

TASMANIA

FIRE SERVICE AMENDMENT (FIRE INFRINGEMENT NOTICES) BILL 2015

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

(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.

4. Part IVB inserted

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

*No. 35 of 1979

**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 60M;

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 60N;

issuing officer means –

- (a) the Chief Officer; or
- (b) the Commissioner of Police; or

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(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 60N(4);
- (g) section 63;
- (h) section 66;
- (i) section 68;
- (j) section 69;
- (k) section 71;
- (l) section 113;
- (m) section 120;
- (n) section 128;

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- (o) a provision of the General Fire Regulations made under section 133;
- (p) 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.

Division 2 – Notices

60L. 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 has not been withdrawn in accordance with section 60M(2); or

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(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 attended and completed the Firesafe course as required.

60M. 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.

60N. Firesafe course notices

- (1) A Firesafe course notice is to specify –
 - (a) that the person served with the notice is required to attend and complete a Firesafe course; and
 - (b) if the issuing officer requires that person to attend and complete a specific Firesafe course, the Firesafe course that the person is required to attend and complete; and
 - (c) the period within which that person must attend and 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;
 - (b) amend a Firesafe course notice to do either or both of the following:
 - (i) extend the period referred to in subsection (1)(c);

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- (ii) remove, impose or alter the requirement for the person to attend 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.
- (4) A person who has been served with a Firesafe course notice must comply with that notice within the period specified in it, or such further period as has been notified to the person under subsection (3).

Penalty: Fine not exceeding 10 penalty units.

600. Review of caution fire infringement notices or Firesafe course notices

A person who is aggrieved by a decision of an issuing officer under this Part in respect of a caution fire infringement notice, or a Firesafe course notice, may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.

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.

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- (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;
 - (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.