

South Australia

# **Fire and Emergency Services (Industry Brigades) Amendment Bill 2016**

A BILL FOR

An Act to amend the *Fire and Emergency Services Act 2005*.

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**The Parliament of South Australia enacts as follows:**

### **Part 1—Preliminary**

#### **1—Short title**

5 This Act may be cited as the *Fire and Emergency Services (Industry Brigades)  
Amendment Act 2016*.

#### **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

**3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

**Part 2—Amendment of *Fire and Emergency Services Act 2005*****4—Amendment of section 3—Interpretation**

(1) Section 3(1)—after the definition of *Industrial Relations Commission* insert:

*industry brigade* means a brigade registered under Part 4 Division 5A;

(2) Section 3(1)—after the definition of *SACFS* insert:

*SACFS brigade* means a brigade established under section 68;

(3) Section 3—after subsection (1) insert:

(1a) A reference in this or any other Act to—

(a) an *officer* of SACFS includes a reference to a member of an industry brigade designated as an officer of that brigade by the Chief Officer of SACFS; and

(b) a *member* of SACFS includes a reference to a member of an industry brigade.

(1b) To avoid doubt, Part 4 Divisions 1 to 3 (inclusive) of this Act do not apply in relation to an officer or member of an industry brigade.

**5—Amendment of section 68—Establishment of SACFS**

Section 68(1)(b)—delete "SACFS" second occurring

**6—Insertion of Part 4 Division 5A**

After Part 4 Division 5 insert:

**Division 5A—Industry Brigades****69A—Preliminary**

In this Division—

*designated area* means an area of land designated by the Chief Officer in accordance with section 69B(1);

*District Court* means the Administrative and Disciplinary Division of the District Court;

*prescribed person* means—

(a) an owner of land in a designated area; or

(b) an occupier of land in a designated area; or

(c) a person who holds a right to harvest forest vegetation (within the meaning of the *Forest Property Act 2000*) in a designated area; or

- (d) any other person or body with an interest in a designated area;

*responsible person*—the responsible person for an industry brigade is—

- (a) if the Chief Officer designates a person as the responsible person under this paragraph—that person; or
- (b) if no designation is made under paragraph (a)—the prescribed person required to establish the industry brigade under section 69C.

### 69B—Designated areas for industry brigades

- (1) The Chief Officer may, in accordance with the regulations, by notice published in the Gazette, designate an area of land that is not within a fire district as an area of land in relation to which the Chief Officer considers an industry brigade should be established.
- (2) The Chief Officer may, by further notice in the Gazette, vary or revoke a notice under subsection (1).

### 69C—Establishment of industry brigades

- (1) The Chief Officer may, in accordance with the regulations, give a prescribed person a written notice relating to a designated area requiring the prescribed person, within a time specified in the notice—
  - (a) to establish an industry brigade for the designated area; and
  - (b) to apply to the Chief Officer for registration of the industry brigade; and
  - (c) to—
    - (i) appoint members of the industry brigade; and
    - (ii) supply such plant, equipment, apparatus and devices as are specified in the notice for use in the prevention or suppression of fires,

in accordance with any requirements specified in the notice.
- (2) The Chief Officer may, by written notice given to a prescribed person to whom a notice under this section has been given by the Chief Officer, vary or revoke the notice.
- (3) A prescribed person to whom a notice under this section has been given may, within 14 days after the notice was given to the person, appeal against the notice to the District Court.
- (4) A prescribed person to whom a notice under this section has been given must not contravene or fail to comply with the notice.

Maximum penalty:

- (a) if the offender is a body corporate—\$75 000;
- (b) if the offender is a natural person—\$20 000.

- (5) The costs incurred in complying with a notice under this section will be borne by the responsible person.

**69D—Registration of industry brigades**

- (1) The Chief Officer may register an industry brigade.
- (2) The Chief Officer may designate a member of an industry brigade as an officer of the brigade.
- (3) The Chief Officer may revoke the registration of an industry brigade by written notice to the responsible person if the Chief Officer is satisfied that there is no longer a need for the industry brigade.

**69E—Chief Officer may give directions**

- (1) The Chief Officer may give directions to the responsible person for an industry brigade relating to—
- (a) the supply of members of the industry brigade; and
  - (b) the provision, operation, maintenance and inspection of any plant, equipment, apparatus or device of the industry brigade for use in the prevention or suppression of fires; and
  - (c) the responsibilities of the industry brigade in relation to fire prevention and suppression in the designated area, including directions—
    - (i) requiring immediate reporting of a fire or other emergency; and
    - (ii) requiring ongoing reporting of a fire or other emergency,in accordance with any procedures determined by the Chief Officer; and
  - (d) the requirements applying to the industry brigade in attending a fire; and
  - (e) the functions and duties of the industry brigade in relation to the prevention or mitigation of, or the means of dealing with, other emergencies; and
  - (f) the operations of the industry brigade, and any related organisational or administrative matters, including directions relating to the relationship between the industry brigade and SACFS organisations; and
  - (g) the training requirements that are appropriate for members of the industry brigade and the provision of reports on training provided; and
  - (h) the submission to the Chief Officer on an annual basis (before the commencement of the fire danger season) of a fire management plan; and
  - (i) any other matter the Chief Officer thinks fit.

(2) The Chief Officer may give directions to a member of an industry brigade in connection with the member's performance of his or her functions and duties as a member of the industry brigade.

(3) A person to whom a direction has been given under this section must not contravene or fail to comply with the direction.

Maximum penalty:

(a) if the offender is a body corporate—\$75 000;

(b) if the offender is a natural person—\$20 000.

**69F—Related matter**

A person cannot claim compensation from the Crown or SACFS in respect of a notice, direction or requirement given under this Division, or on account of any act or omission undertaken or made in good faith in the exercise (or purported exercise) of a power under this Division.

**7—Amendment of section 70—Command structure**

Section 70(3)—before "brigades" insert:

SACFS

**8—Amendment of section 97—Powers**

Section 97(8) and (9)—delete subsections (8) and (9)