup>2</sup>; and
    - (iv) a person who is able to control the fire is present at the site of the fire from the time it is lighted to the time it is completely extinguished; and
    - (v) an appropriate agent adequate to extinguish the fire is at hand;
  - (b) a fire for heating bitumen or charring may be lighted or maintained provided that—
    - (i) a shield or guard of fire-resistant material is positioned around the fire to prevent the escape of sparks, hot metal or slag; and
    - (ii) the space immediately around and above the fire is cleared of all flammable vegetation to a distance of at least 4 m, or wetted sufficiently to prevent the spread of fire; and
    - (iii) a supply of water adequate to extinguish the fire is at hand; and
    - (iv) if any equipment is removed from the fire, the equipment is immediately placed in a fire-proof receptacle; and
    - (v) a person who is able to control the fire is present at the site of the fire from the time it is lighted to the time it is completely extinguished;
  - (c) a fire may be lighted and maintained in accordance with the conditions of a permit;
  - (d) a fire may be lighted and maintained if specifically authorised for the purposes of section 79(2) of the Act under another regulation.
- (2) The Chief Officer may, by notice in the Gazette, prohibit or restrict the lighting and maintaining of fires under subregulation (1)(a) or (b) in the whole or a specified part of the State.
- (3) The Chief Officer may, by further notice in the Gazette, vary or revoke a notice under subregulation (2).
- (4) The Chief Officer must consult with any council for an area that would be affected by a notice under this regulation before the notice is made.



### 31—Permits

- (1) In this regulation—
- designated area* means an area of the State in relation to which a fire control officer has been appointed under section 103 of the Act;
- relevant land* means land to be burnt off under a permit.
- (2) A permit authorising a person to light or maintain a fire in the open air during the fire danger season (but not contrary to the terms of a total fire ban) will be in the form set out in Schedule 9.
- (3) A permit authorising a person to light or maintain a fire in the open air—
- (a) contrary to the terms of a total fire ban; or
  - (b) during the fire danger season and contrary to the terms of a total fire ban,
- will be in the form set out in Schedule 10.
- (4) A permit issued under the Act for burning off land will include the following conditions:
- (a) that the land immediately around the relevant land must be cleared of all flammable vegetation to a distance of at least 4 m;
  - (b) that at least 2 persons who are able to control the fire, or such greater number of persons as may be specified in the permit, must be present at the site of the fire from the time it is lighted to the time it is completely extinguished;
  - (c) that the fire must first be lighted from the leeward side of the relevant land to establish a protective break, and then may be lighted from the windward side of the land;
  - (d) that at least 400 L of water, or such greater amount of water as may be specified in the permit, must be kept at hand to extinguish the fire;
  - (e) a water pump and hoses must be kept at hand in case water must be used to control or extinguish the fire;
  - (f) that the holder of the permit must, not more than 7 days, and not less than 2 hours, before the fire is lighted, give notice of their intention to light the fire—
    - (i) to any person who owns, occupies or is in charge of land adjoining the land holding where the relevant land is situated; and
    - (ii) if the relevant land is inside (or partially inside) a council area and the permit was issued by a person other than an officer of the council for that area—to an officer of the council for that area; and
    - (iii) if the relevant land is within 2 km of a government reserve—to the person in charge of the reserve.
- (5) A permit issued under the Act other than for burning off land will include the following conditions:
- (a) that the space immediately around and above the fire must be cleared of all flammable vegetation to a distance of at least 4 m;
  - (b) that an appropriate agent adequate to extinguish the fire must be kept at hand;

- (c) that at least 1 person who is able to control the fire, or such greater number of persons as may be specified in the permit, must be present at the site of the fire from the time it is lighted to the time it is completely extinguished.
- (6) A notice under subregulation (4)(f)—
  - (a) may be given—
    - (i) in person; or
    - (ii) in writing; or
    - (iii) by telephone or facsimile transmission; or
    - (iv) by email (to a specified electronic address); or
    - (v) by radio; and
  - (b) must include details of the place, date and time at which the fire will be lighted.
- (7) An authorised officer may, at the officer's discretion, by endorsement on the permit, exempt the holder of a permit from the requirement to comply with a condition under subregulation (4) or (5).
- (8) An application for a permit may be made—
  - (a) in person; or
  - (b) in writing; or
  - (c) by telephone or facsimile transmission; or
  - (d) by email (to a specified electronic address); or
  - (e) by radio.
- (9) An application for a permit must specify the location of the proposed fire with reasonable particularity and comply with any other requirement determined by the Chief Officer.
- (10) If an authorised officer issues a permit—
  - (a) preliminary notice of the issue of the permit may be given to the permit holder by contacting the permit holder by telephone, facsimile transmission, email or radio and informing the permit holder of the permit number and the conditions included in the permit (and the permit holder may proceed to act under the permit on the basis of that notification); and
  - (b) the authorised officer must send a copy of the permit to the permit holder at the address shown on the written application form or, if there was no such form, at the permit holder's last known address; and
  - (c) if the permit authorises the permit holder to light or maintain a fire contrary to the terms of a total fire ban, the authorised officer must—
    - (i) give notice of the issue of the permit to the regional officer in whose region the fire will be lighted (whether in person or by telephone or other electronic means); and
    - (ii) send a copy of the permit to the regional officer.

- (11) A person whose permit is revoked may appeal to the Commission against that revocation.
- (12) An appeal must be instituted by written notice of appeal setting out in detail the grounds of appeal.
- (13) On an appeal, the Commission may—
  - (a) confirm the revocation;
  - (b) direct that a new permit be issued.

### **32—Special provisions relating to gas and electric cooking appliances**

- (1) For the purposes of section 79(2) of the Act, a person may operate a gas fire or electric element for cooking purposes in the open air during the fire danger season, provided that—
  - (a) the space immediately around and above the gas fire or electric element is cleared of all flammable vegetation to a distance of at least 4 m; and
  - (b) a person who is able to control the gas fire or electric element is present at all times while it is lighted or charged; and
  - (c) an appropriate agent adequate to extinguish a fire is at hand.
- (2) For the purposes of section 80(4)(a) of the Act, a person may operate a gas fire or electric element for cooking purposes in the open air contrary to the terms of a total fire ban, provided that—
  - (a) the gas fire or electric element—
    - (i) is used within 15 m of domestic premises, commercial premises or on the foreshore; or
    - (ii) has been installed as a fixture to be used as a cooking facility in—
      - (A) a park or reserve (each within the meaning of the *Local Government Act 1999*) under the control and management of a council; or
      - (B) a caravan park or a residential park (within the meaning of the *Residential Parks Act 2007*); or
      - (C) a park or reserve (within the meaning of the *National Parks and Wildlife Act 1972*); and
  - (b) the space immediately around and above the gas fire or electric element is cleared of all flammable vegetation to a distance of at least 4 m; and
  - (c) a person who is able to control the gas fire or electric element is present at all times while it is lighted or charged; and
  - (d) an appropriate agent adequate to extinguish a fire is at hand.
- (3) In addition to subregulations (1) and (2)—
  - (a) a council may in relation to a part of its area; and
  - (b) the Chief Officer may in relation to a part of the State outside the area of a council,

by notice in the Gazette declare an area of the State to be an area where a person may, in accordance with the terms of the notice, operate a gas fire or electric element for cooking purposes in the open air contrary to the terms of a total fire ban.

- (4) A notice under subregulation (3)—
- (a) must be in the form set out in Schedule 5; and
  - (b) may be limited in its operation to particular times of the day, and to particular days of the year; and
  - (c) will operate subject to the following conditions:
    - (i) that the space immediately around and above the gas fire or electric element must be clear of all flammable vegetation to a distance of at least 4 m;
    - (ii) that a person who is able to control the gas fire or electric element must be present at all times while it is lighted or charged;
    - (iii) that an appropriate agent adequate to extinguish a fire must be at hand; and
  - (d) will operate subject to such other conditions (if any) as may be specified by the council or the Chief Officer (as the case may be); and
  - (e) may be varied or revoked by further notice in the Gazette.
- (5) If a council publishes a notice in the Gazette under this regulation, the council must immediately send a copy of the notice to the Chief Officer.

### **33—Fires during fire danger season—orchards and vineyards**

For the purposes of section 79(2) of the Act, a fire may be lighted or maintained in the open air during the fire danger season in an orchard or vineyard for the purpose of smudging for insect pests, or preventing damage by frost, provided that the space immediately around and above the fire is cleared of all flammable vegetation, other than growing fruit trees or vines, to a distance of at least 4 m.

### **34—Fires in the open air on a total fire ban day**

For the purposes of sections 79(2) and 80(4)(a) of the Act, a fire may be lighted or maintained in the open air during the fire danger season and contrary to the terms of a total fire ban—

- (a) by an Aboriginal person, provided that—
  - (i) the fire is lighted on land set aside for Aboriginal purposes; and
  - (ii) the fire is used for domestic or cultural purposes of Aboriginal origin; or
- (b) to charge explosive materials as part of mining operations under or pursuant to the *Mines and Works Inspection Act 1920*, provided that—
  - (i) at least 400 L of water are at hand along with a water pump and hoses capable of being used to extinguish a fire; and

- (ii) a sufficient number of persons who would be able to control the escape and spread of fire are present at all times during the mining operations involving the use of those explosive materials and for a reasonable time after the use of explosive materials is complete; or
- (c) to light a flare containing flammable material in connection with a mercy flight or in a situation where an aircraft cannot use an electrically lit runway, provided that—
  - (i) each flare is in a metal tray that is large enough to hold all the flammable material; and
  - (ii) the space immediately around the flare is cleared of all flammable vegetation to a distance of at least 4 m; and
  - (iii) fire-fighting equipment adequate to extinguish the flare and control the escape and spread of fire is at hand; and
  - (iv) a sufficient number of persons to control the escape and spread of fire are present at the site of the flares from the time they are lighted to the time they are completely extinguished; or
- (d) by a member of SACFS or another recognised emergency service if the fire is connected with the use of equipment required in an emergency to protect life or property, provided that such steps as are reasonably practicable in the circumstances are taken to control the escape and spread of fire.

### **Subdivision 3—Restrictions on the use of certain appliances etc**

#### **35—Stationary engines**

- (1) Pursuant to section 89 of the Act, a stationary engine is prescribed.
- (2) A person must not, during the fire danger season, operate a stationary engine not enclosed by non-flammable material in the open air unless—
  - (a) the space immediately around and above the engine is cleared of all flammable vegetation to a distance of at least 4 m, or a person who is able to control the engine is present at all times while the engine is in use; and
  - (b) a shovel or rake, and an appropriate agent adequate to extinguish a fire, are at hand; and
  - (c) the engine is fitted with an exhaust system that complies with this Division.
- (3) A person must not, during the fire danger season, operate a stationary engine enclosed by non-flammable material in the open air unless the engine is fitted with an exhaust system that complies with this Division.
- (4) In this regulation—

*stationary engine* means a steam engine, an internal combustion engine or a turbine engine that is operated in a stationary position.

#### **36—Internal combustion engines**

- (1) Pursuant to section 89 of the Act, an internal combustion engine is prescribed.

- (2) A person must not, during the fire danger season, operate an internal combustion engine in connection with—
- (a) harvesting a flammable crop; or
  - (b) moving a flammable crop on the land holding where it has been harvested; or
  - (c) spreading lime or fertiliser,
- unless—
- (d) a shovel or rake, and an appropriate agent to extinguish a fire, are at hand; and
  - (e) the engine is fitted with an exhaust system that complies with this Division.
- (3) A person must not, during the fire danger season, operate an internal combustion engine, other than in connection with an activity referred to in subregulation (2), in circumstances where the internal combustion engine comes into contact with, or is operated in the vicinity of, any flammable bush, grass, pasture or stubble, unless—
- (a) a person who is able to control the engine is present at all times while the engine is in use; and
  - (b) a shovel or rake, and an appropriate agent to extinguish a fire are at hand; and
  - (c) the engine is fitted with an exhaust system that complies with this division.

### **37—Vehicles**

- (1) Pursuant to section 89 of the Act, a vehicle driven by an internal combustion engine (other than an aircraft) is prescribed.
- (2) A person must not, during the fire danger season, drive a vehicle referred to in subregulation (1) within 2 m of flammable bush or grass unless the vehicle is fitted with an exhaust system that complies with this Division.

### **38—Aircraft**

- (1) Pursuant to section 89 of the Act, an aircraft is prescribed.
- (2) A person must not, during the fire danger season, land an aircraft on, or take off from, land in the country unless reasonable steps have been taken (on account of the use of the land by the aircraft)—
- (a) to prevent the outbreak of fire on the land; and
  - (b) to be able to control and suppress a fire that might break out on the land (whether by the provision of fire-fighting equipment, the clearing of a firebreak, or otherwise).
- (3) This regulation does not apply in relation to—
- (a) an aircraft that is landing on, or taking off from, a government or licensed airfield; or
  - (b) an aircraft that is on a mercy flight; or
  - (c) an aircraft that is landing or taking off in any other emergency; or
  - (d) an aircraft that is engaged in a fire-fighting operation under the direction of an SACFS officer; or

- (e) an aircraft that is exempted from the operation of this regulation by the Chief Officer.

### **39—Gas welding, soldering, metal cutting, grinding and abrasion**

- (1) Pursuant to section 89 of the Act, appliances used to carry out the following activities are prescribed:
  - (a) gas welding or soldering with an exposed flame;
  - (b) metal cutting;
  - (c) metal grinding;
  - (d) metal abrasion.
- (2) A person must not, during the fire danger season, operate an appliance referred to in subregulation (1) in the open air unless—
  - (a) the space immediately around and above the appliance is cleared of all flammable vegetation to a distance of at least 10 m; and
  - (b) an appropriate agent to extinguish a fire is at hand; and
  - (c) a person who is able to control the appliance is present at all times while the appliance is in use or alight.
- (3) Despite subregulations (1) and (2), a person must not operate an appliance referred to in subregulation (1) in the open air for any purpose on a day in relation to which a total fire ban under section 80 of the Act has been imposed in any part of the State to which the total fire ban applies.
- (4) This regulation does not apply to a member of SACFS or another recognised emergency service who must use an appliance in an emergency to protect life or property.
- (5) For the purposes of section 79(2) of the Act, a fire may be lighted or maintained in the open air as part of the operation of an appliance in accordance with subregulation (2).

### **40—Bees**

- (1) Pursuant to section 89 of the Act, an appliance used to generate smoke for the manipulation of bees is prescribed.
- (2) A person must not, during the fire danger season, use an appliance referred to in subregulation (1) unless a portable water spray in good working order is at hand.

### **41—Rabbit fumigators**

- (1) Pursuant to section 89 of the Act, an appliance used as a rabbit fumigator is prescribed.
- (2) A person must not, during the fire danger season, use an appliance as a rabbit fumigator unless—
  - (a) the space immediately around and above the appliance is cleared of all flammable vegetation to a distance of at least 4 m; and
  - (b) a portable water spray in good working order is at hand; and

- (c) a sufficient number of persons who would be able to control the escape and spread of fire are present at all times while the appliance is in use.

#### 42—Bird scarers

- (1) Pursuant to section 89 of the Act, a bird scarer is prescribed.
- (2) A person must not, during the fire danger season, use an appliance as a gas bird scarer unless—
  - (a) the space immediately around and above the appliance is cleared of all flammable vegetation to a distance of at least 4 m; and
  - (b) the bird scarer—
    - (i) is constructed so as to prevent the escape of fire or burning material; and
    - (ii) is in good working order and clean so as to avoid a malfunction that could cause a fire; and
  - (c) the person using the bird scarer takes all reasonable precautions to ensure that the bird scarer cannot fall over, or be knocked over or otherwise interfered with by animals.
- (3) A person must not, during the fire danger season, use an explosive agent bird scarer in the open air except in accordance with a permit issued under section 81 of the Act.

- (4) In this regulation—

*bird scarer* means—

- (a) a gas bird scarer; or
- (b) an explosive agent bird scarer;

*explosive agent bird scarer* means a device that detonates an explosive agent (other than a gas) to create a noise to scare birds;

*gas bird scarer* means a device that detonates a flammable gas to create a noise to scare birds.

#### 43—Fireworks

- (1) Pursuant to section 89 of the Act, fireworks are prescribed.
- (2) A person must not, during the fire danger season, use fireworks in the open air except in accordance with a permit issued under section 81 of the Act.

#### 44—Blasting

- (1) Pursuant to section 89 of the Act, blasting any tree, wood or timber by the use of explosive materials is prescribed.
- (2) A person must not, during the fire danger season, carry out blasting referred to in subregulation (1) unless—
  - (a) a shovel or rake are at hand; and
  - (b) at least 400 L of water are at hand along with a water pump and hoses capable of being used to extinguish a fire; and



- (c) a sufficient number of persons who would be able to control a fire are present at all times while the blasting is carried out, and for a reasonable time after the blasting is completed.

## **Subdivision 4—Burning objects and material**

### **45—Burning objects and material**

- (1) A person must not smoke in the open air in the country within 2 m of flammable bush or grass (but this prohibition does not operate within a municipality or township).  
Maximum penalty: \$1 250.
- (2) A person must not, without lawful excuse, drop or throw a burning object or material from a vehicle.  
Maximum penalty: \$5 000.
- (3) A person must not, without lawful excuse, drop or throw a burning object or material in circumstances in which it may come into contact with flammable vegetation and cause a fire in the country.  
Maximum penalty: \$5 000.
- (4) A person must not, without lawful excuse, drop or throw any material capable of causing a fire in circumstances in which it may cause a fire in the country.  
Maximum penalty: \$5 000.

## **Subdivision 5—Miscellaneous**

### **46—Fire safety at premises**

Pursuant to section 86 of the Act, a building outside the area of a council that would, if it were inside the area of a council, be classified as a Class 2, 3, 4, 5, 6, 7, 8 or 9 building under the *Building Code* (within the meaning of the *Planning, Development and Infrastructure Act 2016*), is prescribed.

### **47—Caravans**

- (1) A person must not use a caravan in the country unless an efficient fire extinguisher that complies with subregulation (2) is carried in the caravan.  
Maximum penalty: \$1 250.
- (2) A fire extinguisher required under subregulation (1) must—
- comply with Australian Standard 1841.5:2007: *Portable fire extinguishers—Part 5: Specific requirements for powder type extinguishers*; and
  - have a minimum classification and rating of 10B, as defined by Australian Standard 1850:2009: *Portable fire extinguishers—Classification, rating and performance testing*; and
  - be maintained in accordance with Australian Standard 1851-2012: *Routine service of fire protection systems and equipment*.

## Division 6—Other matters

### 48—Identity cards

- (1) The Chief Officer will issue to each—
    - (a) SACFS officer; and
    - (b) fire control officer; and
    - (c) authorised officer appointed by the Chief Officer,a certificate of identity in a form determined by the Chief Officer.
  - (2) A council will issue to each fire prevention officer or assistant fire prevention officer appointed by the council a certificate of identity in a form approved by the Chief Officer.
  - (3) A certificate of identity ceases to be valid when the person ceases to hold the position in relation to which the certificate was issued.
  - (4) A person must, on ceasing to hold the position in relation to which a certificate of identity has been issued, surrender the certificate to the Chief Officer or, in the case of a fire prevention officer or assistant fire prevention officer, to the relevant council.
- Maximum penalty: \$1 250.

### 49—Roadside fire protection

- (1) Subject to subregulation (2), a responsible authority may, for the purpose of providing fire protection on a road, or the verge of a road—
  - (a) light a fire on the road, or on the verge of the road; and
  - (b) while the fire is burning, prohibit, direct or regulate the movement of persons, vehicles or animals along the road.
- (2) A responsible authority must obtain a permit to light and maintain a fire under this regulation during the fire danger season.
- (3) In this regulation—

**responsible authority** means a council, or a Minister, agency or instrumentality of the Crown, that has the care, control or management of a road in the country, or roadside vegetation in the country.

### 50—Maintenance and inspection of fire-fighting equipment

Each SACFS organisation that has possession or control of fire-fighting equipment that is available for use by SACFS under the Act—

- (a) must maintain the equipment in good working order and test the equipment on a regular basis; and
- (b) must keep the equipment in a place, and in a manner, that allows the equipment to be readily available in the event of a fire or other emergency, or for training purposes; and

- (c) must, on the request of the Chief Officer, a Deputy Chief Officer or Assistant Chief Officer, a regional officer, or an authorised officer, make the equipment available for inspection by the officer.

## **Part 4—Fire prevention**

### **51—Duties to prevent fires—private land**

- (1) For the purposes of section 105F(3) of the Act, a code of practice published from time to time by the State Bushfire Co-ordination Committee is prescribed.
- (2) For the purposes of section 105F(5) of the Act, the form set out in Schedule 6 is prescribed.
- (3) For the purposes of section 105F(10) of the Act, the form set out in Schedule 7 is prescribed.

### **52—Duties to prevent fires—council land**

For the purposes of section 105G(3) of the Act, a code of practice published from time to time by the State Bushfire Co-ordination Committee is prescribed.

### **53—Duties to prevent fires—Crown land**

For the purposes of section 105H(3) of the Act, a code of practice published from time to time by the State Bushfire Co-ordination Committee is prescribed.

### **54—Prescribed activity**

For the purposes of section 105IA of the Act, the following activities are prescribed:

- (a) lighting or maintaining a fire;
- (b) operating a gas fire or electric element for cooking purposes in the open air;
- (c) operating a stationary engine not enclosed by non-flammable material in the open air;
- (d) operating an internal combustion engine;
- (e) operating a vehicle driven by an internal combustion engine;
- (f) landing an aircraft on, or taking off from, land;
- (g) operating an appliance used for gas welding or soldering with an exposed flame in the open air;
- (h) operating an appliance used for metal cutting in the open air;
- (i) operating an appliance used for metal grinding in the open air;
- (j) operating an appliance used for metal abrasion in the open air;
- (k) operating an appliance used as a rabbit fumigator;
- (l) operating a bird scarer (within the meaning of regulation 42);
- (m) operating an appliance used to generate smoke for manipulating bees;
- (n) lighting or maintaining a fire in the open air to protect against frost in an orchard or vineyard (*smudging*);

- (o) using fireworks in the open air;
- (p) blasting any tree, wood or timber by the use of explosive materials;
- (q) blasting as part of mining operations by the use of explosive materials.

### **55—Applications for warrants**

- (1) The grounds for an application for a warrant under section 105J of the Act made personally must be verified by affidavit.
- (2) If an application for a warrant is made under section 105J of the Act by telephone—
  - (a) the applicant must inform the magistrate of the applicant's name and identify the position that the applicant holds for the purposes of the Act, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
  - (b) the applicant must inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought; and
  - (c) if it appears to the magistrate from the information given by the applicant that there are reasonable grounds to issue a warrant (taking into account the requirements of the Act), the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
  - (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant; and
  - (e) the warrant is taken to have been issued, and comes into force, when signed by the magistrate; and
  - (f) the magistrate must inform the applicant of the terms of the warrant; and
  - (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (3) A magistrate by whom a warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

### **56—Prescribed rate of interest**

For the purposes of section 105J(9) of the Act, the prescribed rate of interest will be a rate of 5% above the cash rate published by the Reserve Bank of Australia applying at the time at which the period fixed by the Minister under subsection (9)(b)(i) of that section expires.

## Part 5—SASES

### Division 1—SASES units—Constitution and membership

#### 57—List of members

An SASES unit must—

- (a) maintain a list of the names of its members with each member's residential address, date of birth, certificate of identity number and date of joining the unit; and
- (b) forward to the Chief Officer details of any change to the list.

### Division 2—Unit managers

#### 58—Unit managers

- (1) Each SASES unit will have a unit manager.
- (2) A unit manager will be appointed or elected in a manner determined or approved by the Chief Officer.
- (3) A member of an SASES unit (other than the unit manager) is, in the exercise of powers under the Act, subject to the control and direction of the unit manager of the unit.

### Division 3—Accounts, audits and reporting

#### 59—Accounts and audits

- (1) Each SASES unit that holds any money must open and maintain an operating account at an ADI.
- (2) An SASES unit must ensure that proper accounting records are kept of the financial affairs of the SASES unit.
- (3) An SASES unit must present for inspection, in accordance with the requirements of the Chief Officer, a copy of all financial accounts of the SASES unit in respect of each accounting period.
- (4) A member of an SASES unit must, at the request of the Chief Officer, produce accounts or other financial records of the SASES unit in the member's possession for the Chief Officer's inspection.  
Maximum penalty: \$2 000.
- (5) A member of an SASES unit must, at the request of the Chief Officer, provide the Chief Officer with explanations or information relating to the financial affairs of the SASES unit.
- (6) In this regulation—  
**accounting period** means—
  - (a) subject to any determination under paragraph (b)—a financial year; or

- (b) any period determined by the Chief Officer to be an accounting period for the purposes of this regulation.

## **60—Annual returns**

Each SASES unit must, on or before 31 August in each year, deliver to the Chief Officer a return (in a form determined by the Chief Officer) containing—

- (a) a copy all financial accounts of the SASES unit for such period as the Chief Officer may require; and
- (b) such other information as the Chief Officer may require.

## **Division 4—Discipline of members**

### **61—Discipline of members**

- (1) A member of an SASES unit who—
  - (a) contravenes or fails to comply with—
    - (i) a provision of the Act or these regulations; or
    - (ii) a provision of a code of conduct for SASES published by the Chief Officer; or
    - (iii) a direction or order given to the person as a member of SASES by a person with authority to give that direction or order; or
    - (iv) a provision of the SASES unit's constitution; or
  - (b) is negligent or indolent in the discharge of official duties as a member of SASES; or
  - (c) leaves a place of duty without reasonable excuse; or
  - (d) commits a form of disgraceful or improper conduct in an official capacity; or
  - (e) subverts or disrupts the operations or activities of an SASES unit; or
  - (f) makes improper use of their SASES membership; or
  - (g) makes improper use of property or equipment; or
  - (h) behaves in any other manner that reflects seriously and adversely on SASES,is liable to disciplinary action.
- (2) If an SASES member suspects on reasonable grounds that another SASES member may be liable to disciplinary action, the SASES member may report the matter (orally or in writing) to their commanding officer.
- (3) The commanding officer will be determined according to a command structure established by the Chief Officer.
- (4) The commanding officer must, on receiving a report under subregulation (2)—
  - (a) —
    - (i) if the commanding officer has received a written report—send a copy of the report to the Deputy Chief Officer, together with such comments as the commanding officer thinks fit;

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- (ii) if the commanding officer has received an oral report—prepare a report on the matter (incorporating such comments as the commanding officer thinks fit), and then send a copy of the report to the Deputy Chief Officer; and
    - (b) inform the relevant member (orally or in writing) of the presentation or preparation of the relevant report.
  - (5) The commanding officer may decline to act under subregulation (4) if the commanding officer considers that the report that has been made to them is trivial, vexatious or misconceived.
  - (6) The Deputy Chief Officer must, on receipt of a report under this regulation—
    - (a) determine whether or not to carry out an investigation in relation to the matter; or
    - (b) determine to refer the matter to a disciplinary panel so that the disciplinary panel may carry out an investigation in relation to the matter.
  - (7) If the Deputy Chief Officer determines to refer the matter to a disciplinary panel for investigation, a disciplinary panel will be constituted by the Deputy Chief Officer after taking into account any requirements determined by the Chief Officer.
  - (8) If an investigation is to be carried out, the Deputy Chief Officer or the disciplinary panel (as the case requires) must—
    - (a) give the relevant member written notice of the investigation, setting out the grounds on which the investigation is being conducted; and
    - (b) give the relevant member a reasonable opportunity to appear (personally or by representative) and to make submissions in relation to the matter.
  - (9) The Chief Officer may, pending the outcome of any process under this regulation and if the Chief Officer thinks fit, suspend the member from service with SASES.
  - (10) The Deputy Chief Officer or disciplinary panel (as the case may be) may, at the completion of an investigation, make a recommendation to the Chief Officer as to—
    - (a) whether or not it is considered, on the balance of probabilities, that there are grounds for disciplinary action; and
    - (b) if a recommendation is made under paragraph (a) that there are grounds for disciplinary action—disciplinary action that may be appropriate in the circumstances of the particular case.
  - (11) If a recommendation is made to the Chief Officer that there are grounds for disciplinary action, the Chief Officer—
    - (a) must give notice in writing of that fact to the member; and
    - (b) may—
      - (i) determine not to take any action in relation to the matter; or
      - (ii) determine to take disciplinary action.
  - (12) However, the Chief Officer must not take disciplinary action until the time for lodging an appeal under subregulation (13) has expired.

- (13) The member may, within 14 days after notice is given to the member in accordance with subregulation (11), appeal to the Chief Officer against the recommendation of the Deputy Chief Officer or disciplinary panel (as the case may be).
- (14) The Chief Officer may, on the basis of a determination under subregulation (11)(b)(ii)—
  - (a) reprimand the member;
  - (b) suspend the member for a specified period;
  - (c) demote the member;
  - (d) disqualify the member from holding a rank in SASES;
  - (e) disqualify the person from membership of SASES.
- (15) Nothing in this regulation—
  - (a) prevents the making of preliminary investigations by a commanding officer prior to the presentation of a report under this regulation;
  - (b) limits the operation of the principles of natural justice.
- (16) If the position of Deputy Chief Officer is vacant, or if the Deputy Chief Officer is absent, another officer determined by the Chief Officer may exercise and perform the powers and functions of the Deputy Chief Officer under this regulation.

## **Division 5—Miscellaneous**

### **62—Identity cards**

- (1) The Chief Officer will issue to each—
  - (a) officer of SASES; and
  - (b) member of an SASES unit,a certificate of identity in a form determined by the Chief Officer.
- (2) A certificate of identity ceases to be valid when the person ceases to hold the position in relation to which the certificate was issued.
- (3) A person must, on ceasing to hold the position in relation to which a certificate of identity has been issued, surrender the certificate to the Chief Officer.  
Maximum penalty: \$1 250.
- (4) A person must, on ceasing to be a member of an SASES unit, surrender all insignia, equipment or clothing issued to the person by the unit to the unit manager.  
Maximum penalty: \$1 250.

### **63—Dissolution of organisation (section 116)**

- (1) For the purposes of section 116(2)(c) of the Act, a request to dissolve an organisation must be made in writing under the common seal of the organisation.
- (2) The Chief Officer must, before determining to dissolve an SASES unit—
  - (a) consult in relation to the matter with—
    - (i) the members of the unit; and



- (ii) the S.A.S.E.S. Volunteers' Association Incorporated; and
  - (b) give notice of the proposed dissolution—
    - (i) on a website determined by the Chief Officer; and
    - (ii) in a newspaper circulating throughout the local area in relation to which the SASES unit is constituted; and
    - (iii) to any member of the House of Assembly whose electoral district includes any part of the area in relation to which the SASES unit is constituted.
  - (3) For the purposes of subregulation (2)(a), the Chief Officer must—
    - (a) organise a meeting at which the Chief Officer, or a representative or representatives of the Chief Officer, can meet with the members of the SASES unit (or their representative or representatives); and
    - (b) invite the S.A.S.E.S. Volunteers' Association Incorporated to—
      - (i) make written submissions to the Chief Officer in relation to the matter; or
      - (ii) have a representative, or representatives, attend a meeting with the Chief Officer or a representative or representatives of the Chief Officer,
- as the Association sees fit.

## Part 6—Miscellaneous

### 64—Coronial inquests

A coronial inquest may be requested by the Commission or an emergency services organisation if the Commission or organisation (as the case may be) is of the opinion that such an inquest should be held—

- (a) on account of—
  - (i) the circumstances surrounding the lighting or spread of a fire, or the occurrence of an emergency of another kind; or
  - (ii) the intensity or seriousness of a fire, or the seriousness of an emergency of another kind; or
  - (iii) the circumstances surrounding the involvement of a person or organisation in a fire or other emergency; or
- (b) on account of representations made by a council in relation to a fire or other emergency.

### 65—Prescribed water authority

SA Water is brought within the definition of *water authority* under sections 43 and 98 of the Act.

## 66—Use of water

- (1) An officer of SAMFS or SACFS may, for the purpose of any operation conducted by the officer's emergency services organisation (including, for the avoidance of doubt, emergency incident related purposes other than fire-fighting purposes), take water from a hydrant, fire-plug or stand pipe approved by SA Water for fire-fighting purposes.
- (2) For training purposes, water may only be taken under subregulation (1) as directed by a responsible officer of SA Water.
- (3) An emergency services organisation is not liable for the cost of water taken under this regulation.
- (4) This regulation does not apply in relation to the operation of section 42 or 97 of the Act.

## 67—Insignia

- (1) A person must not, without the consent of the Commission (which consent may be given unconditionally or subject to conditions determined by the Commission)—
  - (a) use or display any prescribed insignia; or
  - (b) sell, hire, lend or otherwise surrender possession of a prescribed logo to a person who is not a member of the relevant emergency services organisation or, if relevant, who is not otherwise a person authorised to act in an official capacity under the Act or these regulations.

Maximum penalty: \$2 500.

- (2) In this regulation—

*prescribed insignia* means any logo declared by the Commission to be a logo for the purposes of section 131 of the Act.

## 68—Service insignia

- (1) A prescribed person is, in recognition of the person's service with an emergency services organisation, or any other organisation recognised by the Commission for the purposes of this regulation, entitled to wear, on the person's uniform or fire-fighting or emergency services clothing, service insignia determined or approved by the Commission.
- (2) In this regulation—

*prescribed person* means—

- (a) a member of an emergency services organisation; or
- (b) a fire control officer.

## 69—Fees

- (1) Fees prescribed for the purposes of the Act do not include any GST that may be payable in respect of a particular fee.
- (2) The relevant emergency services organisation may, in its discretion, waive payment of the whole or a part of a prescribed fee, or refund a prescribed fee (in whole or in part).

## 70—Expiation of offences

- (1) Pursuant to Schedule 5 clause 14 of the Act, the following expiation fees are fixed for alleged offences against the following sections of the Act:

| Section   | Expiation fee |
|---|---------------|
| Section 79(1) if—   | \$473         |
| <ul style="list-style-type: none"> <li>(a) the offence falls within the ambit of 1 of the following subparagraphs: <ul style="list-style-type: none"> <li>(i) if the fire is for cooking or personal comfort—the offence consists of a failure to comply with a requirement imposed under regulation 30(1)(a);</li> <li>(ii) if the fire is for heating bitumen or charring—the offence consists of a failure to comply with a requirement imposed under regulation 30(1)(b);</li> <li>(iii) if the fire is lighted or maintained pursuant to a permit issued under section 81 of the Act for burning off land—the offence consists of a failure to comply with a condition of the permit prescribed by regulation 31(4)(a), (b), (d), (e) or (f);</li> <li>(iv) if the fire is lighted or maintained pursuant to a permit issued under section 81 of the Act other than for burning off land—the offence consists of a failure to comply with a condition of the permit prescribed by regulation 31(5)(a), (b) or (c);</li> <li>(v) if the fire is lighted or maintained for a gas fire or electric element for cooking purposes under regulation 32(1)—the offence consists of a failure to comply with a requirement imposed under regulation 32(1); and</li> </ul> </li> <li>(b) the fire does not contravene a prohibition or restriction under regulation 30(2).</li> </ul> |               |
| Section 89 if the offence consists of a breach of, or failure to comply with, 1 or more of the following:   | \$473         |
| <ul style="list-style-type: none"> <li>(a) in the case of an offence involving the operation, during the fire danger season, of a stationary engine not enclosed by non-flammable material in the open air—regulation 35(2);</li> <li>(b) in the case of an offence involving the operation, during the fire danger season, of an internal combustion engine in connection with harvesting a flammable crop, moving a flammable crop on the land holding where it has been harvested or spreading lime or fertilizer—regulation 36(2)(d) or (e);</li> <li>(c) in the case of an offence involving the operation, during the fire danger season, of an internal combustion engine in connection with cutting flammable bush, grass, pasture or stubble—regulation 36(3);</li> <li>(d) in the case of an offence involving the use of an appliance, during the fire danger season, to carry out gas welding or soldering with an exposed flame, metal cutting, metal grinding or metal abrasion—regulation 39(2);</li> <li>(e) in the case of an offence involving the use, during the fire danger season, of an appliance to generate smoke for the manipulation of bees—regulation 40(2);</li> </ul>  |               |

| <u>Section</u>   | <u>Expiation fee</u> |
|--|----------------------|
| (f) in the case of an offence involving the use, during the fire danger season, of an appliance as a rabbit fumigator—regulation 41(2)(a), (b) or (c); |                      |
| (g) in the case of an offence involving the use, during the fire danger season, of an appliance as a bird scarer—regulation 42(2) or (3);              |                      |
| (h) in the case of an offence involving the blasting of any tree, wood or timber by the use of explosive materials—regulation 44(2).                   |                      |
| Section 105F(1)  | \$473                |
| Section 105F(8)  | \$473                |
| Section 105IA  | \$473                |
| Section 135  | \$473                |

- (2) Pursuant to Schedule 5, clause 14 of the Act, the following expiation fees are fixed for alleged offences against the following regulations:

| <u>Regulation</u>            | <u>Expiation fee</u> |
|------------------------------|----------------------|
| Regulation 45(1)             | \$473                |
| Regulation 45(2), (3) or (4) | \$500                |
| Regulation 47                | \$473                |

## **71—Prescribed persons and bodies**

For the purposes of section 148(3)(c) of the Act, the following are prescribed:

- (a) each Chief Officer;
- (b) the State Bushfire Co-ordination Committee.

## **Schedule 1—Certificate of registration of an SACFS brigade**

This is to certify that *[insert name of brigade]* is constituted as an SACFS brigade under the *Fire and Emergency Services Act 2005*.

The registered code of the brigade as an SACFS organisation is *[insert code of brigade]*.

Date:

*[Insert seal of the SACFS]*

Signature of the Chief Officer:

## **Schedule 2—Officers of an SACFS brigade**

### **1—Brigade captain**

A brigade captain has the following specific functions:

- (a) to assist in bushfire prevention planning within the area of the brigade;
- (b) to undertake responsibility for the proper management and maintenance of brigade property and equipment;

- (c) to ensure that members of the brigade are properly trained to carry out their functions;
- (d) subject to the Act and the direction of a superior officer—to take command at a fire or other emergency in the country at which they attend as a member of SACFS and to ensure that the chain of command within the brigade operates effectively and efficiently;
- (e) to liaise with other brigade captains in adjacent areas, and other relevant officers;
- (f) to ensure (so far as may be practicable) the health and safety of all members of the brigade during an SACFS operation and to ensure that the brigade complies with any other relevant occupational health, safety and welfare policies or procedures;
- (g) otherwise to manage the operations of the brigade in accordance with a determination of the Chief Officer.

## 2—Lieutenant

A lieutenant must assist the brigade captain in the performance of the brigade captain's functions (and, in the absence of the brigade captain, the most senior lieutenant may assume the functions and responsibilities of the brigade captain).

## 3—Senior firefighter

A senior firefighter must assist the brigade captain in the performance of the brigade captain's functions (and in the absence of the brigade captain and lieutenants, the most senior officer may assume the functions and responsibilities of the brigade captain).

## Schedule 3—Certificate of registration of an SACFS group

This is to certify that *[insert name of group]* is constituted as an SACFS group under the *Fire and Emergency Services Act 2005*.

The brigades that make up the group are:

The registered code of the group as an SACFS organisation is *[insert code of group]*.

Date:

*[Insert seal of the SACFS]*

Signature of the Chief Officer:

## Schedule 4—Officers of an SACFS group

### 1—Group officer

A group officer has the following specific functions:

- (a) in the event of a fire or other emergency requiring a group response—
  - (i) to establish forward command in the field; and
  - (ii) subject to the Act and the direction of a superior officer, to co-ordinate and control the operations of the brigades in the group; and

- (iii) to organise persons who volunteer to assist the group or a brigade in fighting the fire or dealing with the emergency; and
  - (iv) to liaise with other group officers in adjacent areas, and other relevant officers;
- (b) to oversee the operations, activities and training of the brigades in the group;
  - (c) otherwise to undertake functions determined by the Chief Officer.

## **2—Deputy group officer**

A deputy group officer must assist the group officer in the performance of the group officer's functions (and in the absence of the group officer, the most senior deputy group officer may assume the functions and responsibilities of the group officer).

## **Schedule 5—Regulation 32 declaration**

Declaration of an area of the State in which a person may operate a gas fire or electric element for cooking purposes in the open air contrary to the terms of a total fire ban.

Pursuant to regulations under the *Fire and Emergency Services Act 2005* [*insert council name or the Chief Officer of SACFS*] declares that persons may operate gas fires or electric elements for cooking purposes in the open air contrary to the terms of a total fire ban at the following places: [*insert locations*]

This notice operates [*strike out unwanted item*]:

- during the following times: [*specify times*];
- at all times until revoked.

The operation of a gas fire or electric element under this notice is subject to the following conditions:

- (a) the space immediately around and above the gas fire or electric element must be cleared of all flammable vegetation to a distance of at least 4 metres;
- (b) a person who is able to control the gas fire or electric element must be present at all times while it is lighted or charged;
- (c) an appropriate agent adequate to extinguish any fire must be at hand;
- (d) [*such other conditions as the council or the Chief Officer may specify*]

Signature of Chief Executive Officer of council/Chief Officer:

Council name/Chief Officer of SACFS:

## **Schedule 6—Section 105F notice**

Pursuant to section 105F of the *Fire and Emergency Services Act 2005*, [*insert name of owner*], who is the owner of land at [*insert location*] is required to take the following action to comply with the requirements of that section [*insert specified action*].

**Notes—**

- 1 Section 105F requires that an owner of private land must take reasonable steps—
  - (a) to prevent or inhibit the outbreak of fire on the land; and
  - (b) to prevent or inhibit the spread of fire through the land; and

- (c) to protect property on the land from fire; and
  - (d) to minimise the threat to human life from a fire on the land.
- 2 The following matters may be considered relevant to determining whether a breach of these requirements has occurred:
- (a) the nature of the land;
  - (b) whether the land is in a country, metropolitan, township or other setting;
  - (c) the activities carried out on the land (including whether flammable or combustible materials or substances are used or stored on the land);
  - (d) other statutory standards or requirements that apply to or in relation to the land.
- Other matters may also be taken into account.
- 3 A code of practice prescribed under the Act may also be relevant to your circumstances.
- 4 If you fail to comply with a requirement of this notice—
- (a) you may be liable to a significant fine; and
  - (b) an authorised person may proceed to carry out the work required by the notice and recover the costs against you.
- 5 You are entitled to appeal against a requirement of this notice. Your rights of appeal are set out in the *Fire and Emergency Services Act 2005*.
- 6 Your appeal should be instituted within 14 days of receiving this notice. A copy of the appeal notice must be sent to the authority that issued this notice.
- 7 **You may wish to discuss the matter with the authority that issued this notice before you institute an appeal**

Authority issuing the notice:

Date:

## **Schedule 7—Variation or revocation of section 105F notice**

On *[insert date]*, *[insert name of owner]*, the owner of land at *[insert location]* was required to take certain action by a notice issued under section 105F of the *Fire and Emergency Services Act 2005*.

That notice is now *[strike out unwanted item]*—

- varied as follows: *[insert variation]*;
- revoked.

Authority issuing the notice:

Date:

## **Schedule 9—Permit authorising person to light or maintain fire during fire danger season**

Permit number:

Note—This permit is not valid on a day of total fire ban.

## Fire and Emergency Services Regulations 2021—23.12.2021

Schedule 9—Permit authorising person to light or maintain fire during fire danger season

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Pursuant to section 81 of the *Fire and Emergency Services Act 2005* this permit is issued (tick appropriate purpose):

- for the purpose of burning off land;
- for another purpose: *[specify the purpose]*

This permit is issued to *[insert full name]* of *[insert address]* and authorises the holder of the permit to light or maintain a fire at *[specify location of proposed fire]* during the fire danger season for the purpose indicated above.

**Note—**

The location of the proposed fire must be specified with reasonable particularity, indicating either lot, section and hundred numbers, or an appropriate grid reference.

This permit is valid from *[insert time]* on *[insert date]* to *[insert time]* on *[insert date]*.

Subject to any variation by an authorised officer (as noted below), this permit is subject to—

- (a) the conditions prescribed by the *Fire and Emergency Services Regulations 2021*, as set out on the reverse side of this permit; and
- (b) the following additional conditions: *[insert conditions or variations]*

**Note—**

This permit is liable to be revoked if the permit holder fails to comply with a condition of the permit.

This permit may be revoked in any other justifiable circumstance.

The fact that the holder of this permit has complied with the conditions of the permit does not of itself relieve the holder from liability for any loss or damage caused by a fire lit under the authority of the permit (see *Fire and Emergency Services Act 2005* section 81(13)).

Signature of authorised officer:

Name of authorised officer:

ID number of authorised officer:

Date and time of issue:

## Schedule 10—Permit authorising person to light or maintain fire in open air contrary to terms of total fire ban

Permit number:

Pursuant to section 81 of the *Fire and Emergency Services Act 2005* this permit is issued for the purpose of *[insert purpose]*.

This permit is issued to *[insert full name]* of *[insert address]* and authorises the holder of the permit to light or maintain a fire at *[specify location of proposed fire]* contrary to the terms of a total fire ban for the purpose indicated above.

**Note—**

The location of the proposed fire must be specified with reasonable particularity, indicating either lot, section and hundred numbers, or an appropriate grid reference.

This permit is valid from *[insert time]* on *[insert date]* to *[insert time]* on *[insert date]*.



Subject to any variation by an authorised officer (as noted below), this permit is subject to—

- (a) the conditions prescribed by the *Fire and Emergency Services Regulations 2021*, as set out on the reverse side of this permit; and
- (b) the following additional conditions: *[insert conditions or variations]*

**Note—**

This permit is liable to be revoked if the permit holder fails to comply with a condition of the permit.

This permit may be revoked in any other justifiable circumstance.

The fact that the holder of this permit has complied with the conditions of the permit does not of itself relieve the holder from liability for any loss or damage caused by a fire lit under the authority of the permit (see *Fire and Emergency Services Act 2005* section 81(13)).

Signature of authorised officer:

Name of authorised officer:

ID number of authorised officer:

Date and time of issue:

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Fire and Emergency Services Regulations 2021* revoked the following:

*Fire and Emergency Services Regulations 2005*

### Principal regulations and variations

New entries appear in bold.

| Year        | No         | Reference                              | Commencement           |
|-------------|------------|--|------------------------|
| 2021        | 17         | <i>Gazette 18.2.2021 p530</i>          | 1.3.2021: r 2          |
| <b>2021</b> | <b>198</b> | <b><i>Gazette 23.12.2021 p4641</i></b> | <b>23.12.2021: r 2</b> |

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision     | How varied   | Commencement      |
|---------------|--|-------------------|
| <i>Pt 1</i>   |  |                   |
| <i>r 2</i>    | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>23.12.2021</i> |
| <b>Pt 3</b>   |  |                   |
| <b>r 29A</b>  | <b>inserted by 198/2021 r 4</b>                                    | <b>23.12.2021</b> |
| <i>Sch 11</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>23.12.2021</i> |