

# TASMANIA

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## **FIRE SERVICE AMENDMENT BILL 2012**

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## **FIRE SERVICE AMENDMENT BILL 2012**

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

P. R. ALCOCK, *Clerk of the House*  
23 August 2012

*(Brought in by the Minister for Police and Emergency  
Management, the Honourable David James O'Byrne)*

### **A BILL FOR**

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

Be it enacted by His 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 Act 2012*.

#### **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

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**4. Section 3 amended (Interpretation)**

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *fire-fighting operation*:

***fire management*** means a strategic defined program to manage bushfire fuels;

- (b) by omitting “fire management area” from the definition of *Fire Management Area* and substituting “Fire Management Area”;
- (c) by omitting the definitions of *Special Fire Area* and *Special Fire Area Committee*;
- (d) by omitting “volunteer.” from the definition of *volunteer member* and substituting “volunteer;”;
- (e) by inserting the following definitions after the definition of *volunteer member*:

***Wellington Park*** has the same meaning as in the *Wellington Park Act 1993*;

***Wellington Park Management Trust*** means the Wellington Park Management Trust established under section 9 of the *Wellington Park Act 1993*.

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**5. Section 8 amended (Functions and powers of Commission)**

Section 8 of the Principal Act is amended as follows:

- (a) by omitting subsections (1A), (2) and (3);
- (b) by omitting from subsection (6) “must” and substituting “is to”;
- (c) by inserting the following subsection after subsection (6):

(7) The Commission is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with any management plan in force in respect of the reserved land.

**6. Section 15 amended (Functions of Council)**

Section 15 of the Principal Act is amended as follows:

- (a) by omitting “The Council” and substituting “(1) The Council”;

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- (b) by omitting “extinguishment” from paragraph (c) and substituting “mitigation”;
- (c) by omitting “extinguishment” from paragraph (d) and substituting “mitigation”;
- (d) by omitting “Commission.” from paragraph (e) and substituting “Commission prepared under section 107G;”;
- (e) by inserting the following paragraph after paragraph (e):
  - (f) to provide an annual report to the Commission on the activities of the Fire Management Area Committees, for inclusion in the annual report of the Commission prepared under section 107G.
- (f) by inserting the following subsections:
  - (2) The Council is to consider each fire protection plan submitted to it under section 20(1)(c) and may –
    - (a) approve the plan as submitted; or
    - (b) approve the plan subject to such modifications as it thinks fit; or

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- (c) reject the plan and instruct the Committee to recast the plan.
- (3) The Council is to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which Wellington Park is set aside under the *Wellington Park Act 1993* and with any management plan in force in respect of Wellington Park.
- (4) The Council is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with any management plan in force in respect of the reserved land.

**7. Section 17 amended (Fire Management Areas)**

Section 17 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) The Council, by notice published in the *Gazette*, may declare any area of the State to be a Fire Management Area.

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- (2) The Council, by the notice, may –
  - (a) assign a name to the Fire Management Area; and
  - (b) publish a map of the Fire Management Area.

**8. Section 18 amended (Fire Management Area Committees)**

Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commission” and substituting “Council”;
- (b) by omitting paragraph (b) from subsection (2) and substituting the following paragraph:
  - (b) a representative of each local council whose municipal area lies wholly or partly within the Fire Management Area or a person jointly nominated by those local councils; and
- (c) by omitting paragraph (e) from subsection (2) and substituting the following paragraphs:
  - (e) if the Fire Management Area includes any part of Wellington Park – a person nominated by the



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Wellington Park Management Trust; and

- (f) a person jointly nominated by the brigade chiefs of the brigades wholly or partly within the Fire Management Area.
- (d) by omitting from subsection (3) “Commission” and substituting “Council”;
- (e) by omitting from subsection (4) “Commission” and substituting “Council”;
- (f) by omitting from subsection (7) “Commission” and substituting “Council”.

**9. Section 20 substituted**

Section 20 of the Principal Act is repealed and the following sections are substituted:

**20. Functions and powers of Fire Management Area Committees**

- (1) A Committee has the following functions:
  - (a) to co-ordinate fire management activities within its Fire Management Area, including –
    - (i) community education and information; and

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- (ii) fuel management;
- (b) to identify and assess community bushfire risks in its Fire Management Area and to prioritise strategic works in response to those risks;
- (c) to submit to the Council, on or before 30 September of each year, a fire protection plan for its Fire Management Area for the next 12 months commencing on 1 October;
- (d) to ensure that its fire protection plan is consistent with –
  - (i) the State fire protection plan developed pursuant to section 8(1)(d); and
  - (ii) the State vegetation fire management policy developed pursuant to section 15(1)(a); and
  - (iii) such instructions or guidelines as the Council may from time to time issue to the Committee regarding the fire protection plan;
- (e) to advise the Council on such matters relating to fire management and the

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Committee's other functions as the Council may refer to the Committee;

- (f) to advise the Council on such matters concerning fire management as, in the opinion of the Committee, should be brought to the Council's attention;
  - (g) to perform such other functions relating to the prevention or mitigation of vegetation fires as the Council may direct.
- (2) A Committee has power to do all things necessary or convenient to be done in connection with the performance of its functions.
- (3) A Committee is to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which Wellington Park is set aside under the *Wellington Park Act 1993* and with any management plan in force in respect of Wellington Park.
- (4) A Committee is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with

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any management plan in force in respect of the reserved land.

(5) In this section –

*fire protection plan* means a plan that describes the prevention, preparation, response and recovery arrangements for one or more hazards.

**21. Directions in relation to Fire Management Areas**

- (1) The Commission may give directions in writing to the Council in respect of the performance of the Council's functions in relation to the management of Fire Management Areas.
- (2) The Council is to comply with directions given by the Commission under subsection (1).
- (3) The Council may give directions in writing to a Committee in respect of the performance of the Committee's functions in relation to the management of Fire Management Areas.
- (4) The Committee is to comply with directions given by the Council under subsection (3).

**10. Sections 54 and 55 repealed**

Sections 54 and 55 of the Principal Act are repealed.

**11. Section 65 amended (Fire permit officers)**

Section 65 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commission” and substituting “Council”;
- (b) by omitting from subsection (4)(b) “Commission” and substituting “Council”;
- (c) by inserting the following subsections after subsection (4):
  - (5) A person appointed by the Commission under this section, and holding office immediately before the commencement day, is taken to have been appointed by the Council under this section on the same terms and conditions.

- (6) In this section –

*commencement day* means the day on which the *Fire Service Amendment Act 2012* commences.

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**12. Section 65B amended (Public notice of appointment, &c.)**

Section 65B of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commission” and substituting “Council”;
- (b) by omitting from subsection (2) “Commission” and substituting “Council”.

**13. Section 105 amended (Expenses of Council and Committees)**

Section 105 of the Principal Act is amended as follows:

- (a) by omitting “Advisory”;
- (b) by omitting “, Fire Management Area Committees and Special Fire Area Committees” and substituting “and Fire Management Area Committees”.

**14. Schedule 5A amended (Savings and Transitional Provisions)**

Schedule 5A to the Principal Act is amended by omitting clauses 6 and 7.

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**15. Repeal of Act**

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