

## TASMANIA

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# **FIRE SERVICE AMENDMENT (FIRE INFRINGEMENT NOTICES) BILL 2015**

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## **CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Part IVB inserted
  - PART IVB – Fire Infringement Notices and Other Notices
  - Division 1 – General*
  - 60J. Interpretation
  - 60K. Approval of Firesafe courses
  - 60L. Orders to attend Firesafe course
  - Division 2 – Notices*
  - 60M. Issuing officer may serve certain notices in respect of fire infringement offences
  - 60N. Caution fire infringement notices
  - 60O. Firesafe course notices
  - 60P. Fire infringement notices
5. Section 116 amended (Service of notices)
6. Section 124A inserted
  - 124A. Power of police officer to demand name and address
7. Section 125 amended (Power of police officer to arrest without warrant in certain cases)
8. Repeal of Act



# **FIRE SERVICE AMENDMENT (FIRE INFRINGEMENT NOTICES) BILL 2015**

This Public Bill originated in the Legislative Council, and, having this day passed, is now ready for presentation to the House of Assembly for its concurrence.

D. T. PEARCE, *Clerk of the Council*  
5 April 2016

*(Brought in by the Honourable Michael Victor Gaffney)*

## **A BILL FOR**

### **An Act to amend the *Fire Service Act 1979***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Fire Service Amendment (Fire Infringement Notices) Act 2015*.

#### **2. Commencement**

This Act commences on a day to be proclaimed.

#### **3. Principal Act**

In this Act, the *Fire Service Act 1979*\* is referred to as the Principal Act.

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\*No. 35 of 1979

*Fire Service Amendment (Fire Infringement Notices) Act 2015*  
*Act No. of*

s. 4

---

**4. Part IVB inserted**

After section 60I of the Principal Act, the following Part is inserted:

**PART IVB – FIRE INFRINGEMENT NOTICES AND  
OTHER NOTICES**  
*Division 1 – General*

**60J. Interpretation**

(1) In this Part –

*caution fire infringement notice* means a notice in accordance with section 60N;

*fire infringement notice* means an infringement notice issued and served in accordance with section 60P;

*fire infringement offence* means an offence referred to in subsection (2);

*Firesafe course* means a course of training, education or information approved by the Chief Officer under section 60K(1);

*Firesafe course notice* means a notice in accordance with section 60O;

*issuing officer* means –

(a) the Chief Officer; or

*Fire Service Amendment (Fire Infringement Notices) Act 2015*  
*Act No. of*

s. 4

---

(b) the Commissioner of Police; or

(c) a person authorised in writing by the Chief Officer, or the Commissioner of Police, to issue notices under this Part.

(2) A fire infringement offence is an offence committed under one of the following provisions:

- (a) section 37;
- (b) section 48;
- (c) section 49;
- (d) section 51;
- (e) section 60F;
- (f) section 63;
- (g) section 66;
- (h) section 68;
- (i) section 69;
- (j) section 71;
- (k) section 113;
- (l) section 120;
- (m) section 128;

*Fire Service Amendment (Fire Infringement Notices) Act 2015*  
*Act No. of*

s. 4

---

- (n) a provision of the General Fire Regulations made under section 133;
- (o) a provision of this Act, or the regulations, that is prescribed as a fire infringement offence.

**60K. Approval of Firesafe courses**

- (1) For the purposes of this Part, the Chief Officer may approve a course of training, education or information as a Firesafe course.
- (2) A Firesafe course is to involve such training or information, and be in such a form, as the Chief Officer considers necessary to educate a person about –
  - (a) the person’s obligation to comply with this Act; and
  - (b) how best to ensure the person’s compliance with this Act; and
  - (c) the implications, and consequences, of failing to comply with this Act.

**60L. Orders to attend Firesafe course**

If a person is convicted or found guilty of a fire infringement offence, the court determining the proceedings for the offence may, in addition to imposing a

penalty for the offence, make an order requiring the person to complete a Firesafe course as specified in the order.

*Division 2 – Notices*

**60M. Issuing officer may serve certain notices in respect of fire infringement offences**

- (1) If an issuing officer is satisfied, on reasonable grounds, that a person has committed a fire infringement offence, the issuing officer may –
  - (a) serve on the person a caution fire infringement notice in respect of the offence; or
  - (b) do either or both of the following:
    - (i) serve on the person a Firesafe course notice in respect of the offence;
    - (ii) issue a fire infringement notice in respect of the offence and cause the fire infringement notice to be served on the person.
- (2) A person may not be prosecuted for a fire infringement offence if –
  - (a) the person was served with a caution fire infringement notice in respect of the offence and that caution fire infringement notice

*Fire Service Amendment (Fire Infringement Notices) Act 2015*  
*Act No. of*

s. 4

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has not been withdrawn in accordance with section 60N(2); or

(b) the person –

(i) has been served with a Firesafe course notice in respect of the offence; and

(ii) has not been issued and served with a fire infringement notice in respect of the offence –

and the person has completed the Firesafe course as required.

**60N. Caution fire infringement notices**

(1) A caution fire infringement notice is to –

(a) specify the fire infringement offence or offences in respect of which it is served; and

(b) specify the penalty applicable for each fire infringement offence specified in the notice; and

(c) include a statement that the caution fire infringement notice does not require the person served with the notice to pay any sum of money.



- (2) An issuing officer may withdraw a caution fire infringement notice at any time by written notice to the person who has been served with the notice.

**600. Firesafe course notices**

- (1) A Firesafe course notice is to specify –
- (a) that the person served with the notice is required to complete a Firesafe course; and
  - (b) if the issuing officer requires that person to complete a specific Firesafe course, the Firesafe course that the person is required to complete; and
  - (c) the period within which that person must complete the Firesafe course; and
  - (d) that the person served with the notice may request, in writing, an extension of the period specified in paragraph (c) from the issuing officer.
- (2) An issuing officer may, if requested to do so or on his or her own initiative, do any one or more of the following:
- (a) withdraw a Firesafe course notice;

*Fire Service Amendment (Fire Infringement Notices) Act 2015*  
*Act No. of*

s. 4

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- (b) amend a Firesafe course notice to do either or both of the following:
  - (i) extend the period referred to in subsection (1)(c);
  - (ii) remove, impose or alter the requirement for the person to complete a specific Firesafe course.
- (3) If an issuing officer withdraws or amends a Firesafe course notice under subsection (2), the issuing officer is to notify the person served with the notice, in writing, of the withdrawal or amendment.

**60P. Fire infringement notices**

- (1) A fire infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.
- (2) The regulations –
  - (a) may prescribe, for fire infringement offences, the penalties payable under fire infringement notices; and
  - (b) may prescribe different penalties for bodies corporate and individuals.

**5. Section 116 amended (Service of notices)**

Section 116 of the Principal Act is amended by omitting subsection (1).

**6. Section 124A inserted**

After section 124 of the Principal Act, the following section is inserted in Part VII:

**124A. Power of police officer to demand name and address**

- (1) A police officer may demand the name and address of any person whom he has reason to suspect of having committed an offence against any of the provisions of this Act.
- (2) A person who refuses to give his name or address, or who gives a name and address that is intended to mislead the police officer making the demand, is guilty of an offence against this Act.

**7. Section 125 amended (Power of police officer to arrest without warrant in certain cases)**

Section 125(2) of the Principal Act is amended as follows:

- (a) by inserting the following paragraphs after paragraph (d):
  - (da) section 124;

*Fire Service Amendment (Fire Infringement Notices) Act 2015*  
*Act No. of*

s. 8

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(db) section 124A; and

(b) by omitting from paragraph (d) “and”.

**8. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.