

Country Fire Authority Regulations 2025 Regulatory Impact Statement



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**Country Fire Authority
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Preamble

Prepared by the Country Fire Authority.

This Regulatory Impact Statement (RIS) has been prepared to meet the requirements of the *Subordinate Legislation Act 1994* and to facilitate public consultation on the making of the Country Fire Authority Regulations 2025 (the proposed Regulations).

In accordance with the Victorian Guide to Regulation, the Victorian Government seeks to ensure that proposed Regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on Victorian businesses, individuals and the community. A key function of the RIS process is to provide members of the public with the opportunity to comment on proposed statutory rules before they are finalised. Such public input can provide valuable information and perspectives and thus improve the overall quality of the regulations. A copy of the proposed Regulations accompanies this RIS.

Public comments and submissions are invited on the proposed Regulations and in response to information provided in this RIS. All submissions will be treated as public documents. The Engage Victoria website is the preferred method for receiving submissions. Submissions can also be sent by email to CFARegulationsReview@justice.vic.gov.au.

Copies of the RIS and the proposed Regulations can be obtained from the Engage Victoria website at <https://engage.vic.gov.au/>

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Glossary of terms

the Act	<i>Country Fire Authority Act 1958</i>
the current Regulations	Country Fire Authority Regulations 2014
the proposed Regulations	Country Fire Authority Regulations 2025
Authority	CFA's governing body (CFA Board)
brigade	a CFA brigade registered under s. 23(1) of the Act
casual firefighter	a person (other than a CFA volunteer or a member of an industry brigade) who voluntarily engages in firefighting at any fire at the request of, or with the approval of, the CFA officer in charge of operations at the fire
CFA	Country Fire Authority
CFA volunteer	a person enrolled by CFA as a member of a brigade who does not receive any financial reward for their service with CFA. <u>Note:</u> many CFA employees are also volunteers outside their working hours and, in that capacity, are CFA volunteers
Chief Officer	the person appointed under s. 17 of the Act as CFA's Chief Officer who has command and control of all brigades
country area of Victoria	the parts of Victoria within CFA's jurisdiction, which are any area which is outside the Fire Rescue Victoria district but does not include any forest, national park or protected public land
EMC	Emergency Management Commissioner
employee	a CFA employee who is paid for their work
fire	includes a hazardous materials incident involving a threat of fire
fire danger period	the period declared under the Act to be a fire danger period in respect of an area in Victoria
fire prevention officer	a person appointed under s. 96A of the Act by a municipal council, a public authority or an administrative unit as a fire prevention officer
fire prevention notice	a notice issued to a landowner or occupier under s. 41 of the Act requiring the landowner or occupier to take the steps specified in the notice to minimise the threat of fire within the specified time
Forestry Industry Brigade	an industry brigade comprising employees or contractors of "relevant owners" of private sector forestry plantations
FRV	Fire Rescue Victoria
FRV Regulations	Fire Rescue Victoria (General) Regulations 2020
group	a group of CFA brigades established and approved by the Authority under s. 23A of the Act
industry brigade	a brigade that is established and equipped by a land-owner or occupier in a designated area and is registered by the Authority under s. 23AA(6) of the Act
junior member	a CFA member who is aged between 11 and 16 years
MCA	Multi-criteria analysis
member	a CFA member including an enrolled CFA volunteer and, depending on the context, may also refer to a paid CFA employee and a FRV secondee. However, member has a distinct meaning for the purposes of the CFA compensation scheme
officer	a CFA member appointed or elected to a leadership role with CFA or a CFA brigade

the Act	<i>Country Fire Authority Act 1958</i>
protected public land	any Crown land other than land that is part of a state forest or national park which is declared to be protected public land under s. 62 of the <i>Forests Act 1958</i>
public authority	an entity established by or under an Act for a public purpose, but does not include a municipal council
RIS	Regulatory Impact Statement
TAC	Transport Accident Commission; a statutory authority established under the <i>Transport Accident Act 1986</i> to promote road safety and pay for treatment and benefits for people injured in transport accidents
total fire ban	the period declared by the Authority under s. 40 of the Act
TZV	Triple Zero Victoria
VCAT	Victorian Civil and Administrative Tribunal
voluntary auxiliary worker	a person appointed as a voluntary auxiliary worker by the secretary of a brigade or group under s. 17A of the Act
VFBV	Voluntary Fire Brigades Victoria Incorporated; an organisation comprising brigade members whose role under the Act is to consider and bring to CFA's notice matters concerning volunteers' welfare and efficiency (other than questions of discipline and promotion)
WorkSafe	The trading name of the Victorian WorkCover Authority; a statutory authority established under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>

Executive Summary

About this document

In accordance with the *Subordinate Legislation Act 1994* this Regulatory Impact Statement (RIS) has been prepared to assess and facilitate public comment on proposals to remake the Country Fire Authority Regulations 2014 (the current Regulations). The current Regulations will sunset (expire) on 1 August 2025. New regulations are needed if regulation of the matters covered by the current Regulations is to continue after that date.

This RIS outlines the options that have been considered and assessed, poses some questions for discussion and invites public comments and submissions on the proposed Regulations. All submissions will be treated as public documents unless specified otherwise.

Problem statement

The *Country Fire Authority Act 1958* (the Act) and Regulations are designed to tackle the ever-present threat of fire and other emergencies to the lives and property of Victorians. Legislation establishing country and metropolitan fire services has existed in Victoria since 1890, recognising that government intervention is necessary to provide an organised response to the threat posed by fire and other emergencies to all Victorians.

The Act establishes the Country Fire Authority (CFA) for the more effective control of the prevention and suppression of fires in the country area of Victoria, provides for CFA's governance, powers and functions, imposes a regime for fire prevention and control¹ and authorises the making of regulations to give effect to the Act. The legislative framework recognises that it is neither feasible nor cost effective for the government to maintain a paid firefighting force to protect communities across the state. CFA relies on volunteers to provide its services, and the Act and the Regulations play an important role in supporting the recruitment and retention of CFA volunteers.

Merely establishing and equipping fire services is insufficient to deal with human acts or omissions that can cause fires. While the criminal law deals with people who light fires to cause damage, many legitimate business and private activities entail a risk of fire if carried out during periods of increased fire danger. The condition of private property can also create an increased threat of fire to neighbours and the wider community. Without legislation and regulations the state would be unable to prohibit or restrict business and private activities during fire danger periods, order landowners and occupiers to address fire hazards on their properties or impose penalties for non-compliance with laws that are designed to protect the community from the risk of fire, resulting in greater loss of life and property, and incidence of health and environmental harms than is now the case.

Overview of the Regulations

The current Regulations cover various diverse matters that are required or permitted to be regulated by the Act, which have been grouped into four broad categories. Some Regulations

¹ The country area of Victoria is defined in s. 3(1) of the *Country Fire Authority Act 1958* as that part of Victoria which lies outside the Fire Rescue Victoria (FRV) fire district, but does not include any forest, national park or protected public land. Fire prevention and suppression in forests, national parks and protected public land as well as on private land within 1.5 kilometres of these areas is the responsibility of Forest Fire Management Victoria (FFMVic).

directly affect the rights and obligations of various sectors of the public, whereas others only affect CFA employees or deal with matters relating to CFA's internal governance.²

Table 1: Topics covered by the proposed Regulations

Category of regulations	Topics covered	Persons affected
CFA administration and management	<p>Authority (CFA board) proceedings</p> <p>Management and administration of CFA brigades (including forming brigades and groups of brigades, model governance rules, financial management and reporting and elections for officers of brigades and groups)</p> <p>Employee discipline and appeals</p>	<p>Authority (CFA board) members</p> <p>CFA volunteers and employees, and persons who apply to form a new CFA brigade</p> <p>CFA non-executive employees</p>
Rights and obligations of volunteers	<p>Eligibility and fitness for CFA membership</p> <p>Volunteer discipline and appeals</p> <p>The CFA compensation scheme</p>	<p>CFA members and prospective members</p> <p>CFA volunteers</p> <p>Volunteers who suffer loss due to their service and, if death occurs, their families; members of industry brigades injured while assisting CFA</p>
Fire prevention and control	<p>Controls during periods of increased fire danger (forms of permits to burn and fire prevention notices), high fire danger activities, requirements for vehicles and machinery that have the potential to spark fires, and controls on burning by-products of sawmilling operations</p> <p>Forestry Industry Brigades</p> <p>Alarm monitoring information</p> <p>Regional and municipal fire prevention committees</p>	<p>Businesses (including farmers) and individuals in the country area of Victoria, local councils and other public authorities, manufacturers, importers and sellers of fire suppression equipment and vehicles</p> <p>Forestry industry</p> <p>Alarm monitoring businesses</p> <p>Local government, CFA</p>
Fees and charges for certain CFA services	<p>Fees for specialist services provided by CFA (e.g. fire equipment maintenance)</p> <p>Fees for chargeable emergency attendances including fires on vessels and hazardous materials incidents, and for attending premises in response to false alarms where there was no reasonable excuse for the false alarm</p>	<p>Service users</p> <p>Owners or masters of vessels, owners and drivers of vehicles transporting hazardous materials, building/premises owners or occupiers</p>

² Note under the *Subordinate Legislation Act 1994 Guidelines*, any regulations that purely affect public bodies such as CFA or their employees are not considered to affect a sector of the public. However, prospective CFA volunteers are considered to be a sector of the public, and regulations that impact the rights of prospective and current volunteers are assessed in this RIS.

About this RIS

This RIS examines and assesses proposals to remake the Regulations across the four reform categories, each of which comprise a number of distinct topics. The RIS is structured as follows:

- Chapter 1** – Introduction
- Chapter 2** – Legislative context
- Chapter 3** – The nature and extent of the problem
- Chapter 4** – Objectives of the Act and the Regulations
- Chapter 5** – Approach to analysis of options in this RIS
- Chapter 6** – CFA administration and management
- Chapter 7** – Rights and obligations of volunteers
- Chapter 8** – Fire prevention and control
- Chapter 9** – Fees and charges
- Chapter 10** – Competition and small business impacts
- Chapter 11** – Implementation and evaluation

As required by the Victorian Guide to Regulation, consideration has been given to allowing the current Regulations to sunset and, where feasible, to alternatives to regulation. In some cases, allowing current Regulations to sunset would not be feasible or appropriate, as it would undermine the Act's objectives or prevent provisions of the Act from operating, and the RIS explains where this applies. All proposals in this RIS were informed by consultations with key stakeholder groups representing those affected. The proposed Regulations largely remake the current Regulations with some changes to improve their operation and organisation. It is also proposed to allow some Regulations that are outdated or duplicate other laws to lapse, and to consolidate all CFA Regulations by incorporating the current Country Fire Authority (Community Fire Refuges) Regulations 2024 into the proposed CFA Regulations 2025³.

Objectives of the Act and the Regulations

The Act's primary objective is to protect lives and property from the threat of fire and other emergencies. Its supplementary objectives are to:

- equip CFA to perform its statutory functions effectively and efficiently
- recognise value, promote and support the recruitment, retention and contribution of CFA volunteers to the safety and wellbeing of the community
- promote collaboration and co-ordination between fire services and interoperability of emergency services, to ensure CFA contributes effectively to Victoria's integrated emergency management system.

The stated objective in the current Regulations is actually a list of the topics the Regulations cover, rather than a description of the policy objectives that the various Regulations are designed to achieve. The primary policy objectives of the most significant regulatory topics can be summarised as follows:

³ The Country Fire Authority (Community Fire Refuges) Regulations 2024 prescribe five places as community fire refuges – which are places of last resort for people who need short-term shelter during a bushfire because their plans such as leaving early or defending a well-prepared home, have failed. Located in high-fire risk areas, all five prescribed places (at Blackwood, East Warburton, Ferny Creek, Millgrove and Lavers Hill) are public buildings – government schools or CFA Fire Stations. These regulations were re-made in 2024. They do not impose a cost or burden on any sector of the public, so are not assessed in this RIS.

Table 2: Objectives of the Regulations

Topic	Primary Policy Objectives
Management and administration of CFA brigades	Safety
Compensation for CFA volunteers and others for personal injuries or loss or damage to personal property	Fairness, Safety
Issue of permits to burn and other fire prevention measures	Fairness, Safety
Management and administration of Forestry Industry Brigades	Safety
Requirements relating to alarm monitoring information	Safety
Fees and charges for specified CFA services	Efficiency and equity

Safety involves ensuring that Victorian communities are prepared for and safe from fire, and there is a rapid response to other incidents and emergencies, to protect lives and property. This objective is facilitated if CFA and other emergency services are equipped to carry out their statutory functions effectively and efficiently.

Fairness has two dimensions. For CFA volunteers, it relates to reasonable expectations for fair treatment in joining/participating in CFA, and in obtaining compensation and support if they are injured or suffer loss in the course of volunteering. Fair treatment of volunteers underpins community safety by facilitating the recruitment and retention of volunteers to provide CFA's services. For the broader community, fairness relates to enabling individuals and business to conduct otherwise lawful and reasonable activities where fire risks can be managed.

Minimising the costs to business, volunteers and the wider community of fire prevention and control is also a key objective. Regulations should only prescribe requirements that impose a minimal cost on business or the community while achieving the government's objectives. The system should also be well designed and clear, to enable efficient administration. Since CFA is mostly funded by government, minimising costs to government reduces calls on the community (i.e. taxpayers).

For the Regulations about fees and charges, the primary policy objectives are efficiency and equity. Where particular CFA services primarily benefit the service users rather than the community as a whole, it is inequitable and inefficient for the government to have to fund these services without the ability to charge fees to recover the cost involved. Without the ability to charge fees, these costs would need to be met from the existing CFA budget (displacing other important activities) or from additional funding from the state (i.e., taxpayers).

For each of the 4 categories, options have been assessed against these criteria to determine the preferred option.

Category 1: CFA administration and management

Topic 1: Model rules for brigades and groups of brigades (Section 6.1)

The Regulations prescribe "model rules" which specify various matters relating to the management and administration of CFA brigades and groups of brigades (groups), including rules about meetings and procedures, record keeping, purchasing, financial management and reporting. The objective of these Regulations is to support the recruitment, retention and contribution of CFA volunteers and enable efficient and effective CFA operations.

Both volunteers and CFA benefit from clear, sensible and consistent rules to guide the administration of brigades and groups. Having these matters prescribed in regulations limits the Authority's freedom to update its rules when needed to improve administration or address members' concerns in a timely way, as CFA must seek government approval, and the government

must apply the processes outlined in the Subordinate Legislation Act to make any changes. No changes have been made to the model rules since the current Regulations were made in 2014.

The following options were considered: deregulation, continuing to prescribe the model rules in regulations (the status quo) or shifting to “process regulation.” Deregulation would maximise the Authority’s freedom to manage and is considered better than the status quo, however, CFA stakeholders expressed concern that changes might be made without proper consultation with volunteers. To address this concern, process regulation is proposed – i.e., the Regulations would specify the process that CFA must follow in making changes to its model rules (by requiring a minimum of six months consultation with CFA members on any proposed changes) rather than prescribing the model rules in the Regulations. This option is preferred because it would better balance the Authority’s need for flexibility with members’ need for reasonable stability of model rules and input into proposed changes. This option balances supporting the recruitment, retention and contribution of volunteers with enabling efficient and effective CFA operations.

Topic 2: Elections of brigade and group officers (Section 6.2)

The Act requires brigade and group officers to be elected and requires elections to be held in the manner and for the period prescribed in the Regulations. Election frequency, eligibility to stand for election and to vote, terms of office of elected members and the process for filling casual vacancies are dealt with by the Regulations. The objectives of these Regulations are to ensure a systematic and consistent approach to elections, that candidates for elected offices have the skills, knowledge and attributes to hold these leadership positions, and voters have sufficient CFA experience to understand what is required of these leadership roles. The Act envisages that regulations will address these matters, so allowing these Regulations to sunset is not considered a feasible option.

The only option considered appropriate was remaking the Regulations with changes to clearly authorise electronic voting and enable the Chief Officer to determine requirements (rather than competencies) for both brigade and group officer roles – which would enable the Chief Officer to specify training that candidates must have. These changes would address specific issues raised by CFA stakeholders with the current Regulations. This option would support the objectives of having a strong process for elections and strong candidates.

Topic 3: Employee discipline and appeals (Section 6.3)

The Regulations prescribe disciplinary offences that apply to CFA employees, the penalties that may be applied for offences and timeframes for lodging appeals against employment decisions to the CFA Appeals Commission which is established under Part VA of the Act. Their objective is to discourage inappropriate behaviour by employees while ensuring that CFA employees subject to disciplinary action are treated fairly, with an avenue for redress if subjected to unjust or unlawful treatment.

Terms and conditions of employment are now regulated by enterprise agreements made under the Commonwealth *Fair Work Act 2009* and CFA employees have recourse to the Fair Work Commission in the event of a dispute. Having both State and Commonwealth laws creates greater complexity and more cost for CFA than would be the case if these matters were regulated solely under the Fair Work Act and creates scope for inconsistency between Commonwealth and State laws. Accordingly, remaking the Regulations about employee discipline is not considered appropriate, so they will be allowed to lapse. However, as Part VA of the Act will continue to exist, eligible CFA employees will maintain their right to appeal to the CFA Appeals Commission⁴, so

⁴ *Country Fire Authority Act 1958*, s. 74I.

regulations are necessary to enable Part VA of the Act to operate. Therefore, two options have been considered with respect to employee appeals:

1. Remaking the current Regulations about appeals to the CFA Appeals Commission.
2. Remaking only the regulations about the timeframe for appeals and reducing the timeframe for lodging appeals from 21 to 7 days.

Option 2 is preferred, as it represents minimum necessary regulation, and reducing the timeframe for appeals would better balance the rights of unsuccessful applicants to appeal with the need to provide certainty rapidly to external candidates for CFA roles.

Category 2: Rights and obligations of volunteers

Topic 1: CFA Membership (Section 7.1)

The Act requires CFA brigade members to be enrolled and authorises the making of regulations about the registration of brigades and enrolment of their members, and for requiring volunteers to take medical tests and submit medical certificates.⁵ The Regulations provide for junior and senior membership and a 6-month probationary period for new members. They also empower the Authority to refuse enrolment, enrol a person for restricted duties or limit the duties of an enrolled member, vary a probationary period, cancel the enrolment of a probationary member, require an applicant for enrolment or a member to undergo medical examination or testing at CFA's expense to ascertain their fitness to perform tasks, and require members to undergo training. The objectives of these Regulations are to support the recruitment, development and retention of suitable volunteers while protecting the safety and wellbeing of CFA members, staff and the public.

CFA has a duty to ensure that all its volunteers are suitable to be CFA members, capable of performing their duties safely, and equipped to perform their functions. At times, this involves balancing individuals' aspirations with the need to impose reasonable limitations or refuse membership to protect the safety and wellbeing of other CFA volunteers, staff, and members of the public. Given the risks inherent in operational roles, CFA also needs clear power to impose reasonable limitations on duties where, because of a health condition, a person is not capable of performing all the duties of an operational brigade member without endangering themselves or others.

Consideration was given to allowing CFA to manage these matters through its own membership terms and conditions rather than regulations. This is not preferred as there would be less certainty about CFA's powers to set and enforce age and suitability requirements, requirements for medical examinations and training and ability to limit duties in the interests of members' safety as CFA's policies and procedures do not have the same status as regulations. The preferred option is to remake the current Regulations including the current age and probation requirements (as there is considered to be no compelling reason for change) and CFA's powers to require members to undergo medical examinations and training which are considered essential in the interests of safety.

In addition to remaking the current Regulations, new regulations are proposed to enable the Chief Officer to determine sub-categories of membership and require members to obtain leave of absence if absent for 6 months or more. At present, an administrative distinction is made between operational and non-operational members. Regulations enabling the Chief Officer to specify sub-categories of membership would enable formal recognition of the variety of ways in which members can contribute to CFA and would allow for a more nuanced description of roles than

⁵ *Country Fire Authority Act 1958*, s. 110(1)(ea).

the current operational/non-operational distinction. Providing a process for obtaining leave of absence would improve clarity and assist CFA's planning. The Regulations would also clearly authorise cancellation of member's enrolment if the Authority were satisfied that a person is no longer fit and proper (after the member has been afforded procedural fairness) or forms the view that their continued membership could bring CFA into disrepute. The proposed Regulations aim to ensure that CFA can operate effectively and continues to be, and be seen to be, a safe place to volunteer.

Topic 2: Volunteer Discipline and Appeals (Section 7.2)

The Regulations prescribe disciplinary offences that apply to volunteers, the disciplinary process and penalties that may be applied where an offence is proven. They also establish an Appeal Panel to hear appeals against disciplinary decisions affecting volunteers and provide for rights of appeal and the conduct of appeals. Their objective is to specify what conduct will be a breach of discipline, provide for investigations and hearings, enable appropriate action where a breach is proven, and ensure procedural fairness is afforded to volunteers accused of a disciplinary breach.

Volunteer discipline was the most frequently raised topic during CFA's member consultations, with many members raising both general and specific concerns about the current Regulations. A common theme was that the regulatory processes are inflexible and disproportionate, particularly for handling less serious disciplinary matters, and that the process takes too long. Given this feedback, the Authority considered allowing the Regulations to lapse and three broad options:

1. remaking the current Regulations in their current form
2. remaking the current Regulations with changes to provide for a two-tiered approach to disciplinary matters, with a relatively informal regulatory process for managing the less serious matters and a more formal regulatory process for serious allegations
3. remaking the current Regulations with changes to enable a more proportionate and flexible way of handling disciplinary hearings and appeals (without a two-tiered approach) and address concerns identified with the current Regulations.

Having regulations about volunteer discipline and appeals provides greater clarity and transparency for both members and CFA than would be the case if these matters were to be managed as terms and conditions of CFA membership. Accordingly, continuing to regulate for these matters is considered better than allowing the Regulations to lapse without replacement. Given the issues identified with the current Regulations, Option 1 is not considered appropriate. Option 3 entails remaking regulations with changes to enable greater flexibility, proportionality and efficiency including changes that allow the hearing and appeals processes to be tailored according to the matter under consideration while providing explicitly for procedural fairness and allowing the Appeal Panel to dismiss vexatious or frivolous appeals. This would allow for greater efficiency and proportionality without adversely affecting the rights of volunteers accused of disciplinary breaches. Option 3 is also less complex to design and administer than Option 2 and is the preferred option.

Topic 3: The CFA compensation scheme (Section 7.3)

The Act makes provision for two distinct compensation schemes applicable to those injured while serving with or assisting CFA, both of which are administered by CFA:

1. A scheme established under Part VA of the Act which applies only to casual firefighters and voluntary auxiliary workers.⁶

⁶ Casual firefighters are defined in s. 62 of the Act as individuals other than CFA members who voluntarily assist brigades in firefighting (with their approval) – and voluntary auxiliary workers are persons appointed under s. 17A of the Act.

2. A compensation scheme established entirely by the Regulations which applies to CFA officers and members, individuals who have applied for enrolment and are performing the duties of a brigade member (pending confirmation of enrolment), members of industry brigades and, in the case of an incident causing death of one of those persons, their family members and dependants (the CFA compensation scheme).⁷

The Regulations establish the CFA compensation scheme, enable eligible persons (noted in point 2 above) to make claims, empower the Authority to pay compensation to eligible persons and provide for various matters essential to enable the scheme's operation. The objectives of the Regulations are to provide appropriate compensation and make it efficient for CFA to administer the compensation scheme. Because the scheme is created by the Regulations, allowing the Regulations to sunset without replacement is not feasible as this would leave CFA members and their families/dependants without clear legal rights to receive compensation if they suffer loss as a result of a member's voluntary service and CFA would lose the power to pay compensation to those persons. It would also create a significant anomaly when comparing the treatment of CFA members with casual firefighters and voluntary auxiliary workers, as those individuals are legally entitled to compensation under Part VA of the Act.

The Authority considers that there are other possible alternative ways of providing compensation and of managing the compensation scheme, but these would require legislative change, so are not assessed in this RIS. It has agreed that a review of the scheme is required to evaluate the current arrangements, identify the best approach to managing compensation in the long term and make recommendations for the government's consideration. Pending the proposed review, the only appropriate option is to maintain continuity of regulations concerning entitlements to benefits and the level of benefits payable. Accordingly, two options for remaking the Regulations were considered:

1. remaking the current Regulations without any changes
2. remaking the current Regulations with some changes to improve the administration of the compensation scheme and clarify CFA's powers.

Option 2 includes introducing an objects clause for the regulations about compensation for personal injuries, to clarify that their purpose is to aid the injured member's rehabilitation and recovery, and to ensure appropriate compensation is paid as expeditiously as possible. It also entails providing clearer powers that enable CFA to require information from compensation recipients for the purposes of assessing their entitlements to compensation from time to time, and to cease paying for medical and like expenses when the person is no longer entitled to receive them. Entitlements to compensation are not static as recipients' health and personal circumstances can change over time but the current Regulations lack clarity about whether CFA can require information to assess continued eligibility when needed, after the initial assessment. There is also no clear power enabling CFA to cease making payment for medical and like expenses when a person ceases to be entitled to them. Clarifying these matters in the Regulations is considered better than the status quo as it provides greater certainty. The most significant proposed change is to prevent compensation for loss or damage to a motor vehicle that was driven on a public highway while unregistered. CFA considers that paying compensation in these circumstances is not in the public interest, as this conduct is a breach of the Road Safety Act.⁸ Option 2 better supports the objectives of ensuring compensation is paid to eligible persons and that it is efficient for CFA to manage the scheme.

⁷ Country Fire Authority Regulations 2014, Part 6 – Compensation, Regs. 74-94.

⁸ *Road Safety Act 1986*, s. 7.

Category 3: Fire Prevention and Control

Topic 1: Controls during periods of increased fire danger (Section 8.1)

Part 3 of the Act regulates most activities involving the use of fire or that risk igniting fires in the open air during declared fire danger periods⁹, and prohibits lighting fires in the open air on days of total fire ban altogether, subject to limited exceptions¹⁰. The regulatory model is to prohibit all activities at these times, unless specifically authorised by the Act or the Regulations. Failure to comply is a serious offence, attracting a penalty of 120 penalty units or 12 months' imprisonment or both. The Act also empowers councils and CFA to serve fire prevention notices on landowners and occupiers, requiring them to remove or minimise the threat of fire on their land, and failure to comply is an offence.

The Regulations operationalise the fire prevention provisions of Part 3 of the Act by prescribing:

- the forms for “permits to burn” for the purposes of the Act, including conditions and restrictions applicable to any permitted burning to minimise risk, and of fire prevention notices that may be issued to landowners or occupiers
- “High fire risk activities” and the conditions that apply to these activities during fire danger periods
- the fire suppression equipment (extinguishers) required to be carried by operators of tractors, farm machines, traction engines, excavators, earth moving machines and road making machines with combustion engines during fire danger periods
- the Australian Standard for spark arresters that, under the Act, must be fitted to specified vehicles and machines with combustion engines
- conditions for the operation of other kinds of “non-vehicular heat engines” such as diesel generators and boilers that could spark fires during a fire danger period
- the permitted method of disposal of the by-products of sawmilling operations by burning for the purposes of s. 49 of the Act.

Because the Regulations enable prohibitions imposed by the Act to be relieved when appropriate, a failure to remake the Regulations could prevent reasonable agricultural, business and private activities from occurring lawfully for several months each year. Allowing these Regulations to sunset without replacement would also create uncertainty about the appropriate forms of permits to burn and fire prevention notices which could potentially deter authorities' use of these tools and could also compromise the state's ability to prosecute and obtain convictions for some offences that penalise conduct that poses a threat to lives and property, contrary to the intent of the Act.

It is difficult to measure the scale of the impact of remaking these Regulations, as imagining a state where currently permitted activities are disallowed because of the Act is difficult – which would be the case in the absence of regulations. The Act is designed on the basis that regulations will fill gaps, prescribe standards and provide certainty. Accordingly, simply allowing the Regulations to lapse was not considered feasible. The objectives of the Regulations are to enable reasonable and otherwise lawful activities to be undertaken where appropriate, while minimising the risk of fire.

In consultations with stakeholders, the Authority sought to identify possible alternatives to remaking the Regulations in their current form. For most of the areas covered, only one option was considered because stakeholders did not identify a need for change. That said, CFA officers

⁹ *Country Fire Authority Act 1958*, s. 38

¹⁰ *Country Fire Authority Act 1958*, s. 40

identified the need for some changes to the prescribed forms for permits to burn to improve their operation and align the permits with current practice. Accordingly, the preferred option is to remake the current Regulations with changes to the permit forms to enable permit conditions relating to vegetation burning to reflect requirements in approved burn delivery plans – allowing more flexibility for permit conditions to be tailored to the complexity and risk of the particular burn. Standard conditions would continue to be included as the default safety requirements. A change is proposed to a current standard condition that requires the perimeter of the burning area to be continuously patrolled, which can be very difficult to comply with in practice. Instead, the proposed regulations would require the burning area to be adequately monitored. This change supports people to undertake reasonable and otherwise lawful activities. It is important that all permit conditions are feasible, as non-compliance with any condition is an offence.

Topic 2: Forestry Industry Brigades (Section 8.2)

Section 23AA of the Act enables CFA, *in accordance with the Regulations*, to require any relevant landowner or group of owners in a designated area to form an industry brigade, apply for its registration and, at the owner's expense, equip the brigade with personnel and apparatus for the prevention and suppression of fires as determined by the Authority. It also enables CFA to register an industry brigade and enrol its officers and members and enables any owner who is aggrieved by a CFA decision to seek Victorian Civil and Administrative Tribunal (VCAT) review. The objectives of the Regulations are to ensure industry brigades are in place where required, which reduces the risk of fire and protects community safety.

The current Regulations provide for Forestry Industry Brigades (FIBs) and specify:

- what factors CFA must consider in determining whether to designate an area – triggering a requirement to form a FIB
- the process to be followed before designating an area – which requires CFA to consult with a committee appointed by the Minister for this purpose
- the criteria for formation of FIBs
- requirements for personnel and minimum standards of apparatus that plantation owners in the designated area must supply at their own expense
- requirements regarding applications for registration of FIBs, maintenance of apparatus and equipment and provision of situation reports on fires
- requirements for training of FIB members.

Without regulations, s. 23AA of the Act could not operate and government would be reliant on the voluntary co-operation of plantation owners to establish, equip and maintain FIBs to the required standard. Initial feedback from the industry is that the current Regulations are regarded as reasonable and provide a “level playing field” for all operators. The minimum standards are currently exceeded by all businesses in the sector, and the Regulations continue to provide public benefits as well as some perceived advantages to the businesses that are regulated (as they are formally CFA partners, receiving timely information, alerts and support from local brigades and benefiting from access to CFA training).

Given that industry is already meeting minimum standards and industry feedback suggests the current Regulations are working well, only one option has been considered for the RIS: remaking the current Regulations. This option is preferred to allowing the Regulations to lapse without replacement because, while industry currently exceeds the minimum standards, it might not in future if regulatory requirements lapsed.

Topic 3: Alarm Monitoring Information (Section 8.3)

Section 50AA of the Act requires businesses providing alarm monitoring services to provide “the prescribed information within the prescribed period” when CFA issues a notice requiring them to

do so. The Regulations prescribe the information that CFA can require about monitored premises and alarms, and the period within which the information must be supplied. Failure to comply with a notice may attract a penalty.

An automatic alarm system's function is to immediately notify fire services of any fire at monitored premises, enabling them to respond rapidly. The objectives of these Regulations are to help support community safety and minimise property loss or damage by ensuring accurate information that enables brigades to access monitored premises as quickly as possible (including after hours) in response to any alarm. There are equivalent provisions in the *Fire Rescue Victoria Act 1958* and *Fire Rescue Victoria (General) Regulations 2020*.

Despite the Act and the Regulations, voluntary co-operation between fire services and alarm monitoring businesses is the means by which CFA and FRV routinely receive information about monitored premises, with s. 50AA of the Act and the Regulations performing a “backstop” role only. To date, CFA has not issued any notices under s. 50AA, so there are no incremental costs associated with this proposal at present. However, as regulations are required to enable s.50AA of the Act to operate, allowing the Regulations to lapse without replacement was not considered appropriate. Given that the regulations have a “backstop” role, only one option was given specific consideration – remaking the Regulations with some changes to align the requirements for client information and timeframes with those of the equivalent FRV Regulations. Consistency of CFA and FRV regulations on this issue is considered important, and this change would also assist CFA to know who the owner or occupier of a building is at specific points in time, which is useful information in the event CFA is considering imposing charges for a false alarm. This option would support CFA to achieve the objectives noted above.

Topic 4: Regional and municipal fire prevention committees

The current Regulations provide for elections to regional and municipal fire prevention committees. These Regulations are now redundant as these committees have been superseded by emergency management planning committees established under the *Emergency Management Act 2013*. Accordingly, these Regulations will be allowed to lapse.

Category 4: Fees and charges

Most services provided by CFA are “public goods”¹¹ – funded through taxation for the benefit of the community as a whole. If left to individuals or private interests, there would be not enough fire services provided to the community. However, there are some activities that CFA can perform that are not considered to be for the whole community but instead largely provide a direct benefit to individuals, or because the actions of an individual directly increase the risk of using CFA resources (compared to average premises risks). These activities include:

- inspections in relation to applications made under the *Building Act 1993*
- advice on fire prevention and suppression matters
- the testing and inspection of fire prevention and suppression equipment
- attending false alarms where the cause of the false alarm is a faulty detection system or a false report (because this has no benefit for the community where the false alarm could have been prevented—in 2022–23, CFA responded to around 4,000 incidents of false alarms/false reports)

¹¹ Public goods are ‘non-excludable’, meaning that the general community cannot be excluded from the good or service, and ‘non-rivalrous’, meaning that one person benefiting from a good or service does not diminish another person’s benefits. Public goods tend to be underprovided by private businesses because it is difficult to charge all beneficiaries for these goods.

- responding to fires on boats and other vessels (because operators are responsible for the safety of the vessel and those on board; fires on vessels are not generally caused by other fires spreading, and because CFA incurs additional costs in responding)¹²
- responding to fires involving hazardous materials or other special circumstances (because these create increased risks)
- services provided by agreement with an individual to provide specific property protection or loss mitigation services.

CFA also responds to other hazardous materials incidents and road accident rescues where the use of brigades has been approved for that purpose – which result in CFA incurring additional costs that are beyond the core functions of a fire service.

The Act specifically allows for the making of regulations so that CFA can charge fees for the services listed above, and the current Regulations set fees for those services. Not charging fees for these activities is:

- inefficient—a lack of price signal would create an incentive for demand for these services that is much higher than optimal. Charging a fee ensures that people making decisions that give rise to these services bear the cost of those decisions
- inequitable—in the absence of charging fees, these services provide a benefit to specific persons or organisations, while being paid for by taxpayers.

These activities listed above cost CFA around \$14 million or more per year. In the absence of fees, these costs would need to be met from the existing CFA budget (displacing other important activities) or from additional funding from the state (i.e., taxpayers).

Because the cost of providing some services is highly variable, the Act enables regulations to authorise CFA to fix fees for services such as inspections, advice and testing services and which prescribe the method of determining fees for responding to hazardous material incidents, rather than prescribing specific fee amounts.¹³ CFA does not charge for ordinary attendances but, in the case of attendances at hazardous materials incidents and in response to false alarms, the current Regulations prescribe a fee of 39.45 fee units in respect of each CFA appliance in attendance for each 15 minutes or part of 15 minutes during which the appliance is absent from its station. The fee applies separately to each appliance that attends the incident.

Pricing Principles

CFA has applied the following pricing principles which are relevant to fee setting under the proposed Regulations. As a general principle, CFA considers that regulations should allow fees to be set at a level that enables full cost recovery.

1	Agencies should aim to recover the full costs of service provision to promote efficient consumption
2	The cost of service provision should be borne by those who benefit from the service
6	Users should pay for differentiated service based on the value created by that differentiation
8	Pricing should support positive behaviours
11	Pricing structures should be easy to understand and simple to administer

Topic 1: Fees for specialist services

It is proposed to remake the regulations allowing CFA to fix fees for services such as inspections, advice and equipment testing without change. This enables CFA to set fees which can reflect the

¹² The Fire Services Property Levy also doesn't apply to vessels.

¹³ See s. 110(wa), 110(wb) of the Act. This is in addition to the general regulation-making power that the Regulations may leave any matter or thing to be from time to time determined by CFA (s. 110(2)(c)).

cost of the individual services being provided and is therefore consistent with pricing principles 1, 2, 6 and 11. Charging fees on a cost recovery basis is consistent with efficient and equitable use of CFA resources and, for these fees, no other feasible options were considered appropriate. It is also appropriate to continue to enable CFA to charge the Transport Accident Commission (TAC) and WorkSafe agreed fees for road accident rescue services.

Topic 2: Fees for emergency attendances (including response to false alarms)

There are many options for how fees for attendances could be charged. For attendances at incidents related to vessels, hazardous material incidents¹⁴ or fires involving special circumstances it is appropriate to set fees on a full cost-recovery basis. It is also appropriate to enable full cost recovery for responding to false alarms, noting that the Act empowers CFA to reduce or waive these fees (e.g. where there is a reasonable excuse).

The current fees for attendances do not cover the full costs to CFA of such attendances. For example, although the total financial cost to CFA of attendances related to false alarms at protected premises was around \$4.8–\$5.0 million in 2022-23, over the past two years, CFA only collected an average of \$2.3 million per year for all chargeable attendances.

The current Regulations set a fixed fee amount per 15 minutes that a brigade’s appliances are away from the fire station. This provides a way to achieve cost recovery, by allowing the total fee to vary depending on the actual amount of the appliances’ time that is taken and reflects that responding to false alarms (and others in this group such as fires on vessels) typically takes less time than other incidents. Continuing to prescribe the fee at a fixed rate per 15 minutes is a feasible option. However, choosing an appropriate time-interval for charging fees involves a trade-off between efficiency and simplicity. A shorter interval allows fees to be better matched to the time an appliance is in use, more closely aligned to the objective of cost recovery and reducing cross-subsidisation. However, it may require more effort to calculate the fee in each case. A longer interval would make fee calculations simpler but would lead to more cross-subsidisation between fee payers.

Assessment criteria for fee options

To compare the trade-off in choosing an appropriate time interval as the basis for charging fees for emergency attendances, a multi-criteria assessment (MCA) was used, applying specific assessment criteria that are designed specifically to compare fee options, as follows.¹⁵

Table 3: Assessment criteria for fee options

Assessment criterion for fees	Description	Weighting
Efficiency – cost recovery	Assesses the extent to which the fees will fully recover the costs to CFA of responding to attendances	20%
Efficiency – avoiding cross subsidisation	While full cost recovery aims to minimise cross-subsidisation between fee payers and taxpayers generally, it is also desirable to minimise cross-subsidisation between fee	13.3%

¹⁴ Noting that additional fees are charged for hazardous material incidents; this component only relates to the attendance costs.

¹⁵ Assessment of fees using an MCA often uses equity criteria. In this situation, vertical equity (where access to a service should consider a person’s relative ability to pay) is not directly relevant as the fees apply to businesses. Horizontal equity (where people who consume the same (amount of a) service, and or give rise to the same level of regulatory costs, pay the same fee) is also relevant, but is essentially already reflected in the two efficiency criteria (i.e., full cost recovery aligns with achieving horizontal equity, subject to minimising cross-subsidisation within the group of fee payers).

Assessment criterion for fees	Description	Weighting
	payers. This criterion assesses the extent to which the fee structure creates cross-subsidisation.	
Effectiveness	Assesses the extent to which the fees align with (promote or deter from) broader policy objectives and outcomes of CFA	33.3%
Simplicity/ implementation	Assesses the extent to which fees are easy to understand and apply	33.3%

The criteria of efficiency, effectiveness and simplicity are given an equal 33.3 per cent weighting, however efficiency is broken down into two sub-criteria, which have a combined weighting of 33.3 per cent.

While the time interval used to calculate fees could be set at theoretically any level, this RIS considered the following options.

Table 4: Fee options

Option	Fee (fee units)	Fee amount in 2024-25
Maintain current basis of a fee per 15-minute interval	82.7 per 15 minutes	\$1,350.70 per 15 minutes
Reduce interval to 8 minutes	50.0 per 8 minutes	\$816.40 per 8 minutes
Increase interval to 20 minutes	103.2 per 20 minutes	\$1,685.50 per 20 minutes

All options are designed to enable recovery of costs to CFA and the impact on fee payers would depend on the time of each attendance. The following table shows the percentage increase that a fee payer would pay under each option given a certain time of attendance.

Table 5: Fee increases under the different fee options

Actual time of appliance at attendance	Fee charged per 15-minute interval	Fee charged per 8-minute interval	Fee charged per 20-minute interval
5 minutes	110%	27%	162%
10 minutes	110%	153%	162%
15 minutes	110%	153%	162%
20 minutes	110%	90%	31%
25 minutes	110%	153%	162%
30 minutes	110%	153%	162%
35 minutes	110%	111%	74%
40 minutes	110%	111%	74%
45 minutes	110%	153%	162%
50 minutes	110%	122%	96%
55 minutes	110%	122%	96%
60 minutes	110%	153%	96%

Hence, changing the time interval for charging fees will have different impacts on different fee payers. This is a result of better matching the fee charged to the actual time involved (i.e., reducing the amount of cross-subsidisation). The options also differ in relation to the extent of cost-recovery. A shorter time-interval allows the fee charged to better match the actual time taken in each individual attendance, reducing the extent of cross-subsidisation between fee payers. However, compared to the base case of no fees, all options introduce a level of cross-subsidisation, and hence have a negative score.

All options are also similar in relation to implementation, as CFA already has systems in place to measure the time each appliance is away from the station for an attendance, and to issue invoices for payment and consider requests for fee waivers. That said, these steps involve effort from CFA, and therefore have a negative score compared to the base case where no fees were charged. However, the fewer fee ‘steps’ in place would make it easier to determine the appropriate fee on a case-by-case basis, and likely to lead to fewer disputes about the time on which the fee is based. A slight increase in the fee step to 20 minutes would also better align with managing resources within CFA.

Assessment of fee options

Applying the MCA, each option is scored relative to the base case of no fees, where all costs would be borne by the taxpayer. The scores reflect the discussion above and are shown as follows.

Table 6: Assessment of fee options

	Fee per 15-minute interval	Fee per 8-minute interval	Fee per 20-minute interval
Efficiency - cost recovery	10/10	10/10	10/10
Efficiency – avoiding cross subsidisation	-3.5/10	-3/10	-4/10
Effectiveness	2/10	2/10	2/10
Simplicity/implementation	-3/10	-4/10	-2/10
TOTAL score	1.20	0.94	1.45

Overall setting the fee based on a 20-minute time interval achieves a score of +1.45 and, on balance, is the preferred option.

Topic 3: New fee proposal – CFA services for commercial events

The Act enables regulations to be made authorising CFA to fix fees and charges for any service rendered by CFA.¹⁶ Victoria Police is authorised to charge for provision of police or protective services officers services and goods in connection with commercial public or sporting events. The charges are set in regulations and are based on the time of officers involved or use of police goods¹⁷. To date, the Regulations have not enabled CFA to charge fees for services provided in connection with commercial events. Instead, CFA has entered into some private agreements with major event organisers to provide services under s.97C of the Act.¹⁸ Negotiating these agreements on a case-by-case basis is less efficient for CFA than having a clear power to fix fees for its services.

Attending these events and providing associated services draws on CFA resources. While providing these services is not a direct statutory obligation, CFA considers its involvement is appropriate because of the risk to those attending, and the risk that a fire could spread to other areas. However, this is not an ordinary fire risk, but an increased risk due to the event. Therefore, it is proposed to introduce a new regulation to enable CFA to recover its costs where CFA provides services in connection with commercial events. The fees would be applied to the event’s promotor or organiser. As is the case for inspections and like services, the fees would be set by CFA to reflect the costs unique to that event. The proposed Regulations enable CFA to determine

¹⁶ *Country Fire Authority Act 1958*, s.110(1)(wa)(ii)

¹⁷ Victoria Police (Fees and Charges) Regulations 2024

¹⁸ For example, *Country Fire Authority Act 1958*, s. 20AA(2).

fees, and CFA would develop a policy framework that outlines how these charges will be implemented.

Summary of proposed fees

Table 7: Summary of proposed fees and changes from current fees

Fee	Current fee	Proposed fee	% change
Attendance fees			
For false alarms, fires on vessels, hazardous material incidents, or fires involving special circumstances	39.45 fee units per 15 minutes (\$644.20 in 2024-25)	103 fee units per 20 minutes (\$1,685.500 in 2024-25)	Variable – between 31%-164% increase depending on the duration of the attendance with an average increase of 110% across all attendances (see Table 5 above)
Specialist fees			
Inspections in relation to applications under the Building Act, advice on fire prevention and suppression matters, and testing and inspection of fire prevention and suppression equipment	The fees are to be fixed by CFA	No change	n/a
Property protection and loss mitigation services by agreement	CFA may set charges as CFA considers appropriate	No change	n/a
Road accident rescue	CFA may charge fees agreed with TAC and WorkSafe (having regard to the matters set out in the regulations)	No change	n/a
Attending a hazardous material incident	The additional fee to be paid (in addition to the attendance fee) is the amount equivalent to the cost of the incident calculated in accordance with the criteria set out in the regulations	No change	n/a
New fees			
Attendance at commercial events	None	Fee for service basis (to reflect the costs unique to that event)	New fee

Estimated fee revenue

The aggregate revenue estimates (expressed in 2024-25 dollars) are as follows. No estimate has been provided for the proposed new fee for commercial events as the revenue will depend on policy decisions about application of the new fees.

Table 8: Fee revenue

Fee	Estimated revenue per annum (in 2024-25 dollars, trend average)
Specialist fees	
Testing and inspection of fire prevention and suppression equipment (<i>charged at cost on a fee-for-service basis</i>)	\$7.6 million
Road accident rescue (<i>paid by and in agreement with TAC and WorkSafe</i>)	\$1.8 million
Additional fee for hazardous material incidents (<i>calculated according to cost factors outlined in the proposed Regulations</i>)	Up to \$300,000
New fee for attendance at commercial events	Uncertain ¹⁹
Fees for attendances	
For false alarms, fires on vessels, hazardous material incidents, or fires involving special circumstances	\$5.1 million
TOTAL fee revenue	\$14.6 million

Market competition and small business impacts

Overall, with the exception of the proposed Regulations that enable CFA to directly provide and charge for fire protection services, the Regulations are not considered to restrict competition, but even if they may do so, the public benefit from any proposed restriction is considered to outweigh the public benefit in promoting competition. In practice, CFA’s activities are limited to Fire Equipment Maintenance (FEM) and CFA’s FEM activities represent around 1.2 per cent of the Victorian fire protection services market. These Regulations have been assessed as not restricting competition. The proposed Regulations will not disproportionately impose burdens or impacts on small businesses.

Implementation and evaluation

While this RIS largely relates to proposals to substantively remake sunseting regulations and to remove redundant regulations, some substantive changes are proposed and CFA has developed an implementation plan for these and other changes.

This plan will utilise multiple channels, including emails, newsletters, and meetings, to ensure widespread awareness and understanding. CFA will communicate the fee changes on its website, which is accessible to the public. In relation to fees for responding to false alarms, CFA will include the new fee structure to each email related to a false alarm charge for a period of 6 months following the implementation date.

Concurrently, existing policies and procedures and processes will be reviewed and revised to align with the new regulations. Where feasible CFA will digitise and simplify processes to reduce administrative burden.

CFA will review and amend the existing model rules to align with the changes as part of the proposed regulations. CFA intends to establish a project to undertake an end-to-end review of the model rules in consultation with members at a later date.

¹⁹ This is a new fee and the revenue raised will depend on decisions with respect to various matters including the types of commercial events for which a fee will be charged, the CFA resources involved and the method of calculating the charges. A policy framework will be developed to support the implementation of the proposed regulation.

Additionally, CFA systems will undergo necessary changes, in particular to the fire permits system will be amended to align to the changes to the proposed fire permit regulation changes.

As these regulations do not meet the requirements for a mid-term evaluation, a formal mid-evaluation will not take place. Instead, CFA will use well established processes for obtaining members' feedback on how the Regulations or their implementation could be improved. For regulations affecting business, local government and the wider community, CFA will use survey tools to obtain stakeholders' views and suggestions for how the Regulations or their implementation could be improved.

Consultation questions

Chapter 6 - CFA administration and management

Brigades and groups

1. Do you have any comments about the impact of the proposed Regulations about the administration and management of brigades and groups?
2. Do you have any suggestions about how the proposed Regulations could be refined to increase the benefits or reduce the costs?
3. Should any other changes be considered?

Employee discipline and appeals to the CFA Appeals Panel

4. Do you have any comments on the proposals?

Chapter 7 – Rights and obligations of volunteers

5. Do you have any comments about the impact of the proposed Regulations about CFA membership, volunteer discipline and appeals or the CFA compensation scheme?
6. Do you have any suggestions about how the proposed Regulations could be refined to increase the benefits or reduce the costs?
7. Should any other changes be considered?

Chapter 8 – Fire prevention and control

Controls during fire danger periods

8. Do you have any comments about the impact of the proposed Regulations concerning:
 - the forms for permits to burn during fire danger periods
 - the form of fire prevention notices
 - the activities proposed to be prescribed as high fire risk activities
 - any other aspects of the proposed regulations about fire prevention and control?
9. Do you have any suggestions about how the proposed Regulations could be refined to increase the benefits or reduce the costs?
10. Should any other changes be considered?

Forestry Industry Brigades

11. Do you have any comments about the proposal to remake the Regulations about Forestry Industry Brigades or the impact of the Regulations?
12. Do you have any suggestions about how the proposed Regulations could be refined to increase the benefits or reduce the costs?
13. Should any other changes be considered?

Alarm Monitoring Information

14. Do you have any comments about the proposals for regulations about alarm monitoring information or the impact of the regulations?
15. Do you have any suggestions about how the proposed Regulations could be refined to increase the benefits or reduce the costs?
16. Should any other changes be considered?

Chapter 9 – Fees and charges

17. Do you have any comments about the proposal to enable fees to be set at full cost recovery for chargeable CFA attendances (such as attendances in response to false alarms) or the proposed method of setting these fees?
18. Do you have any comments on the proposal to enable CFA to charge fees at commercial sporting or entertainment events?
19. Do you have any suggestions about how the proposed Regulations could be refined to increase the benefits or reduce the costs?
20. Should any other changes be considered?

1 Introduction

1.1 About this Regulatory Impact Statement

Under the *Subordinate Legislation Act 1994*, the Country Fire Authority Regulations 2014 (the current Regulations) will sunset (expire) on 1 August 2025. New regulations are needed if regulation of the matters covered by the current Regulations is to continue after that date.

In accordance with the Subordinate Legislation Act and the Victorian Guide to Regulation,²⁰ this Regulatory Impact Statement (RIS) has been prepared to articulate and assess the anticipated impacts of proposals for remade regulations as well as the alternative approaches to regulation that have been considered, and to facilitate public comment on the regulatory proposals. For the proposed Regulations that would impose a significant economic or social cost or burden upon a sector of the public,²¹ this RIS addresses the following questions:

- why is the government considering action? (problem statement)
- what outcomes is the government aiming to achieve?
- what are the possible different courses of action that could be taken?
- what are the expected impacts (benefits and costs) of feasible options and what is the preferred option?
- what are the characteristics of the preferred option, including small business and competition impacts?
- how will the preferred option be put into place?
- when (and how) will the government evaluate the effectiveness of the preferred option in meeting the objectives?

For sunseting regulations, the Victorian Guide to Regulation requires analysis of the problem the regulations aim to address, as if regulations did not exist (the base case). This helps to establish whether a case for government action remains, and to evaluate the efficacy of the current regulatory framework in addressing the problem. Accordingly, this RIS discusses what would likely happen in the absence of regulations.

The Subordinate Legislation Act also requires a clear statement of the objectives of proposed regulations and consideration of feasible regulatory and non-regulatory options for achieving those objectives. In some areas, because of the design of the Act, there is only one feasible option or very limited scope for alternatives to regulation. This RIS describes the options that were considered for each topic, the rationale for the preferred option and the reasons why other means of achieving the stated objectives were not considered appropriate. It assesses feasible regulatory options that would have a significant impact on a sector of the public. This RIS poses a number of questions for consideration and discussion, but feedback on any aspect of the proposed Regulations is welcome.

The proposed Regulations largely remake the current Regulations with some changes to improve their operation and organisation. It is also proposed to allow some Regulations that are outdated or duplicate other laws to lapse, and to consolidate all CFA Regulations by incorporating the

²⁰ Better Regulation Victoria, June 2024, *Victorian Guide to Regulation: A handbook for policy makers in Victoria*, available at: content.vic.gov.au/sites/default/files/2024-06/2024-Victorian-Guide-to-Regulation.pdf

²¹ The phrase “sector of the public” is not defined in the *Subordinate Legislation Act 1994*. The *Subordinate Legislation Act 1994* Guidelines indicate that how many and which people constitute a sector of the public is a matter of judgement in each case and will depend on the nature of the proposed regulations.

current Country Fire Authority (Community Fire Refuges) Regulations 2024 into the proposed new CFA Regulations 2025²².

1.2 Consultation

CFA has undertaken initial consultation with CFA members, Volunteer Fire Brigades Victoria (VFBV) and affected government and industry stakeholders to inform the development of the proposed Regulations assessed in this RIS.

This RIS poses a number of questions for discussion and invites public comments and submissions on the proposed Regulations. All submissions will be treated as public documents unless specified otherwise.

²² The Country Fire Authority (Community Fire Refuges) Regulations 2024 prescribe five places as community fire refuges – which are places of last resort for people who need short-term shelter during a bushfire because their plans such as leaving early or defending a well-prepared home, have failed. Situated in high-fire risk areas, all five prescribed places (at Blackwood, East Warburton, Ferny Creek, Millgrove and Lavers Hill) are public buildings – government schools or CFA Fire Stations. These regulations were re-made in 2024 and do not impose a cost or burden on any sector of the public, so are not assessed in this RIS.

2 Legislative context

2.1 Overview of the Act and the Regulations

The *Country Fire Authority Act 1958* (the Act) establishes CFA for the more effective control of the prevention and suppression of fires in the country area of Victoria, provides for CFA's governance, powers and functions, and imposes a regulatory regime for fire prevention and control in the country area of Victoria.²³ The Act also obliges CFA to work co-operatively with other fire and emergency services.

The Regulations cover various diverse matters that are required or permitted to be regulated under the Act. The Regulations fall into four broad categories and affect different groups within the community. Some Regulations directly affect the rights and obligations of various sectors of the public, including CFA volunteers and prospective volunteers; businesses, individuals and landowners in the country area of Victoria, farmers and forestry plantation owners whereas others only affect CFA employees or deal purely with matters relating to CFA's internal governance.²⁴

The table below contains an overview of significant Regulations and who they affect.

Table 9: Overview of the Regulations

Category of regulations	Topics covered	Persons affected
CFA administration and management	Authority (CFA Board) proceedings	Authority (CFA Board) members
	Management and administration of CFA brigades (including forming brigades and groups, model governance rules, financial management and reporting and elections for officers of brigades and groups)	CFA volunteers and employees, and persons who apply to form a new CFA brigade
Rights and obligations of volunteers	Employee discipline and appeals	CFA non-executive employees
	Eligibility and fitness for CFA membership	CFA members and prospective members
	Volunteer discipline and appeals	CFA volunteers
	The CFA compensation scheme	Volunteers who suffer loss due to their service and, if death occurs, their families; members of industry brigades injured while assisting CFA

²³ The country area of Victoria is defined in s. 3(1) of the *Country Fire Authority Act 1958* as that part of Victoria which lies outside the FRV fire district, but does not include any forest, national park or protected public land. Fire prevention and suppression in forests, national parks and protected public land as well as on private land within 1.5 kilometres of these areas (known as the Marginal Mile) is the responsibility of FFMVic.

²⁴ Note under the *Subordinate Legislation Act 1994 Guidelines*, any regulations that purely affect public bodies such as CFA or their employees are not considered to affect a sector of the public. However, prospective CFA volunteers are considered to be a sector of the public, and regulations that impact the rights of prospective and current volunteers are assessed in this regulatory impact statement.

Category of regulations	Topics covered	Persons affected
Fire prevention and control	<p>Controls during periods of increased fire danger (forms of permits to burn and fire prevention notices), high fire danger activities, requirements for vehicles and machinery that have the potential to spark fires, and controls on burning by-products of sawmilling operations</p> <p>Forestry Industry Brigades</p> <p>Alarm monitoring information</p> <p>Regional and municipal fire prevention committees</p>	<p>Businesses (including farmers) and individuals in the country area of Victoria, local councils and other public authorities, manufacturers, importers and sellers of fire suppression equipment and vehicles</p> <p>Forestry industry</p> <p>Alarm monitoring businesses</p> <p>Local government, CFA</p>
Fees and charges for certain CFA services	<p>Fees for specialist services provided by CFA (e.g. fire equipment maintenance)</p> <p>Fees for chargeable emergency attendances including fires on vessels and hazardous materials incidents, and for attending premises in response to false alarms where there was no reasonable excuse for the false alarm</p>	<p>Service users</p> <p>Owners or masters of vessels, owners and drivers of vehicles transporting hazardous materials, building/premises owners or occupiers</p>

The current Regulations largely replicate the former Country Fire Authority Regulations 2004 (2004 Regulations), hence there has been little change to the Regulations in two decades. And the 2004 Regulations also retained many features of even earlier regulations, so reflect longstanding approaches to regulation. However, CFA’s structure and operating environment, and Victoria’s emergency management landscape have changed substantially in recent years. In this context, this RIS discusses whether some of the current Regulations may now be obsolete, duplicate other laws, or impose unnecessary red tape.

2.2 Historical context

To fully appreciate the problems that the Act and the Regulations were designed to tackle, it is important to understand this legislation’s history.

Fire control in Victoria 1850s–1944

Victoria is one of the most bush fire prone areas in the world. Due to Victoria’s climatic conditions, terrain and vegetation bushfires are a very routine occurrence. Since colonisation, numerous catastrophic fires causing extensive damage, loss of life and property have been recorded. On 6 February 1851, only months before Victoria’s establishment as an independent colony, fires engulfed a quarter of the current state. Twelve people were killed, and one million sheep and thousands of cattle perished.²⁵

Volunteer and insurance company fire brigades existed from the 1850s and, by 1888, there were 100 fire brigades in Victoria. In 1890 the Victorian Parliament first legislated to provide for an organised response to the threat posed by fire to lives and property by enacting the *Fire Brigades Act 1890*. That Act provided for the establishment of the Metropolitan Fire Brigades Board and

²⁵ Forest Fire Management, Department of Energy, Environment and Climate Action, *Past bushfires: A chronology of major bushfires in Victoria from 2020 back to 1851*. Available at: fm.vic.gov.au/history-and-incidents/past-bushfires

the Country Fire Brigades Board and required enrolment of the fire brigades by the boards. Enrolment gave the brigades and their members powers to suppress fires with immunity from litigation for actions carried out in accordance with the powers conferred by the Act. Funding for the system was provided in equal shares by the government, insurance companies and municipalities.

Over time, additional fire districts and country fire brigades were established. However, the Country Fire Brigades Board's jurisdiction did not cover the whole state and focussed mainly on the protection of regional cities and towns. Following devastating bushfires in 1926 which killed 60 people and caused widespread damage to homes, farms and forests, volunteer bush fire brigades expanded. The Bush Fire Brigades Association was formed to represent these brigades, and it advocated for statutory powers and immunity like that enjoyed by the metropolitan and country fire brigades.

In 1932, major fires occurred once again in various districts across Victoria, with nine people killed and large areas of Gippsland's state forests destroyed. In 1933 the *Bush Fire Brigades Act 1933* was enacted which created a specific committee of management to oversee bush fire brigades, divided parts of country Victoria into six bush fire districts and provided the brigades and their members with statutory powers and statutory immunity. The Act placed the bush fire brigades under the control of Forests Commission officers when fighting fires in areas under the Forests Commission's control. Country and bush fire brigades with distinct governance continued until the enactment of the *Country Fire Authority Act 1944* which established the Country Fire Authority with responsibility for the country area of Victoria and brought the country and bush fire brigades under the Authority's jurisdiction.

Findings of Royal Commissions

Much of Victoria's current legislative framework about fire prevention and suppression can be traced directly back to the recommendations of the 1939 Stretton Royal Commission²⁶ which was established in the wake of the 1938-39 bushfires. Those fires, which peaked on 13 January 1939 (known as Black Friday), affected large parts of Victoria, killed 71 people and destroyed more than 650 buildings and the entire township of Narbethong. A second Stretton Royal Commission²⁷ in 1944 investigated fires at Yallourn on 14 February 1944 which caused major damage to the coal mine and State Electricity Commission plant and works.

While fires can be caused by natural phenomena, Stretton observed that almost all fires are caused by human activities. He attributed the overriding cause of the 1939 fires to population indifference to the threat that fires pose to the entire community and general apathy towards fire prevention. Stretton emphasised the importance of prevention, planning and education of adults and children, as well as fire suppression, and recommended specific new laws and their enforcement where necessary. A key message was that all these measures must be sustained on an ongoing basis.

All fire prevention and protection measures are progressive and recurrent ... There must be, over the years a turning back to and repeating of the operation already done ... the protecting

²⁶ Victorian Government Printer, 1939, *Report of the Royal Commission to Inquire into the Causes of and Measures to be Taken to Prevent the Bushfires of 1939, and to Protect Life and Property and the Measures to be Taken to Prevent Bush Fires in Victoria and to Protect Life and Property in the Event of Future Bush Fires* (the Stretton Royal Commission), Available at: nla.gov.au/nla.obj-52798639/view?partId=nla.obj-95600283#

²⁷ Victorian Government Printer, 1944, *Report of the Royal Commission to inquire into the Places of Origin and the Causes of the Fires which commenced at Yallourn on the 14th day of February 1944, the Adequacy of the Measures which had been taken to Prevent Damage and the measures to be taken to Protect the Undertaking and Township at Yallourn: together with minutes of evidence*, 1944, Available at: handle.slv.vic.gov.au/10381/284518

hand of man can never be idle. It is therefore necessary that a general plan must be formulated, and, with modifications to suit each district, pursued.²⁸

Seventy years later, in February 2009, Victoria experienced Australia's most catastrophic fires on record, which claimed 173 lives, injured 414 people, destroyed 2,133 homes and burned over 450,000 hectares of land. Over 1 million wild and domesticated animals were also estimated to have been killed. The 2009 Victorian Bushfires Royal Commission warned that, despite the scale of this disaster, it would not be easy to maintain the focus on bushfire safety over time and that, as memories fade, collective and individual underestimation of fire risk may occur. Echoing Stretton, the Commission emphasised that individuals and communities must remain vigilant and recommended that the State should use community education and public awareness to break the cycle of complacency, including teaching bushfire history and safety in schools.²⁹ Both Stretton and the 2009 Commission recognised that public co-operation was essential to reduce fire risk and mitigate its impacts.

The *Country Fire Authority Act 1944* (the 1944 Act) was enacted following the two Stretton Royal Commissions. It established CFA for the better control of the prevention and suppression of fires throughout the country area of Victoria, although fire protection on public lands such as national parks and state forests remained the responsibility of the former Forests Commission. The 1944 Act implemented most of the recommendations of the 1939 Royal Commission and these remain significant features of today's legislative framework, notably:

- power to declare fire danger periods, either generally or for specified areas of the State
- requirements to obtain permits to light fires during declared fire danger periods (with certain exceptions), with powers to impose conditions on permits
- systematic enrolment and training of volunteers in fire brigades
- powers to prescribe what preventative, protective and general safety measures should be imposed upon and observed by all undertakings and persons in the country areas of Victoria
- powers to enter private property and take actions to prevent and suppress fires
- requirements for certain types of engines to be fitted with spark arresters, and specific requirements for the burning of sawdust from timber milling operations
- offences for failure to comply with regulatory obligations.

Evolution of the Act

As part of a consolidation of all Victorian legislation in 1958, the Act was created, incorporating all amendments made between 1944 and 1958. Since then, various amendments have been made to the Act, most notably to implement various changes to the structure and organisation of CFA and, in the past decade, to articulate CFA's roles and responsibilities within Victoria's integrated framework for emergency management.

Some amendments were made specifically to enable the making of regulations. For example, amendments in 1997 introduced powers to enable CFA to require the establishment of industry brigades to undertake fire prevention and suppression activities on designated privately owned land,³⁰ while amendments in 2012 provided for the regulation of alarm monitoring services as well as changes aimed at reducing false fire alarms and deliberate tampering with alarms: for instance; in order to avoid charges for brigade attendance in response to false alarms.³¹ Implementation of recommendations of the 2009 Royal Commission saw amendments to the Act in 2009 to provide

²⁸ Stretton Royal Commission 1939, p 32.

²⁹ Victorian Government Printer, *Final Report Summary, 2009 Victorian Bushfires Royal Commission*, July 2010, p 6.

³⁰ *Fire Authorities (Amendment) Act 1997*, s. 7.

³¹ *Emergency Services Legislation Amendment Act 2012*, ss. 10, 39 and 58.

for designated neighbourhood safer places and community fire refuges to provide last resort avenues of shelter for people trapped in a fire front. The 2009 Royal Commission and a subsequent inquiry into the floods of 2010-11³² led to the development of a comprehensive emergency management framework for Victoria which resulted in further amendments to the Act.³³

The Act forms part of Victoria's wider legislative framework governing emergency management which includes two other dedicated state fire services: Fire Rescue Victoria (FRV) which serves the Melbourne metropolitan area and some larger regional centres, and Forest Fire Management Victoria which is responsible for preventing and suppressing fires in state forests, national parks and on protected public land and on adjacent private land referred to as the "marginal mile" (within 1.5 kilometres of a state forest, national park or protected public land). Local governments have statutory responsibilities for fire prevention, preparedness and response in their municipalities. Victoria Police, Victoria State Emergency Service, Ambulance Victoria and Emergency Management Victoria also have critical roles to play in state-wide planning, preparedness, co-ordination and emergency response.

The legislative frameworks governing Victoria's emergency services are designed to promote interoperability of emergency services (the capacity of all emergency services to operate in a cohesive and co-ordinated way, for the benefit of the whole community), with the aim of maximising their effectiveness. To this end, the Act regulates how CFA works with Victoria's other fire and emergency services and obliges CFA to comply with operational standards developed by the Emergency Management Commissioner (EMC).

Key themes from findings of bushfire inquiries

Victoria's legislative frameworks for fire control and emergency management have been largely shaped by Victorian inquiries and have also been informed by reviews into fires in other jurisdictions. There has been a wide range of other reviews and inquiries into bushfires in Australia over the past century. The Bushfires and Natural Hazards Co-operative Research Centre has identified a total of 119 reviews and inquiries into bushfires between 1927 and 2023.³⁴ Recurrent themes from these reviews and inquiries have been identified as:

- the importance of prevention and mitigation activities before fires occur including protective burning/fuel reduction (both in the landscape and around assets), improving community education and awareness, and improving track access for firefighters
- the need for adequate resources: including resources for fire agencies and land management agencies, using local knowledge more effectively, and recognising the value of volunteers

³² Victorian Government, *Review of the 2010-2011 Flood Warnings and Response Final Report*, November 2011. Available at: floodsreview.archive.vic.gov.au/images/stories/documents/review_20101011_flood_warnings_and_response.pdf

³³ Hon. Peter Ryan, Minister for Police and Emergency Services, *Second Reading Speech Emergency Services Legislation Amendment Bill 2012*, Victorian Hansard, Legislative Assembly, 7 December 2011, p 6210.

³⁴ The Bushfires and Natural Hazards Co-operative Research Centre publishes a database containing a catalogue of reviews and inquiries into various natural hazards and emergency management across Australia. The numbers quoted here reflect the reviews inquiries into bushfires reported in the database as at 1 August 2023. Available at: tools.bnhcrc.com.au/ddr/home

- other issues relating to communications infrastructure, local government responsibilities and the role of the insurance industry.³⁵

2.3 About Country Fire Authority

CFA is an incorporated public body which currently has 1,211 brigades organised into 21 districts and five regions, which serve the country area of Victoria (including some parts of the Melbourne metropolitan area).³⁶ Melbourne's metropolitan area and some larger regional centres are served by FRV,³⁷ which currently has 85 fire stations located in the greater metropolitan area and in regional centres including Geelong, Bendigo, Shepparton, and Warrnambool.

CFA supports the community to prevent and prepare for fire, responds to fire and other emergencies and works collaboratively with FRV and Victoria's other fire and emergency services organisations (Forest Fire Management Victoria, Victoria State Emergency Service and Ambulance Victoria) to deliver community safety outcomes.

Under the Act, the Authority is responsible for registering brigades and groups and enrolling volunteer members. Registration and enrolment enable CFA brigades and volunteers to exercise powers vested in CFA to prevent, suppress and control fires and respond to other emergencies, and give them statutory immunity from liability for acts and omissions performed in good faith when exercising powers and discharging duties under the Act. Although brigades and groups operate with a degree of local autonomy, they are part of CFA and subject to CFA's policies and procedures and the Chief Officer's directions.

2.4 Developments in the regulatory environment since 2014

Since the Regulations were made in 2014, significant changes have been made to Victoria's emergency management planning framework and the structure and organisation of Victoria's fire services.³⁸

In 2018, reforms were made to Victoria's emergency management framework to provide for an all communities, all emergencies approach to emergency management planning with a new governance structure responsible for integrated emergency management planning at state, regional and local levels. The *Emergency Services Legislation Amendment Act 2018* made the EMC responsible for state-level planning, and regional and municipal committees responsible for planning at the regional and municipal levels. To provide oversight and facilitate operational integration, the State Crisis and Resilience Council approves the state level plan, the EMC approves the regional plans, and the relevant regional emergency management planning committees approve the municipal plans.

The *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* came into operation on 1 July 2020 which made significant structural changes to Victoria's fire services. It established FRV to cover metropolitan and large regional centres of Victoria, and transferred career firefighters formerly employed by CFA at 38 fire stations to FRV,

³⁵ Evidence given by Professor Peter Kanowski, to the Senate Select Committee on Agricultural and Related Industries inquiry into the incidence and severity of bushfires across Australia, 2009, *Committee Hansard*, 12 March 2010, Canberra, p. 33. Available at: aph.gov.au/Parliamentary_Business/Committees/Senate/Former_Committees/agric/completed_inquiries/2008-10/bushfires/report/c02

³⁶ The figure of 1,211 brigades includes 19 Forestry Industry Brigades (established and paid for by plantation owners), 18 coastguard brigades and 19 headquarters brigades. DEECA, through FFMVic, is responsible for fire prevention and suppression on public lands such as national parks.

³⁷ FRV is the successor of the former Metropolitan Fire Brigade (MFB).

³⁸ Changes to the structure and organisation of the former MFB and Country Fire Authority were made by the *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019*.

with many of these brigades becoming co-located fire brigades located in the FRV district. CFA became a fully volunteer firefighting service under the operational command and control of a paid Chief Officer, supported by Deputy Chief Officers and other paid staff.³⁹ CFA has a Chief Executive Officer, and a number of its senior operational staff are seconded to CFA from FRV and are under the day-to-day control of CFA's Chief Officer.⁴⁰ In 2022-23 CFA had 871 paid staff and a total of 51,807 volunteers comprising 28,785 in operational and 23,022 in support roles.⁴¹

³⁹ *Country Fire Authority Act 1958*, ss. 6F, 6H and 6I.

⁴⁰ *Country Fire Authority Act 1958*, s. 16A.

⁴¹ Support roles include brigade administration and business support, fundraising, community safety education, communications, events management and other non-operational tasks.

3 The nature and extent of the problem

3.1 Description of the problem

Victoria is one of the most fire prone areas of the world. Fires, especially those occurring on a large scale or that are prolonged, can have catastrophic effects on individuals, communities, the environment, and local and regional economies; and may even impact national economies. Potential consequences include loss of lives and property on a large scale, loss of businesses and consequent loss of employment, adverse health and wellbeing impacts, financial and emotional costs of clean up, emergency relief, rehabilitation and recovery, and wider costs to businesses and the community resulting from loss or damage impacting the supply and cost of goods and services.

Fires have direct and indirect consequences, which are often complex and prolonged. A 2021 analysis of the economic impacts of the 2019-2020 Victorian bushfires in Northeast Victoria and East Gippsland conducted by the Department of Treasury and Finance and the Centre for Policy Studies illustrates how the impacts of localised bushfires flow through the economy⁴². The 2019-2020 bushfires burned more than 1.3 million hectares of land, destroyed approximately 400 homes and resulted in five deaths⁴³. The direct impacts included asset losses, smoke damage impacting health and labour productivity and disruption to production, while indirect impacts included significant impact on international tourism, through the damage to Australia's and Victoria's attractiveness as a tourist destination. The analysis found that the indirect impacts of reduction of tourism had widespread economic effects in Victoria, with the accommodation, transport and food services and transport sectors suffering the largest losses, and the construction industry also suffering substantial losses due to its connection with investment which declined in some regions due to depressed tourism demand.

Fire can result in individuals, businesses and communities incurring catastrophic losses because of the acts or omissions of others or natural phenomena over which they have no control. The costs of fire may be borne by individuals, families, businesses, communities, and governments at all levels. Some of the financial costs are met or alleviated by governments, the not-for-profit sector and insurers who, in turn, may pass on their costs in the form of higher insurance premiums. Insurance for most households and businesses is provided by the market and is generally priced according to risk. If insurance is, or is perceived to be unaffordable, more people will assume the risk of being uninsured. Some losses resulting from fire can never be recovered or adequately compensated for, such as death and permanent injuries to individuals, or loss of property or businesses for those who are uninsured.

Fires may be caused by natural phenomena (e.g., lightning strikes and spontaneous ignition of combustible materials) and human activities. While fires caused by human activities may be potentially preventable, and evidence-based prevention activities may help to minimise the impacts of naturally occurring fires, it will never be possible to eliminate the risk of fire in Victoria. The extent to which it will be possible to minimise unacceptable risks to the community will depend on community acceptance of measures to mitigate such risks, and of the economic and social costs involved.

There is evidence to suggest that the threat of fire is increasing. Extreme weather has become more frequent and intense because of climate change and further global warming over the next 20 to 30 years is expected. Globally, temperatures will continue to rise, and Australia will have

⁴² Wittwer G, Li K and Yang S, *The economic impacts of the 2019-20 bushfires on Victoria*, Department of Treasury and Finance Victoria, Victoria's Economic Bulletin Volume 5, June 2021, p 33.

⁴³ Country Fire Authority, *Our Black Summer: First Person Accounts from the Frontline*, 2023, p 7.

more hot days and fewer cool days. Floods and bushfires are expected to become more frequent and more intense, and catastrophic fire conditions may render many traditional bushfire prediction models and firefighting techniques less effective. Natural disasters are expected to become more complex, unpredictable, and difficult to manage with an increased risk of compounding disasters that may threaten not only lives and property, but also economies at local, regional and national levels, along with critical infrastructure and essential services.⁴⁴ These developments are placing increased pressure on CFA and all Victoria's emergency services.

3.2 Problems in the absence of regulation

Because both natural phenomena and human acts or omissions can cause or contribute to the ignition and spread of fires, legislation and regulations cannot eliminate the risk of fire. This section describes the problems that would be likely to occur in the absence of legislation and regulations.

Victorian legislation establishing and empowering metropolitan and country fire services has been in place since 1890, recognising that fire prevention and suppression cannot be left to the market, and government intervention is necessary to provide an organised response to the threat posed by fire and other disasters to the lives and property of Victorians. The absence of legislation and regulations establishing dedicated fire services and giving them powers that enable them to take action to protect lives and property would result in a less organised and less effective response to the threat of fire and other emergencies. This would be highly likely to result in greater loss of lives and property and incidence of other harms such as adverse health and environmental outcomes than is currently the case.

Over time, because of the severe impacts of fires and other emergencies on Victorian communities, changing community expectations of government and the findings and recommendations of various inquiries into fires and other disasters, Victoria's legislative frameworks, including the CFA and FRV Acts, have evolved with the objective of improving community safety outcomes by making all Victoria's emergency services more effective, facilitating their interoperability and integrating emergency management planning. The absence of legislation to guide how CFA works with other emergency services and public authorities, and clarifying roles and responsibilities of councils and other public bodies involved in fire prevention and response would be likely to result in less effective emergency management planning and response, with the potential for greater loss of lives and property than would otherwise be the case.

Merely establishing and equipping effective and efficient fire services is insufficient to control human behaviour (both acts and omissions) that can cause or contribute to the ignition and spread of fires. While lighting fires to cause damage is dealt with by the criminal law, many legitimate business and private activities in the open air entail a risk of fire, particularly if carried out during periods of increased fire danger. The condition of private property may also result in an increased threat of fire to neighbours and the wider community. Without legislation and regulations, the state would be unable to:

- prohibit, restrict or permit subject to conditions both business and private activities that entail a risk of starting a fire during periods of increased fire danger
- order landowners and occupiers to take specified actions to address fire hazards due to the state of their properties

⁴⁴ Commonwealth of Australia, *Royal Commission into National Natural Disaster Arrangements Report*, October 2020, p 22. Available at: naturaldisaster.royalcommission.gov.au/

- impose penalties for non-compliance with laws that are designed to protect the community from the risk of fire.

The absence of legislation and regulations imposing these controls would also be likely to result in greater loss of life and property, and incidence of other harms such as adverse health and environmental outcomes, than is currently the case.

The design of the Act and the Regulations directly affects CFA's ability to achieve its objectives of protecting lives and property effectively and efficiently. The Act defines CFA's duties, functions and the scope of its operations, provide for its overarching organisational structure and gives CFA significant powers that enable it to achieve its overarching objective of protecting lives and property from fire and other emergencies. The Act also authorises the making of regulations about a diverse range of matters relating to CFA's administration and management, CFA membership, fire prevention and control (including imposing obligations on businesses and individuals) a compensation scheme for injury or loss incurred as a result of volunteer service with CFA, and fees and charges for certain CFA services. While the Act, in combination with other laws⁴⁵, is designed to tackle the ever-present threat of fire and other emergencies to the entire community, the Regulations aim to tackle specific challenges that CFA faces in performing its functions and enable CFA and other public authorities to utilise specific provisions of the Act.

In some cases, regulations are required to operationalise particular sections or parts of the Act, which could not function effectively without them. For example, regulations are necessary to prescribe the forms of permits to allow fire in the open air during fire danger periods and the conditions to be imposed on those permits. In other cases, regulations are not essential to enable the Act to operate, but the Act provides powers to make them if government chooses to do so – for example, to regulate terms and conditions for CFA staff and volunteers, clarify how obligations under the Act are to be performed, control how CFA is to exercise its powers or functions or specify a process to be followed in decision making. Chapters 6-9 of this RIS, which discuss and assess the various proposals for regulation, explain where the making of regulations is necessary to operationalise the Act, and where this is not the case. Those chapters also articulate the specific problems that the various different regulations aim to address.

CFA relies on volunteers to provide its services to the community, and the legislative framework recognises that it is neither feasible nor cost effective for the Victorian Government to establish and maintain a paid firefighting force to protect communities across the state. Regulations play an important role in supporting the retention and recruitment of CFA volunteers; including by establishing a no-fault compensation scheme for volunteers who suffer injury or loss while serving the community with CFA. Although there are inherent risks in firefighting, without regulations, there would be no legal obligation on the State of Victoria to pay compensation to injured volunteers (absent a finding of liability in negligence). This would be widely perceived as unfair and would adversely affect the recruitment and retention of volunteers.

Without regulations to support the recruitment and retention of CFA volunteers, the community would not reap the broader social and economic benefits that flow from volunteering with CFA. Individually and collectively, CFA volunteers contribute enormous public value to Victoria, with economic and social benefits flowing to citizens, communities and governments through reducing the adverse consequences of emergencies and helping to strengthen communities, as well as tangible and intangible benefits to the volunteers themselves. The 3Vs Final Report conservatively estimated the total economic value of all emergency services volunteering and

⁴⁵ Other relevant laws include the *Fire Rescue Victoria Act 1958*, the *Fire Rescue Victoria (General) Regulations 2020*, the *Forests Act 1958*, the *Forests (Fire Protection) Regulations 2014* and the *Emergency Management Act 2013*.

volunteerism in Victoria at between \$1.9 and \$2.5 billion per annum.⁴⁶ CFA members comprise over 50% of all emergency services volunteers across the public and non-government sectors in Victoria.⁴⁷

The findings of previous Royal Commissions and numerous other inquiries held into fires and other emergencies make it clear that regulation is only one tool to minimise fire risk and must form part of a comprehensive risk minimisation strategy which also includes public education, timely information and warnings, prevention programs and services, co-ordination among emergency services, partnerships involving the for-profit and not-for-profit sectors, all levels of government and communities, and optimum investment of resources – all of which must be maintained on an ongoing basis. Regulation is most effective where there is public knowledge of the law and how to comply, as well as compliance monitoring, enforcement where required, and public communication of enforcement outcomes. Regulation has an important role to play in minimising fire risk, but if poorly designed or implemented or not enforced, its effectiveness will be limited.

⁴⁶ Emergency Management Victoria, *The 3Vs Final Report: Uncovering the hidden value*, March 2020, p 5.

⁴⁷ According to the 3 Vs Final Report, in 2017/18, CFA volunteers accounted for approximately two thirds of Victoria's emergency management volunteers. A conservative estimate of over 50% has been included here. *The 3Vs Final Report: Uncovering the hidden value*, p 23.

4 Objectives

4.1 Objectives of the Act and the Regulations

As outlined in chapters 2 and 3, the problem the Act is designed to tackle is the impact of fire and other emergencies on lives and property. To this end, it establishes CFA⁴⁸ and sets out CFA's powers, functions, and duties. CFA is responsible for "superintending and enforcing all necessary steps for the prevention and suppression of fires and for the protection of life and property" in the country area of Victoria, has a duty to assist in the response to any major emergency in the state,⁴⁹ and its stated mission, which has remained constant for decades, is to protect lives and property.

The Act has some specific statutory objectives, including to support the effective and sustainable recruitment, development and retention of volunteer officers and members to deliver capability in the provision of CFA's services, and contribute to a whole of sector approach to emergency management.⁵⁰ In performing its functions, CFA must have regard to the commitment and principles set out in a statutory Volunteer Charter and must collaborate and consult with Emergency Management Victoria⁵¹ which is responsible for co-ordinating the development of whole of government emergency management policy for Victoria under the *Emergency Management Act 2013*. The Act also includes specific objectives concerning promoting collaboration and co-ordination between fire services agencies to best meet the safety needs of the community, recognising that both volunteer and career firefighters are vital to delivering safe and sustainable fire services and maintaining the ability of fire services agencies to respond to critical incidents to prevent and suppress fires and protect life and property.⁵²

The Act's primary objective is to protect lives and property from the threat of fire and other emergencies, with subsidiary objectives to:

- equip CFA to perform its statutory functions effectively and efficiently
- recognise value, promote and support the recruitment, retention and contribution of CFA volunteers to the safety and wellbeing of the community
- ensure CFA contributes effectively to Victoria's integrated emergency management system.

The objective of the current Regulations is to provide for various specified matters authorised by the Act including:

- the management and administration of CFA employees and fire brigades
- compensation for CFA volunteers and others for personal injuries or loss or damage to personal property
- the fees and charges that may be levied by CFA
- the issue of permits to burn and other fire prevention measures
- the management and administration of Forestry Industry Brigades
- alarm monitoring information requirements
- other matters authorised by the Act.

This is a list of the matters addressed by the Regulations, rather than a statement of the policy objectives or outcomes that the Regulations are designed to achieve. That said, the underlying policy objectives of the Regulations reflect those of the Act, with the emphasis on supporting and

⁴⁸ *Country Fire Authority Act 1958*, s. 6(1).

⁴⁹ *Country Fire Authority Act 1958*, ss. 20 and 20AAA.

⁵⁰ *Country Fire Authority Act 1958*, s. 6B.

⁵¹ *Country Fire Authority Act 1958*, ss. 6C and 6H.

⁵² *Country Fire Authority Act 1958*, s. 2.

enabling fire prevention and suppression and emergency response capacity, equipping CFA to operate effectively and efficiently and supporting the recruitment and retention of volunteers to provide CFA’s services.⁵³

The Act’s overarching objective is community safety. The broad objectives of the Regulations are to enhance safety of the community, promote fairness and minimise burden (costs) on the community and government. The table below notes which objectives are relevant to the most significant topics covered in the Regulations. The broad objectives of the various Regulations are discussed in more detail below the table. More detailed information about the objectives specific to each topic addressed by the Regulations is contained in Chapters 6 to 9.

Table 10: Objectives of the Regulations

Topic	Primary Policy Objectives
Management and administration of CFA brigades	Safety
Compensation for CFA volunteers and others for personal injuries or loss or damage to personal property	Fairness, Safety
Issue of permits to burn and other fire prevention measures	Fairness, Safety
Management and administration of Forestry Industry Brigades	Safety
Requirements relating to alarm monitoring information	Safety
Fees and charges for specified CFA services	Efficiency and equity

Safety involves ensuring that Victorian communities are prepared for and safe from fire, and there is a rapid response to other incidents and emergencies, to protect lives and property. This objective is enabled if CFA and other emergency services are equipped to carry out their statutory functions effectively and efficiently.

Fairness has two dimensions. For CFA volunteers, it relates to reasonable expectations for fair treatment in joining/participating in CFA, and in obtaining compensation and support if they are injured or suffer loss in the course of volunteering. Fair treatment of volunteers underpins community safety by facilitating the recruitment and retention of volunteers to provide CFA’s services. For the broader community, fairness relates to enabling individuals and business to conduct otherwise lawful and reasonable activities where fire risks can be managed.

Minimising the costs to business, volunteers and the wider community of fire prevention and control is also a key objective. Regulations should only prescribe requirements that impose a minimal cost on business or the community while achieving the government’s objectives. The system should also be well designed and clear, to enable efficient administration. Since CFA is mostly funded by government, minimising costs to government reduces calls on the community (i.e., taxpayers).

For the Regulations about fees and charges, the primary policy objectives are efficiency and equity. Where particular CFA services primarily benefit the service users rather than the community as a whole, it is inequitable and inefficient for the government to have to fund these services without the ability to charge fees to recover the cost involved. Without the ability to charge fees, these costs would need to be met from the existing CFA budget (displacing other important activities) or from additional funding from the state (i.e., taxpayers).

⁵³ Country Fire Authority Regulations 2014, Reg. 1 – objective.

5 Approach to analysis of options

5.1 The RIS process

The RIS process seeks to ensure that proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on businesses and the community. The cornerstone of this process is to compare feasible options relating to each proposal to see which has the highest net benefit. Ideally, where there is data available, this would be done using cost-benefit analysis (CBA) assessing monetary values.⁵⁴ However, CBA is unsuitable for this RIS due to a lack of available data, particularly concerning benefits.

5.1.1 Method

This RIS assesses various disparate proposals, which have been grouped into four categories concerning:

- CFA's administration and management (discussed in Chapter 6)
- rights and obligations of CFA volunteers (Chapter 7)
- fire prevention and control (Chapter 8)
- fees and charges for specified CFA services (Chapter 9).

Many of the proposals do not impose a 'significant' economic or social burden on a sector of the public in a formal sense.⁵⁵ Regulations dealing with CFA's internal administration and management may be considered such matters. Nevertheless, for transparency and in order to test these proposals, these Regulations are discussed and assessed in narrative form.

In cases where proposed regulations would impose a requirement on businesses or individuals that can be quantified in monetary terms, the regulations have been costed over a 10-year period, discounting these costs so that they are expressed in today's dollar terms. For instance, this approach has been applied to costing proposals about minimum standards of apparatus that Forestry Industry Brigades are required to have, and to the proposals about fees and charges for certain CFA services, where charges are authorised by the Act.

In other cases, where proposed regulations would significantly impact a sector of the public and there is limited data available to quantify the benefits and the nature of the benefits, the overall assessment of these proposed regulations has been made using a MCA decision tool.

MCA is an analysis process that scores and rates options against multiple criteria that are linked to the objectives of a regulatory proposal. MCA provides a way of analysing options against impacts that are important to decision-makers, but which cannot be readily quantified and monetised. In the case of the proposed Regulations, the prime benefits include the avoidance or suppression of fire (avoided costs), and such benefits cannot be readily quantified given that they are hypothetical in nature.

Under this type of analysis, each option is scored against criteria relative to the base case as illustrated below in Figure 1. In this case benefits mean achievement of government objectives which, among others, are to protect lives and property from the threat of fire and other emergencies, ensure CFA is equipped to carry out its functions effectively and efficiently, and to recognise, value, promote and support the recruitment, retention, development and contribution of CFA volunteers to the well-being and safety of the community. MCA has been used to assess

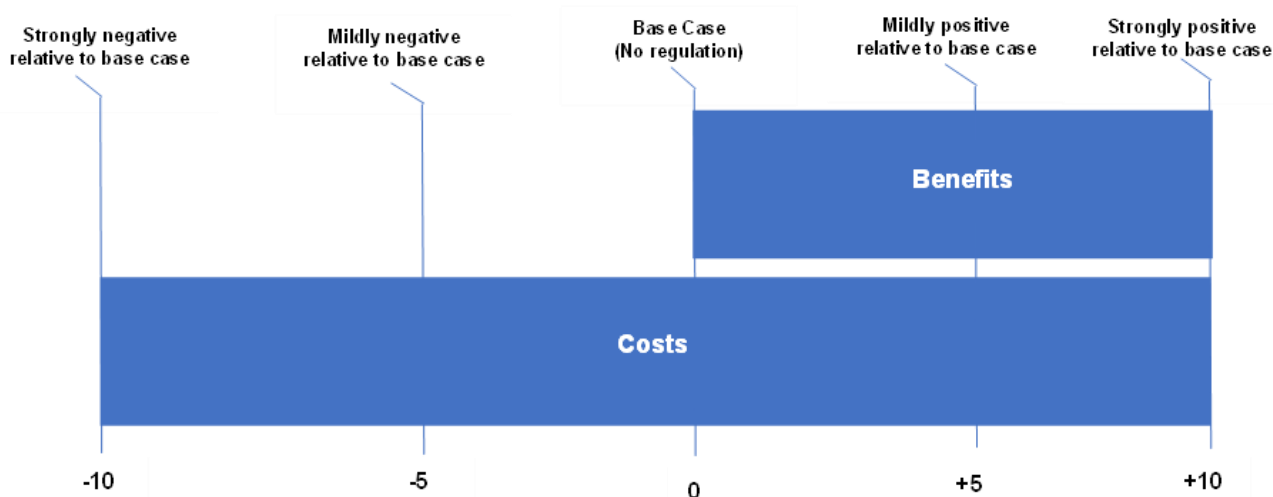
⁵⁴ For example, the absence of specific quantifiable data for the benefits does not permit the use of methodologies such as net-present value cost-benefit analysis or the use of cost-benefit ratios.

⁵⁵ See s. 8(1)(a) of the *Subordinate Legislation Act 1994*.

the proposals relating to the CFA compensation scheme and to supplement the costing analysis of proposals with respect to mandatory requirements for the forestry sector.

As illustrated in Figure 1 below, benefits are scored between 0 and +10. A score of 0 means that the option does not contravene the objectives set out in this RIS in any way, relative to the base case. A score of +10 means that the option furthers the objectives of the regulations to the optimum extent possible. Costs are scored from +10 to -10. A score of 0 means that the option does not add or reduce any costs over the base case. A score of -10 means that the option imposes costs significantly higher than the base case. A positive score would be given where the regulations reduce costs relative to the base case.

Figure 1: Multi-criteria analysis scale used in scoring options



Weightings

Benefits and costs have been weighted equally (50 per cent each). The benefits criterion seeks to capture the different components of the benefits associated with contributing to the government’s objectives (see Chapter 4). These components are ‘safety’ and ‘fairness’ (sometimes known as equity).

The ‘fairness’ criterion has two dimensions, which are the expectation that CFA members will be treated fairly (e.g., in the cases of disciplinary action and compensation) and that members of the community generally will act in a way that minimises fire risk (e.g., those engaged in imposing risks on the community through fire should minimise/eliminate those risks).

There are two costs criteria:

- costs to business, individuals, and volunteers (30 per cent)
- cost to government (20 per cent).

Table 11 on the following page summarises the criteria and weightings.

Once an option has been scored on the above criteria, these are multiplied by the above weightings. The results are then summed. The design option which returns the highest value is preferred.

Table 11: Assessment criteria weightings

Benefits	Description	Weighting
Contribute to safety ⁵⁶	Safety – to ensure that Victorian communities are prepared for and safe from fire; to protect lives and property. CFA activities are broader than just managing fire risk. They also include attending road accidents and responding to non-fire hazardous materials incidents.	40
Fairness	<p>‘Fairness’ has two dimensions:</p> <p>i) For CFA volunteers, fairness relates to reasonable expectations for fair treatment in joining/participating in CFA, and in obtaining compensation and support if injured or suffer loss. This element also seeks to ensure that disciplinary procedures follow a fair process.</p> <p>ii) For the broader community – fairness relates to the reasonable expectation that the law will require businesses and individuals to modify their behaviour to minimise fire incidents (avoiding externalities). Individuals and businesses should have the freedom to conduct otherwise lawful and reasonable activities provided they mitigate the risk of harm to the broader community.</p>	10
<i>Sub-total</i>		<i>50%</i>
Costs	Description	Weighting
Cost to individuals, business, volunteers	<p>It is important that any regulations are designed to minimise costs on business (e.g., industry brigades, fire alarm companies) and the community (e.g., fire permit applicants, use of certain engines, and volunteers (applications, time for training, etc)).</p> <p>Regulation should prescribe requirements that impose a minimal cost on business or the community, while achieving the government’s objectives.</p>	30%
Cost to government/ CFA	The system should be well-designed and clear to administer. This entails obtaining maximum public benefit from all resources employed. Since CFA is mostly funded by the government, minimising costs reduces calls on the taxpayer (i.e., wider community)	20%
<i>Sub-total</i>		<i>50%</i>
Total		100%

⁵⁶ See ‘Who we are’ *Country Fire Authority Annual Report 2022–23*, p. 7 and the *Country Fire Authority Act 1958*, s. 2(1)(c) and (e).

6 CFA administration and management

This chapter covers the following topics:

1. Administration and management of CFA brigades and groups
2. Election of officers
3. Employee discipline

6.1 Administration and management of CFA brigades and groups

6.1.1 Legislative Context

The Act vests overall control of the prevention and suppression of fires and the general control of all CFA brigades and groups in the Authority, with all brigades and groups under the order and control of the Chief Officer who is subject to the Authority's powers and directions.⁵⁷ The Authority has powers to register brigades and groups and enrol their officers and members, and it may cancel any registration or enrolment.⁵⁸ In practice, these powers are delegated to the Chief Officer and other senior officers. Although brigades and groups operate with a degree of local autonomy, they are part of CFA and subject to CFA's policies and procedures and the Chief Officer's directions.

The current Regulations prescribe model rules which specify various administrative or machinery matters relating to the management and administration of CFA brigades and groups. These include rules about:

- the minimum number of meetings for brigades and groups
- meeting procedures
- annual general meetings
- record keeping
- purchasing
- financial management and reporting.⁵⁹

The current Regulations enable brigades and groups, with the Authority's approval, to adopt their own "constitutions" or rules, which cannot be inconsistent with the Act or Regulations (including the model rules for brigades and groups). They also prescribe model rules for brigades and groups and provide that, if a brigade or group has not adopted any rules, the model rules apply.⁶⁰ As the model rules are currently part of the Regulations, they can only be changed by amending the Regulations.

The current Regulations prescribe the processes and forms for applying to establish and register a new CFA brigade or group. To form a new brigade, a public meeting must be held and there must be a majority vote of those present to apply for registration of the brigade and the enrolment of its proposed officers and members.⁶¹ The current Regulations also state that the officer in charge of a brigade may authorise specified members and apparatus to attend fires outside the brigade area if members and apparatus sufficient to protect lives and property in the brigade area remain in the area.⁶²

⁵⁷ *Country Fire Authority Act 1958*, ss.14,20 and 27.

⁵⁸ *Country Fire Authority Act 1958*, ss. 23 and 23A.

⁵⁹ *Country Fire Authority Regulations 2014*, Schedules 2 and 6.

⁶⁰ *Country Fire Authority Regulations 2014*, Regs. 33 and 34.

⁶¹ *Country Fire Authority Regulations 2014*, Reg. 30.

⁶² *Country Fire Authority Regulations 2014*, Reg. 32.

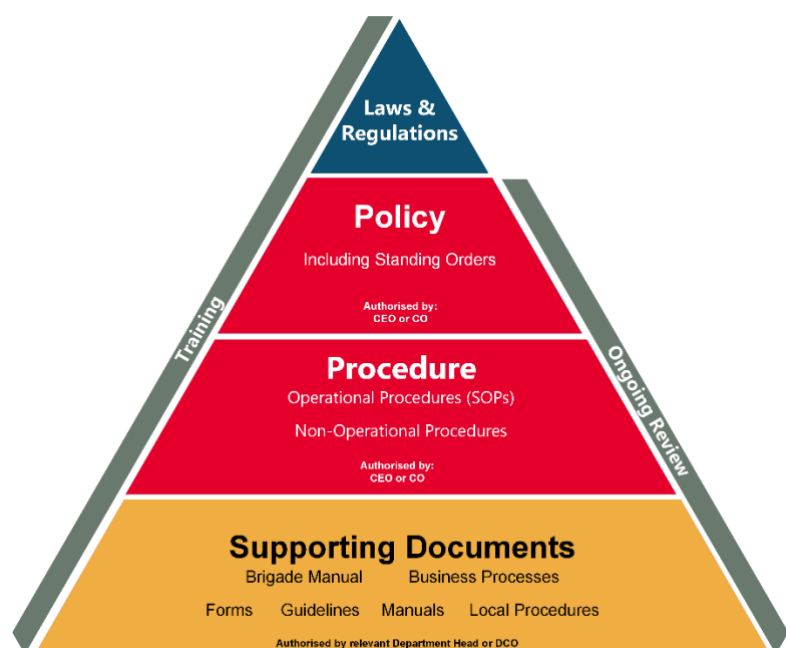
The current Regulations provide that all brigades and groups must have a secretary and may have a treasurer (who may be a member of the brigade or of another brigade or of a brigade within a group), must ensure that proper accounts and records of financial transactions are kept and must prepare and submit annual financial statements to the Authority in the form and timeframe that the Authority specifies.⁶³

It is an offence under the Act for any person (whether a CFA member or otherwise) to solicit or collect contributions or subscriptions for the purposes of a CFA brigade or group without CFA's written authorisation which is subject to the Regulations.⁶⁴ The Regulations currently provide that an authorisation to collect funds must be in the prescribed form which requires CFA members and staff as well as other citizens to be authorised individually.⁶⁵

CFA also has an extensive range of policies, procedures, organisational doctrines and systems outside the Regulations which guide the day-to-day work of brigades and groups. There is a hierarchy of instruments applicable to brigades and groups, with the Act, the Regulations and other applicable laws at the apex.

Figure 2: CFA's regulatory and policy framework

CFA's regulatory and policy framework



6.1.2 Problem analysis

In the absence of regulations with respect to the administration and management of CFA's brigades and groups, the Authority would have the freedom to determine its own rules and procedures about the matters covered by the Regulations. While an absence of regulations would increase flexibility to amend rules, it could reduce certainty for members, reduce transparency for the community about the operations of CFA and reduce opportunities for consultation with interested parties about changes.

On the other hand, prescribing matters relating to CFA's internal management and administration in regulations means that any change requires government approval, and amendments to the Regulations must be developed by the Department of Justice and Community Safety in accordance with the regulation making processes under the *Subordinate Legislation Act 1994*.

⁶³ Country Fire Authority Regulations 2014, Regs. 59-61.

⁶⁴ *Country Fire Authority Act 1958*, s. 102.

⁶⁵ Country Fire Authority Regulations 2014, Reg. 62 and Schedule 10.

This makes it more challenging for CFA to achieve timely changes to improve its administration when required than would be the case in the absence of regulations. There have been no changes to these particular regulations since the current Regulations were made in 2014.

Collectively, CFA brigades control over \$92 million per annum in funds, and CFA is responsible under the *Financial Management Act 1994* for ensuring appropriate financial management of all its brigades and groups.⁶⁶ The absence of regulations about key the financial management obligations of brigades and groups could affect CFA's ability to acquit its financial management responsibilities. It may potentially result in lower levels of members' awareness and compliance with core financial management obligations, and reduced government and public confidence that sufficient controls are in place to ensure that funds provided to CFA brigades and groups including community donations are appropriately applied to service delivery.

6.1.3 Objectives

The objectives that are especially relevant to discussion of regulations about CFA's administration and management are safety (by promoting and supporting the recruitment, retention, and contribution of CFA volunteers), as well as efficiency and effectiveness.

CFA is a complex, decentralised emergency services organisation with a volunteer workforce, brigades embedded in local communities across the state and functions which entail risks to its members. CFA needs to be well governed and managed, effective and efficient, appropriately responsive to members and capable of adapting quickly to changing circumstances, in the interests of both CFA members and the wider community. A perception among volunteers that regulations are unnecessarily burdensome or unjustifiably stifle innovation could be demotivating and may contribute to a greater loss of volunteers that would otherwise occur, diminishing CFA's ability to keep the community safe. There is a need to strike the right balance between the need for certainty, compliance and risk management on one hand, and the need to ensure that compliance obligations do not provide a significant disincentive to volunteer service on the other.

6.1.4 Options considered

CFA has considered the base case (allowing the Regulations to lapse without replacement) as well as options with respect to the specific matters addressed in the current Regulations which were identified in consultations with CFA members and VFBV.

Base case – model rules for brigades and groups

If there were no regulations, CFA's rules for the administration and management of brigades and groups would be expressed as CFA policies and procedures that apply to CFA members. Accordingly, this option would involve substitution of formal regulation with rules determined by the Authority rather than a complete absence of regulation.

Removing regulations about CFA's administration and management would give CFA much greater flexibility to make timely changes when required, in the interests of enabling compliance with its own obligations or in response to issues raised by members. The Authority would retain ultimate control even in the absence of regulations as it has powers under the Act to amalgamate brigades and to deregister brigades and groups.⁶⁷ These powers could potentially be invoked if there were persistent and entrenched non-compliance with CFA's policies or rules, and this behaviour was impairing CFA's capacity to provide effective services to the community. That said,

⁶⁶ Direction 2.3.5 of the *Standing Directions under the Financial Management Act 1994* requires the Authority to establish appropriate financial management requirements for CFA brigades and groups.

⁶⁷ *Country Fire Authority Act 1958*, s. 23(d).

these are reserve powers to be invoked only where required, and inappropriate reliance on these powers could result in disproportionate responses.

While allowing the administration and management of brigades and groups to be governed by CFA policies and procedures is feasible and would provide much greater flexibility than enshrining these rules in regulations, feedback received from consultations with VFBV was that complete deregulation may not meet members' desire for relative stability of these rules and, in particular, may not guarantee proper consultation with CFA members on the detail of any proposed changes over time. For this reason, an alternative option which involves allowing CFA to determine model rules for brigades and groups itself, with regulations providing certainty about how members will be consulted about proposed changes to the model rules is preferred to complete deregulation.

Base case – applications to register a new brigade

In the absence of regulations prescribing a process that applicants to register a new brigade must follow, CFA would be able to determine the application process administratively and adjust it from time to time as CFA sees fit. While this would provide for greater flexibility for CFA, it may result in less certainty for applicants and less transparency than would be the case if the application process were prescribed in regulations.

Base case – Financial management of brigades and groups

As CFA must acquit its responsibilities under the *Financial Management Act 1994*, in the absence of regulations, CFA would rely solely on internal policies and procedures to impose the necessary controls. This would not be a major shift as the current Regulations are supported by detailed organisational policies and procedures and a financial management manual. Allowing these regulations to sunset without replacement would therefore result in less formal rules about key financial management and reporting obligations, rather than a complete absence of regulation.

By taking precedence over ordinary policies and procedures, regulations emphasise the importance of financial management of brigades and groups and make it clear that compliance is mandatory. Relying solely on organisational policies and procedures may result in slightly lower levels of members' awareness and compliance, when compared with the alternative of making regulations. As previously noted, the existence of regulations may also be more effective in promoting government and public confidence that funds and donations provided to CFA are applied to service delivery, than would be the case in the absence of regulations. On balance, CFA considers that retaining regulations about core financial management obligations is preferable to allowing the regulations to lapse.

Overview of options considered

The following table outlines the various options considered for regulations relating to the administration and management of CFA brigades and groups.

Table 12: Overview of options for administration of CFA brigades and groups

Topic	Current Regulations	Options considered
Model rules for brigades and groups	<p>Model rules in the Regulations contain various administrative and machinery matters including meeting frequency and procedures, record keeping and financial management and reporting. Model rules can only be changed by amending the Regulations.</p> <p>With the Authority’s approval, brigades and groups, can also adopt their own “constitutions” or rules, which cannot be inconsistent with the Act or the Regulations (including the model rules). If a brigade or group has not adopted any rules, the model rules apply.</p>	<ol style="list-style-type: none"> 1. Remake the current Regulations – continue to prescribe model rules for brigades and groups in the Regulations. 2. Process regulation – regulate the process CFA must follow in making model rules for brigades and groups. CFA would determine the model rules outside of regulation, but the Regulations would require CFA to consult members on any draft changes to the model rules for a minimum of 6 months before they are made.
Applications to register a new brigade	<p>Any application to register a new brigade must be made after a public meeting with a resolution of a majority of those present to apply for registration of the brigade and enrolment of its proposed officers and members. CFA cannot consider an application unless this has occurred.</p>	<ol style="list-style-type: none"> 1. Remake the current Regulations 2. Create additional flexibility – the new Regulations would enable CFA to consider an application for registration of a new brigade in broader circumstances – including without the need for a public meeting in appropriate cases.
Restrictions on deploying brigade resources outside the brigade area	<p>The officer in charge of a brigade may authorise specified members and apparatus to leave the brigade area to attend a fire if members and apparatus sufficient to protect lives and property in the brigade area remain.</p>	<p>Only one option – allow this Regulation to lapse – as it is now inconsistent with CFA’s statutory obligations with respect to emergency response.</p>
Financial management of brigades and groups	<p>Brigades and groups must appoint a secretary but having a treasurer is optional. The secretary or treasurer (if appointed) must be a member of a brigade or, in the case of groups, one of the brigades in the group</p>	<ol style="list-style-type: none"> 1. Remake the current Regulations 2. Strengthen financial management capacity – by requiring all brigades to have both a treasurer and a secretary (who may be the same person) and enabling brigade or group members or CFA staff to perform the treasurer role.
Authorisation to collect funds for CFA brigades, groups and associations	<p>Every person who is to collect funds for CFA brigades or groups or associations (including CFA staff and members as well as other citizens) must be authorised to do so in accordance with a form in the Regulations.</p>	<ol style="list-style-type: none"> 1. Remake the current Regulations 2. Reduce red tape – by enabling CFA staff and members to be authorised by class rather than individually by name. Non-members would continue to be subject to individual approval.

In two areas, the Act constrains the available options. The Regulation which requires the officer in charge of a brigade to limit deployment of resources outside the brigade area pre-dates emergency services and fire services reforms and is inconsistent with CFA’s duty under s. 20AAA of the Act to assist in responding to any major fire or other major emergency. It also creates the potential for officers in charge of brigades to face a conflict between the requirements of this regulation and directions given by CFA’s Chief Officer to respond to fires outside their brigade area. Accordingly, deregulation is the only feasible option.

Conversely, removal of the Regulations about collecting funds on behalf of CFA brigades and groups is not feasible because it is an offence under the Act for any person to collect funds unless they are authorised to do so in accordance with the Regulations. Allowing the Regulations about authorisation to collect funds to without replacement could expose persons collecting funds on behalf of CFA to the risk of inadvertently committing an offence under the Act.

6.1.5 Impact analysis

As all the regulations discussed in this section relate to administrative and machinery matters and do not impose a significant economic or social burden on a sector of the public, the options that have been considered are assessed in narrative form.

Model rules for the administration of brigades and groups

Two options have been considered:

1. Remaking the current Regulations.
2. Regulating only the process CFA must follow in determining model rules, without prescribing the model rules in the Regulations.

As CFA is a decentralised organisation, rules for the administration and management of brigades and groups enable the Authority to have effective control as envisaged by the Act. Prescribing these matters in regulations means that they are stable as CFA is required to obtain government approval for any changes. However, it constrains the ability to govern and manage CFA efficiently and effectively, by impeding timely adjustments to internal procedures when required to adapt to changes, and address issues identified by members. It means making changes is more cumbersome and takes longer than would be the case if CFA were able to alter these rules administratively. As previously noted, there have been no changes made to the Regulations prescribing the model rules since the development of the current Regulations in 2014⁶⁸ and consultations to inform the development of this RIS have indicated that some CFA members are frustrated by having to work with outdated regulations.

Remaking the current Regulations is less flexible and efficient when compared with the base case, as CFA must ask the government to amend the Regulations whenever required to enable CFA to amend its rules about the administration and management of brigades and groups. While CFA would benefit from proposed changes, the costs to government of making changes to the Regulations are not confined to CFA.

Option 2 would involve making regulations that prescribe the process that the Authority must follow prior to determining and adopting model rules for the administration and management of brigades and groups which mandates prior consultation with CFA members for a minimum period of 6 months. This option would provide greater flexibility for the Authority to adjust CFA's rules while giving CFA members and government certainty that changes would only occur after a thorough consultation process with members. Although the Act requires the Authority to consult with volunteers on any matters that may reasonably affect them, regulating a specific mandatory consultation process that requires a minimum of 6 months consultation on draft changes to the model rules prior to making any changes would provide assurance about how consultation on this matter will be handled.

Although less flexible than the base case, this option better balances the desire of CFA members for reasonable stability of key rules about the administration and management of brigades and groups and detailed consultation on any proposed rule changes with the Authority's desire for

⁶⁸ The only amendments that have been made to the current Regulations in the past decade were to prescribe places as community fire refuges and to enable CFA to make interim payments for medical and like expenses pending the assessment and determination of compensation claims.

greater flexibility. As it has been longstanding practice to prescribe model rules for the administration and management of brigades in regulations, this option represents the middle ground between removing regulations altogether while enabling desirable flexibility and greater efficiency for CFA, and certainty for members about the process for consultation on any proposed changes. Enshrining in regulations the minimum consultation requirement for any proposed changes is particularly important in the CFA context, as it provides certainty about the process for member input into and feedback on any proposed changes to the model rules affecting brigades and groups. For these reasons Option 2 is the preferred option.

Applications to register a new brigade

Two options have been considered:

1. remaking the current Regulations without change
2. remaking the current Regulations with a change to give CFA discretion to consider applications for registration of a new CFA brigade in broader circumstances.

CFA is currently developing a contemporary volunteering model to enable it to attract a wider range of volunteers and implement some new ways of volunteering with CFA. Under the current Regulations, CFA cannot consider an application to register a new brigade unless the applicant can demonstrate that a public meeting has been held and the majority of people present at the meeting resolved to apply for registration. This is considered unduly restrictive.

While community consultation and agreement is important in the case of proposals to form local community brigades, CFA would also like to have the flexibility to consider applications in a wider range of circumstances. For example, CFA may seek to partner with a body such as a university to form a specific brigade. As CFA must ensure that any new brigade is appropriately resourced and equipped to perform its functions, all applications to form new CFA brigades are very carefully assessed and are approved where there is a demonstrated need and clear public benefit. Option 2 is considered to be a slight improvement on the current Regulations as it provides greater flexibility for CFA to consider applications in a broader variety of circumstances and is therefore the preferred option.

Financial management

Two options with respect to financial management have been considered:

1. remaking the Regulations in their current form, so it would remain optional for brigades and groups to have a treasurer
2. remaking the current Regulations with changes to require all brigades and groups to have a treasurer with responsibility for overseeing brigade finances, meeting compliance obligations and reporting regularly to the brigade's management team on how the brigade's expenditure is tracking against its budget. The Regulations would enable the same person to perform both secretary and treasurer roles, and permit CFA staff to perform the treasurer role to assist small brigades where required.

To strengthen the financial management capability of brigades and groups, the Authority considers that all brigades and groups should have a treasurer but is conscious that it can be difficult for smaller brigades to attract volunteers to perform this role. To address this problem, Option 2 entails making regulations that would enable the same person to perform both secretary and treasurer roles, and permit CFA staff to perform the treasurer role to assist smaller brigades where required. CFA has a small number of dedicated staff whose role is brigade administration and support, who can assist brigades with financial management where required. As Option 2 is considered an improvement on the status quo, it is the preferred option.

Authorisation to collect funds

Consultations with CFA staff and members identified dissatisfaction with the current Regulations and a number of requests were made to reduce the administrative burden associated with the current requirement to authorise individual CFA members to collect funds. As regulations about authorisations to collect funds for CFA brigades and groups continue to be needed, CFA examined ways of reducing the regulatory burden on volunteers, in a way that is lawful. The solution proposed is to make a change to the current Regulations by enabling classes of CFA volunteers and staff to be approved. Because of members' dissatisfaction with the current Regulations only one option was considered.

CFA members have been vetted prior to being enrolled, are subject to the Regulations and CFA's policies and procedures and can clearly demonstrate to the public that they are acting on behalf of CFA when collecting funds. Hence individual authorisations of CFA members are considered unnecessary. Enabling class-based authorisation of CFA volunteers and staff would reduce the administrative burden on volunteers associated with the requirement to complete forms to obtain authorisations for individual brigade members. However, it is not feasible for CFA to apply this approach to non-members, so a mechanism for individual approvals is needed for citizens and organisations who are not CFA members or staff. Option 2 is the preferred option.

6.1.6 Summary

Having regulations about the administration and management of CFA's brigades and groups makes it more challenging for CFA to achieve timely changes to improve its administration than would be the case in the absence of regulations, as any changes require government approval. That said, including these matters in regulations provides stability of key rules and emphasises their importance, as regulations take precedence over other CFA policies and procedures and compliance is mandatory. This is particularly important for requirements about financial management, as the Authority is responsible for ensuring appropriate financial management of all its brigades and groups.⁶⁹ An absence of regulations imposing core financial management requirements could lessen the Authority's ability to meet its financial management obligations and could result in reduced government and public confidence that sufficient controls are in place to ensure that funds provided to CFA brigades and groups including community donations are appropriately applied to service delivery.

The preferred option is to cease prescribing model rules for brigades and groups in the Regulations, allowing CFA to determine and adopt model rules for the administration and management of brigades and groups administratively with regulations requiring consultation with CFA members on any proposed changes for a minimum period of 6 months. This would provide greater flexibility for the Authority, while giving CFA members and government certainty that changes could only occur after a thorough consultation process with CFA members who are impacted by any changes. In relation to financial management, the preferred option is to retain and strengthen current Regulations by requiring all brigades to have a treasurer, enabling the same person to fill the roles of secretary and treasurer and allowing CFA employees to fulfil the roles of brigade secretaries or treasurers where necessary. It is also proposed to streamline approvals for CFA members to collect funds.

The preferred option will enable some reduction in the administrative burden on volunteers compared with the status quo, while facilitating CFA's compliance with its statutory obligations. It is highly likely that it would not materially increase the administrative burden on volunteers,

⁶⁹ Direction 2.3.5 of the *Standing Directions under the Financial Management Act 1994* requires the Authority to establish appropriate financial management requirements for CFA brigades and groups.

compared with the base case and would best meet the objectives of safety, efficiency and effectiveness.

6.2 Election of officers of brigades and groups

6.2.1 The regulatory framework

The Act requires every brigade and group to elect their officers in the prescribed manner and for the prescribed period of time and provides that no election will have effect until approved by the Authority.⁷⁰

The Regulations prescribe the following matters for the purposes of the Act:

- election frequency and organisation
- eligibility to stand for election, and to vote
- terms of office of elected members (2 years)
- the process for filling casual vacancies
- requirement to notify the Authority of election results.⁷¹

Substantive requirements with respect to voting at elections are currently contained in the model rules for brigades and groups, as well as in schedules to the Regulations which deal specifically with these elections. The model rules for brigades provide that elected officers are part of the management team for the brigade,⁷² while the model rules for groups provide that the group management team consists of the elected officers.⁷³

To be eligible to stand for election for the office of brigade captain, a member must have served as an officer of a brigade for 2 years or more and have competencies specified by the Chief Officer as requirements for that office, although the Authority may waive these requirements.⁷⁴ Similarly, to be eligible to stand for the office of brigade lieutenant, the member must possess the competencies specified by the Chief Officer for that role, unless the Authority waives that requirement.⁷⁵ Junior members, probationary members and members whose duties have been limited⁷⁶ are not eligible to stand for any elected office.⁷⁷ A senior member is not eligible to stand for election to the office of group officer unless the person has served as an officer of a brigade or as a deputy group officer for at least 2 years.⁷⁸ Junior and probationary members are also ineligible to vote at brigade meetings, including meetings to elect brigade officers or to form a group.⁷⁹

For both brigades and groups, a majority vote of members who are present and eligible to vote is sufficient to secure a candidate's election. If there is an equal number of votes, the person

⁷⁰ *Country Fire Authority Act 1958*, s. 25. Under s. 25(3) the Authority also has the power to disqualify any elected officer

⁷¹ *Country Fire Authority Regulations 2014*, Schedules 8 and 9.

⁷² *Country Fire Authority Regulations 2014*, Schedule 2, clause 24(2).

⁷³ *Country Fire Authority Regulations 2014*, Schedule 6, clause 16.

⁷⁴ *Country Fire Authority Regulations 2014*, Schedule 8, clauses 1(2) and (3).

⁷⁵ *Country Fire Authority Regulations 2014*, Schedule 8, clause 1(4).

⁷⁶ *Country Fire Authority Regulations 2014*, reg 37(3) enables the Authority to limit the duties for which a person is enrolled to those specified by the Chief Officer if the Authority considers that the person has become physically incapable of performing all the duties of a member without endangering the safety of others but is capable of performing the duties specified by the Chief Officer.

⁷⁷ *Country Fire Authority Regulations 2014*, Schedule 2, clauses 6 and 7; Schedule 8, clause 1 and Schedule 9, clause 1.

⁷⁸ *Country Fire Authority Regulations 2014*, Schedule 9, clause 1(2).

⁷⁹ *Country Fire Authority Regulations 2014*, Schedule 2, clauses 6 and 7.

presiding at the meeting must call for a second vote, and if there is once again an equal number of votes, lots are drawn to determine who is to be declared elected.⁸⁰

To ensure an orderly approach to election of officers of brigades and groups across the state, the Regulations currently require the Authority to determine which brigades and groups must hold elections in years designated by an odd number or an even number and require brigades and groups to hold elections in the month and year determined by the Authority. Elected members commence office on 1 July, following their election. Where a casual vacancy occurs (because a person resigns from their elected office, is disqualified from holding office or ceases to be a CFA volunteer) the brigade or group must, as soon as practicable, elect a person to hold office for the remainder of the person's term of office.⁸¹

The Regulations currently provide that the president or secretary must ensure that an election of officers is held at every second annual general meeting and officers are elected in order of rank commencing with the highest rank. They also require elections to be held to fill casual vacancies either at the next brigade meeting or a special meeting called to fill the vacancy.

6.2.2 Problem analysis

The Act requires brigade and group officers to be elected and requires elections to be held in the manner and for the period prescribed in the Regulations. In the absence of regulations about frequency and co-ordination of elections, the conduct of elections and requirements with respect to eligibility to stand for elected office and to vote at elections, there would be legal uncertainty about these matters and about the validity of any rules, policies and procedures developed administratively by CFA about these matters.

6.2.3 Objectives

The overarching objectives relevant to elections are safety and effectiveness. The specific objectives of these regulations are to ensure:

- a systematic, orderly and consistent approach to elections across CFA
- that candidates for elected offices have the required skills, knowledge and attributes to hold these leadership positions
- that members with sufficient CFA experience to understand what is required of these leadership positions are eligible to vote.

The Act requires brigade and group officers to be elected to ensure that those in brigade and group leadership positions have the confidence and support of a majority of the brigade or group members.

As noted previously CFA is a decentralised organisation with local level command structures. Clear command and control structures are important to maintain effective order and discipline in emergency services organisations that operate in complex environments where the lives of their members and the public are at risk.⁸² Capable and competent leadership of brigades and groups is critical to CFA's effectiveness. An effective command structure enables CFA to perform its statutory functions safely, effectively and efficiently and supports the Chief Officer who has statutory responsibility for the order and control of brigades and groups.

⁸⁰ For brigades, these matters are dealt with in Country Fire Authority Regulations 2014, Schedule 8, clauses 2 and 4; for groups, these matters are dealt with in Schedule 9, clauses 2 and 4.

⁸¹ Country Fire Authority Regulations 2014, Schedule 8, clause 5 applies to casual vacancies in brigades whereas Schedule 9 clause 5 applies to casual vacancies in groups.

⁸² See, for example, Cruickshank, D: *Evaluating the Paramilitary Structure and Morale*, Federal Bureau of Investigation US 2013 available at: leb.fbi.gov/articles/perspective/perspective-evaluating-the-paramilitary-structure-and-morale.

6.2.4 Options considered

Base case – election of officers

In the absence of regulations about election procedures and the term of office of elected officers, CFA would determine these matters administratively through organisational policies and procedures. While this would give CFA greater flexibility, it may result in less certainty and stability for CFA members than would be the case if these matters were prescribed in regulations. Because the Act requires regulations to be made about election procedures and the period of office of elected officers, a failure to make regulations would result in uncertainty about whether election procedures and requirements determined administratively by CFA are lawful. Therefore deregulation is not considered a feasible option.

Further, rules about eligibility to stand for elected office in public authorities and to vote at such elections engage the *Charter of Human Rights and Responsibilities Act 2006* (the Human Rights Charter), including the right to recognition and equality before the law, the right to freedom of expression, and the right to take part in public life. Accordingly, even if regulations were not required, there would be a case for continuing to enshrine clear criteria about eligibility to stand for election and to vote in regulations which are designed specifically for the CFA context and aim to strike an appropriate balance between the rights and interests of individual members and the need to ensure capable and competent leadership of CFA brigades and groups.

Overview of options considered

The options considered were remaking the current regulations without any changes and remaking the regulations with amendments to address concerns identified in consultations with CFA officers and members. Given the feedback received, the only option considered appropriate was to remake the current Regulations with specific changes to address the identified concerns. These changes are outlined in the table below.

Table 13: Overview of options for election of officers

Topic	Current Regulations	Options considered
Election frequency and organisation	The Authority must determine which brigades and groups hold elections in years designated by an odd number or even number. Brigades and groups must hold elections in the month and year determined by the Authority.	Only one option – remake the current Regulations – as they are considered to be suitable and consultations with CFA members did not elicit any proposals for change.
Voting	For brigades – to be elected, the candidate must have support of a majority of members present and eligible to vote. For groups, a majority of delegates present is required.	Only one option – remake the current Regulations with changes that clarify that electronic voting is permissible and provide a framework to enable it.
Eligibility to vote	Junior members, those on probation and those who have had their duties limited are ineligible to vote at brigade elections. For groups, only delegates of brigades are eligible to vote.	Only one option – remake the current Regulations as they are considered to be suitable and consultations with CFA members did not elicit any proposals for change.
Eligibility to stand for election	<u>For brigades</u> - to stand for the office of captain – the person must have served as a brigade officer for 2 years or more and have the competencies specified by the Chief Officer for that office. To stand for the office of lieutenant, the member must have the competencies specified by the Chief Officer. The Authority may waive requirements with respect to competencies. <u>For groups</u> – to stand for election to the position of group officer the member must have served as a brigade officer or deputy group officer for 2 years or more. Junior members, and members whose duties are limited are ineligible to stand for election as brigade or group officers.	Only one option – remake the Regulations with two changes – to replace “competencies” with requirements determined by the Chief Officer (e.g. to allow the Chief Officer to impose requirements for training as well as proficiency) and enabling the Chief Officer to specify requirements for those standing for election to group officer roles.
Casual vacancies	If an elected member resigns or is disqualified from holding that office before the expiry of their term, the brigade or group must as soon as practicable, elect a member to replace the officer who holds office for the remainder of the former officer’s term.	Only one option – remake the current Regulations - as they are considered to be suitable and consultations with CFA members did not elicit any proposals for change.

Other than in relation to electronic voting, consultations with CFA staff and volunteers did not elicit any issues about the content of the current Regulations about brigade and group elections or suggestions for change. As the regulations affect CFA members, and feedback from members suggested general support for the current Regulations, alternative ways of dealing with issues such as election frequency and co-ordination, eligibility to vote and the process for filling casual vacancies were not assessed.

6.2.5 Impact analysis

Approach to assessment of options

As the regulations discussed in this section do not impose a significant economic or social burden on a sector of the public, the options considered are assessed in narrative form.

Voting and eligibility to stand for election

The following options were considered:

1. Remaking the current Regulations without change.
2. Remaking the current Regulations with specified changes to address issues identified in consultations.

In consultations with CFA staff and members, many requests were made for the new regulations to clarify that electronic voting in elections is permissible. Some members expressed a preference for online voting to provide more options for volunteers and enable more efficient use of volunteer resources. Although it is not prohibited, there is currently no clear framework in the Regulations to enable and support electronic voting. Voting software is available that could be customised to ensure that it meets CFA's need for fair elections and compliance with the regulations: for example, to ensure that only eligible members vote, and that each member only votes once. Given this feedback, the preferred option is to address this matter in the proposed regulations.

While the Chief Officer has the power to determine the competencies that members standing for election to brigade officer roles must have, there is no equivalent provision that enables the Chief Officer to determine competencies applicable to those standing for group officer roles. This is regarded as an anomaly in the current Regulations. Further, the term "competencies" is generally understood to encompass a person's skills, knowledge and behaviours that enable proficiency, but may not be broad enough to include completion of specified training. It is also proposed to redraft these provisions to enable the Chief Officer to specify requirements rather than competencies for candidates for brigade and group leadership roles, to make it clear that these can encompass requirements for completion of specified training as well as proficiency. Additional training required by the Chief Officer will entail time costs to group and brigade officers depending on the length of training required.

Option 2 entails addressing the issues raised by CFA stakeholders and is considered superior to remaking the regulations in their current form.

6.2.6 Summary

Deregulation is not a viable option as the Act requires the manner of elections for brigade and group officers and the period within which elections must be held to be prescribed in regulations. Because of this, a failure to make regulations would result in a lack of clarity about whether election procedures and requirements are lawful.

The preferred option of remaking the current Regulations with the addition of provisions to enable electronic voting would enable greater efficiency for both volunteers and CFA than is currently the case. And the proposal to enable the Chief Officer to specify requirements for both brigade and group leadership roles, would help ensure that candidates for election have the necessary skills and training to lead brigades and groups in the interests of enhancing members' safety and brigade and group effectiveness, and thus would better enable CFA to carry out its statutory functions than remaking the current Regulations without these changes.

6.3 Employee discipline

6.3.1 The regulatory framework

The Act empowers the Authority to appoint, transfer, suspend or remove the Chief Officer, Deputy Chief Officers and such other officers and employees in the classifications and numbers it considers necessary.⁸³ The Act also enables regulations to be made about the duties and conduct of CFA officers and employees.⁸⁴

The Regulations prescribe specific disciplinary offences that apply to CFA employees, and the penalties that may be applied where an employee is found guilty of a disciplinary offence. They specify the processes for investigating alleged disciplinary offences, laying and hearing disciplinary charges, powers to suspend employees pending the determination of a disciplinary charge or where an employee has been charged with a criminal offence punishable by imprisonment and the conduct of disciplinary hearings including an employee's right to representation.⁸⁵

The Regulations also prescribe timeframes for lodging appeals to the Country Fire Authority Appeals Commission (Appeals Commission) and for prior notification of appeal hearings.⁸⁶ The Appeals Commission is a statutory body established under Part VA of the Act⁸⁷ whose function is to hear and determine any appeals made to it by CFA employees against suspension, removal, transfer and promotion decisions, and decisions to impose another form of penalty.⁸⁸ The Act creates a right to appeal to the Appeals Commission, governs the manner in which appeals are to be conducted, enables appellants to appear at hearings and to be represented, gives the Appeals Commission power to determine appeals, and requires the Authority and the Chief Officer to give effect to the Appeals Commission's determinations.⁸⁹ The Appeals Commission is currently rarely used and, since 2021, has only dealt with one matter (an appeal against a promotion decision).

The Regulations require lodgement of a written notice of an appeal within 21 days of notice of the employment decision and require the Appeals Commission to give 14 days prior notice of the date of an appeal hearing⁹⁰. Where an appeal against a reduction in rank, classification or salary or removal is successful, the Regulations clarify that the appellant is to receive payment of the difference between the remuneration received by the appellant and that which they would have otherwise received if the original decision had not been made.⁹¹ However, the Commission has the power to determine appeals under Part VA of the Act, and the Authority must give effect to a decision of the Commission.⁹²

Discipline of CFA employees has long been governed by regulations and the current disciplinary Regulations are expressed to cover both operational and non-operational staff; with the Chief Executive Officer having authority to make certain decisions in relation to non-operational staff

⁸³ *Country Fire Authority Act 1958*, s. 17.

⁸⁴ *Country Fire Authority Act 1958*, s. 110(1)(b)

⁸⁵ *Country Fire Authority Regulations 2014*, Regs. 11-21.

⁸⁶ *Country Fire Authority Regulations 2014*, Regs. 22-26.

⁸⁷ *Country Fire Authority Act 1958* ss 74A and 74C.

⁸⁸ *Country Fire Authority Act 1958* s 74I.

⁸⁹ *Country Fire Authority Act 1958* ss. 74I, 74J, 74K, 74L, 74M, 74N, 74P, 74Q, 74R and 74S.

⁹⁰ *Country Fire Authority Regulations 2014*, Regs. 21 and 22.

⁹¹ *Country Fire Authority Regulations 2014*, Reg. 25.

⁹² *Country Fire Authority Act 1958*, ss. 74R and 74S.

and the Chief Officer responsible for decisions about operational staff.⁹³ These Regulations predate fire services reform and CFA is now a fully volunteer firefighting service, supported by administrative and corporate staff, technical staff and senior operational staff seconded from FRV.

In 2009, the Victorian Parliament legislated to refer state powers with respect to employment laws to the Commonwealth, with some exclusions.⁹⁴ Together with the Commonwealth's constitutional power to make laws with respect to trading corporations, this referral enabled the Commonwealth *Fair Work Act 2009* (Fair Work Act) to regulate the terms and conditions of employment for most Victorian employees, including employees of state public authorities (other than police officers who have been specifically exempted). Consequently, terms and conditions of employment for non-executive CFA employees are now regulated by enterprise agreements made under the Fair Work Act and CFA employees have recourse to the Fair Work Commission when there is a dispute that cannot be resolved between the employee and CFA under these agreements. There are two enterprise agreements under the Fair Work Act covering CFA employees.⁹⁵ On 5 December 2024, the Fair Work Commission approved a new CFA District Mechanical Officers and Tower Overseers Agreement and negotiations are currently underway to replace the CFA Professional, Technical and Administrative Agreement 2021 with a new Agreement.

6.3.2 Problem analysis

At present there are both State and Commonwealth laws relating to employee discipline and appeals that apply to CFA's non-executive staff. This creates greater complexity in administration and additional costs for CFA than would be the case if there were no regulations and employee discipline and appeals were regulated solely under the Fair Work Act framework.

Further having Commonwealth and State laws on the same subject creates scope for inconsistency of laws. Where Commonwealth and State laws are inconsistent, Commonwealth laws prevail, and State laws are invalid to the extent of the inconsistency,⁹⁶ In law, inconsistency includes where Commonwealth laws are considered to "cover the field" of regulation on a particular topic, leaving no room for the operation of State laws in that field.⁹⁷ Accordingly there is some uncertainty about the validity of these Regulations.

Appeals against promotion decisions do not only affect current CFA employees but also affect external applicants for CFA roles when an external applicant is the preferred candidate in a competitive selection process. The availability of an appeal process against failure to promote an internal candidate to a vacant position means that any offer of employment to an external candidate must be conditional until the time allowed by the Regulations for appeals has passed. This creates uncertainty for external applicants for CFA positions which may be lesser or greater depending on the period of time allowed for the lodgement of appeals.

⁹³ Country Fire Authority Regulations 2014, Reg. 16 specifies powers and duties of the Chief Executive Officer in relation to non-operational employees whereas Reg. 17 specifies powers and duties of the Chief Officer in relation to operational employees.

⁹⁴ *Fair Work (Commonwealth Powers) Act 2009*.

⁹⁵ CFA non-executive employees are covered by two enterprise agreements under the Fair Work Act: the CFA Professional Technical and Administrative Agreement 2021 and the CFA District Mechanical Officers and Tower Overseers Agreement 2022.

⁹⁶ *Commonwealth of Australia Constitution Act 1900*, s. 109.

⁹⁷ Victorian Government Solicitor's Office, *Navigating conflicting State and Commonwealth laws*, 2020. Available at: vgsso.vic.gov.au/navigating-conflicting-state-and-commonwealth-laws.

6.3.3 Objectives

The objective of regulations about conditions of employment and appeals against employment decisions is to ensure that CFA employees are treated fairly, with appropriate terms and conditions of employment and an avenue for redress if they are subjected to unjust or unlawful treatment. Given that the Act confers a right to appeal against promotion decisions, the regulations must balance this right with the need for successful candidates for CFA positions to have certainty as soon as possible about any offer of employment made to them.

6.3.4 Options considered

Base case – allow the regulations to sunset without replacement

As terms and conditions of employment for CFA employees are now regulated by the Fair Work Act, remaking the current Regulations about employee discipline is not considered appropriate. It is conceivable that, if the regulations about employee discipline were maintained and the question of inconsistency of laws were tested in court, the Regulations could be found inconsistent with the Fair Work Act. Any court action with respect to this matter would necessarily result in CFA and the government incurring substantial costs. Allowing these Regulations to sunset without replacement would avoid the potential for these costs and would not disadvantage CFA employees who have the rights available to them under the Fair Work Act framework. Therefore, allowing these regulations to lapse is the preferred option.

However, as Part VA of the Act continues to exist, eligible CFA employees will maintain the right to appeal to the CFA Appeals Commission against a suspension or removal under s. 17 of the Act, a mandatory transfer for a period of six months or more or a failure to be promoted to a role for which the appellant has applied and is qualified.⁹⁸ Because of this it is considered inappropriate to remove any regulations that are required to enable Part VA of the Act to continue to operate.

While regulations are generally not essential to operationalise Part VA of the Act, the Act does not specify the time within which an appeal must be lodged, or the minimum period of notice of a hearing, so these procedural matters are currently addressed in the Regulations. Allowing these Regulations to sunset without replacement would remove the timeframes specified in the Regulations resulting in a lack of clarity and certainty about these matters for CFA employees, individuals who are offered positions that are subject to rights of appeal, CFA and the Appeals Commission.

Overview of options considered

The following table provides an overview of the options considered.

⁹⁸ *Country Fire Authority Act 1958*, s. 74I.

Table 14: Overview of options for employee discipline regulations

Topic	Current Regulations	Options considered
Employee discipline	Regulations prescribe disciplinary offences and penalties, the processes for investigating disciplinary offences and laying and hearing charges, powers to suspend employees pending the determination of a disciplinary charge or where an employee has been charged with a criminal offence punishable by imprisonment, and the conduct of disciplinary hearings including an employee's right to representation.	Only one option – deregulation. Remaking the current Regulations about employee discipline is not considered feasible because they may be inconsistent with Commonwealth legislation on the same topic.
Appeals to the CFA Appeals Commission	Regulations require appeals to be lodged within 21 days of an appealable decision, require the Commission to give at least 14 days' notice of a hearing, give notice of its decisions and the approach to back payments where an appeal is successful.	<ol style="list-style-type: none"> 1. Remake the current Regulations 2. Remake only the Regulations about timeframe and procedure for the CFA Appeals Commission and reduce the timeframe for appeals to the Commission from 21 to 7 days.

6.3.5 Impact analysis

Removing regulations about employee discipline will not adversely impact CFA employees because their terms and conditions of employment are now regulated under the Fair Work Act. By removing duplication of laws, it would enable greater clarity and efficiency for CFA and would resolve legal uncertainty about the status of these regulations. It is considered the only appropriate option.

Appeals to the CFA Appeals Commission

Two options have been considered:

1. Remake the current Regulations.
2. Remake only the Regulations about timeframe and procedure for the CFA Appeals Commission and reduce the timeframe for appeals to the Commission from 21 to 7 days.

As noted above, while regulations are not generally required to operationalise Part VA of the Act, allowing the regulations specifying a timeframe for lodging appeals to the CFA Appeals Commission to sunset without replacement would result in removal of the timeframe for lodging appeals (which is currently 21 days after a decision has been notified), thus creating significant uncertainty about this matter. In particular, this could result in attempts to lodge appeals an unreasonable time after an employment decision has been made. This would negatively impact successful external applicants for CFA positions, who need certainty about the timeframe for lodgement of appeals, so that they know when they can confidently accept a firm offer of employment and resign from their current role.

The alternative is to remake the regulations in their current form. However, it is considered better to remove unnecessary regulations and the 21-day timeline for lodging appeals is considered too long. It is proposed to reduce the timeframe allowed for lodging appeals to 7 days after notification of an appealable decision, to better balance the rights of unsuccessful applicants to appeal with the need to provide certainty to external candidates for CFA roles, so Option 2 is preferred.

6.3.6 Summary

Remaking the regulations about employee discipline is not considered appropriate as it involves duplication of State and Commonwealth laws about terms and conditions of employment for CFA staff, and there is a risk that the regulations could be found to be inconsistent with the Fair Work Act. However, Part VA of the Act gives eligible CFA employees the right to appeal to the CFA Appeals Commission against a suspension or removal, a mandatory transfer for a period of six months or more or a failure to be promoted to a role for which the appellant has applied and is qualified.⁹⁹ Because of this it is considered inappropriate to remove any regulations that are essential to enable Part VA to continue to operate.

The preferred option is to allow the regulations about employee discipline to lapse while retaining the regulations about the timeframe for appeals to the CFA Appeals Commission and the period of notice required for a hearing of an appeal and reducing the timeframe for lodging appeals from 21 to 7 days. This would cater for any cases where a CFA employee wishes to use this appeals pathway, while better balancing the rights of persons aggrieved by appealable employment decisions with the need for external applicants selected for CFA positions to have certainty about their offer of employment as soon as possible. The preferred option would reduce complexity in administration for CFA while ensuring that CFA employees continue to have appropriate terms and conditions of employment and an avenue for redress if they are subjected to unjust or unlawful treatment and the rights of appeal conferred by Part VA of the Act.

⁹⁹ *Country Fire Authority Act 1958*, s. 74I

7 Rights and obligations of volunteers

This chapter covers the following topics:

1. CFA membership
2. Volunteer discipline and appeals
3. The CFA compensation scheme

7.1 CFA membership

7.1.1 The regulatory framework

The Act requires brigade members to be enrolled and authorises the making of regulations with respect to the registration of brigades and enrolment of their members, and for requiring volunteer officers and members of brigades to take medical tests and submit medical certificates.¹⁰⁰

The current Regulations provide for categories of brigade membership (junior and senior) and require all enrolments to be initially for a probationary period of 6 months unless the Authority determines otherwise. A junior member is a young person aged between 11 and 16 and the Regulations state that junior members are not able to attend a fire or other emergency. To be a senior member, a person must be:

- capable of performing the duties of a brigade member without endangering their own safety or the safety of others
- aged 16 or more
- reasonably available to carry out the functions and duties of a brigade member
- a fit and proper person to be a brigade member.¹⁰¹

All applications for enrolment by a person under the age of 18 must be accompanied by the written consent of a parent or guardian.¹⁰²

The current Regulations also empower CFA to:

- refuse to enrol a person if CFA requires a person to undergo a medical examination and the person fails or refuses to take the examination, or it considers that the person is not a fit and proper person to be a member of the brigade, or is satisfied that some other reasonable ground exists to refuse enrolment¹⁰³
- enrol a person for (limited) duties specified by the Chief Officer if it is considered that the person is not physically capable of performing all the duties of a member without endangering the safety of others but is capable of performing the duties specified by the Chief Officer¹⁰⁴
- limit the duties of a currently enrolled member to those specified by the Chief Officer if the Authority considers that the person has become physically incapable of performing all the duties of a member but is capable of performing the duties specified by the Chief Officer¹⁰⁵
- vary the probationary period, and cancel enrolment of a probationary member, where the Authority receives advice from the brigade that the person is not a fit and proper person to be a member¹⁰⁶

¹⁰⁰ *Country Fire Authority Act 1958*, s. 110(1)(ea).

¹⁰¹ *Country Fire Authority Regulations 2014*, Schedule 2, clause 4.

¹⁰² *Country Fire Authority Regulations 2014*, Reg. 36(4).

¹⁰³ *Country Fire Authority Regulations 2014*, Reg. 37(4).

¹⁰⁴ *Country Fire Authority Regulations 2014*, Reg. 37(3).

¹⁰⁵ *Country Fire Authority Regulations 2014*, Reg. 37(2).

¹⁰⁶ *Country Fire Authority Regulations 2014*, Reg. 38.

- require a member to undergo medical examination and testing to determine their physical fitness or physical ability to perform tasks in relation to which the member is or is to be enrolled, at CFA’s expense. If the person unreasonably fails to undergo the examination or testing or submit a medical certificate, the Chief Officer may suspend the member until these actions have been completed¹⁰⁷
- require members to disclose any matter that the member knows or becomes aware of that would significantly affect a member’s capacity to perform their duties as soon as practicable¹⁰⁸
- require members to undergo training determined by the Chief Officer.¹⁰⁹

The persons affected by these regulations are prospective and existing CFA volunteers.

7.1.2 Problem analysis

In the absence of regulations governing CFA membership, there would be less certainty for CFA and current and prospective CFA members about the Authority’s powers to determine and enforce important requirements with respect to CFA membership, including age and suitability requirements, powers to require applicants and current members to undergo medical examinations where necessary to ascertain their fitness for duties and share health information with CFA, powers to limit duties where necessary in the interests of members’ safety, and powers to require members to complete training. The lack of regulations providing clear powers with respect to these matters could lessen CFA’s ability to protect the safety and wellbeing of its members and the public, and its ability to recruit and retain suitable members.

Without specific regulations governing these matters, CFA’s ability to apply and enforce its terms and conditions of membership would be subject to relevant laws of general application including anti-discrimination and privacy legislation which are not tailored specifically for the CFA context. This would result in less certainty for CFA and could impose additional costs on both the Authority and prospective volunteers than would be the case if these matters were dealt with by regulations and therefore clearly authorised by law (for instance, because CFA may need to seek external authorisation for its membership rules). Compliance by CFA’s staff and volunteers with regulations is mandatory and, in the absence of regulations, there could be greater scope for inconsistency in approach to the treatment of individual members and for the perception that the Authority is unable to maintain effective control in the interests of all its members.

7.1.3 Objectives

The specific objectives of the Regulations about membership are safety and fairness. The regulations aim to support the recruitment, development and retention of suitable volunteers while protecting the safety and wellbeing of members, staff and the public, and safeguarding young members from the risk of abuse.

The ability to attract, develop, support and retain volunteers is critical to CFA’s sustainability and effectiveness. There are also particular risks to those who volunteer for operational emergency services. To achieve its statutory objective, CFA must ensure that its members are suitable, capable, and equipped to perform their functions safely and effectively. Individuals considering volunteering with CFA also reasonably expect CFA to have effective systems in place to reduce all kinds of safety risks they could potentially encounter while serving their community with CFA. This includes ensuring that other volunteers they will be serving alongside are suitable to be CFA

¹⁰⁷ Country Fire Authority Regulations 2014, Regs. 37(4) and 42(1).

¹⁰⁸ Country Fire Authority Regulations 2014, Reg. 42(4).

¹⁰⁹ Country Fire Authority Regulations 2014, Reg. 43.

members, as well as systems to reduce risks to health and safety that volunteers will encounter when engaged in operational activities.

Junior membership is important to CFA and provide public benefits as it allows for family involvement in CFA activities, provides opportunities for young people to be engaged in their communities and acquire valuable knowledge and skills, and provides a pathway to senior membership. Family history of volunteering has been recognised as a predictor of future participation in volunteering, with 70% of volunteers across all sectors having parents who also undertook voluntary work and most volunteers reporting personal involvement in a volunteering organisation or endeavour as a child.¹¹⁰ CFA has obligations under child safety legislation to safeguard children and young people from the risk of abuse¹¹¹ along with obligations under the *Occupational Health and Safety Act 2004* to ensure workplace health and safety which extend to CFA employees and volunteers in the workplace and ensuring that the health and safety of the public is not put at risk by workplace activities.

Consequently, CFA has a duty to ensure that all its volunteers are suitable to be CFA members, capable of performing their permitted duties safely, and properly trained and equipped to perform their functions. At times, this involves balancing individuals' membership aspirations with the need to impose reasonable conditions on membership or refuse membership in order to protect the safety and wellbeing of other CFA volunteers and staff, and members of the public. Given the risks to lives and health inherent in operational roles, CFA also needs clear power to impose reasonable limitations on duties where, because of a health condition, a person is not capable of performing all the duties required of an operational brigade member without endangering themselves or others.

7.1.4 Options considered

Base case – allowing the Regulations to sunset without replacement

CFA has legal obligations to take reasonable steps to protect the safety and wellbeing of members, staff and the public, safeguard young members and facilitate recruitment and retention of suitable volunteers to provide CFA's services. Because of these obligations, if the current Regulations were permitted to sunset without replacement, the Authority would implement policies and procedures that give CFA powers akin to those it can exercise under the current Regulations. These would be expressed as terms and conditions of CFA membership; analogous to how a private club or not-for-profit organisation would manage its relationship with prospective and current members. Therefore, the base case would likely involve substitution of formal regulation with membership rules determined by CFA, rather than a complete absence of regulation.

As noted previously, in this scenario, CFA's ability to apply and enforce its terms and conditions of membership would be subject to the application of other laws of general application including anti-discrimination, privacy and health records legislation. For example, CFA may be required to obtain external authorisation for its terms and conditions of membership, if an exemption is required to be granted by the Victorian Civil and Administrative Tribunal (VCAT) under s. 75 of the *Equal Opportunity Act 2010* because its terms and conditions of membership may potentially be inconsistent with general prohibitions against age or disability discrimination. This would create inefficiencies and impose additional costs on both CFA and prospective volunteers than would

¹¹⁰ Volunteering Australia, *Key Volunteering Statistics*, February 2022, p.17. Available at: volunteeringaustralia.org/wp-content/uploads/VA-Key-Volunteering-Statistics-2022-Update.pdf

¹¹¹ For example, the Authority is required to comply with the *Worker Screening Act 2020* which requires adult staff and volunteers who will be interacting with children and young people to obtain a Working with Children Check. As a matter of policy, the Authority requires all adult staff and volunteers to undergo a check.

be the case if these matters were dealt with by regulations which provide clear powers designed specifically for the CFA operating environment.

Accordingly, the base case provides less legal certainty for prospective members, members and CFA, less efficiency and less transparency than the alternative of enshrining CFA membership rules in regulations so they are clearly authorised by law. There could also be greater scope for inconsistency in approach to the treatment of individual members and for the perception that the Authority is unable to maintain effective control in the interests of all its members.

There is also an in-principle case for regulation as CFA is a public body with a volunteer workforce and its membership criteria and powers are rules of general application, which apply to prospective and current volunteers and affect their rights to participate in CFA activities. Additionally, matters such as eligibility and fitness for membership engage certain human rights under the Human Rights Charter, namely:

- the right to recognition and equality before the law, which relates to non-discrimination, for example, on the grounds of age or disability
- the right to privacy and reputation
- the right to protection of families and children
- the right to take part in public life, which includes participation in public entities.¹¹²

The making of regulations allows for clear and transparent rules that appropriately balance individuals' rights against the need to protect the safety and wellbeing of others, as well as providing clear powers that enable CFA to make decisions that assist it to perform its statutory functions effectively, efficiently and consistently. As CFA is a public statutory body, its powers derive from the Act and the Regulations which bind CFA.¹¹³ The Act enables regulations to be made about membership, and remaking regulations would provide greater clarity and certainty about how CFA will exercise its powers in relation to membership than would be the case in the absence of regulations.

Overview of options considered

In identifying and considering options in relation to CFA membership, the Authority took into account its duties to protect the safety and wellbeing of members, staff and the public, safeguard young members and facilitate the recruitment and retention of suitable volunteers, as well as feedback from consultations with CFA members and staff.

Table 15: Overview of options for CFA membership

Topic	Current Regulations	Options considered
Categories of membership	Two principal categories: <ul style="list-style-type: none"> • junior (aged 11-16) – unable to participate in operational activities or attend a fire or other emergency • senior (16+) – must be capable of performing duties of a brigade member without endangering their own safety or that of others, reasonably available, and a fit and proper person to be a member. 	<ol style="list-style-type: none"> 1. Raise the age for senior membership 2. Remake the Regulations with two changes – to alter the term “senior member” to “general member” and enable the Chief Officer to determine sub-categories of membership to recognise the different ways which volunteers can contribute to CFA, even if they are not directly engaged in firefighting activities.

¹¹² *Charter of Human Rights and Responsibilities Act 2006*, ss. 8, 13, 17 and 18.

¹¹³ Victorian Government Solicitor's Office: *What can a statutory corporation do?* Available at: vgsso.vic.gov.au/what-can-statutory-corporations-do

Topic	Current Regulations	Options considered
	All persons under the age of 18 require the consent of a parent or guardian.	
Probationary period	Currently 6 months, unless waived or reduced by the Authority.	<ol style="list-style-type: none"> 1. Remake the Regulations 2. Reduce the probationary period to a minimum of 3 months (as is the case in the Northern Territory and Tasmania)
Power to require medical assessment	The Chief Officer may require an applicant for enrolment or a current member to undergo a medical examination or test to determine the member's <i>physical fitness or physical ability</i> to perform tasks of an enrolled member and the Authority can limit a person's duties if they are not physically capable of performing all the duties of a member without endangering the safety of themselves or others.	Only one option – remake the current Regulations with a drafting change to clarify that CFA can require medical assessment to ascertain the person's physical or medical ability to perform the functions of a member. Clear legal authority to require a person to undergo medical assessment is essential to enable CFA to determine what duties a person with a health condition can safely perform. The current Regulations focus on assessing physical fitness or physical ability, whereas the proposed changes also enable consideration of mental health conditions, where relevant.
Training	Members must comply with the training requirements determined by CFA.	Only one option – remake the Regulations as CFA has an obligation to ensure that members are suitably equipped to perform their roles safely and effectively
Power to refuse or cancel enrolment	<ul style="list-style-type: none"> • Where CFA requires an applicant to undergo a medical examination and the person fails or refuses, or • CFA considers that the person is not a fit and proper person or is satisfied that another reasonable ground exists to refuse enrolment. • Where a brigade advises that a person on probation is not fit and proper to be a member at least 7 days before the expiry of the probationary period 	<ol style="list-style-type: none"> 1. Remake the current Regulations 2. Replace the “fit and proper” criterion with specific criteria for disqualification (e.g. found guilty of specified offences, application for a working with children check refused)
Leave of absence	No regulations currently exist	<ol style="list-style-type: none"> 1. Status quo 2. Introduce a process for members to notify a leave of absence, oblige brigades to obtain approval for absences of 6 months or more, clarify eligibility to vote while on leave of absence and enable CFA to cancel the enrolment of a person who has been absent for 12 months or more and is not on approved leave 3. As for option 2 but require approval for absences of 3 months or more.

The options considered in this section are discussed and assessed in narrative form.

7.1.5 Impact analysis

Categories of Membership

Two principal options with respect to membership categories were considered.

1. Raising the qualifying age for senior/general membership.
2. Remaking the Regulations with two minor changes: a terminology change (to replace the term “senior” member with “general” member) and the addition of a regulation that enables the Chief Officer to determine sub-categories of membership and the functions that can be performed by persons in those sub-categories.

CFA examined the membership rules of rural fire services in other Australian jurisdictions and noted that there are some different approaches to the age for general membership across Australia. New South Wales, Queensland, the Australian Capital Territory and the Northern Territory also allow young people who are aged 16 and over to be general members, enabling them to take part in operational activities, provided they have parental consent. In Western Australia general members must be over 17. South Australia has a cadet program for young people aged between 11 and 18 whereas Tasmania has junior members aged 10-14 and cadets aged 15-17. A problem identified in those jurisdictions is that only a few brigades are able to offer a cadet program, and this is a significant practical barrier to membership for young people in the cadet age bracket.

As illustrated by the varied approaches across the nation, there is no definitive answer to the question of when it is appropriate to enable older teenagers to be involved in some operational activities (with parental consent) if they wish, or whether regulations should seek to prevent or restrict this choice. The majority of jurisdictions currently allow those aged 16 and above to participate as general members, with parental consent. CFA’s view is that this approach better balances the ability of individual young people to participate in CFA activities, commensurate with their age and stage of development, with the need to take appropriate measures to protect young people than the alternative approaches. Hence it is proposed to maintain the current age based principal categories of membership.

While the current Regulations about categories of membership are considered appropriate, CFA considers that an additional regulation to enable the Chief Officer to determine sub-categories of membership would better recognise that volunteers can contribute to CFA in a variety of ways and help recognise and value all contributions.

At present, CFA makes a distinction between senior members who are operational and those who provide support but do not engage in operational activities. This is not a feature of the current Regulations but occurs administratively. Having a regulation that would enable the Chief Officer to determine sub-categories of general membership and outline the functions of members in each sub-category has been proposed to enable greater recognition of the variety of ways members can contribute to their communities by volunteering with CFA which can be more nuanced than simply distinguishing between operational and non-operational roles. For example, when experienced operational members can no longer participate in firefighting or no longer want to do so, they may contribute their skills and knowledge as incident controllers or members of incident management teams, and this could be recognised as a specific sub-category of general membership. Option 2 is therefore the preferred option.

The probationary period

In considering whether to maintain the status quo or alter the probationary period for new members of brigades, the approaches to this issue in other Australian jurisdictions were

examined. As is the case for the age of general membership, there is not uniformity across Australia in relation to the length of the probationary period that members of volunteer fire services must serve. In New South Wales and South Australia, the minimum probationary period is six months, whereas in Tasmania and the Northern Territory, the probationary period is three months. CFA's view is that three months is too short a period to enable a reasonable assessment of whether a new member is suitable to be enrolled as a general member and that maintaining the current probationary period of six months, together with the flexibility to vary a person's probationary period before its expiry, is the better option.

Medical examinations and training

Only one option (substantively remaking the Regulations) is considered appropriate in relation to the following matters:

- empowering the Authority to require applicants for enrolment and current members to undergo medical examinations where there is cause for concern about their health and ability to perform duties in a way that does not cause risks to themselves or to others
- requiring members to undertake the training determined by the Chief Officer.

These powers are considered essential to enable the Authority to minimise risks to volunteers' safety and exercise control over brigades. Retaining regulations which empower CFA to require medical examinations and to limit members' duties where required provides much greater certainty that any such directions are lawful, than would be the case if these matters were simply subject to CFA's organisational policies and procedures. As is the case for regulations about membership, requirements for medical examinations and to limit duties based on medical assessment are subject to laws of general application, and including an express power in the regulations is the best way of providing certainty for CFA and its members.

It is essential that all members undergo the training specified by the Chief Officer as required for their roles, in the interests of protecting their own health and safety and that of others, as well as to ensure CFA can perform its functions effectively, competently and efficiently. It is considered that removing this regulation or limiting the Chief Officer's flexibility to determine appropriate training for the various roles that volunteers perform would not be in the interests of CFA members or in the public interest.

Criteria for refusal and cancellation of enrolment

The current Regulations enable CFA to refuse enrolment where a person is not fit and proper to be a member, or there are other reasonable grounds to refuse enrolment, and to cancel enrolment of a member on probation if the Authority receives advice from the brigade that the member is not a fit and proper person to be a member. There is currently no regulation that enables the Authority to cancel a member's enrolment if the Authority is otherwise satisfied that a person is no longer fit and proper to be a member (after they have been afforded procedural fairness) or forms the view that their continued membership could bring CFA into disrepute.

In this context, consideration has been given to whether the "fit and proper" test should be maintained and whether CFA should also have the power to cancel the enrolment of a person who is no longer fit and proper to be a member. The alternative to applying a fit and proper test is to attempt to define what conduct would disqualify a person from membership (excluding a conviction for an indictable offence, which is covered separately in the section on volunteer discipline). For example, regulations could provide that a finding of guilt for offences that are specified in the regulations, or inability to obtain a Working with Children Check, may or must result in disqualification. This approach would provide more specificity about the grounds for disqualification but is less flexible than applying the fit and proper test, as it would necessarily confine the matters that can lawfully be considered and may leave less scope for discretion.

The “fit and proper” test enables CFA to reasonably consider any relevant criminal history or finding of professional misconduct and other relevant factors such as whether a person has been refused a working with children check or had their working with children check revoked. While “fit and proper” has an established legal meaning, the concept is not static, enabling the Authority to give appropriate consideration to any matters that are relevant to CFA membership. That said, as CFA is a public body, the Authority has legal obligations that apply to its decisions about whether to enrol or cancel the enrolment of a member.

CFA’s view is that regulations authorising the refusal and cancellation of enrolments if a person is not or is no longer fit and proper to be a brigade member are necessary in the interests of safeguarding other members and helping to protect CFA’s reputation as a safe place to volunteer, and that maintaining the fit and proper criterion is better than the alternative of attempting to list specific grounds for disqualification in the regulations as it provides for greater flexibility.

Accordingly retaining the “fit and proper” test and enabling the cancellation of enrolment of members who are no longer fit and proper to be CFA members is the preferred option.

Leave of absence

At present, the Regulations do not include a framework for dealing with members’ requests for leave of absence. There is a lack of clarity about members’ right to take leave when they want or need a break from volunteering with CFA, and also about the status of CFA members who have been absent from their brigades for a considerable period of time. This makes it more difficult for CFA to have a clear picture of how many operational members are available and to undertake forward planning than would be the case if there were a clear framework governing members’ leave of absence. There have also been cases where members who have not been active participants in their brigades for a long time have attended brigade meetings solely for the purpose of voting.

CFA considers that the current lack of clarity about these matters is undesirable and creates more inefficiency for CFA than would be the case with specific rules in place. As this issue directly affects CFA volunteers, it is considered more appropriate to enshrine the rules in regulations than to manage this issue through CFA policies and procedures, so maintaining the status quo (no regulation) is not the preferred option.

In developing draft regulations, consideration was given to whether, and in what circumstances, approval for leave of absence should be required; whether members on extended leave of absence should be eligible to vote during that time, and what consequences should be available to CFA if a member is absent or disengaged from their brigade for a long time without leave of absence. The preferred approach is to make it as easy as possible for members to take leave of absence for a short period of time simply by notifying their brigade, while requiring the Chief Officer’s approval for longer absences. Requiring approval would give the Chief Officer visibility of leave arrangements, consistent with the Chief Officer’s overall responsibility for brigades. The Chief Officer would not ordinarily refuse to grant this leave but would have the ability to do so if required in the interests of CFA. It is also proposed to enable CFA to cancel a member’s enrolment where a brigade provides evidence that a member has been absent for 12 months or more without approved leave, and to specify that members who are on an approved leave of absence are ineligible to vote.

Two options were considered with respect to the duration of leave which should require the Chief Officer’s approval: an absence of 3 months or more or an absence of 6 months or more. It is proposed that absences of 6 months or more would need approval as this creates a lesser administrative burden for both members and CFA than would be the case if 3 months were chosen. It is proposed that the brigade rather than the member affected would be responsible for

seeking the Chief Officer's approval for any leave of absence of 6 months or more, relieving the member affected of this administrative burden which would transfer to the brigade's secretary. As the proposed regulations would improve clarity for members and efficiency for CFA, remaking the Regulations is the preferred option.

7.1.6 Summary

In the absence of regulations governing CFA membership, there would be less certainty about the Authority's powers to determine and enforce age and suitability requirements, requirements for medical examinations and training and capacity to limit duties where necessary in the interests of members' safety. Without specific regulations, these matters would be dealt with through CFA's policies and procedures which would not have the same status as regulations so would not be clearly authorised by laws framed specifically for the CFA context. This could lessen CFA's ability to protect the safety and wellbeing of its members and the public, and its ability to recruit and retain suitable members.

The preferred option is to substantively remake the current Regulations about categories of membership including age requirements, the probationary period for new members and CFA's powers to require members to undergo medical examinations and training, with the addition of new regulations which enable the Chief Officer to determine sub-categories of membership and regulations providing a clear framework governing leave of absence from CFA. It also involves clearly authorising the Authority to cancel a member's enrolment if the Authority is satisfied that a person is no longer fit and proper to be a CFA member (after the member has been afforded procedural fairness) or forms the view that their continued membership could bring CFA into disrepute.

The preferred option would better support the recruitment, development and retention of suitable volunteers while protecting the safety and wellbeing of members, staff and the public, and safeguarding young members from the risk of abuse than the alternative of allowing the regulations to lapse. It would also clarify about members' ability to take leave of absence, improve CFA's visibility of leave and assist CFA's planning. It is highly likely that the preferred option would not materially increase the administrative burden on volunteers and prospective volunteers, compared with the base case. The base case would create uncertainty which could impose additional costs on both CFA and prospective volunteers than would be the case if these matters were dealt with by regulations.

7.2 Volunteer discipline and appeals

7.2.1 The regulatory framework

The Act vests the general control of all brigades in the Authority and provides that, subject to the general powers and directions of the Authority, all brigades and their officers and members are under the order and control of the Chief Officer.¹¹⁴

The Regulations prescribe formal disciplinary offences that apply to volunteer members, and penalties that may be applied where a disciplinary offence is proven. They specify the processes for investigating alleged disciplinary offences, laying and hearing charges, powers to suspend volunteers pending the determination of a disciplinary charge or where a person has been charged with a criminal offence punishable by imprisonment, the conduct of disciplinary hearings including volunteers right to representation, and notification of decisions.¹¹⁵ The Regulations also

¹¹⁴ *Country Fire Authority Act 1958*, ss. 20 and 27.

¹¹⁵ *Country Fire Authority Regulations 2014*, Regs. 44-57.

establish a three-member Appeal Panel which hears appeals against disciplinary decisions and penalties affecting volunteers and provide for rights of appeal and the conduct of appeals by the Appeal Panel. It currently comprises the Authority's chairperson, a member of the Authority nominated by the chairperson and a person nominated by VFBV.¹¹⁶

CFA has also published behavioural standards (a CFA policy) that apply to employees and volunteers alike. The behavioural standards comprise general standards of conduct, prohibited behaviours and rules about interactions with children and young people. They cover a broad spectrum of conduct ranging from general obligations to be courteous and respectful and work cooperatively in inclusive teams, to prohibitions on committing criminal offences. The disciplinary offences in the Regulations include breach of official orders, misconduct, disgraceful and improper conduct and inefficiency and incompetence for reasons within the person's control. While breach of some behavioural standards would clearly constitute a regulatory offence (for instance, where the breach involves misconduct or disgraceful and improper conduct), breach of others would not.

In practice, CFA handles complaints about members' conduct of a less serious nature, administratively, especially where a person has no prior history of disciplinary issues. This allows counselling and documented warnings to be given for a first or rare offence, and subsequent regulatory investigations are undertaken if inappropriate behaviours continue and the threshold for a regulatory investigation is met. A volunteer cannot be subject to a regulatory sanction (including a formal reprimand, removal from brigade office, suspension of membership or recommendation for cancellation of enrolment) without undergoing the process in the Regulations.

7.2.2 Problem analysis

CFA volunteers are not employees when in their volunteer capacity, so they are not subject to the Fair Work Act framework or common law principles governing employer/employee relationships. Without regulations to specify the conduct by volunteers that, if proven, will be a disciplinary breach, the process for determining whether there has been a disciplinary breach, the rights of members in the disciplinary process, the penalties that may be imposed if a disciplinary breach is proven, and volunteers' rights of appeal against disciplinary decisions there would be less certainty and clarity about these matters for both the Authority and CFA members.

Although CFA is subject to administrative law duties, the absence of regulations and creating a specific and transparent legal framework for handling volunteer discipline and imposing mandatory obligations on CFA could adversely affect volunteers' right to be treated fairly and reasonably and could also reduce CFA's ability to take timely action against members who engage in misconduct or significant or repeated breaches of disciplinary rules. This could have adverse consequences for CFA and its members including a reduction in brigade morale and effectiveness, and a loss of good members if a lack of legal clarity prevents or delays CFA from taking timely action in relation to members whose conduct is problematic.

7.2.3 Objectives

The overarching objectives of these Regulations relate to safety and effectiveness. The specific objectives of regulations with respect to volunteer discipline and appeals are to provide clarity about what conduct will be a breach of discipline, facilitate investigations into allegations and complaints, enable timely and proportionate action where a disciplinary breach is proven, and ensure procedural fairness for all volunteers accused of a disciplinary breach.

¹¹⁶ Country Fire Authority Regulations 2014, Reg. 52.

In designing regulations about volunteer discipline and appeals, there is a need to consider a number of issues including:

- procedural fairness for members accused of disciplinary breaches
- the need for complaints or allegations to be dealt with in a timely and proportionate way
- the need to protect complainants and witnesses from unreasonable treatment
- the need for all parties to have confidence in the process.

Essentially there is a need to balance CFA's need to deal with disciplinary matters in a timely way and the rights of volunteers to a fair, impartial and evidence-based process. A disciplinary inquiry or disciplinary action taken against a member can affect their capacity to participate in CFA operations and can also negatively affect their reputation in the community with the potential for wider ramifications for the person affected. Therefore, disciplinary investigations and inquiry processes must be fair and consistently applied, and procedural fairness must be afforded to affected volunteers.

If the process is regarded as too convoluted for those who report misconduct, this will deter reporting. If procedures for dealing with allegations of breaches of discipline are regarded as too onerous or create personal risk for witnesses, this may create an incentive for such conduct to be ignored or dealt with locally "off the record." Should this occur, evidence of a pattern of conduct will not be available for any subsequent disciplinary processes if inappropriate conduct continues. Regulations that could result in undesirable consequences for complainants and witnesses may contribute to the loss of good members as these members may choose to resign rather than pursue the matter.

7.2.4 Options considered

As is the case for CFA membership, the only feasible options to regulate volunteers' conduct and impose sanctions for breach of discipline are by creating terms and conditions of membership or making regulations with respect to these matters. Hence, allowing the current Regulations to sunset without replacement would not result in a complete absence of regulation but would likely result in the substitution of formal regulation with disciplinary sanctions and procedures determined by the Authority. CFA's policies, procedures and actions would need to reflect administrative law requirements including procedural fairness, as well as CFA's duty to act compatibly with the Charter of Human Rights.

Having regulations about volunteer discipline and appeals provides greater clarity and legal certainty and transparency for both members and CFA than would be the case if these matters were to be treated solely as terms and conditions of CFA membership. There is a reasonable public expectation that CFA will apply a high degree of fairness, consistency and transparency in its treatment of volunteer members. Accordingly continuing to regulate for these matters is considered better than allowing these regulations to lapse.

Given this, the Authority considered three broad options: namely:

1. Remaking the Regulations in their current form.
2. Remaking the current Regulations with changes to provide for a two-tiered approach to disciplinary matters, with a relatively informal regulatory process for handling the less serious matters and a more formal regulatory process for serious allegations.
3. Remaking the current Regulations with changes to enable a more proportionate and flexible way of handling disciplinary hearings and appeals (without a two-tiered approach) and address concerns identified with the current Regulations.

These options are discussed and assessed in narrative form.

7.2.5 Impact analysis

Option 1: Remaking the regulations in their current form

Volunteer discipline was the most frequently raised topic during consultations, with many CFA members raising both general and specific concerns about the current Regulations. A particular complaint was that the regulatory processes are inflexible and disproportionate, particularly for handling less serious disciplinary matters, and that the process takes too long. For instance, the Regulations regarding laying of charges for offences, investigations and the conduct of appeals provide for a “one size fits all” approach, regardless of the seriousness of the alleged disciplinary breach. A formal hearing of charges is mandatory, even if the person charged has made admissions about the conduct concerned.

Some of the current regulations are inappropriate as they entitle the person who has been charged with misconduct or another disciplinary offence to personally cross examine the complainant or other witnesses at the hearing, including junior members. This may result in harm to witnesses (for example, in cases of alleged bullying or assault, the person charged may be able to cross examine the victim), and this may deter witnesses from giving evidence. The Regulations also lack clarity in some areas, resulting in delays in progressing disciplinary charges and hearings because of the need to obtain legal advice to inform the steps to be taken.

Because of the concerns raised by CFA stakeholders, remaking all the current regulations about volunteer discipline and appeals in their current form is not considered appropriate and some alternative approaches have been considered.

Option 2: A two-tier disciplinary process

Creating a two-tier disciplinary process in regulations would allow less serious matters to be handled with a streamlined process and limited scope for imposing penalties (for example: warning, counselling, reprimand), while requiring more serious disciplinary matters to be dealt with via formal hearings with stronger penalties available, including cancellation of membership. This would formalise the current CFA practice of dealing with less serious disciplinary breaches informally, especially where a member has no previous record of committing any disciplinary breaches.

This option could enable minor disciplinary breaches to be dealt with quickly, but it would necessarily involve attempting to define and differentiate for the purposes of the Regulations which matters are considered less serious disciplinary breaches and which matters are considered more serious, warranting the application of more formal processes and stronger penalties if proven. This would not be straightforward. Consideration would need to be given to the process for dealing with each category of breach and the rights members would have under each pathway and how to handle issues at the margins. This would necessarily complicate and lengthen the regulations and create scope for legal arguments about which pathway is appropriate for hearing particular matters when they arise. CFA considers that its current practice for handling first time or very infrequent less serious breaches of discipline is a practical and proportionate non-regulatory approach that is a reasonable adjunct to regulations. Attempting to embed it in regulations would create increased regulatory complexity and could escalate matters that can and should be handled at the local level. Accordingly, this option is not preferred.

Option 3: Remake the Regulations with changes to improve flexibility, proportionality, and clarity

As a result of feedback from stakeholders, the only option given detailed consideration was to remake regulations about volunteer discipline and appeals with some specific changes to improve their operation which are outlined in the table below.

Table 16: Changes proposed for volunteer discipline and appeals regulations

Topic	Current Regulations	Changes considered
Terminology	Regulations refer to offences and laying charges for offences.	Remake the Regulations but alter terminology used in them – instead of mentioning offences and laying charges for offences the regulations will refer to grounds for disciplinary action and referring a matter for a disciplinary hearing. This is considered more appropriate for the CFA context.
Charges for disciplinary breaches	An officer in charge of a brigade or a CFA officer who is nominated by the Chief Officer to lay charges may lay a charge for an offence and the Chief Officer (or their delegate) must hear the charge unless he or she decides to dismiss it without a hearing.	Remake the Regulations with changes to enable the Chief Officer to authorise investigators, referring officers (who can refer a matter for a disciplinary hearing and hearing officers (who can conduct hearings) but prevent a person from performing more than one of these functions in relation to the same matter. This change is designed to avoid the potential for pre-judgement of the matter.
Grounds for disciplinary action	Lists disciplinary offences including: <ul style="list-style-type: none"> • Breach of specified provisions of the Act • Contravening a Chief Officer's direction under s. 30 of the Act • Misconduct • Disgraceful or improper conduct • Negligence in discharge of duties 	Remake the Regulations with a more contemporary definition of misconduct which includes unacceptable or inappropriate conduct having regard to CFA's behavioural policies and engaging in conduct that is likely to bring CFA into disrepute or diminish public confidence in CFA and delete disgraceful or improper conduct. This would improve clarity.
Penalties	Lists penalties for offences including: <ul style="list-style-type: none"> • Reprimand • Reduction in rank or classification • Removal from brigade office • Suspension for a specified period • Cancel enrolment 	Remake the Regulations but remove the penalty of reduction in classification as this was relevant to career firefighters, and CFA is now a fully volunteer fire service.
Hearing procedure	<ul style="list-style-type: none"> • The person charged may be self-represented or represented by a person of their choice • The person charged may call, examine and cross examine witnesses • In conducting a hearing, the Chief Officer is not bound by the rules of evidence and must be informed by the best evidence available • The Chief Officer must ensure procedural fairness and, in making a decision, have regard to the interests of justice and fairness 	Remake the Regulations with the following changes: <ul style="list-style-type: none"> • Clearly enable the hearing to be in person or by video link or, with the consent of the respondent, on the basis of written submissions • Remove the regulation that allows the person charged to call and examine or cross examine witnesses • Provide that the hearing procedure to be at the discretion of the hearing officer but it must be conducted with as little formality and technicality as proper consideration of the matter permits and must afford procedural fairness.
Appeal Panel	Each Panel must comprise: <ul style="list-style-type: none"> • CFA's Chairperson • A CFA board member who is nominated by the Chairperson • A nominee of VFBV. 	Remake the Regulations but enable more flexibility in Panel membership - by allowing the Chairperson to nominate suitable persons to sit on the panel but retain the requirement for a VFBV nominee and specify that CFA employees and FRV secondees are ineligible to be panel members.

Topic	Current Regulations	Changes considered
Appeals	<ul style="list-style-type: none"> All appeals must involve a re-hearing of the matter – regardless of the reasons for the appeal. The appellant does not have to provide reasons for the appeal The appeals panel has no power to dismiss frivolous or vexatious appeals without a re-hearing. 	Remake the Regulations with changes to create scope for more efficiency and flexibility in how hearings are conducted, require the appellant to give reasons for lodging an appeal and articulate the basis on which they believe the decision or penalty or both should be altered. The Appeals Panel would have the power to dismiss frivolous or vexatious appeals.
Criminal offences	Allow CFA to suspend a member who is charged with a criminal offence punishable by a term of imprisonment until the charge is determined.	Remake the Regulations with an express power enabling CFA to cancel the enrolment of a member who has been convicted of an indictable offence – for clarity.
Impact of suspension on the member affected	Currently there are no regulations that outline what conduct is not permitted during a period of suspension.	Make a new regulation to clarify that, while suspended, a member cannot engage in CFA activities, wear a CFA uniform or insignia or attend any brigade/CFA premises without prior approval for the attendance.

The suggestions for change have been designed to remedy the following issues with the current Regulations, as identified through stakeholder consultations:

- Terminology such as offences and laying charges is used in criminal law and is considered inappropriate to describe disciplinary matters affecting CFA volunteers.
- There is currently no regulation to prevent the same person who lays a charge for an offence from also conducting the hearing into the matter. Should this occur, it would create a real or perceived risk that the matter has been pre-judged.
- There is considered to be a lack of clarity about what conduct constitutes misconduct or disgraceful and improper conduct.
- Current penalties for breaches include a reduction in classification which was relevant when CFA employed career firefighters but is no longer applicable.
- There is no clear power to enable disciplinary hearings to be held by video link, or, with the consent of the member concerned, to be dealt with on the basis of written submissions.
- The current Regulations enable the member who has charged with the offence to examine and cross examine witnesses in the hearing. This is considered inappropriate, especially in cases involving an allegation of bullying or sexual harassment or where witnesses are young members. It may also deter witnesses from giving evidence.
- The regulations about the composition of the Appeals Panel are inflexible as the Authority's Chairperson as well as an Authority member nominated by the chair must be on every Appeals Panel. It is considered that the Authority's chairperson should also be able to nominate suitably qualified and experienced persons to sit on the Panel (e.g. independent senior lawyers, retired judges, former senior public servants and the like) in place of the Chairperson and an Authority member, while retaining the requirement for a VFBV nominee to be on every Appeals Panel. It is also considered inappropriate for CFA staff to sit on an Appeals Panel as they could potentially experience difficulty in bringing an independent perspective.
- By requiring every appeal to be a re-hearing of the original matter, regardless of the appellant's reasons for appealing, the current Regulations can require disproportionate and inefficient appeal processes. For example, a person may wish to appeal solely against the penalty imposed, rather than the finding of a breach of discipline.

- The Appeals Panel has no power to dismiss vexatious or frivolous appeals without a hearing – which is a power that is commonly available to disciplinary tribunals under other legislation and regulations. It is considered that this power is needed to mitigate any risk of abuse of process.
- Although there is clear power to suspend a person who has been charged with a criminal offence that is punishable by a term of imprisonment, there is currently no express power in the regulations for the Authority to cancel the enrolment of a person who has been convicted of such an offence.
- There is currently a lack of clarity about what conduct is not permitted while a member is under suspension. There is no regulation that clearly prevents a member whose enrolment has been suspended from engaging in CFA activities, wearing a CFA uniform or insignia, or attending any CFA premises without specific approval to do so while suspended.

CFA considers it appropriate to deal with the concerns raised by members about the current Regulations and that the changes proposed are appropriate. Accordingly, making regulations with the proposed changes is superior to the option of remaking the regulations in their current form.

7.2.6 Summary

As CFA volunteers are not employees when acting in their volunteer capacity, it is necessary to have a specific regime to regulate their conduct. Having regulations about volunteer discipline and appeals provides greater clarity, legal certainty and transparency for both members and CFA than would be the case if these matters were to be treated solely as terms and conditions of CFA membership. There is a reasonable public expectation that CFA will apply a high degree of fairness, consistency and transparency in its treatment of volunteer members. Accordingly continuing to regulate for these matters is considered better than the alternative of regulating these matters solely as terms and conditions of CFA membership.

In designing the regulations there is a need to balance CFA's need to deal with disciplinary matters in a timely way and the rights of volunteers to a fair, impartial and evidence-based process. The preferred option entails making changes to the current Regulations to enable greater flexibility, proportionality and efficiency for members and CFA when compared with the alternative of remaking the current Regulations without the proposed changes. Changes to prevent a member from cross examining witnesses in hearings would better protect complainants and witnesses from the risk of exposure to harm. Changes that allow the hearing and appeals processes to be tailored according to the matter under consideration while providing explicitly for procedural fairness would minimise scope for inefficiency resulting from the current inflexible processes, and without adversely affecting the rights of volunteers accused of disciplinary breaches. And compared with option 1 (which is to create a two-tiered regulatory system with a less formal approach for the less serious disciplinary breaches and a more formal process for serious matters), the preferred option is less complex to design and administer.

7.3 The CFA compensation scheme

7.3.1 The regulatory framework

Since 1944, the Act has authorised the making of regulations with respect to the payment of compensation for officers and members of brigades injured in the course of their duties, or, in the event of their death, to their families and dependants.¹¹⁷ In 1946, legislative amendments were made to provide for compensation for casual firefighters (individuals who are not enrolled as

¹¹⁷ *Country Fire Authority Act 1944*, s. 85(1)(f) and (g).

officers or members of brigades but voluntarily engaged in firefighting with CFA's approval). Two distinct compensation schemes are still operating today:

- A scheme established under Part VA of the Act which applies only to casual firefighters and voluntary auxiliary workers.¹¹⁸
- A compensation scheme established entirely by the Regulations which applies to CFA officers and members, individuals who have applied for enrolment and are performing the duties of a brigade member (pending confirmation of enrolment), members of industry brigades and, in the case of an incident causing death of one of those persons, their family members and dependants (the CFA compensation scheme).¹¹⁹ This is CFA's primary compensation scheme and is the focus of this RIS.

Both schemes also provide for compensation for the loss of or damage to personal property (wearing apparel or personal effects), or any privately owned vehicle (other than aircraft), equipment or property used in the performance of the volunteer service with CFA or, in the case of casual firefighters, for attendance at fires or firefighting in support of CFA operations. The Regulations provide that the compensation payable to members is the amount the Authority considers reasonable given the out-of-pocket financial loss incurred by the member after the member has been reimbursed from insurance or any other source (if relevant).

CFA is responsible for managing these schemes and determining compensation payable to eligible persons in accordance with the Act and the Regulations. The Authority's governance duties as a Victorian public body include to ensure that the CFA compensation scheme is well managed and financially sustainable, so it can support volunteers and other eligible persons today and in the future. The Authority also has responsibilities under the *Financial Management Act 1994* to have effective systems in place to prevent and report any financial losses or fraud.

The current Regulations establish the CFA compensation scheme, enable eligible persons to make claims, empower the Authority to pay compensation to eligible persons and provide for various matters essential to enable the scheme's operation. The Regulations include provisions about:

- entitlements to compensation
- the amount and types of compensation payable
- claim forms, the process for lodging claims and the matters CFA must consider in determining claims
- in the case of personal injuries, requirements for medical certificates, powers to make interim payments prior to determining claims
- requirements for individuals receiving compensation to attend medical/health, rehabilitation and vocational examinations
- duties on compensation recipients to inform CFA of a change in their circumstances
- the Authority's powers to alter, reduce or terminate compensation payments.

The current Regulations oblige compensation recipients to pay back any compensation they have received from CFA in the event that they receive further compensation in respect of the same injury (i.e. an award of damages, or a payment by way of settlement or agreement) from another person or body. The Regulations also prescribe procedural requirements applicable to claims by casual firefighters or voluntary auxiliary workers for compensation under Part V of the Act,

¹¹⁸ Casual firefighters are defined in s. 62 of the Act as individuals other than CFA members who voluntarily assist brigades in firefighting (with their approval) – and voluntary auxiliary workers are persons appointed under s. 17A of the Act.

¹¹⁹ Country Fire Authority Regulations 2014, Part 6 – Compensation, Regs. 74-94.

including the information to be supplied when making a claim, the procedure for lodging claims and the power to request reports from brigades.¹²⁰

Under the Regulations a member who suffers a personal injury whilst performing services for CFA may be entitled to:

- compensation for the injury
- interim payments for loss of income and medical and like expenses for up to six weeks, pending determination of a claim
- weekly income payments
- medical and like expenses (reasonable costs of medical, hospital, nursing, personal and household, rehabilitation and ambulance services)
- permanent impairment lump sum payment for pain and suffering and loss of use – drawing on a CFA “table of maims” which does not form part of the regulations.

The current Regulations enable an injured member to request “redemption” (relinquishment) of all future entitlements to compensation for weekly payments and medical and like expenses in return for a lump sum payment and the Authority has discretion to enter into an agreement with an injured member about these matters. If injury in CFA service results in or materially contributes to a member’s death, the regulations entitle their family members to reasonable costs of family counselling and burial or cremation of the member, and their dependants are entitled to receive lump sum payments. In some cases, an injured member may have a separate right to bring a common law action under the *Wrongs Act 1958*.

7.3.2 Problem analysis

CFA volunteers are not entitled to workers compensation if they are injured as a consequence of their voluntary service. An exception is that eligible CFA volunteers may be able to access presumptive rights compensation under the *Workplace Injury Rehabilitation and Compensation Act 2013* if they are diagnosed with a specified form of cancer and satisfy the relevant criteria under that Act. CFA volunteers also include people who would not otherwise be covered by workers compensation laws, because they are full time students, self-employed, unemployed or retirees.

Without regulations, a no-fault compensation scheme to support CFA volunteers would not exist. This would leave CFA members and their dependants without clear legal rights to receive compensation if they suffer loss as a result of a member’s voluntary service. In addition, CFA would have no power to pay compensation to injured members and other persons who are currently entitled to compensation under the current Regulations.

In the absence of regulations, claims for compensation by CFA volunteers or their dependants (other than negligence claims which require proof of fault to succeed) would be treated as requests for ex gratia payments, which are payments made at entirely the discretion of government in circumstances where there is no legal liability to provide compensation. CFA would need to make a case to the Treasurer for compensation to be paid to injured volunteers on a case-by-case basis. This would be inefficient and would harm CFA’s ability to achieve its statutory objectives. It would also create a significant anomaly when comparing the treatment of CFA members with casual firefighters and voluntary auxiliary workers, as those individuals are legally entitled to compensation under Part V of the Act.

¹²⁰ Country Fire Authority Regulations 2014, Regs. 95-99.

Failure to maintain compensation regulations would be highly likely to result in adverse impacts on volunteer retention and recruitment due to a loss of certainty about compensation entitlements should CFA volunteers suffer injury, death or loss or damage to their personal property during CFA service. Although it is unclear whether the existence of a compensation scheme plays a significant role in shaping individuals' initial decisions to volunteer with CFA, the absence of a no-fault compensation scheme would be highly likely to negatively impact volunteer retention and members' willingness to participate in operational activities.

7.3.3 Objectives

The principal objectives of the compensation scheme regulations are to ensure fair treatment for those who suffer injury or loss as a consequence of volunteering with CFA and support the retention and recruitment of volunteers to provide CFA's services which underpins community safety. For injured volunteers, the objective of providing compensation is, to the maximum extent possible, to restore them to the position they were in prior to the incident that resulted in their injury – i.e., to support their effective and timely rehabilitation and recovery.

Given the public value contributed to the State by volunteers, and the risks inherent in CFA operations, it is incumbent on the state to provide fair compensation in the event that volunteers suffer injury or loss as a result of their service to the community with CFA.

7.3.4 Options considered

No regulations

Because the compensation scheme is created by the Regulations, allowing the Regulations to sunset without replacement would leave CFA members and their dependants without clear legal rights to receive compensation if they suffer loss as a result of a member's voluntary service and CFA would lose the power to pay compensation to injured members and their dependants. It would also create a significant anomaly when comparing the treatment of CFA members with casual firefighters and voluntary auxiliary workers, as those individuals are legally entitled to compensation under Part V of the Act.

Alternatives to the current Regulations

Responsibility for managing a compensation scheme necessarily involves providing timely financial support and quality services to members and other eligible persons when they need it, while ensuring that the scheme remains financially viable and guarding against any risk of fraud or abuse. Managing the compensation scheme is an adjunct to CFA's objectives of protecting lives and property from the threat of fire and other emergencies, and the Act and the Regulations provide limited powers to assist CFA to perform this function as effectively and efficiently as possible.

The Authority considers that there are other possible alternative ways of providing compensation to volunteers who suffer losses as a consequence of their voluntary service and of managing the compensation scheme, but these would require legislative change, so are not assessed in this RIS. The Authority has agreed that a comprehensive review of the CFA compensation scheme is required to thoroughly evaluate the current arrangements, identify the best approach to managing compensation in the long term and make recommendations for the government's consideration. Pending in depth analysis and consideration of the best long-term arrangements for managing the CFA compensation scheme, CFA considers that the only appropriate option is to maintain continuity of the regulations concerning entitlements to benefits and the level of benefits payable.

In this context, the current Regulations require CFA to consider numerous specified provisions of the *Workplace Injury Rehabilitation and Compensation Act 2013* and the *Accident Compensation*

Act 1985 (the Accident Compensation Act) in determining claims for compensation for personal injuries, and those regulations influence the benefits payable to eligible persons.¹²¹ It is necessary for the regulations to refer to the Accident Compensation Act as claims are still being received for injuries sustained as a result of CFA service prior to 1 July 2014 when the Workplace Injury Rehabilitation and Compensation Act commenced. The regulations have been designed to preserve the rights those injured before that date would have had under the specified provisions of the Accident Compensation Act and the Authority is conscious of the risk that making piecemeal changes could result in unintended consequences for members.

Overview of options considered

Two options were considered:

1. Remaking the current Regulations without any changes.
2. Remaking the current Regulations with some changes to improve the administration of the compensation scheme and clarify CFA's powers which were suggested during CFA's consultations, pending the wider review of the compensation scheme.

The specific changes proposed for Option 2 are outlined in the table below.

Table 17: Potential changes to the CFA compensation scheme

Topic	Current Regulations	Changed included
Claim forms for personal injuries compensation	CFA must use claim forms determined under the Accident Compensation and Workplace Injury Rehabilitation and Compensation Acts (as the case requires) which must be approved by the Authority.	Remake the Regulations with a change to make it clear that CFA can approve the claim forms itself.
Claims lodgement	Requirement to lodge claim with brigade – central lodgement is by exception and must be approved by CFA.	Remake the Regulations with a change to enable claims to be lodged centrally – as this would improve efficiency and facilitate a shift to online lodgement.
Statement by officer in charge of brigade	Officer in charge of the brigade must give a statement on the incident giving rise to a claim which includes the officer's opinion about the claim	Remake the Regulations with a change that would enable the Authority to seek a statement from the officer in charge of the brigade, so the Regulations do not require the officer in charge of the brigade to provide an opinion in all cases – even where they feel unable to do so.
Power to request information	CFA has clear power to require information to enable it to assess and determine compensation claims, but it is less clear whether CFA can require information to assess entitlements to receive compensation over time.	Remake the Regulations with a change that gives CFA a clear power to seek information relating to entitlements to receive compensation from time to time and to suspend payments if the member does not provide the information when requested.

¹²¹ Country Fire Authority Regulations 2014, Reg. 83(2).

Topic	Current Regulations	Changed included
Power to alter payment of medical and like expenses	Although the current Regulations include a power to alter or cease weekly payments when a person is no longer entitled to receive them, they do not expressly empower CFA to alter or cease payments for medical and like expenses in this situation.	Remake the Regulations with an additional regulation that states explicitly that CFA has the power to alter or cease payments for medical and like expenses when a person is no longer entitled to receive these services.
Objects of regulations about personal injuries compensation	No objects specified.	Remake the Regulations with the addition of an objects clause for regulations about personal injuries compensation that focusses on rehabilitation and recovery of the injured person, and determining all compensation claims expeditiously.
Compensation for loss of or damage to private motor vehicles	Compensation is payable in respect of loss of or damage to a private motor vehicle owned by a member which was used in the performance of a CFA service.	Remake the Regulations with a change to provide that compensation is not payable in circumstances where an unregistered vehicle was driven on a highway.

7.3.5 Impact analysis

The suggestions for change to the current Regulations discussed in the table above fall into two categories:

- a) Machinery changes with respect to approval of claim forms, lodgement of claims and to reduce unnecessary red tape faced by officers in charge of brigades.
- b) Changes to improve clarity of regulations, and the scheme's administration.

These are discussed and assessed in narrative form. However, as the compensation scheme significantly affects a sector of the public, an MCA has been conducted to test the merits of including the compensation scheme in the Regulations.

Machinery changes

The current Regulations require personal injury claims to be in the form approved by WorkSafe for the purposes of the Accident Compensation Act (for injuries sustained before 1 July 2014) or the *Workplace Injuries Rehabilitation and Compensation Act 2013* (for injuries sustained on or after 1 July 2014), and also approved by the Authority. These forms are designed to apply to injured workers, so they require adjustment to be suitable for CFA compensation scheme claims. Because of this, in practice, the Authority approves claim forms and it is proposed to draft the regulations to reflect current practice.

The current Regulations require claims to be lodged with the person's brigade unless the Authority is satisfied that this is not practicable. Allowing claims to be lodged centrally is considered more efficient and would facilitate a shift to electronic lodgement of claims in future. The current Regulations also require the officer in charge of the brigade, when lodging the claim with the Authority, to provide a statement about the incident giving rise to the claim which includes the officer's opinion as to the claim. Members have reported that they find the duty to express an opinion inappropriate if they are not in a position to do so, and CFA staff have reported that this obligation is frequently ignored and does not add value to the process of assessing and determining claims.

Changes to improve clarity of regulations and scheme administration

The current Regulations specifically empower CFA to require specified information to enable it to determine a compensation claim and, if the material provided is incomplete or insufficient, CFA may seek further information before determining the claim. However, it is less clear that CFA can require information from compensation recipients where needed to enable CFA to assess ongoing entitlements to compensation for personal injuries over time. Entitlements to compensation are not static as compensation recipients may re-commence work or gradually increase their working hours and income as they progressively recover from their injuries, or their circumstances may change in other ways that affect their ongoing eligibility to receive compensation. Accordingly, CFA also needs a clear power to require information to be provided to enable it to assess ongoing entitlements to compensation over time.

The current Regulations give CFA clear power to alter or cease weekly payments on certain specified grounds (for example, where there is no longer an entitlement to receive them, or the person's weekly payments have altered as a result of change in their employment circumstances). However, there is no express power for CFA to alter or cease payments for medical and like expenses where there is no longer an entitlement to receive them, although this power may be implied from the tenor of the current Regulations. Clarifying this matter in the regulations is considered better than allowing scope for uncertainty.

The emphasis of contemporary no fault compensation schemes including Victoria's workers compensation scheme is a focus on supporting injured persons' rehabilitation and recovery and timely return to work and/or their pre-injury activities where possible, in the interests of their health and wellbeing. Best practice involves applying a person-centred approach where supports are tailored to the individual's needs. With this in mind, CFA considers that it would be desirable for the regulations about compensation for personal injuries to include an objects clause which states that their purpose is to enable the rehabilitation and recovery of injured members and to ensure that appropriate compensation and support is provided to eligible persons as expeditiously as possible.

As an organisation focussed on safety, CFA has policies and procedures with respect to driving and motor vehicle use, which emphasise the importance of compliance with Victoria's road safety laws. Since the current Regulations were made, CFA has dealt with a compensation claim for loss of an unregistered private motor vehicle that was damaged while driven on a public highway. CFA considers that paying compensation in these circumstances is not in the public interest, as this conduct is a breach of the Road Safety Act¹²².

The preferred option is Option 2: remaking the current Regulations, with the changes specified in the table above.

7.3.6 Assessment of compensation proposal

Notwithstanding that the compensation scheme is proposed to be reviewed, as the compensation regulations significantly impact a sector of the public (volunteers and other persons entitled to compensation under the regulations) an MCA assessment was conducted to test the merits of including the current compensation scheme in the proposed regulations. The benefits of the scheme include retaining and attracting members, which underpins the effective operation of CFA and thus safety. Importantly, the compensation scheme provides a mechanism to compensate volunteers who suffer injury or loss as a result of their service to the community with CFA. Between 2020 and 2024, the average cost to government of meeting compensation claims was

¹²² *Road Safety Act 1986*, s. 7.

\$5.069 million per annum, and an average of 63 claims were made each year. The MCA assessment in the following table gives a net score of 1.425, which is an improvement over the base case, and suggests that the compensation scheme should be retained in its current form.

Table 18: MCA assessment of CFA compensation scheme

Criterion/weighting	Assessment	Assigned score	Weighted score
Safety (40%)	In the absence of a compensation scheme, there may be problems with attracting new volunteers and retaining existing members. Attracting and retaining members is essential for the overall functioning of CFA and community safety. A relatively low score of 2 is assigned to this criterion as a compensation scheme is one of a range of factors for attracting and recruiting members.	2	0.8
Fairness (equity) (10%)	Fairness is the prime reason for the compensation scheme. For volunteers, equity relates to the reasonable expectations for fair treatment in joining/participating in CFA, and in providing compensation and support if injured or suffer loss. Without this scheme civil and or other actions would be costly for individuals to pursue. There would also be an inherent unfairness if a volunteer suffered loss or injury in the service of the community and was not compensated. A relatively high score of 8 is assigned to this criterion.	8	0.8
Cost to individuals, volunteers (30%)	Claimants (volunteers and other eligible individuals) will incur some time costs associated with preparing claims for compensation. Given that around 63 claims are made each year from almost 50,000 volunteers, collectively these administrative costs are small. Consequently, a score of -0.5 is assigned to this criterion.	-0.5	-0.15
Cost to government (20%)	CFA compensation is small scale compared with other Victorian Government compensation schemes. From 2020-2024 an average of 63 claims were made each year, costing an average of \$5.069 million per annum. It is unlikely that the proposed changes will increase costs to government; in fact, greater clarity may assist in more efficient administration of the scheme and, at the margin, may save government costs. This represents a cost to government and a score of -1 is assigned to this criterion.	-1	-0.2
Total			1.425

7.3.7 Summary

The base case is not a feasible option, as allowing the Regulations to sunset without replacement would leave those who suffer loss as a consequence of CFA service without a legal right to compensation and would remove CFA's power to pay compensation to members who suffer injury or loss. It would also result in an anomaly as a legal right to compensation would apply to casual firefighters and voluntary auxiliary workers under Part V of the Act but would cease to apply to

CFA volunteers. Removal of long-established entitlements to compensation would be highly likely to result in a loss of current members, a reduction in members' willingness to engage in operational duties and may deter prospective volunteers from joining CFA, resulting in reduced capacity for CFA to perform its statutory functions in the interests of communities in the country area of Victoria.

The preferred option is to remake the existing regulations about compensation with the addition of some specified changes to improve the scheme's administration. These include to clarify CFA's powers to require information from compensation recipients to verify continued entitlements to receive compensation over time, and to cease or reduce payments for medical and like expenses when a person is no longer entitled to receive them (which is currently implied but not explicitly stated in the regulations). The preferred option also involves making a substantive change to the current Regulations to provide that compensation would not be available for the loss of or damage to an unregistered private motor vehicle driven on a public highway, as this conduct amounts to a breach of the Road Safety Act. The preferred option would not otherwise affect rights to receive compensation or the amount of compensation payable to eligible persons.

Overall, the preferred option has been assessed as the best means of achieving the objectives of safety and fairness.

8 Fire prevention and control

This chapter covers the following topics:

1. Controls during periods of increased fire danger
2. Forestry Industry Brigades
3. Alarm monitoring information
4. Regional and municipal fire prevention committees

8.1 Controls during periods of increased fire danger

8.1.1 Legislative context

Part 3 of the Act

Part 3 of the Act deals with fire prevention and control and includes a suite of strong powers and duties to prevent and suppress fires in the country area of Victoria, with serious offences and significant penalties for non-compliance.

Because of the potential consequences of fire to life and property, Part 3 of the Act regulates most activities involving the use of fire or that risk igniting fires in the open air during declared fire danger periods¹²³, and prohibits lighting of fires in the open air on days of total fire ban altogether, subject to limited exceptions.¹²⁴ The regulatory model is to prohibit all activities involving the use of fire or that risk igniting fires at these times unless they are specifically allowed by the Act or regulations or are otherwise authorised by a CFA officer or member for the purposes of suppressing or controlling a fire that is occurring.

The Act makes offences and penalties the main tool for controlling the behaviour of individuals and businesses during periods of increased fire danger. Emphasising the seriousness of bushfires, some of the offences in Part 3 are strict liability offences, which means that people can be found liable for a breach of these laws regardless of whether or not they knew that they were committing an offence or intended to do so.¹²⁵

Both the Act, and the Regulations specifically enable otherwise prohibited activities to be carried out subject to controls to minimise fire risk. Hence regulation makes lawful a variety of activities that would otherwise be unlawful during fire danger periods, provided that the prescribed conditions are complied with.

Fire danger periods and total fire bans

The Act contains specific provisions with respect to total fire ban days and enables permits to be granted for specified limited purposes on those days. Regulations are not necessary to operationalise these provisions. CFA declares fire danger periods by municipality during periods of increased fire risk and declares total fire bans for specified parts of or the whole of Victoria on days of increased fire danger. Fire danger periods are imposed in each municipality at different times, depending on the amount of rain, grassland curing rates and other local conditions. The

¹²³ *Country Fire Authority Act 1958*, s. 38

¹²⁴ *Country Fire Authority Act 1958*, s. 40

¹²⁵ Strict liability offences are an exception to the common law principle that a person should not generally be criminalised for committing an offence without a guilty mind or knowledge of the wrongfulness of the Act. They tend to be created to ensure that citizens guard against the possibility of inadvertent contravention of the law where the consequences may be very serious.

fire danger period may be declared as early as October in some municipalities and typically remains in place until the fire danger lessens – which can be as late as May in the following year.

Prohibitions and exceptions

The Act also prohibits lighting fires in the open air during a declared fire danger period¹²⁶ unless authorised specifically by or under the Act. Failure to comply is a serious offence which may attract a maximum penalty of 120 penalty units or 12 months' imprisonment or both. The Act provides for specific exceptions to this general prohibition as follows:

- a) where a written permit in or to the effect of the form prescribed in the Regulations is granted by either a public authority which manages or controls the land, the local council, or CFA's Chief Officer – provided that there is compliance with any conditions or restrictions specified in the permit. Failure to comply with any conditions in the permit is an offence¹²⁷
- b) where fires are lit for meal preparation or personal comfort if air movement is no stronger than 10 kilometres per hour, the fire is lit in a properly constructed fireplace or in a trench at least 30 centimetres deep, the ground and air space for at least 3 metres around the fire area are clear of flammable material, and the fire area is less than one square metre and its size and the solid fuel used are the minimum necessary to achieve the purpose¹²⁸
- c) for the purposes of burning refuse if the fire is effectively restricted within an incinerator and the air movement is no stronger than 10 kilometres per hour, the ground and air space for at least 3 metres around the incinerator are clear of flammable material, and there is adequate water available to extinguish the fire at all times when the fire is burning¹²⁹
- d) for the purposes of extracting honey, relocating bees, rail maintenance, heating bitumen, welding, gas cutting, soldering, grinding or charring if an effective fire guard is used, an area of at least 1.5 metres around the operation is clear of all flammable material or sufficiently wetted down, there is sufficient water available for use in the event of fire, and any cut offs and electrode stubs from the operation are placed directly in a fire proof receptable¹³⁰
- e) for the purposes of disposal of the by-products of saw milling operations if the person complies with the regulations¹³¹
- f) for the purposes of burning excess and unused gas in relation to an industrial or commercial undertaking [in accordance with s. 38A(1)(e) of the Act]
- g) for the purpose of training in firefighting if the Chief Officer has approved the training and it takes place at an approved training venue.¹³²

A permit is not needed to conduct the activities described in paragraphs (b)-(g) during fire danger periods as these activities are authorised by the Act if the applicable conditions are met. However, some of the activities listed in paragraph (d) above (welding, gas cutting, soldering, grinding or charring and the use of power operated abrasive cutting disks) are also prescribed in the regulations as high fire risk activities under s. 39E of the Act, providing clarity that any breach of the conditions applicable to these activities during a fire danger period is an offence. Section 39E of the Act prohibits "high fire risk activities" during a fire danger period except in accordance with

¹²⁶ *Country Fire Authority Act 1958*, s. 37.

¹²⁷ *Country Fire Authority Act 1958*, s. 38.

¹²⁸ *Country Fire Authority Act 1958*, s. 38A(1)(a).

¹²⁹ *Country Fire Authority Act 1958*, s. 38A(1)(b).

¹³⁰ *Country Fire Authority Act 1958*, s. 38A(1)(c).

¹³¹ *Country Fire Authority Act 1958*, s. 38A(1)(d).

¹³² *Country Fire Authority Act 1958*, s.38.

regulations.¹³³ Breach of the conditions specified in the regulations may attract a penalty of 120 penalty units or imprisonment for 12 months or both.

Other offences

Part 3 also contains specific offences for other actions during a fire danger period, including:

- discarding cigarettes, matches or any other burning items
- putting in place any explosive or combustible substance or matter that could be ignited or cause a fire
- failing to report any fire burning unattended to authorities.¹³⁴

These offences also attract a maximum penalty of 120 penalty units or imprisonment for 12 months, or both. And regardless of whether or not a fire danger period has been declared, it is an offence punishable by imprisonment to:

- light a fire in extreme weather conditions where fires would pose a danger to life or property¹³⁵
- do any act causing a fire with intent to destroy vegetation, crops, fodder or any other property belonging to another person. This is in addition to criminal offences including arson in the *Crimes Act 1958*.¹³⁶

Duties of councils and public authorities to prevent fires

The Act imposes a duty on councils and public authorities managing land to take all practicable steps to prevent fires and minimise the risks of fires spreading on any land or roads under their control and management.¹³⁷ It also empowers councils to serve a fire prevention notice on the owner or occupier of land in their municipal district requiring actions specified in the notice to be taken to remove or minimise the threat of fire on their land, makes it an offence to fail to comply with a notice, and provides for objections and appeals against such notices.¹³⁸ CFA's Chief Officer also has the power to serve fire prevention notices¹³⁹ and to direct a person not to light a fire at a place or time specified in the direction for the purposes of protecting life, property or the environment.¹⁴⁰

Specific controls

The Act also imposes specific requirements regarding the disposal of the by-products of sawmilling and controls that apply to certain vehicles and machinery such as tractors, farm machinery and excavators which are aimed at minimising the risks of igniting a fire or ensuring any fire can be immediately extinguished.¹⁴¹ Failure to comply with any of these requirements is an offence.

The Regulations

The Regulations operationalise the fire prevention provisions of Part 3 of the Act by prescribing:

¹³³ *Country Fire Authority Act 1958*, s.39E.

¹³⁴ *Country Fire Authority Act 1958*, s.39.

¹³⁵ *Country Fire Authority Act 1958*, s.39A.

¹³⁶ *Country Fire Authority Act 1958*, s.39C.

¹³⁷ *Country Fire Authority Act 1958*, s.43

¹³⁸ *Country Fire Authority Act 1958*, ss.41, 41B, 41C and 41D.

¹³⁹ Under s. 41F of the *Country Fire Authority Act 1958*, if the Chief Officer forms the opinion that a fire prevention notice is or may become necessary to protect life and property, there is no other mechanism available under other legislation to require the landowner to address the threat and the fire prevention officer fails to issue a notice on request, the Chief Officer may issue a fire prevention notice.

¹⁴⁰ *Country Fire Authority Act 1958*, s. 37A.

¹⁴¹ *Country Fire Authority Act 1958*, ss. 49 and 50.

- the form of permits to burn for the purposes of the Act, including conditions and restrictions applicable to permitted burning
- the form of fire prevention notices that may be issued to landowners or occupiers
- “high fire risk activities” and the conditions that apply to these activities during fire danger periods
- the fire suppression equipment (extinguishers) required by the Act to be carried by operators of tractors, farm machines, traction engines, excavators, earth moving machines and road making machines with combustion engines during fire danger periods
- the Australian Standard for spark arresters that are required by the Act to be fitted to specified vehicles and machines with combustion engines
- conditions applicable to the operation of other kinds of “non-vehicular heat engines” such as diesel generators and boilers that could spark fires during a fire danger period
- the permitted method of disposal of the by-products of sawmilling operations by burning for the purposes of s. 49 of the Act.

The forms of permits to burn during fire danger periods are contained in Schedules to the regulations which also specify the conditions which must be complied with when burning takes place. There are distinct permits to authorise vegetation burning by a brigade or a private business or individual, as well as a separate “skeleton form” permit (Schedule 14) which can be issued to any person or body (including a CFA member) to light a fire “for miscellaneous purposes” as described in the permit. In practice, Schedule 14 permits are generally granted for the following activities:

- bird scaring
- use of blow lamps or gas torches
- blacksmithing
- catering (e.g. for events)
- fire training
- fireworks and other uses of fire for public entertainment (the applicant must hold a pyrotechnical license)
- flares at a petroleum fractionation plant, a gas plant or any plant of a like nature
- hot air ballooning.

These regulations affect:

- farmers, businesses and individuals in the country area of Victoria who wish to carry out regulated activities involving the use of fire in the open-air during fire danger periods, whether for business or private purposes
- persons selling and repairing vehicles and machinery required to be fitted with spark arresters and manufacturers or importers of fire suppression equipment and spark arresters
- local government and public authorities, including CFA, because they prescribe the forms for permits and notices and the conditions on permits that councils or public authorities are empowered to issue under the Act.

8.1.2 Problem analysis

The absence of laws prohibiting or regulating many activities in the open-air during periods of increased fire danger would be likely to result in greater risks of fires igniting and spreading, with greater loss of lives and property than would otherwise be the case. Although the criminal law deals with those who light fires to cause damage, without specific laws that enable the state to prevent or control when and how business and private activities that risk igniting fires can be carried out, the state would be unable to curtail the freedom of businesses and individuals in this way, which would increase the risks of fires to the community.

Because the Act prohibits all activities involving the use of fire or that risk igniting fires during periods of increased fire danger unless they are specifically authorised either by the Act or the Regulations, the absence of regulations permitting activities where it is appropriate to do so, subject to conditions to minimise fire risk could prevent reasonable agricultural, business and private activities from occurring lawfully for several months each year, with consequent restrictions of the freedom of individuals in the country area of Victoria. Conversely, if businesses and individuals are unable to obtain permits, or face significant obstacles in attempting to do so, they may carry out burning without authority, exposing them to the risk of prosecution for significant offences. A lack of regulations would also compromise the state's ability to prosecute and obtain convictions for some statutory offences which penalise conduct that poses a threat to lives and property, contrary to the intent of the Act.

8.1.3 Objectives

The principal objective of the Act is community safety which is partly achieved through the Act's broad prohibitions on business and private activities that involve the use of fire in the open-air during fire danger periods. The Regulations enable these prohibitions to be relieved when appropriate, enabling individuals and businesses to conduct otherwise lawful and reasonable activities when the fire risks associated with those activities can be managed. Accordingly, a key objective of these regulations is fairness.

Part 3 of the Act recognises that many important every-day business and private activities conducted in the open air carry a risk of fire, especially when undertaken during weather conditions that are conducive to fires' ignition and spread. These include outdoor cooking and food preparation, beekeeping, and the use of equipment, tools and combustion engine vehicles that can spark fires. These activities may be undertaken for agricultural, business, land management, land maintenance, domestic or recreational purposes. And as numerous inquiries into fires have emphasised, failure of landowners or occupiers to manage vegetation, reduce fuel loads and maintain properties contributes to the prevalence and severity of fires.

Hence, regulation exists to address fire risks arising from such activities in the country area of Victoria, and it must strike the right balance between allowing lawful farming, domestic, community and business activities involving the use of fire to occur while also minimising the risk of fire to lives and property. Regulation also enables intervention where landowners or occupiers fail to maintain their properties, and the state of their properties creates fire risks for neighbouring properties and entire communities.

8.1.4 Options considered

Base case – allowing the regulations to sunset without replacement

Regulations are necessary to operationalise the provisions of Part 3 of the Act by prescribing:

- the form of “permits to burn” during fire danger periods, and the conditions under which burning may be carried out for the purposes of s. 38 of the Act
- the form of fire prevention notices that may be issued to landowners or occupiers under s.41 or s.41F of the Act
- the conditions applicable to burning the by-products of sawmilling)
- an Australian Standard for spark arresters which must be fitted to for the purposes of s. 50 of the Act
- the fire suppression equipment that must be carried by operators of tractors, traction engines, excavators and earth movers during fire danger periods for the purposes of s. 50(2) of the Act.

Accordingly, allowing these regulations to sunset without replacement is not considered appropriate for the reasons outlined below.

Permits to burn

As s. 38 of the Act requires “permits to burn” be in or to the effect of the prescribed form, and to contain the prescribed conditions and restrictions, allowing the regulations prescribing these matters to sunset without replacement would cause doubt about the power of CFA, public authorities and councils to these permits, and about the validity of any such permit they may issue. An inability or unwillingness of public authorities to issue these permits because of legal uncertainty could prevent some reasonable agricultural, business and private activities from occurring lawfully for several months each year. If businesses and individuals are unable to obtain a permit, or face significant obstacles in attempting to do so, they could undertake burning without authority, exposing them to the risk of prosecution for serious offences.

Fire prevention notices

Section 41 of the Act requires fire prevention notices requiring land holders to take specified steps to remove or reduce the threat of fire on their land to be in the form prescribed in the Regulations and contain any prescribed information.¹⁴² An absence of regulations prescribing these matters would create uncertainty about councils’ powers to issue fire prevention notices, which may result in reluctance to use this regulatory tool. Under the Act, these notices may be issued when no other power is available to councils that is more appropriate to reduce the threat of fire.¹⁴³ Failure to make regulations would mean a tool of last resort available to local government to prevent or reduce the risk of fire on private property is removed. This could conceivably result in fires that might not otherwise occur with appropriate intervention.

Disposal of sawmilling by-products

Section 49 of the Act provides that a person who disposes of the by-products of sawmilling operations by burning must comply with the regulations and makes non-compliance an offence which may attract a penalty of 60 penalty units. Hence the Act envisages that regulations will be made to specify the conditions applicable to burning by products of saw milling, and an absence of regulations would mean that the offence created by s. 49 of the Act cannot operate.

Standards for spark arresters and fire extinguishers

Similarly, s. 50 of the Act envisages that regulations will be made to prescribe:

- the Australian Standard for spark arresters that, under s. 50 of the Act, specified types of combustion engine vehicles and machines are required to have
- the type of fire suppression equipment (extinguishers) that drivers and operators of tractors, self-propelled farm machines, traction engines and earth moving, excavating or road making machines must carry during a fire danger period.

Failure to comply with the requirements specified in the regulations is an offence. If there were no regulations prescribing an Australian Standard for spark arresters or the type of fire suppression equipment required, the offences created by s. 50 for non-compliance with the regulations would be unenforceable, as no conviction for breach could be obtained.

¹⁴² *Country Fire Authority Act 1958*, s. 41(3).

¹⁴³ *Country Fire Authority Act 1958*, s. 41(2) provides that a fire prevention notice may be served only if the council’s fire prevention officer forms the opinion that it is necessary or may become necessary to protect life and property from the threat of fire and there is no procedure under any other Act or regulations made under any Act that is more appropriate in the circumstances to address that threat.

High fire risk activities

Consideration was given to whether the regulations prescribing high fire risk activities and the conditions for carrying out those activities during fire danger periods should be allowed to lapse, as these regulations duplicate elements of s. 38A(1)(c) of the Act. Section 38A(1)(c) makes lighting fires for the purposes of welding, gas cutting, soldering, grinding or charring lawful, provided that the conditions specified in that sub-section are met. The current Regulations also prescribe these activities (whether undertaken for business or private purposes) as high fire risk activities for the purpose of s. 39E of the Act and replicate the conditions as outlined in s. 38A(1)(c) of the Act.

Section 38A of the Act does not contain any penalties for failure to comply with the conditions applicable to welding, gas cutting, soldering, grinding or charring. Because of this, regulations were previously made to prescribe these activities as high fire risk activities for the purposes of s. 39E of the Act, to eliminate any doubt about whether a failure to comply with the conditions is an offence. The current Regulations make it clear that breach of the conditions is an offence under s. 39E, thereby facilitating enforcement in cases of non-compliance. Given the risks involved in carrying out the prescribed activities and the potential consequences of fire, the Authority considers that the current Regulations provide desirable clarity, and that allowing these Regulations to sunset without replacement would not be in the public interest.

The current Regulations also prohibit the use of other kinds of “non-vehicular heat engines” (such as diesel generators and boilers) in the open air unless they are fitted with an efficient spark arrester and, during a fire danger period, the area around the machine must be cleared of flammable material for a radius of not less than 3 metres and a person with the capacity to rapidly extinguish any fire must be present at all times when it is in operation and must have the prescribed fire suppression equipment. These machines may generate hot particles and embers, so pose a risk of sparking fires. The Authority considers that these Regulations continue to be necessary in the interests of community safety and allowing them to sunset without replacement is not considered appropriate.

Overview of options considered

In consultations with stakeholders, the Authority sought to identify possible alternatives to remaking the current Regulations. For most of the areas covered by the Regulations, only one option was considered because stakeholders did not identify a need for change. However, CFA officers identified scope to improve the regulations about the forms for permits to burn by updating them to reflect changes in practice, and to ensure that the appropriate form is used in each case.

Table 19: Overview of control options

Topic	Current Regulations	Options considered
Forms for permits to burn during fire danger periods	Prescribe different forms to permit vegetation burning by a fire brigade or a private person and a separate “skeleton form” to allow burning for miscellaneous purposes. Forms for vegetation burning include standard conditions but allow the ability of the permit issuer to include additional conditions.	Remake the Regulations with some changes to the permit forms to improve their flexibility and clarity and align permits with current practice (the specific changes are described below).
Forms for fire prevention notices	Prescribe a simple standard form which allows the person issuing the notice (a council officer or CFA’s Chief Officer) to specify the steps that the landowner or occupier is required to take to remove or minimise the threat of fire on specified land and the completion date for this work. The form advises that the landowner may object to the	Only one option – remake the current Regulations – to continue to provide a standard form in order to provide clarity and assist councils and delegates of the Chief Officer to exercise this statutory power.

Topic	Current Regulations	Options considered
	notice and may appeal if an objection is not upheld.	
High fire risk activities during fire danger periods	Prescribe welding, gas cutting, soldering, grinding, charring and the use of power operated abrasive cutting discs as high fire risk activities which must comply with the following conditions: <ul style="list-style-type: none"> • There must be a shield or guard to prevent the emission of sparks, hot metal or slag • A radius of 1.5 metres must be cleared of all flammable material or sufficiently wetted down to prevent the spread of fire • There must be available a reticulated water supply or knapsack water spray pump with a capacity of 9 litres which is filled with water • Any cut offs and electrode stubs must be placed directly in a fireproof receptacle. 	Only one option - remake the current Regulations as this facilitates enforcement of the conditions designed to minimise fire risk during fire danger periods.
Fire suppression equipment	Prescribe the following: <ul style="list-style-type: none"> • at least one knapsack water spray pump with a tank capacity of not less than 9 litres that complies with AS 1687; or • at least one water fire extinguisher with a tank capacity of not less than 9 litres that complies with AS/NZS 1841.1 	Only one option – remake the current Regulations as the prescribed Standards continue to be relevant.
Australian Standard (AS) for spark arresters	Prescribe AS 1019 as the standard for spark arresters.	Only one option – remake the current Regulations as the Act requires an Australian Standard to be prescribed and the prescribed Standard continues to be relevant.
Use of other “non-vehicular heat engines” (excluding lawn mowers, grass trimmers)	It is an offence for a person to use a heat engine in the open air unless it is fitted with an efficient spark arrester and, where a fire danger period is in force: <ul style="list-style-type: none"> • the area surrounding the heat engine must be cleared of flammable material for a radius of not less than 3 metres; and • a person with the capacity and means to extinguish a fire must be present at all times when it is in operation, together with fire suppression equipment prescribed in the regulations or approved by the Chief Officer. 	Only one option – remake the current Regulations as they continue to be required to minimise fire risk and enable rapid suppression of any fire.
Disposal of by-products of sawmilling operations by burning	Requires disposal of flammable material to be in a pit or burner that is approved by the Chief Officer and operated to the Chief Officer’s satisfaction. When a fire is burning, the number of adults specified by the Chief Officer must be present, and the amount and type of fire suppression equipment specified by the Chief Officer must be available.	Only one option – remake the current Regulations as they continue to be required to minimise fire risk and enable rapid suppression of any fire.

8.1.5 Impact analysis

Remaking the current Regulations would mean that:

- permits can be issued to allow reasonable activities involving some fire risk where appropriate

- councils can issue prescribed notices requiring landowners and occupiers to take actions to reduce fire risks on their properties
- there are prescribed standards for spark arresters on internal combustion engine vehicles and machines, and requirements for fire extinguishers as required by s.50 of the Act – providing certainty about what is required and enabling penalties for non-compliance if needed
- there are requirements for disposal of by-products of sawmilling as required by s.49 of the Act, so non-compliance with these requirements can be enforced if needed.

It is difficult to estimate the scale of the impact of remaking these Regulations, as imagining a state where currently permitted activities are disallowed because of the Act is difficult – which would be the case in the absence of regulations. The Act is designed on the basis that regulations will fill gaps, prescribe standards and provide certainty.

It is anticipated that remaking the current Regulations would have the following benefits and costs and that the benefits would outweigh the costs:

- Benefits:
 - Provide clarity for permits to burn and fire prevention notices, and additional flexibility in permits to burn.
 - Reduce fire risks.
- Costs:
 - Compliance costs for individuals and businesses undertaking high fire risk activities during fire danger periods.
 - Costs for individuals and businesses to provision fire suppression equipment,
 - Additional costs for equipment needing AS compliant spark arresters.
 - Compliance costs for individuals and businesses using non-vehicular heat engines during fire danger periods.
 - Costs to individuals and businesses to ensure the disposal of sawmilling by-products is in an approved pit or burner.

Two options were analysed for forms for permits to burn during fire danger periods.

Analysis of forms for permits to burn

The current permit forms for vegetation burning contain some standard conditions applicable to the burning operation (including minimum standards about fire breaks, and requirements about weather conditions) and allow scope for the person issuing the permit to include additional conditions (if any). For example, a standard condition is that all fires must be extinguished before sunrise on the day following the day on which the fires were lit. However, this may not always be feasible or the most appropriate approach to managing the risk.

There are now processes in place that require vegetation burning, especially by fire brigades, to be carried out in accordance with a detailed approved burn delivery plan which specifies the required weather conditions, control line standards¹⁴⁴ and timeframe allowed for the burn which factor in the complexity of the burning operation. This approach enables conditions to be tailored to the risks of the burn being carried out in a way that is not possible under the current prescribed forms.

CFA officers proposed that, in cases where an approved burn delivery plan exists that applies to a particular site, the permit forms should allow conditions to be imposed with respect to the fire break required, the shade temperature and wind values, when fires must be extinguished (or a

¹⁴⁴ A control line is a barrier that blocks the spread of fire.

burn is not to proceed) and the time and date by which fires must be extinguished that align with the burn delivery plan. This would be an alternative to the standard conditions and allow more flexibility for permit conditions to be tailored to the complexity and risk of the particular burn; which is important to minimise the risk of fire spreading and because any breach of the permit conditions is an offence. Standard conditions would continue to be included in the prescribed permit forms for burning vegetation as the default safety requirements. This change would also address an issue with current “Schedule 14” permits (permits to light a fire for miscellaneous purposes) sometimes being issued for vegetation burns to enable more flexibility than is possible under the current permit forms for vegetation burning.

CFA officers and staff suggested some other drafting changes to the current Regulations about permits to:

- rename the permit to light a fire for miscellaneous purposes to a “permit to burn other materials or substances” to clearly distinguish this form from the permits for vegetation burning and require the particular materials or substances to be burned to be specified in the permit together with the conditions to minimise risk
- include a standard condition in the permits for vegetation burning that require the burning area to be adequately monitored, in place of the current condition that requires the perimeter of the burning area to be continuously patrolled, which can be difficult or impossible to comply with in practice (for example, because of the particular terrain). This is problematic as non-compliance with any permit condition is a significant offence under s. 38(3) of the Act
- clarify that permits to burn during a fire danger period can also be issued outside a fire danger period, as the Act does not restrict when a permit to burn can be issued
- clarify that a permit to burn does not apply where the Chief Officer has issued a direction not to light a fire under s. 37A of the Act
- include an additional note to remind the permit holder that breach of the permit conditions is an offence, as a means of encouraging compliance.

Because of issues identified with the current Regulations, remaking the regulations in their current form is not considered appropriate and remaking the Regulations with the above changes has been assessed as the superior option. These changes will reduce fire risk by allowing for vegetation burning in a broader range of circumstances, with conditions that are better tailored to managing the risks of different types of burns and can be complied with. No other options have been assessed, given that the Act limits the available options and no alternatives have been proposed in consultations to date.

8.1.6 Summary

As noted above, most of the current Regulations are required to enable the continued use of regulatory tools provided by the Act to aid fire prevention and control so allowing the regulations to sunset without replacement is not considered feasible or appropriate.

The preferred option is to remake the current Regulations with some changes to clarify and update the forms for permits to burn; in particular so that permit conditions relating to vegetation burning can reflect requirements in approved burn delivery plans – allowing more flexibility for permit conditions to be tailored to the complexity and risk of the particular burn. Standard conditions would continue to be included in the prescribed permit forms for burning vegetation as the default safety requirements. The forms would also be altered to include a standard condition that requires the burning area to be adequately monitored, in place of the current condition that requires the perimeter of the burning area to be continuously patrolled, which can be very difficult

to comply with in practice. It is important that all permit conditions are practical, as non-compliance with any condition is an offence.

Even if no regulation were a feasible option, remaking the regulations would provide greater certainty for all those affected by the regulations than the absence of regulation. And remaking the fire permits regulations with changes to update and clarify them to improve their operation is a better option than simply remaking those regulations in their current form as this change would aid clarity of and compliance with the permit conditions. The preferred option would therefore best meet the objective of fairness, without causing additional risks to community safety.

8.2 Forestry Industry Brigades

8.2.1 Legislative Context

The Act

In 1997, the Act was amended to enable the Authority to require industry brigades to be established in designated areas within CFA's jurisdiction.¹⁴⁵ Section 23AA of the Act enables the Authority, *in accordance with the regulations*, to require any relevant landowner or group of owners in a designated area to form an industry brigade, apply for its registration and, at the owner's expense, equip the brigade with such personnel and apparatus for the prevention and suppression of fires as determined by the Authority. This section also enables the Authority to register an industry brigade and enrol its officers and members and enables any owner who is aggrieved by a requirement to form an industry brigade to apply to VCAT for review of that decision.¹⁴⁶

Where an owner fails to comply with a requirement to form an industry brigade or comply with the requirements for apparatus and personnel, or otherwise at the owner's request, CFA may form an industry brigade for the designated area and recover the costs of forming, equipping and maintaining the brigade from the relevant owner or owners as a debt due to the Authority.¹⁴⁷

Section 23AA was enacted in light of the then government's proposal to sell the former state-owned body, the Victorian Plantations Corporation (VPC), to the private sector. Accordingly, land vested in the VPC would no longer be under state control and, without changes to legislation, this would have resulted in the transfer of responsibility for fighting fires on VPC land to CFA. The then government also anticipated that significant growth in privately operated forest plantation development would occur in the coming years and considered that these changes would result in an increased burden on CFA volunteers.¹⁴⁸

Although s. 23AA of the Act was developed with plantation forestry in mind, the then Minister advised the Parliament that it was designed to be flexible enough to mandate the establishment of industry brigades in other industry sectors in the future, if needed:

¹⁴⁵ *Fire Authorities (Amendment) Act 1997*, s. 24.

¹⁴⁶ *Country Fire Authority Act 1958*, s. 23AA(2), (4) and (6).

¹⁴⁷ *Country Fire Authority Act 1958*, s. 23AA(5).

¹⁴⁸ In the second reading speech on *Fire Authorities (Amendment) Bill 1997*, the Hon W.D McGrath, Minister for Police and Emergency Services stated that "Government strategies are expected to result in a significant growth in privately operated forest plantation development over the coming years. In addition, the transfer of responsibility for fighting fires on land under the control of the Victorian Plantations Corporation to the Country Fire Authority, away from the Department of Natural Resources and Environment, would place increased burden on the authority's firefighting resources, in particular on its volunteers" Victorian Hansard, Legislative Assembly, 3 April 1997, p 42.

“There will also be the opportunity, after consultation and agreement with other industries, for cabinet to consider extending the concept of industry brigades, if it is acceptable to those industries and there is a need, and such extension will be subject to criteria to be established in regulation.”¹⁴⁹

Subsequent amendments to the Act in 2014 have enabled Forestry Industry Brigades (FIBs), with the approval of the relevant plantation owner, to assist CFA brigades in carrying out fire prevention or suppression work in certain circumstances, and to extend the statutory immunity from personal liability for acts or omissions in good faith to members of industry brigades when providing assistance to CFA.¹⁵⁰

The current Regulations are designed specifically for the plantation forestry sector. While during consultations some CFA officers suggested that expanding industry brigades to other sectors should be explored, this does not form part of the regulatory proposals examined in this RIS. Should government consider mandating industry brigades in other sectors, further regulations that are tailored specifically for the additional industries would be needed. Detailed policy work and consultation with businesses that may be affected in each sector would be required to obtain industry views, consider the scope of any proposed Regulations, identify and assess the costs and benefits of regulation and consider whether any expansion of regulation would be in the public interest.

The Regulations

The current Regulations specify:

- what factors CFA must consider in determining whether to designate an area thereby triggering a requirement to form a FIB—including the aggregate size, location, topography and number of plantation holdings that would form the designated area and the characteristics of the area such as location of roads, past incidence of fire and fire risk
- the process to be followed before designating an area – which requires CFA to consult with a committee appointed by the Minister for this purpose
- requirements for notice to be given to the landowners in the area before designating an area
- the criteria for formation of FIBs
- requirements for personnel and minimum standards of apparatus that plantation owners in the designated area must supply at their own expense (including a requirement to consult with the relevant plantation owner or owners before determining the officers, members and apparatus to be provided for the brigade
- requirements regarding applications for registration of FIBs, maintenance of apparatus and equipment and provision of situation reports during and at the conclusion of incidents of fire
- requirements for training of FIB members.

The Regulations enable CFA to designate an area of land which has one or more plantation holdings of 500 hectares or more in size, and require the Authority to consider the size, topography, number and dispersion of plantation holdings that will form the designated area as well as the characteristics of the area including past experiences of fire and the risk posed by fire to plantation holdings and the community.¹⁵¹ Before designating an area for the formation of a FIB, the Authority must consult with a committee comprising the Secretary to the Department of Justice and Community Safety, together with at least one person experienced in the forestry

¹⁴⁹ Fire Authorities (Amendment) Bill 1997, second reading speech Victorian Hansard, Legislative Assembly, 3 April 1997, p 421.

¹⁵⁰ *Country Fire Authority Act 1958* ss. 42 and 92.

¹⁵¹ *Country Fire Authority Regulations 2014*, Regs. 65 and 66.

industry and at least one person experienced in firefighting in rural Victoria.¹⁵² The Authority must also give prior notice to all affected landowners in the area of the decision, specifying the reasons for the decision and providing a map which identifies the land to be designated.¹⁵³

The current Regulations specify minimum standards of apparatus and equipment required to be supplied by owners for FIBs at their own expense. For plantations of 10,000 hectares or more in aggregate, the minimum standard is one mobile firefighting unit that is capable of traversing all roads and tracks in the designated area, has a minimum water carrying capacity of 2500 litres and is equipped with at least 30 metres of 19-millimetre hose connected to a firefighting nozzle and a pump of at least 5 horsepower. For plantations of between 500 and 10,000 hectares in aggregate, the minimum standard is one or more mobile firefighting units capable of traversing all roads and tracks in the designated area, has a minimum water carrying capacity of 800 litres and is equipped with at least 30 metres of 19-millimetre hose connected to a firefighting nozzle and a pump of at least 5 horsepower. The Act also empowers the Authority to require an industry brigade to exceed these minimum standards.

The current Regulations also clarify that a FIB is responsible only for fire suppression on the plantation holdings of the relevant owner or group of owners who form the brigade.¹⁵⁴ While these brigades must be registered as industry brigades, and their officers and members are enrolled as members of those brigades, FIBs and their personnel (who are typically contractors of those businesses) remain the responsibility of the businesses concerned and are not CFA brigades. Accordingly, they are not subject to the rules governing CFA's administration and management, including the model rules for brigades and groups, the criteria for CFA membership (including fitness to carry out duties) or the disciplinary regulations applicable to CFA members.¹⁵⁵ This reduces red tape for the forestry sector and is appropriate given the distinct responsibilities of CFA and plantation owners.

The Regulations directly affect plantation owners and operators, and their contractors. They also impact CFA volunteers by relieving some of the burden associated with fire suppression in plantation forestry environments.

8.2.2 Problem analysis

In the absence of regulations, there would be no state imposed legal requirement on the forestry sector to establish industry brigades and equip them to the required standards, and s. 23AA of the Act could not operate. If private plantation owners did not voluntarily establish their own fire brigades to protect their assets, the responsibility for fire suppression in plantation forests would fall entirely on CFA volunteers who would not have the same detailed knowledge of the terrain and the location of access routes that are suitable for fire trucks and apparatus as the personnel who manage these plantations on behalf of their owners. Hence, an absence of regulations could potentially make rapid fire suppression in plantation forests more difficult, increase the risk of fires spreading beyond plantations and resulting threats to lives and property and increase the hazards for CFA volunteers involved in firefighting in this environment.

8.2.3 Objectives

The primary objective of the Regulations is to protect lives and property through enabling capacity for rapid suppression of fires in plantation forests (community safety). A secondary objective is to ensure that all private sector forestry business owners contribute to the cost of fire suppression

¹⁵² Country Fire Authority Regulations 2014, Reg. 65(3) and (4).

¹⁵³ Country Fire Authority Regulations 2014, Reg. 65(5).

¹⁵⁴ Country Fire Authority Regulations 2014, Reg. 64

¹⁵⁵ Country Fire Authority Regulations 2014, Reg. 27.

on their land, helping to alleviate the burden that would otherwise fall on CFA volunteers, CFA and Victorian taxpayers without this contribution.

When proposing the enactment of s. 23AA of the Act together with the power to make regulations to give effect to it, the responsible Minister explained the purpose of these laws to the Parliament as follows:

“Fire prevention and firefighting in forest plantations is a specialised task and an early and effective first strike at a fire outbreak can frequently avoid a catastrophic fire. The bill provides for the formation of industry brigades where the fire risk is exceptionally high, thereby formalising an arrangement which has existed in Victoria for many years. These industry brigades will be formed, staffed and equipped by the owner or occupier of the land, and will provide a first strike capacity which should reduce the risk of escalation of fire. CFA brigades would, of course, be activated in support ...

The type and level of risk and the requirements for formation of an industry brigade will be specified in regulation which will be developed in close liaison with industry representatives.”¹⁵⁶

Rapidly suppressing fires in plantation forests requires detailed knowledge of the particular terrain, any specific environmental hazards, and the location of access routes that are suitable for fire trucks and apparatus. As plantation managers and their employees have this knowledge, they are better placed to undertake this task in the first instance than the local CFA brigades.

8.2.4 Options considered

Base case – allowing the Regulations to sunset without replacement

Section 23AA of the Act is an enabling law that relies on regulations for its operation. In the absence of regulations, there would be no ability for the state to mandate the formation of industry brigades as envisaged by the Act. However, as timber plantations are valuable, slow growing assets and fire could cause devastating losses, fire is a critical business risk for plantation owners and operators. In these circumstances, there may be sufficient incentive on the business owners to retain their brigades to prevent and rapidly suppress fires on their land without the need for regulation.

While there is a strong incentive on plantation owners and operators to prevent and rapidly suppress fires on their land, regulation provides for clarity and consistency of plantation owners' obligations and ensures all participants in the industry must meet or exceed the minimum standards. And given that s. 23AA of the Act gives the Authority broad discretion to determine what personnel and apparatus must be provided for an industry brigade at the owner's expense, imposing minimum standards in regulations imposes some boundaries around CFA's discretion and provides clarity about what requirements CFA will ordinarily impose.

The legislation and regulations ensure that the government is not solely reliant on the ongoing voluntary co-operation of the plantation owners to establish, equip and maintain industry brigades to the required standard. While all businesses in the sector currently exceed the minimum standards, plantation ownership may change or new companies may commence operating that have different views about how to manage their business risks. In these circumstances, if the regulatory requirements are not met, the Act enables CFA to manage the risk of fire to the community and reduce the burden to CFA and its volunteers by forming an industry brigade and recovering the costs of operating it from the plantation owner or owners.

¹⁵⁶ Fire Authorities (Amendment) Bill 1997, second reading speech, Victorian Hansard, Legislative Assembly, 3 April 1997, pp 421.

Further, the existence of trained and equipped FIBs provides additional resources to support fire prevention and control operations in the country area of Victoria, including outside the designated areas that industry brigades are responsible for, with plantation owners' consent. As previously noted, amendments were made to the Act in 2014 to enable industry brigades to assist CFA in carrying out fire prevention or suppression work and to extend the statutory immunity from personal liability for acts or omissions in good faith to members of industry brigades when assisting CFA.

Initial feedback received from members of FIBs is that the current Regulations are regarded as reasonable by the forestry industry, the minimum standards are exceeded by all businesses in the sector, and that regulations continue to provide public benefits as well as some perceived advantages to the businesses that are regulated. The sector is perceived to benefit because regulations require all businesses to meet the minimum standards, thereby ensuring a level playing field, and the regulatory arrangements ensure that the businesses contracted to manage plantations on the owners' behalf are formal CFA partners, with plantation managers and industry brigade members receiving timely information, alerts and support from local brigades and benefiting from access to CFA training. An industry participant expressed the view that, as timber plantations are both an asset and a risk, having industry brigades is important for both the company's risk management and its social licence to operate.

Based on consultations to date, no support has been expressed by the industry affected or by CFA members for allowing these regulations to sunset without replacement. As maintaining regulations provides benefits to CFA, the forestry industry and the wider public, and is supported by the forestry industry in Victoria, continuing to regulate is considered better than the alternative of allowing the Regulations to sunset without replacement.

Overview of options considered

Table 20: Options for regulation of Forestry Industry Brigades

Topic	Current Regulations	Options considered
Designation of areas for formation of FIBs – size and location of plantation holdings	CFA must identify an area where there are one or more plantation holdings that are 500 hectares or more in size which do not fall within the designated area for another FIB (to ensure there is only one FIB for each designated area).	Only one option – remake the Regulations as consultations to date have not elicited any suggestions for change.
Designation of areas for formation of FIBs - factors to consider in decision making	CFA must consider: (a) the size, location, topography, number and dispersion of plantation holdings that will form the designated area; (b) the area characteristics including location of roads, existing capacity for suppression of fires, past incidence of fire and the risk posed by fire to plantation holdings and the community.	Only one option – remake the Regulations as consultations to date indicate that they are supported by stakeholders.

Topic	Current Regulations	Options considered
Designation of areas – process requirements	<p>Before designating an area, CFA must consult with a committee appointed by the Minister to consider the proposal which must consist of at least one person experienced in the forestry industry, at least one person experienced in firefighting in rural Victoria and the Secretary to the Department of Justice and Community Safety or their nominee.</p> <p>At least 30 days before designating an area CFA must notify all relevant owners of land in the area, identify the designated area in map form and specify the reasons for the decision.</p> <p>CFA may vary the designated area of a FIB after consulting with the plantation owner(s) affected.</p>	Only one option - remake the current Regulations as they provide an external check on any CFA proposals to designate an area for the purposes of mandating the formation of FIBs, and the current regulatory requirements with respect to giving notice and notice and of the designated area are considered reasonable.
Criteria for formation of FIBs	<p>Where an owner's aggregate plantation holdings are 10,000 hectares or more, CFA must be satisfied there is no other FIB in another designated area that is able and willing to provide adequate services for the suppression of fires and the saving of lives at fires in the designated area.</p> <p>Where an owner's the aggregate plantation holdings are 500 hectares or more CFA must be satisfied that there is no other FIB in the designated area that is able and willing to provide adequate service for the suppression of fires in the designated area.</p> <p>CFA must also be satisfied that the formation of the FIB is appropriate having regard to –</p> <ul style="list-style-type: none"> • the adequacy of existing fire detection systems • the first attack capability of the proposed brigade • the apparatus available to the FIB • the availability of competent persons to become FIB members • the fire suppression capacity of any other brigade in the designated area • the fire hazard characteristics of the designated area. 	Only one option - remake the current Regulations as consultations to date indicate that they are supported by stakeholders.
Requirements for formation of FIBs	<p>A requirement to form a FIB must:</p> <ul style="list-style-type: none"> • be in writing • provide reasons for the requirement • identify the officers and members CFA has determined must be provided for the FIB at the owner's expense • identify the apparatus CFA has determined must be provided for the FIB at the owner's expense • state CFA's operational and administrative requirements of the owner • state that the owner must apply for the registration of the FIB • state that the owner may apply to VCAT for review of the requirement to form a FIB 	Only one option – remake the current Regulations as they are necessary to operationalise s.23AA of the Act and consultations to date indicate that they are supported by stakeholders.

Topic	Current Regulations	Options considered
Minimum requirements for apparatus	<p>Where a plantation is 10,000 hectares in aggregate or more – one mobile firefighting unit that is capable of traversing all roads and tracks in the designated area, has a minimum water carrying capacity of 2500 litres and is equipped with at least 30 metres of 19-millimetre hose connected to a firefighting nozzle and pump of at least 5 horsepower.</p> <p>Where a plantation is between 500 and 10,000 hectares in aggregate, one or more mobile firefighting units that meet the above criteria except that the minimum aggregate water carrying capacity is 800 litres rather than 2500 litres.</p>	<p>Only one option – remake the current Regulations.</p> <p>Consultations to date indicate that the prescribed minimum standards are appropriate and supported by stakeholders.</p>
Application for registration of a FIB	<p>An applicant must provide:</p> <ul style="list-style-type: none"> the names of the proposed officer in charge of the FIB and the officers and members (who must be employees or contractors engaged by the owner(s)); and a list of the apparatus to be used for carrying out the FIB's responsibilities 	<p>Only one option – remake the current Regulations. These regulations prescribe information needed by CFA, and consultations to date indicate that these regulations are supported by stakeholders.</p>
Operation of a FIB	<p>The owner(s):</p> <ul style="list-style-type: none"> are responsible for the operation and command of their FIBs must ensure all apparatus and equipment is maintained in operational order may respond to calls to assist other brigades attending fires outside the designated area for which the FIB is responsible <p>Where a fire is detected in part of a FIB's designated area, the FIB officer in charge must ensure regular situation reports are provided to the Chief Officer and, at the end of the incident, an incident report is provided to CFA in the form approved by CFA.</p>	<p>Only one option – remake the current Regulations.</p> <p>Consultations to date indicate that these regulations are supported by stakeholders.</p>
Training	<p>FIB officers and members must comply with the training requirements applicable to them. Minimum requirements for training of FIB are those determined by CFA for members operating in forest areas.</p>	<p>Only one option – remake the current Regulations</p> <p>Consultations to date indicate that this regulation is supported by stakeholders</p>
Notification to CFA of any change to officer in charge of a FIB and any change of ownership of a plantation	<p>No regulations.</p>	<ol style="list-style-type: none"> Status quo. Add a regulation that requires plantation owner(s) to ensure CFA is notified of any change to the officer in charge of a FIB or of any ownership change within 14 days

In initial consultations with forestry sector representatives, no concerns were raised about the current criteria in the Regulations for designating areas, or for the formation of industry brigades, or the minimum requirements for apparatus. One industry stakeholder queried the need for consultation with a Ministerial committee prior to designating an area. However, as this regulation

provides for some external oversight of CFA decisions affecting plantation owners, the government considers it to be a reasonable check in the system.

An industry stakeholder suggested that consideration should also be given to facilitating voluntary formation of industry brigades for plantation holdings less than the minimum of 500 hectares where an owner wishes to do so, so that these industry brigades can also benefit from having formal and structured CFA support, communications and training. However, this could be achieved without making changes to the Regulations whose purpose is to impose mandatory requirements.

While expressing support for remaking the current Regulations, CFA officers noted that, in practice, plantation owners tend to be large institutional investors including banks and superannuation funds, that do not directly manage the plantations they own but appoint contractors to do so on their behalf, and these contractors are the key points of contact for CFA brigades. Some officers expressed concern that they are not always advised when there is a change in the officer in charge of a brigade, creating issues at the local level for timely communication. They requested a minor change to the regulations to clarify the owner's responsibility to ensure that CFA is notified within 14 days of any change to the officer in charge of an industry brigade, as well as of any change in plantation ownership.

8.2.5 Options analysis

Costs and benefits

The Regulations impose requirements on Forestry Industry Brigades in relation to prescribing minimum requirements for firefighting equipment, fire incident reporting, training, and registration requirements. The Regulations prescribe minimum apparatus requirements for a Forest Industry Brigade. These require one or more mobile firefighting units (i.e., trucks) with prescribed water carrying capacity, along with hose, nozzle and pump specifications.

Costs imposed by the regulations relating to FIBs have been calculated. The costs are shown in the table below. The gross costs are around \$2 million per annum.¹⁵⁷ The majority (89 per cent) of these costs relate to the apparatus requirements, assuming that each of the 19 FIBs replace equipment once every 10 years. The annual training requirements also impose costs (10 per cent). The other administrative requirements impose minor costs.

However, consultation revealed that, in the absence of regulations these costs would be incurred in any case. This is consistent with business best-practice and forestry business have a commercial incentive to protect their assets. Therefore, a case could be made that these Regulations impose no incremental costs but rather provide guidance on minimum requirements. In fact, the Authority provides assistance to FIBs in terms of training and equipment (e.g., communications equipment). However, for the analytical purposes of this RIS it is assumed that the regulations impose an incremental cost of 5 per cent¹⁵⁸ of the total cost, resulting in an annual cost of around \$100,000. This translates to about \$6,100 per FIB per annum on average.

Table 21: Costs of Forestry Industry Brigades regulations

¹⁵⁷ As around 99% of these costs relate to expenses incurred in carrying on a business (as they are directly related to earning assessable income) they should be tax deductible.

¹⁵⁸ This percentage was discussed with stakeholders and considered a reasonable estimate.

Reg	Description	Tariff (\$)	Time (hrs)	Population ¹⁵⁹	Frequency	Cost (\$)
87, 88	Requirements for apparatus ¹⁶⁰	1,092,000	-	19	0.1	1,856,400
89	Application for registration of a FIB	95.27	4.00	19	0.1	648
90	Notification of details	95.27	0.50	19	1.0	810
91	Fire incident reports	95.27	0.25	-	285	6,788
92	Training ¹⁶¹	95.27	2200	-	1.0	209,594
GROSS TOTAL Annual cost						2,074,240
Annual incremental costs (assumed 5%)						103,712
TOTAL incremental present value (10-year)						841,197

To consider the benefits (and supplement the costings analysis) an MCA of this option was conducted.

Table 22: MCA assessment of Forestry Industry Brigades

Criterion/ weighting	Assessment	Assigned score	Weighted score
Safety (40%)	Safety is improved by this proposal by ensuring that minimum fire suppression capacity is available provided by the forestry sector (when such forestry was state-owned government provided this capacity). A fire starting in a forestry area can spread to adjoining properties or forests, so this capacity also assists in managing externalities. FIBs also have interoperability with CFA and can be called upon (but not required) to attend fire emergencies.	4	1.6
Fairness (10%)	Theoretically, if there were no FIBs then the forestry industry would need to rely on public resources provided by the Authority. The Regulations help to manage 'free rider' effects and the implicit subsidy from public to private resources	2	0.2
Cost to business (30%)	The gross costs of this requirement appear large; however, it is assessed that the incremental costs are reasonably small. This is because normal business practices would involve incurring fire suppression capacity in any case. A score of -3 is assigned to this criterion for incremental casts (if any) incurred by business.	-3	-0.9
Cost to government (20%)	The Authority does incur some costs to regulating FIBs. It provides training resources and keeps records of FIBs and incidents. records of FIBs and	+1	0.2

¹⁵⁹ There are currently 19 Forestry Industry Brigades. Source: CFA.

¹⁶⁰ An estimate of apparatus equipment is \$1,092,000: cost of slip-on - \$150,000, tanker - \$400,000, other equipment - \$500,000, and personal protective clothing (PPC) per person \$1,500 (average 28 persons per brigade)).

¹⁶¹ New members are trained in General Firefighter, Plantation Firefighting 1 and Class A Foam, which takes about 30 hours. All members received about 4 hours annual refresher skill training. (20 new members per annum x 30 hours plus 4 hours x 550 members).

Criterion/ weighting	Assessment	Assigned score	Weighted score
	incidents. However, CFA would incur some costs if it were required to add additional capacity and apparatus in the absence of FIBs. Consequently, a small positive score of +1 is assigned this criterion.		
Total			+1.1

The MCA score of +1.1 suggests that the regulations for FIBs have merit and should be included in the proposed Regulations. The net score is relatively small because the forestry industry would be likely to possess fire suppression equipment in the absence of regulations. Regulations provide a minimum standard for fire suppression capabilities and only impose small incremental costs compared to the base case when measured against normal business practices.

Another community benefit of regulations relates to inter-operability. By prescribing equipment standards and training, firefighting capabilities are broadly standardised across the industry and the state. In emergency situations FIBs may be called upon to assist CFA in suppressing fires outside their areas (although it is not mandatory for FIBs to attend) and similar training and equipment assists in these operations.

8.2.6 Summary

The provisions of the Act with respect to industry brigades rely on regulations to operate. Although private plantation owners have a strong incentive to maintain capability to rapidly suppress any fires in plantations to protect their assets, in the absence of regulations, there would be no state imposed legal requirement on the forestry sector to establish Forest Industry Brigades and equip them to the required standards. If private plantation owners did not voluntarily establish their own fire brigades to protect their assets, the responsibility for fire suppression in plantation forests would fall entirely on CFA volunteers.

The preferred option is to remake the regulations about Forest Industry Brigades with a minor addition to require plantation owners to ensure CFA is notified within 14 days of any change in the officer in charge of an industry brigade, and of any change in plantation ownership, to ensure CFA is notified in a timely manner of significant changes. As preliminary consultations with representatives of the industry indicate that the current Regulations are supported by the forestry industry and continue to provide public benefits, maintaining the regulations is considered the better option than allowing the regulations to sunset without replacement. The MCA score of +1.1 suggests that the regulations for FIBs have merit and should be included in the proposed Regulations. The regulations provide a minimum standard for fire suppression capabilities and only impose small incremental costs when measured against normal business practices.

On balance, it is considered that the preferred option better achieves the objectives of safety and fairness than alternative approaches.

8.3 Alarm monitoring information

8.3.1 Legislative context

Under Victoria's building regulations, certain classes of buildings including health-care buildings which accommodate more than 20 patients and aged care facilities must have a monitored

automatic alarm system to detect fire or other hazards.¹⁶² Automatic alarm systems may also be installed in other buildings as part of their fire safety solution, or to meet insurance requirements.

Automatic alarms must be maintained as required by the Victoria Building Regulations 2018 and operating at all times in accordance with the building's occupancy permit; or so they can fulfil their purpose if there is no occupancy permit. Isolation of the alarm signalling equipment is only allowed in very limited circumstances, such as where it is permitted by a registered building surveyor or required for emergency maintenance work which cannot be performed without temporary isolation of the signalling equipment or a temporary disconnection of the system. Any modifications to an alarm system also require a permit from a registered building surveyor. And once alarm signalling equipment is installed, a building permit is required to disconnect the system permanently.¹⁶³ It is also important for CFA and FRV to be informed rapidly when an alarm system is not operating, to enable consideration of whether fire risks are being managed appropriately in this environment.

An automatic alarm system's primary function is to immediately notify CFA or FRV (as the case requires) of any fire at monitored premises, enabling fire brigades to respond rapidly to protect lives and property and minimise the damage of a fire at the premises. In these systems, a monitored installation such as a sprinkler or a smoke detection system is connected to a fire alarm monitoring system operated by a business that provides the alarm installation and monitoring service. Where a fire hazard is detected, the alarm signalling equipment (a device that connects the alarm system to an alarm monitoring business) sends a signal to Triple Zero Victoria's (TZV) computer aided dispatch (CAD) system which then dispatches a local CFA or FRV crew (as the case requires). A monitored alarm system is different to a local fire alarm system which can sound an audible alarm at the site and the alarm is indicated on the local fire indicator panel, but there is no connection to CFA or FRV.

CFA and FRV formerly operated their own fire alarm monitoring services. This changed during the 1990s when monitoring of fire alarm systems shifted to private sector businesses. As a result of this change, a formal mechanism for data sharing between the alarm monitoring businesses and CFA and FRV was needed, to ensure that the fire services can pinpoint the location of monitored premises and enter the premises without delay when an alarm is triggered (with precise details about how firefighters can access all buildings on the site, including outside business hours). Information about monitored alarms and how they are operating also assists situational awareness and planning by the fire services and informs the provision of their other services such as targeted reminders to community organisations and businesses, especially those considered higher risk, to regularly test their emergency plans. Client information enables CFA to correctly identify the building owner or occupier at a point in time, which enables charges to be imposed on the owner or occupier for false alarms in accordance with s. 20B of the Act, unless the owner or occupier can demonstrate that there is a reasonable excuse.

Initially the only mechanism for information sharing was a deed of agreement between the fire services and each alarm monitoring business. Both the CFA and FRV Acts were amended in 2011 to enable CFA and FRV to issue written notices to an alarm monitoring business requiring the business to provide the information prescribed in regulations within the period of time

¹⁶² Victoria Building Regulations 2018, Part 9 Fire Safety Requirements and Schedule 8: Essential Safety Measures.

¹⁶³ Victorian Building Authority, *Building Practice Note Essential Safety Measures ESM 06 – Fire alarm monitoring systems* available at: [vba.vic.gov.au/ data/assets/pdf file/0007/136537/Building-ESM-06-Fire-alarm-monitoring-systems-UNDER-REVIEW-15-Feb-2024.pdf](https://vba.vic.gov.au/data/assets/pdf_file/0007/136537/Building-ESM-06-Fire-alarm-monitoring-systems-UNDER-REVIEW-15-Feb-2024.pdf)

prescribed in the regulations.¹⁶⁴ The relevant provision of the Act is s. 50AA which states that failure to comply with a notice is an offence which may attract a maximum penalty of 60 penalty units. The Regulations and the Fire Rescue Victoria (General) Regulations 2020 (the FRV Regulations) prescribe the information which must be kept by the alarm monitoring businesses and supplied to either CFA or FRV when CFA or FRV issues a notice requiring this information.

The Regulations

The current Regulations require alarm monitoring businesses to provide the following information when CFA issues a notice under s. 50AA of the Act:

- For an alarm pre-connection – name of the alarm monitoring service, customer details, details of the site to be monitored, alarm number and whether the information has previously been connected to the computer aided dispatch (CAD) system. This information must be provided within 5 working days before the alarm is connected or, if this is not practicable, as close to this timeframe as possible.¹⁶⁵
- For an alarm connection – the same information as for a pre-connection plus specific details about the alarm – i.e. as alarm signalling equipment location, input device locations, numbers and types, whether or not the alarm is an automatic alarm, date of connection, end to end testing details and results, and confirmation that the direct access location has been identified on the CAD map. This information must be provided within 24 hours after the alarm's connection.¹⁶⁶
- For an alarm modification - name of the alarm monitoring service, details of the site being monitored, alarm details as for an alarm connection and including previous alarm number if the alarm number has changed, the relevant fire station and key peg number (if provided by CFA) and the date of modification. This information must be provided within 24 hours after the modification.¹⁶⁷
- For an alarm disconnection or proposed disconnection - name of the alarm monitoring service, alarm details, whether the disconnection relates to all part of the alarm system and if appropriate, which part or parts are being disconnected, date of the proposed disconnection, whether the disconnection is or is to be temporary or permanent; and the building permit number (if applicable). Where an alarm is being disconnected pursuant to a building permit – this information must be provided within 24 hours of the disconnection. In any other case, the information is to be provided 6 weeks before the proposed disconnection.¹⁶⁸
- Where there is a failure of an alarm monitoring system – the time and date of the failure, and where there is a reinstatement of the system, the time and date of the reinstatement. This information must be provided within the time specified by CFA in the notice requiring this information.¹⁶⁹
- Isolation and testing data – where there is a review of the isolation and testing records of all alarms connected to an alarm monitoring service – the information to be provided is the raw data generated by the alarm signalling equipment. This information must be provided within the time specified by CFA in the notice requiring this information.¹⁷⁰

¹⁶⁴ *Country Fire Authority Act 1958*, s. 50AA

¹⁶⁵ *Country Fire Authority Regulations 2014*, Reg. 116.

¹⁶⁶ *Country Fire Authority Regulations 2014*, Reg. 117.

¹⁶⁷ *Country Fire Authority Regulations 2014*, Reg. 118.

¹⁶⁸ *Country Fire Authority Regulations 2014*, Reg. 119.

¹⁶⁹ *Country Fire Authority Regulations 2014*, Reg. 120.

¹⁷⁰ *Country Fire Authority Regulations 2014*, Reg. 121.

- Information for verification – for verification of all alarms connected to an alarm monitoring service, the information to be provided is the raw data generated by the alarm signalling equipment relating to the name of the alarm monitoring service, details of the site being monitored, details of each alarm and the fire station and key peg numbers (if provided by CFA). This information must be provided within the time specified by CFA in the notice requiring this information.¹⁷¹

The FRV Regulations with respect to alarm monitoring are almost identical to the current Regulations, except that they require customer details to be provided when alarms are modified or disconnected, and specify timeframes for providing data about failure of an alarm monitoring system, isolation and testing data and information for verification purposes as follows:

- Where there is a failure of an alarm monitoring system, the data must be provided within 15 minutes of the failure and where the system is reinstated after a failure, within 1 hour of the reinstatement.
- In cases of a review of isolation and testing data, the data must be provided within 5 working days of the review.
- In cases of verification of alarms connected to an alarm monitoring service, the data must be provided within 24 hours of the verification.

Agreements between fire services and alarm monitoring businesses

The making of regulations to implement s.50AA of the Act did not affect the existing deeds of agreement between CFA, FRV and each of the alarm monitoring businesses under which the businesses voluntarily provide the data to CFA that they would be required by law to provide if CFA issued a notice under s. 50AA of the Act. Each alarm monitoring business also has an agreement with TZV to enable access to the CAD system operated by TZV.

Hence, co-operation between fire services and alarm monitoring businesses is the principal means by which CFA and FRV routinely receive information about monitored premises to enable them to fulfill their function of protecting lives and property effectively and efficiently, with s. 50AA of the Act and the regulations performing a “backstop” role only. To date, CFA has not issued any notices under s. 50AA.

8.3.2 Problem analysis

In the absence of s. 50AA of the Act and the Regulations, there is a potential risk that, in future, alarm monitoring businesses might not provide up to date data about premises with monitored alarms and alarm systems, and that this could impair the ability of CFA brigades to rapidly access premises when an alarm is triggered, assess risks or take other actions to minimise risk to lives and property. Should this occur, without a statutory mechanism to compel businesses to provide the data, CFA could not enforce the obligation to provide the data within the prescribed timeframe if it needed to do so.

At times, some clients of alarm monitoring businesses may not want monitoring data about the performance of their systems to be available to government authorities, for example, if an alarm system is taken offline without authorisation in breach of their obligations under the Building Regulations. The existence of a power to issue a notice directing the alarm monitoring business to provide the information specified in the regulations means that the alarm monitoring business has a clear legal obligation to respond to the notice, regardless of the views of their clients. In the absence of regulations, sole reliance would be placed on businesses managing the issue of client

¹⁷¹ Country Fire Authority Regulations 2014, Reg. 122.

consent to disclosure of information through the contract's businesses have with their clients and CFA would lose access to an enforcement tool that could be used if needed.

8.3.3 Objectives

The overarching objective of s. 50AA of the Act and the regulations is to enable CFA to perform its functions of protecting life and property effectively and efficiently, thus maximising scope for community safety. The specific objective of these laws is to ensure that CFA can legally require all alarm monitoring businesses to provide the information specified in the regulations within the prescribed timelines if needed and provide a mechanism to enforce compliance with this requirement.

8.3.4 Options considered

Base case – allowing the regulations to sunset without replacement

If the Regulations were to sunset without replacement, CFA would need to rely entirely on ongoing agreements with each of the alarm monitoring businesses (including any other businesses that enter the Victorian market in the future) to obtain alarm monitoring information and would not be able to take action in the event of any failure of a business to supply the information unless the agreements were redesigned as enforceable contracts, with specified remedies that CFA could pursue in the event of a breach.

However, s. 50AA of the Act relies on the existence of regulations that prescribe the data which the Authority can require alarm monitoring businesses to provide, and the timeframe within which such information must be provided. It could not operate in the absence of regulations. There is no general power in the Act enabling the Authority to compel businesses to provide information to CFA for the purposes of its functions. Although the Regulations currently perform a “backstop” role only, it is not considered appropriate to allow them to sunset without replacement as this would prevent s. 50AA from operating.

While all the alarm monitoring businesses currently operating in Victoria are supplying the data voluntarily, this may not be the case in the future. Removal of the Regulations would result in the loss of a regulatory tool which could be invoked if needed over time. Allowing the Regulations to sunset without replacement would also create an inconsistency between CFA's powers to obtain information from and those of FRV. In principle, it is undesirable to provide lesser regulatory tools to CFA, as both fire services are performing the same functions to protect the community. Further, having different approaches could cause some inconvenience to the businesses affected, due to the need to navigate a slightly more complex regulatory environment, although it may not result in any differences of approach.

Overview of options considered

As allowing the Regulations to sunset without replacement is not considered appropriate, two options were considered:

1. Remaking the Regulations in their current form.
2. Remaking the Regulations with some changes to align the information that CFA can require and the timeframes for providing the information with the approach prescribed in the FRV Regulations about alarm monitoring information.

While the number of premises with automatic alarm systems may be less in the country area of Victoria than in the metropolitan area, the need of both CFA and FRV for the prescribed information is the same, as reflected in the agreements between FRV, CFA and each of the alarm monitoring businesses. In identifying options, an important consideration was to provide for consistency between the CFA and FRV regulations about alarm monitoring information. Given

this, alternative options such as varying the kinds of information that CFA can demand or the timeframes for providing the specified information in a way that would differ from the equivalent FRV Regulations were not explored, and only Option 2 was considered in detail.

Table 23: Options for regulation of alarm monitoring

Topic	Current Regulations	Options considered
Alarm pre-connection and alarm connection	<p>Require name of the alarm monitoring service, customer details, details of the site to be monitored, alarm number and whether the information has previously been connected to CAD system.</p> <p>For alarm connection, details of the alarm, the alarm connection date and whether the alarm system has been tested end-to-end are also required.</p>	<p>Only one option – remake the Regulations. This information continues to be needed by fire services, and the CFA and FRV regulations are currently consistent in relation to the information required.</p>
Alarm modification	<p>Require name of the alarm monitoring service, details of the site being monitored, alarm details (including previous alarm number if the alarm number has changed), the relevant fire station and key peg number (if provided by CFA) and the date of modification.</p>	<p>Remake the Regulations with a requirement to provide client details – to align the CFA and FRV regulations and enable CFA to identify the relevant building owner or occupier at this point in time for the purpose of issuing any notices to seek an explanation for any false alarms under s. 20B of the Act.</p>
Alarm disconnection	<p>Require name of the alarm monitoring service, alarm details, whether the disconnection relates to all part of the alarm system, date of the proposed disconnection, whether the disconnection is or is to be temporary or permanent; and the building permit number (if applicable).</p>	<p>Remake the Regulations with a requirement to provide client details – to align the CFA and FRV regulations and enable CFA to correctly identify the relevant premises owner or occupier at this point in time.</p>
Information in case of failure of an alarm monitoring system	<p>Require the time and date of the failure, and where there is a reinstatement of the system, the time and date of the reinstatement. This information must be provided within the time specified by CFA in the notice requiring this information</p>	<p>Only one option – remake the current Regulations but specify the time for providing the data in the regulations: In the case of a failure, this is within 15 minutes of the failure. In the case of a reinstatement, within an hour after the reinstatement. These timeframes are consistent with the equivalent FRV Regulations</p>
Isolation and testing data	<p>Where there is a review of the isolation and testing records of all alarms connected to an alarm monitoring service, the information to be provided is the raw data generated by the alarm signalling equipment. It must be provided within the time specified by CFA in the notice requiring this information.</p>	<p>Only one option – remake the current Regulations but specify that the information must be provided within 5 working days of the review as is the case in the FRV equivalent Regulations.</p>
Information for verification purposes	<p>For verification of all alarms connected to an alarm monitoring service, the information to be provided is the raw data generated by the alarm signalling equipment relating to the name of the alarm monitoring service, details of the site being monitored, details of each alarm and the fire station and key peg numbers (if provided by CFA). It must be provided within the time specified by CFA in the notice.</p>	<p>Only one option – remake the current Regulations but specify that the information must be provided within 24 hours of the verification as is the case in the equivalent FRV Regulations.</p>

In consultations to date, the three alarm monitoring businesses did not express any concerns about the current Regulations or their content. CFA officers indicated support for maintaining the Regulations but requested some changes to align the Regulations with the equivalent FRV Regulations (which were re-made in 2020 and are therefore more recent).

Specifically, the FRV regulations require client details to be provided in cases of alarm modification and disconnection and CFA officers consider that this is also relevant information for CFA and should be included in the Regulations. Including client details also assists CFA to correctly identify the owner or occupier of a building at a specific point in time, which can be relevant information for the purposes of investigating whether to impose charges on a building owner or occupier for any false alarms during that time. CFA was also advised that, for the purposes of legal clarity, the Regulations should specifically prescribe timeframes for provision of information about any failure of an alarm monitoring system, isolation and testing data and information for verification of alarms connected to a monitoring service rather than allowing CFA to specify the times in a notice. It is considered appropriate to align the timeframes for providing this information with those in the equivalent FRV Regulations.

8.3.5 Options analysis

Cost and benefits

An automatic alarm system's function is to immediately notify CFA of any fire at monitored premises, enabling CFA brigades to respond rapidly. Accordingly, the Regulations help to support community safety and minimise property loss or damage by ensuring accurate information is available to CFA that enables brigades to access monitored premises as quickly as possible. By assisting CFA to enforce requirements on businesses to provide up to date information about monitored premises where needed, the regulations provide public benefits.

This is light touch regulation, as the only obligation imposed on the businesses is to collect the prescribed data (which is information they would collect in the course of their business regardless of regulation) and provide it to CFA when required in response to any notices issued by CFA under s. 50AA of the Act. The Regulations do not prescribe the form in which the prescribed information must be kept or supplied to CFA, minimising the compliance cost involved.

As noted above, no notices under s. 50AA of the Act have been issued to date. Therefore, there are no incremental costs associated with this proposal at present. There are three alarm monitoring companies who submit weekly and monthly data to CFA and FRV under agreements. This data also forms a part of the information linked with the TZV emergency service number. The information provided from the three alarm monitoring companies is more comprehensive than the requirements in the proposed Regulations. These arrangements can be regarded as a form a 'private regulation,' which has worked effectively to date. Nevertheless, the proposed Regulations provide a statutory safeguard by prescribing certain information that must be provided to CFA if other mechanisms fail.

8.3.6 Summary

In the absence of regulations, s. 50AA of the Act could not function, so there would be no statutory obligation on alarm monitoring businesses to provide the prescribed data to CFA within the prescribed timeframe that CFA could enforce if it needed to do so. This could potentially impair the ability of CFA brigades to rapidly access premises when an alarm is triggered, assess risks or take other actions to minimise risk to lives and property.

The preferred option is to remake the Regulations with some changes which would align the Regulations with the equivalent FRV Regulations and assist CFA to correctly identify the building

owner or occupier at a point in time, in the event of a false alarm. As no notices under s. 50AA of the Act have been issued to date, there are no incremental costs to the businesses affected associated with the preferred option. The businesses are currently providing the data to CFA voluntarily in any event so remaking the regulations does not impose any additional costs. If the Regulations were allowed to sunset without replacement, there would be no capacity to enforce information requirements if other mechanisms fail. On balance, the preferred option is considered to better meet the objective of safety.

8.4 Regional and municipal fire prevention committees

Current Regulations 104-107 provide for the election of representatives of groups and representatives of local governments to regional fire prevention committees and the election of brigade and group representatives to municipal fire prevention committees, while Regulation 108 provides for minutes of municipal fire prevention committee meetings. These Regulations are now redundant as municipal and regional fire prevention committees have been superseded by emergency management planning committees established under the *Emergency Management Act 2013*. Accordingly, it is proposed to allow these Regulations to lapse.

9 Regulations about fees and charges

9.1 Context

The operational costs of CFA are in the order of \$400 million per year. CFA is mostly (up to 80 per cent) funded via the State Budget as a direct grant,¹⁷² with some smaller amounts raised through charging for some services (around 3 per cent) and some in-kind contributions from FRV (around 15 per cent).¹⁷³ CFA also relies on donations from the public and fundraising (around 1 per cent).

The bulk of the services provided by CFA—fire prevention and fire response—are “public goods,”¹⁷⁴ meaning they are for the benefit of the community as a whole. If left to individuals or private interests, there would be not enough fire services provided to the community because of the public goods nature of these services. It is appropriate that these services be funded by the government on behalf of the whole community, to ensure the services are available.

However, there are some activities that CFA can perform that are not considered to be for the whole community (at all, or as a main purpose/benefit), but instead largely provide a direct benefit to individuals, or where the actions of an individual directly increase the risk of using CFA resources compared to average premises risks. These activities include:

- inspections in relation to applications made under the *Building Act 1993*
- the provision of advice on fire prevention and suppression matters
- the testing and inspection of fire prevention and suppression equipment (building owners/occupiers have an obligation to have equipment regularly tested)
- attending false alarms where the cause of the false alarm is a faulty detection system or a false report (because this has no benefit for the community where the false alarm could have been prevented—in 2022–23, CFA responded to around 4,000 incidents of false alarms/false reports)
- responding to fires on boats and other vessels (because the operators of vessels are legally responsible for the safety of the vessel and the people on board, fires on vessels are not generally caused by other fires spreading and because CFA incurs additional costs in responding)¹⁷⁵
- responding to fires involving hazardous materials or other special circumstances (because these create increased risks)
- services provided by agreement with an individual to provide specific property protection or loss mitigation services.

CFA also responds to hazardous materials incidents and road accident rescues where the use of brigades has been approved for that purpose - which result in CFA incurring additional costs that are beyond the core functions of a fire service.

¹⁷² Most (77.5%) of the funding provided to CFA from the state is sourced from the Fire Services Property Levy, with the remaining 22.5% from general taxation sources.

¹⁷³ See CFA Annual Report 2022-23 for further information.

¹⁷⁴ Public goods are ‘non-excludable’, meaning that the general community cannot be excluded from the good or service, and ‘non-rivalrous’, meaning that one person benefiting from a good or service does not diminish another person’s benefits. Public goods tend to be underprovided by private businesses because it is difficult to charge all beneficiaries for these goods.

¹⁷⁵ The Fire Services Property Levy also doesn’t apply to vessels.

The Act specifically allows for the making of regulations so that CFA can charge fees for the services listed above.¹⁷⁶

The current Regulations set fees for the above services. Not charging fees for these activities is:

- inefficient—a lack of price signal would create an incentive for demand for these services that is much higher than optimal. Charging a fee for these services ensures that people making decisions that give rise to these services bear the true cost of those decisions.
- inequitable—in the absence of charging fees, these services provide a benefit to specific persons or organisations, while being paid for by taxpayers.

Hence, the ‘problem’ to be addressed by the proposed Regulations is the inefficiency and inequity caused by the government having to fund these activities if there were no fees to directly recover the costs. These activities listed above cost CFA in the order of \$14 million or more per annum. In the absence of fees, these costs would need to be met from the existing CFA budget (displacing other important activities) or from additional funding from the state (i.e., taxpayers).

Responding to false alarms wastes CFA resources, diverts CFA brigades from productive activities and contributes to volunteer fatigue. It may also risk the safety of persons and property actually threatened by fire, as brigades unnecessarily engaged by false alarms may be prevented from responding promptly to genuine emergencies. Repeated false alarms at the same premises due to faulty alarm systems may also promote complacency, resulting in delayed reactions and avoidable harms when fires do occur.

In addition to the direct costs to CFA, attendances at false alarms takes away resources from other uses. A recent study¹⁷⁷ of the economic cost of false alarms from automatic fire alarms systems in NSW found an average cost of between \$4,952 and \$7,403 (in 2018-19 dollars) per system-initiated false alarm incident. This included taking account of business/government productivity losses, injuries or damage sustained in collisions with a responding fire brigade vehicle; wages of Fire Rescue New South Wales personnel and other service responders, utility costs, and opportunity costs to the fire brigade, residents and bystanders.

9.2 The cost of providing services and the current fees

9.2.1 Specialist fees

The cost of providing the services listed above is highly variable, both in the number of occurrences per year, and in the amount of CFA resources used in each occurrence. It is difficult to determine a ‘typical’ cost. This is why for many of the services for which a fee may be charged, the current Regulations do not prescribe a specific fee amount but allow the fee to be determined by CFA. In particular:

- for inspections in relation to applications under the Building Act, advice on fire prevention and suppression matters, and testing and inspection of fire prevention and suppression equipment—the Regulations provide that the fees are to be fixed by CFA

¹⁷⁶ Section 110(1) of the Act provides that regulations may be made for or with respect to: prescribing fees and charges of any brigade in relation to attendance at any fire, answering any alarm or responding to any report of a fire; prescribing charges to be paid by the owner or master of any vessel in respect of an attendance; prescribing the fees and charges to be paid for the inspection of plans, premises and equipment for the prevention and suppression of fire, any service CFA is empowered to provide under the Act or any other Act, or any other service rendered by CFA; and prescribing the basis on which the cost of attending at a hazardous material incident or toxic fire incident is to be determined. Sections 20B and 107B also explicitly anticipate the setting of fees for specific situations (false alarms).

¹⁷⁷ W. Kathy Tannous (2021), “The economic cost of unwanted automatic fire alarms”, *Fire Safety Journal* 124.

- for property protection and loss mitigation services by private agreement—the Regulations provide that CFA may set charges as CFA considers appropriate
- for road accident rescue—the Regulations provide that CFA may charge the or WorkSafe fees agreed with TAC and WorkSafe (having regard to the matters set out in that Regulation)
- for attending a hazardous material incident—the additional fee to be paid (in addition to the usual attendance fee) is the amount equivalent to the cost to CFA of dealing with the incident – which may cover expenses such as chemical testing, repairing or replacing protective equipment, purchasing products to neutralise the hazard, hiring additional equipment, removal and disposal of materials, medical treatment of injured persons, transport for persons dealing with the hazard and any other costs incurred by CFA in attending or dealing with the effects of the incident.¹⁷⁸

The Act anticipates this approach to setting fees, specifically allowing the Regulations to authorise CFA to fix fees for inspections and services provided, and ‘prescribing the basis on which’ fees should be determined for responding to hazardous material incidents.¹⁷⁹

These methods of determining the fee to be paid recognise that the cost is expected to vary depending on the particular circumstances, and hence a fee fixed in the Regulations is not appropriate. However, the principles that guide CFA in determining fees in these cases is to recover the costs to CFA of providing these services.

The total amount of fees charged for these services is set out below.¹⁸⁰

Table 24: Fee revenue from specialist services

	Fee revenue collected in 2022-23	Average annual fee revenue collected 2013-14 to 2022-23
Testing and inspection of fire prevention and suppression equipment	\$7.1 million	\$7.8 million
Road accident rescue	\$1.7 million	\$2.1 million
Additional fee for hazardous material incidents	\$57,000	\$295,000 ¹⁸¹

9.2.2 Emergency attendance fees

Fees for attendances are prescribed in the current Regulations at 39.45 fee units (\$644.20 in 2024-25¹⁸²) for each 15 minutes or part of 15 minutes during which the appliance (i.e., a particular

¹⁷⁸ Country Fire Authority Regulations 2014, reg 101(5).

¹⁷⁹ See s. 110(wa), 110(wb) of *Country Fire Authority Act 1958*. This is in addition to the general regulation-making power that the regulations may leave any matter or thing to be from time to time determined by CFA (s. 110(2)(c)).

¹⁸⁰ In practice, inspections in relation to applications under the Building Act and advice on fire prevention and suppression matters are performed by FRV on behalf of CFA, and fees are charged by FRV.

¹⁸¹ This revenue is highly variable from year to year because the number of incidents and the additional costs involved in dealing with them differ.

¹⁸² Fees are expressed in terms of fee units, where the value of a fee unit is determined each year by the Treasurer in accordance with s. 6 of the *Monetary Units Act 2004*. The value of one fee unit in 2023-24 is \$15.90. From 1 July 2024 it will be \$16.33.

type of fire response vehicle such as a tanker or pumper) is absent from its station.¹⁸³ The fee applies separately to each appliance that attends the incident.

Under the Act, the fee is not applied for ordinary attendances.¹⁸⁴ The Act specifically provides for fees or charges for attendances at fires on vessels and for hazardous material incidents.¹⁸⁵ For other attendances, the fee is payable where there are false alarms:

- given by or originating from an automatic fire alarm system or equipment designed to detect a fire or other emergency conditions and transmit a signal of that detection, where CFA is not satisfied there is a reasonable excuse for the false alarm (see s. 20B). This is to create an incentive for premises owners/occupiers to ensure their systems are regularly checked and maintained, to avoid false alarms (which CFA must attend)
- where a person knowingly makes a false report, however this fee can only be imposed by a court after convicting the person of the offence for false report (see s. 107B). The court may impose the fee (as well as any penalty) at the prescribed fee amount or lower as it thinks fit.

It is appropriate that those that cause the attendances in these situations pay for the attendance costs.

Cost of attendances

The direct costs of each attendance relate to the costs of making appliances available to respond to incidents. As responding to false alarms (and other types of attendances within scope of this fee) are incremental to the core CFA activities (which are funded by the State), CFA has estimated a per attendance cost for appliances as follows:

- The operational costs attributable to a tanker is around \$850 per hour (depending on size of tanker and how often an individual tanker is used in attendances).
- The operational costs attributable to a medium pumper is around \$1,800 per hour of use.

The operational costs include depreciation of purchase costs (which take account of the time that the appliances are actually 'in use' over their effective lives (assumed at 25 years)), maintenance costs (assumed at 2 per cent per annum) and other oncosts (vehicle registration).

An average attendance will usually involve 1 tanker and 1 pumper (some large facilities may require 3–4+ appliances due to the risk profile). As the fee is a flat rate that does not differentiate between the type of appliance actually used in a particular attendance, the average operational cost of \$1,329 per hour (if counting only the costs of appliances used in attendances) is used below to inform fee options. These are the 'direct' costs of providing each appliance at an attendance. A flat rate is used because there is little difference in appliance costs and because it is simpler to set and administer than a differentiated rate.

However, there are other costs that are more difficult to calculate directly. While the members involved are volunteers and therefore are not paid for their time, there are nevertheless additional costs to CFA related to the volunteers' time involved in attendances. In particular, as noted in Chapter 5, CFA provides a compensation scheme for volunteers and some other persons that

¹⁸³ Prescribed under s. 110(w) of the *Country Fire Authority Act 1958*.

¹⁸⁴ It is recognised that the Fire Services Property Levy (which is the source of the majority of CFA funding) is paid by property owners, recognising that fire services are provided to their property (in cases of genuine fire incidents).

¹⁸⁵ See *Country Fire Authority Act 1958*s. 110(o) and 110(wb). Separate fees for attendances at fires on vessels and for hazardous material incidents recognises that the Fire Services Property Levy cannot be levied on vessels and does not vary in relation to the presence of particular hazardous materials.

are injured, killed or suffer damage to property while volunteering. Making adequate provision for compensation payments costs CFA around \$2.2 million per year.¹⁸⁶ CFA also has corporate overhead costs in relation to employees and other expenses used to oversee the proper and effective management of CFA and its brigades (which ensure that brigades are able to make attendances).¹⁸⁷ These costs are in the order of \$265 million per year. There are also depreciation expenses related to the use of buildings and other capital (aside from appliances) in the order of \$39 million per year.

In 2022-23, there were around 59,000 brigade responses to incidents. Allocating CFA's costs on a per response basis gives a figure of \$5,214 per response. Each response would involve different types and numbers of appliances; and take different amounts of time of use. Estimating the cost allocation per appliance and per hour gives a figure of \$3,280 per appliance per hour.

9.3 Pricing principles

The setting of fees in the current Regulations, last reviewed in 2014, was based on the Victorian Government's *Cost Recovery Guidelines*, which provided an approach to measuring the cost of services and determining appropriate fees.

From 1 July 2021, the *Pricing for Value Guide* replaced the *Cost Recovery Guidelines*. The guide is intended to improve consistency and capability in price-setting across government. It updates pricing principles to align with current best practice.

The guide helps departments and agencies use pricing to recover the costs of regulating and delivering services, and as a tool to support wider policy objectives.¹⁸⁸

A key feature of the *Pricing for Value Guide* is a principles-based approach to identify opportunities to set government charges in better ways. The Pricing Principles are as follows:

1	Agencies should aim to recover the full costs of service provision to promote efficient consumption
2	The cost of service provision should be borne by those who benefit from the service
3	Services creating broad benefits for the community should be priced to support efficient consumption
4	The cost of interagency services should be borne by the user agency
5	The price of services should not limit access to those with a lower ability to pay
6	Users should pay for differentiated service based on the value created by that differentiation
7	The public should share in the value generated by pricing based on user differentiation
8	Pricing should support positive behaviours
9	Pricing should ensure sustainable usage of public services and reflect the value of natural resources
10	Where services are in competition with the private sector, pricing should be relative to market prices
11	Pricing structures should be easy to understand and simple to administer
12	Pricing arrangements should be monitored annually and reviewed periodically

¹⁸⁶ CFA Annual Report, Table 3.3. Note that most actual compensation payouts come from a provision already set aside in previous years. Therefore, the cost included here is only the accounting cost (on the operating statement) of making new provisions for future compensation payments.

¹⁸⁷ In 2022-23, CFA employed 9 permanent operational staff and around 860 permanent support staff.

¹⁸⁸ An overview of the Victorian Government's *Pricing for Value Guide* can be found at: dtf.vic.gov.au/sites/default/files/2024-10/Pricing-for-Value-Guide-Overview.pdf

While the previous *Cost Recovery Guidelines* focused on cost recovery, the pricing principles go beyond cost recovery to identify a broader range of principles to set fees. Cost recovery remains one principle among a broader range of principles. Some principles support setting prices below cost recovery, while some principles support setting prices at or above cost recovery.

Not all of the above principles will be relevant or need to be applied in all circumstances. Agencies and departments must consider which principles should be considered, within the context and objectives of the services being assessed.

For the purposes of remaking the fees in the regulations, the scope of the pricing principles was limited to the fees that are authorised under the Act. Fee options that would be outside the regulation-making powers of the Act were not considered.

CFA has identified the following as the most relevant Principles to guide fee setting under the proposed Regulations:

1	Agencies should aim to recover the full costs of service provision to promote efficient consumption
2	The cost of service provision should be borne by those who benefit from the service
6	Users should pay for differentiated service based on the value created by that differentiation
8	Pricing should support positive behaviours
11	Pricing structures should be easy to understand and simple to administer

Therefore, aside from cost recovery, fees could also consider promoting good behaviour (e.g., whether the structure and amount of fees adequately incentivises actions to reduce the incidence of false alarms), differentiation (for example, whether fees should be the same for all types of attendances, or different fees could be charged for different categories), while also being clear and easy to implement in practice.

CFA notes that Pricing Principle 4 (the cost of interagency services should be borne by the user agency) is reflected in the fees that are charged to TAC and WorkSafe for road accident rescues (where an agreed fee is negotiated) but is not directly relevant to the other fees.

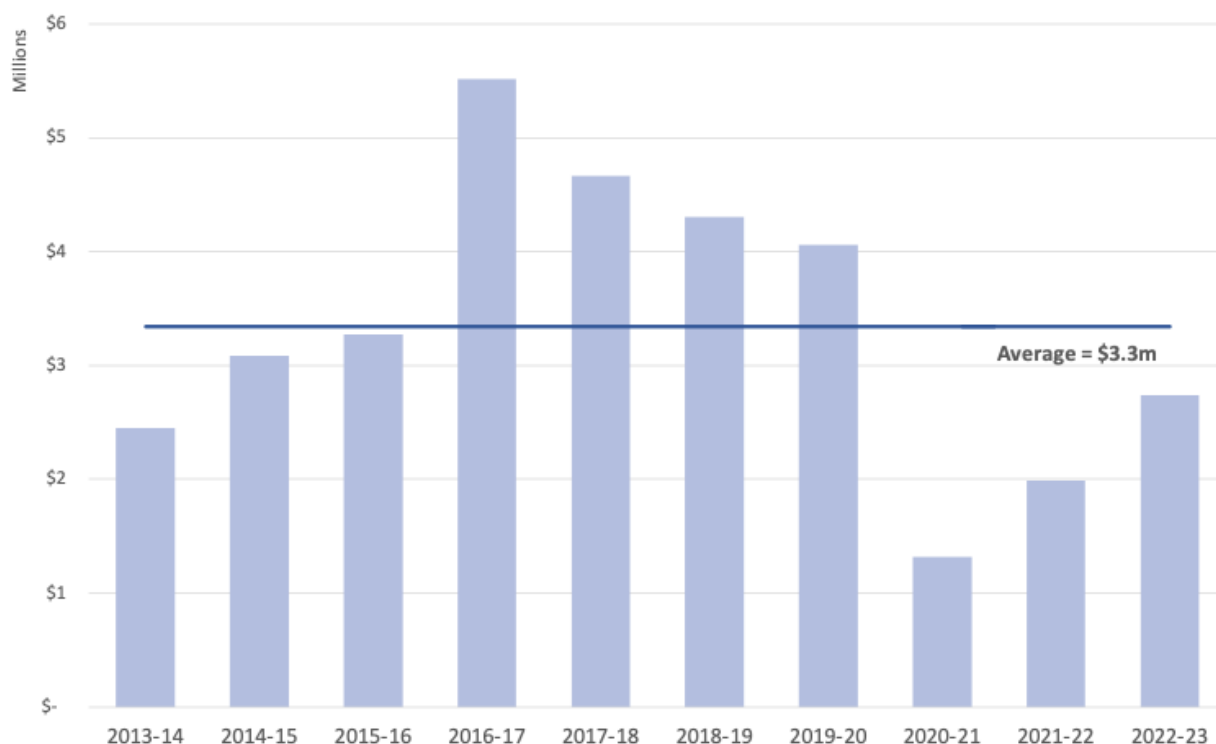
For some of the specialist fees, Pricing Principle 10 is also relevant. In setting the fees charged in relation to testing and inspection of equipment, CFA must have regard to the government's competitive neutrality policy, as these are services that could be performed by the private sector.¹⁸⁹ However, in practice CFA generally contracts private providers to perform this service, with the fee charged based on the actual cost paid to that provider, so CFA would not charge below the market value anyway.

9.4 Revenue from current attendance fees

The figure below shows the total fees charged for attendances from 2013-14 to 2022-23.

¹⁸⁹ The Victorian Government's Competitive Neutrality Policy is to ensure that significant government businesses compete fairly in the market. It requires government entities (including CFA) to apply competitive neutrality principles where appropriate, to account for advantages arising solely from public ownership. For more information see vic.gov.au/competitive-neutrality

Figure 3: Total revenue for attendances



As shown in Figure 3 above, the total fees collected for attendance are highly variable year to year, averaging around \$3.3 million per annum since 2013-14. In the past two years, the fee revenue from attendances was around \$2.3 million average per annum. The bulk of the incidents that incurred an attendance fee were for false alarms, with only a small amount (less than 5 per cent) resulting from fires on vessels, hazardous material incidents¹⁹⁰, or fires involving special circumstances.

There was a total of around 59,000 attendances to all incidents in 2022-23 (including responding to real fires). Around 4,000 of these were considered false alarms, of which around 3,000 related to protected premises (where automatic fire alarm systems are in place). Noting that not all owners or occupiers of premises experiencing false alarms are charged the relevant fee, the average fee charged for a false alarm incident across the most recent three years was around \$1,150.

The current fees charged under the Regulations for attendances do not cover the full costs to CFA of such attendances. The total financial cost to CFA of attendances related to false alarms at protected premises was around \$4.9 million in 2022-23 (or around \$5.1 million in 2024-25 dollars; see above on how costs were estimated), which would require an average of around \$2,440 per attendance (for those false alarms that attract a fee) for CFA to recover the costs of false alarm attendances (i.e., an increase of 110 per cent above the current fee).

9.5 Fee options

9.5.1 Specialist fees

It is proposed to remake the specialist fees without change from the current Regulations. The current Regulations do not fix specific fees but leave them for CFA to determine. CFA does this

¹⁹⁰ Not including the additional fees charged for hazardous material incidents, which is listed in the previous section.

based on the cost of providing each service, which can be tailored to the individual service being provided. This approach is therefore consistent with Principles 1, 2, 6 and 11 noted above.

For most of these services, the core demand is mostly driven not by the fee amount but by other factors (e.g., requirements to have equipment tested or inspected—which should be encouraged). There may be some impacts on compliance with the requirements to have equipment tested and inspected if the fees were too high, however CFA considers this a low risk. Therefore, there the pricing principles beyond those related to cost recovery and simplicity have not been considered.

Charging fees on a cost recovery basis is consistent with efficient and equitable use of CFA resources. The ability to offer services for other types of advice and services also supports the general objectives of fire prevention and mitigation, and therefore having fees based on cost recovery is effective in supporting these activities to continue.

The fees might be conceptionally simpler if the regulations set a fixed amount for each type of service, rather than allowing CFA to determine an appropriate fee, but that would lead to less effective cost recovery on a per service basis, because the resources used in providing the service to each customer varies in each circumstance.¹⁹¹ Therefore, this would worsen efficiency and equity outcomes compared to the current arrangements as the fees would not best match the actual costs to CFA. CFA considers that the simplicity benefits from fixing these fees in regulations does not offset the decrease in cost recovery outcomes from the current arrangements. The current approach is therefore considered better than any alternative and is proposed to continue in the proposed Regulations. No other options are formally assessed in this RIS.

For the 'additional' fee in responding to hazardous material incidents, in theory there is scope to consider whether the fee should be higher than the cost, as a way to promote more positive behaviours—in this case, using the fee as a stronger incentive for sites with hazardous waste to take more steps to avoid having incidents that require a CFA attendance, or reduce the costs to CFA from responding to such incidents. However, the Act does not authorise setting charges that would amount to a tax or a penalty, and as such fees are constrained to having a relevant connection to the recovery of CFA's actual costs.

9.5.2 Fees for attendances

As noted above, the combined cost of attending an incident is around \$4,600 per appliance per hour. When appliances are not used for a whole hour when responding to a false alarm, this is addressed by charging on a time-interval basis (responding to false alarms usually requires less time than other incidents, on average around 20 minutes per response).¹⁹²

There are numerous options for how fees for attendances are charged. For attendances at incidents related to vessels, hazardous material incidents,¹⁹³ or fires involving special circumstances, it is appropriate to set fees on a full cost-recovery basis.

¹⁹¹ For example, for inspection and testing of equipment, CFA usually engages third-party services, and then recovers the actual cost paid by CFA through the fee. The prices charged by third-party providers will vary on a case-by-case basis.

¹⁹² CFA are still required to do certain things at the site when responding to a false alarm. For example, even where no fire is apparent, the circuit will need to be investigated and confirm no that there is no smoke/fire, including potentially with a thermal imaging camera.

¹⁹³ Noting that additional fees are charged for hazardous material incidents; this component only relates to the attendance costs.

While some of the attendances that attract a fee apply to the attendance occurring (i.e., fires on vessels and hazardous material incidents), for other attendances the fee is imposed only for false alarms. In this respect, the fee also acts a deterrent from making or allowing false alarms to occur. Some large commercial premises like factories or care facilities have issues with false alarms regularly occurring. If the fee were set too low, there would be little incentive for them to fix their systems or implement appropriate controls. It helps to ensure that brigades (as much as reasonably practicable) are not tied up responding to regular false alarms as that could impact their ability to respond to other incidents.¹⁹⁴

There are 3 high-level options for setting fees for false alarms:

- On a full cost-recovery basis (as with the other attendances)
- At a level that provides adequate deterrence, which might be above cost recovery
- At a level that not only reflects the actual cost of CFA resources for the attendance but takes account of the opportunity cost to the rest of the community from having CFA resources engaged in a false alarm (increasing the risk that those resources might not be available to respond to a genuine fire), which would be above cost recovery.

There is no apparent justification for charging at less than full cost recovery (noting there are already provisions in place to reduce or waive fees under certain circumstances, including where there is a reasonable excuse for a false alarm).

As noted above, a fee higher than the cost of the attendance would be a penalty that is not authorised by the Act (and in any case, the Act already provides a separate penalty for individuals convicted of making a false report¹⁹⁵). The time spent responding to false alarm callouts represents time during which the brigade is unavailable to attend actual incidents. However, while pricing this opportunity cost into fees has merit from an efficiency point of view, it would exceed actual costs incurred and therefore go beyond cost recovery. Legislative change would be needed to set charges above cost recovery for the purposes of acting as a penalty or for pricing externalities. Given this, CFA considers that a fee set at full cost recovery (based on the above analysis of costs) is the appropriate basis for the fees.

Options for fees based on the duration of the attendance

The current Regulations set a fixed fee amount per 15 minutes that a brigade's appliances are away from the fire station. This provides a way to achieve cost recovery, allowing the total fee to vary depending on the actual amount of the appliances' time that is taken, and reflects that responding to false alarms (and others in this group such as fires on vessels) typically takes less time than other incidents.

Continuing to prescribe the fee for attendances as a fixed rate per 15 minutes is a feasible option. However, choosing an appropriate time-interval for charging fees involves a trade-off between efficiency and simplicity. Setting a shorter time interval allows fees to be better matched to the actual amount of time an appliance is in use, more closely aligned to the objective of cost recovery and reducing cross-subsidisation between fee payers. However, it may require more effort and attention to calculate the fee in each situation. Setting a longer time interval would make fee calculations simpler but would lead to more cross-subsidisation between fee payers.

¹⁹⁴ All false alarms from a fire indicator panel require brigade attendance. In most circumstances CFA does not know that a false alarm is a false alarm until the brigade is on scene. Even where no fire is apparent, the circuit will need to be investigated and confirm no that there is no smoke/fire, including potentially with a thermal imaging camera.

¹⁹⁵ *Country Fire Authority Act 1958*, s.107B.

While the time interval could be set at theoretically any level, this RIS considers the following.

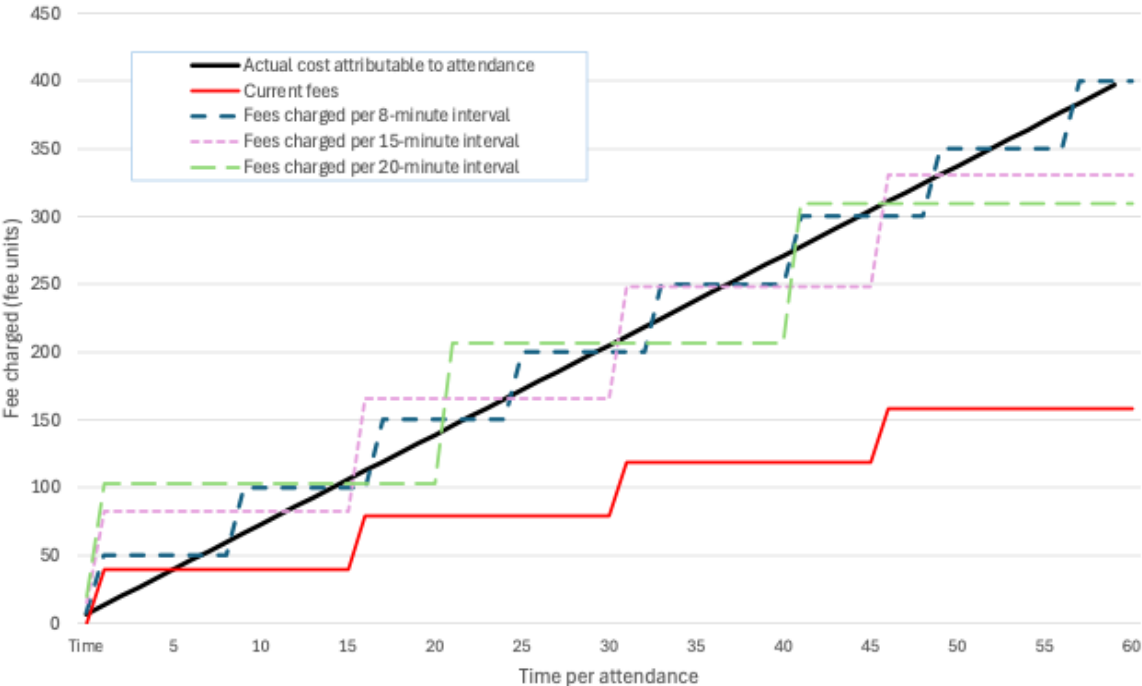
Table 25: Fee options

Option	Fee (fee units)	Fee amount in 2024-25
Maintain current basis of a fee per 15-minute interval	82.7 per 15 minutes	\$1,350.70 per 15 minutes
Reduce interval to 8 minutes	50.0 per 8 minutes	\$816.40 per 8 minutes
Increase interval to 20 minutes	103.2 per 20 minutes	\$1,685.50 per 20 minutes

The fees in the above table are not a direct proportion of the hourly rates noted earlier divided by the time interval. These fees recognise that within each time interval, there will be a distribution of actual time taken (e.g., for attendance charged at a 15-minute increment, the fee recognises that not all attendances will take 15 minutes). This is to ensure that fees in total do not exceed actual costs. Further, the fees were determined by converting the costs into fee units based on actual costs from 2022-23, but the table shows what the corresponding fee amounts will be from 1 July 2024 due to the automatic indexation of fees across government. Finally, the calculation of fees recognises that not all false alarm responses will be subject to a fee; as such, costs were apportioned over only those attendances for which fees apply, so that full cost recovery can be achieved.

The figure below shows how well the different fee-interval options match the actual time-based cost per attendance. The extent to which an option departs from the actual cost line represents cross-subsidisation from some fee payers to others.

Figure 4: How well fee options match actual cost per attendance



All of the above options are designed to recover costs of around \$5.1 million per year (in 2024-25 dollars). This is an overall increase of around \$2.7 million (110 per cent) from what would be collected if the current fees continued. However, this assumes that the increase in fees would have no impact on the number of false alarm responses. Evidence suggests that some reduction

should be expected following increases to false alarm fees,¹⁹⁶ albeit this may be difficult to quantify due to small data sets and the fact that the number of false alarms is highly variable year-to-year for unrelated reasons. Therefore, the actual increase in revenue would be expected to be less than this projection, to account for the improved incentives for building owners and occupants to avoid false alarms. Costs of attending false alarms would also be expected to be lower.

The impact on individual fee payers would depend on the time of each attendance. As illustration, the following table shows the percentage increase that a fee payer would pay under each option given a certain time of attendance.

Table 26: Fee increases under the different fee options

Actual time of appliance at attendance	Fee charged per 15-minute interval	Fee charged per 8-minute interval	Fee charged per 20-minute interval
5 minutes	110%	27%	162%
10 minutes	110%	153%	162%
15 minutes	110%	153%	162%
20 minutes	110%	90%	31%
25 minutes	110%	153%	162%
30 minutes	110%	153%	162%
35 minutes	110%	111%	74%
40 minutes	110%	111%	74%
45 minutes	110%	153%	162%
50 minutes	110%	122%	96%
55 minutes	110%	122%	96%
60 minutes	110%	153%	96%

Hence, changing the time interval for charging fees will have different impacts on different fee payers. This is a result of better matching the fee charged to the actual time involved (i.e., reducing the amount of cross-subsidisation).

Other options for structuring attendance fees

The Regulations could, instead of prescribing a fee based on time periods, prescribe a fixed amount per attendance. That is considered clearly inferior, as all attendances would be required to pay the same amount, regardless of duration. New South Wales charges a fixed fee per attendance and recently considered and rejected options for a time-based fee. It noted that a change to a time-based fee would require new processes to measure the time and calculate the fee, and hence was not preferred as the administrative complexity may outweigh any benefit from additional cost reflectivity.¹⁹⁷ However, CFA already has systems in place to measure the time each appliance is away from a station, and hence the calculation of a time-based fee is relatively easy.

At the other extreme, the Regulations could leave the matter of attendance fees to CFA to determine on a case-by-case basis, allowing the fees to reflect not only the time taken for each attendance, but also the specific appliances used for that attendance. However, given the volume of attendances each year, CFA considers it simpler to calculate fees with a reference to a known

¹⁹⁶ See, for example, W. Kathy Tannous (2021), "The economic cost of unwanted automatic fire alarms", *Fire Safety Journal* 124, which found that increases in fees "can be seen to be reducing false alarm call-out frequency" in NSW data (page 4). The effectiveness of using fees to incentivise behaviours to reduce the risk of false alarm incidence is also the basis of the recommendations in the NSW IPART report *Draft charges for Fire and Rescue NSW attendance at false fire alarms* (October 2021).

¹⁹⁷ IPART (NSW), *Draft charges for Fire and Rescue NSW attendance at false fire alarms*, October 2021.

rate, rather than estimate actual costs in each case.¹⁹⁸ Having a fee prescribed in the Regulations is also necessary to allow the court to impose a fee for person convicted of making a false report; the court can impose a fee up to the prescribed amount, and leaving the fee to be determined by CFA would interfere with this.¹⁹⁹

Exemptions and leniencies

The Act enables charges for false alarms to be waived where the Authority considers there was a reasonable excuse, and enables the Authority, on application by a person who is liable to pay any fee or charge for CFA services, to remit or excuse payment either wholly or in part.

Other jurisdictions have more formal, fixed situations where a fee is not charged, generally expressed in terms of accepted ‘leniencies.’ For example, NSW has leniencies for the first false alarms within a 60-day period, and for subsequent false alarms within 24 hours of the first false alarm. Other states have comparable leniencies. The stated intention is to recognise that a building owner/occupier (or the alarm system service provider) may not be aware of a fault that leads to a false alarm, and then should be provided an opportunity to rectify the problem before fees for false alarms are charged. (That said, there are also situations where the stated leniencies are not provided.)

Leniencies in other states reflect particular situations in those jurisdictions, including where their fees arrangements apply across the entire state (not only non-metropolitan areas), do not necessarily involve volunteer brigades, and are not predominantly concerned with full cost recovery.²⁰⁰ In particular, in NSW the fees charged for false alarms from automatic fire alarms systems is through an agreement with approved Automatic Fire Alarm Service Providers.

CFA considers that most appropriate framework within the country area of Victoria is to maintain the current arrangements of discretionary fee waivers where there is a reasonable excuse. Currently around one third of false alarm responses are granted a fee waiver where CFA is satisfied it is appropriate to do so. CFA is not aware of stakeholder views arguing for a change in this approach.

Other options not assessed

CFA also considered setting differential fees in the case of ‘repeat offenders,’ where attendances were required multiple times over a particular period. This would be a risk-based approach to encourage those that already require a first attendance to take extra steps to avoid it happening again (e.g., by improving faulty fire detection and alarm systems). However, to implement such a scheme would require some fees to be above cost (which would be a penalty, and not authorised under the Act), or a lower fee for first attendances (which is not consistent with cost recovery). In any case, it is noted that CFA does have the discretion to waive or reduce fees and could use that discretion on a case-by-case basis where they consider a warning inappropriate. Therefore, specific fees for repeated false alarms at the same premises was not considered a practical option.

NSW also recently considered an option to differentiate fees based on premises type or building use. While NSW ultimately rejected these options, CFA notes that setting fees on a time-interval

¹⁹⁸ This contrasts with the additional fee for hazardous material incidents, where the costs to CFA are inherently unique to each situation, and the lower volume of those incidents makes bespoke fee setting appropriate.

¹⁹⁹ See *Country Fire Authority Act 1958s. 170B(2)*.

²⁰⁰ For example, the NSW report on false alarms fees explicitly recognised that fees in NSW are primarily about ‘incentivising the right behaviour’ rather than recovering costs. See IPART (NSW), *Draft charges for Fire and Rescue NSW attendance at false fire alarms*, October 2021.

basis, per appliance, obviates the need to introduce any other factors into fee setting, as they would be a departure from aligning fees to costs.

9.5.3 Options for new fees

The Act also allows for regulations to be made:

- for charges to be paid to CFA in relation to “providing for the attendance of members of brigades and for the control of members of brigades while in attendance at public buildings and places where numbers of persons are assembled”²⁰¹
- for prescribing or authorising CFA to fix the fees and charges payable:
 - for any service the CFA is empowered to provide under this or any other Act²⁰²
 - for any other service rendered by the CFA or by officers of the CFA.²⁰³

To date, the Regulations have not been used as a means of setting fees for attending such events. Instead, CFA has relied on other sections of the Act that allow it to enter private agreements with event organisers to provide services.²⁰⁴

Victoria Police has a framework in place which allows for charging for police or protective services officers presence at commercial public or sporting events and sets the charges which apply based on the time of officers involved. The charges are set in accordance with the regulations.

Attending such events draws on CFA resources. While it is outside the direct obligation of CFA to attend these events, CFA considers it appropriate to do so because of the risk to those attending, and the risk that a fire at such event could spread to other areas.

Because events create increased fire risk and costs from CFA attendance, a new regulation is proposed to enable CFA to recover costs where brigades are utilised at commercial events held for commercial purposes. This would be on a fee-for-service basis (to reflect the costs unique to that event). It would be limited to commercial sporting, entertainment or other events where a fee is charged for admission to or participation in the event, or the event is commercially promoted or sponsored.

While the proposed Regulations would allow CFA to determine the fee for each situation, the Regulations cannot authorise charging of fees above cost recovery. Therefore, in any situation, the fee charged could not exceed the actual costs to the CFA. Event organisers would be informed of the fees prior to the event occurring.

As is the case for inspections, advice and like services, the fees would be set by CFA to reflect the costs unique to that event. The proposed Regulations enable CFA to determine fees, and CFA would develop a policy framework that outlines how these charges will be implemented.

CFA considered potential ways to fix a schedule of fees in the regulations for these types of events (for example, differential fees based on event type, event risk or other parameters). However, as the types of events can be highly unique, CFA considers it needs the flexibility to determine the resources needed for each event. As this is a new basis for charging fees for such events, CFA proposes to collect data on the resources used and fees charged, with a view to

²⁰¹ *Country Fire Authority Act 1958*s. 110(p). The ability to charge fees for attendance at such events is also supported by s. 110(wa)(iii) which provides for setting fees (or authorising CFA to fix fees) for any other service rendered by CFA or by officers of CFA.

²⁰² *Country Fire Authority Act 1958*s.110(1)(wa)(ii)

²⁰³ *Country Fire Authority Act 1958*s.110(1)(wa)(iii).

²⁰⁴ For example, *Country Fire Authority Act 1958* s. 20AA(2).

reviewing the possibility to further formalise how fees for these events could be calculated in the future.

9.6 Options analysis

As the specialist fees and the proposed new fees for commercial events are proposed to allow CFA to determine fees on a case-by-case basis, and this option is clearly superior, multiple options have not been analysed in detail this section. Only options for setting fees for attendances have been analysed (for the options set out above in section 9.4.2).

To compare the trade-off in choosing an appropriate time interval as the basis for charging fees, an MCA assessment was used. Note that the criteria for assessing fees are different from the MCA criteria used elsewhere in this RIS, as this is specific to comparing fees, rather than considering costs and benefits. The criteria used in this section are as follows.²⁰⁵

Table 27: Assessment criteria for fee options

Assessment criterion for fees	Description	Weighting
Efficiency – cost recovery	Assesses the extent to which the fees will fully recover the costs to CFA of responding to attendances	20%
Efficiency – avoiding cross subsidisation	While full cost recovery aims to minimise cross-subsidisation between fee payers and taxpayers generally, it is also desirable to minimise cross-subsidisation between fee payers. This criterion assesses the extent to which the fee structure creates cross-subsidisation.	13.3%
Effectiveness	Assesses the extent to which the fees align with (promote or deter from) broader policy objectives and outcomes of CFA	33.3%
Simplicity/ implementation	Assesses the extent to which fees are easy to understand and apply	33.3%

Essentially, the criteria of efficiency, effectiveness and simplicity are given an equal 33.3 per cent weighting, however efficiency is broken down into two sub-criteria, which have a combined weighting of 33.3 per cent. The overall level of cost recovery is considered more important, taking 20 percent, while the extent of cross-subsidisation was given the remaining 13.3 per cent, reflecting that some cross-subsidisation is inherent in most fee setting, and while important, it should not dominate other fee-setting criteria.

Against each criterion, each option is scored relative to the base case of no fees (i.e. all costs are borne by the taxpayer). The scores are shown as follows.

Table 28: Assessment of fee options

	Fee per 15-minute interval	Fee per 8-minute interval	Fee per 20-minute interval
Efficiency - cost recovery	10/10	10/10	10/10
Efficiency – avoiding cross subsidisation	-3.5/10	-3/10	-4/10
Effectiveness	2/10	2/10	2/10

²⁰⁵ Assessment of fees using an MCA often uses equity criteria. In this situation, vertical equity (where access to a service should consider a person's relative ability to pay) is not directly relevant as the fees apply to businesses. Horizontal equity (where people who consume the same (amount of a) service, and or give rise to the same level of regulatory costs, pay the same fee) is also relevant, but is essentially already reflected in the two efficiency criteria (i.e., full cost recovery aligns with achieving horizontal equity, subject to minimising cross-subsidisation within the group of fee payers).

	Fee per 15-minute interval	Fee per 8-minute interval	Fee per 20-minute interval
Simplicity/implementation	-3/10	-4/10	-2/10
TOTAL score	1.20	0.94	1.45

The MCA score above for the efficiency criterion is assigned a score of 10. All options are designed to achieve the same (full) recovery of costs to CFA of attendances (of the type subject to the proposed fee) and do not cause economic inefficiencies or distortions of resource use; in this case, fire prevention and suppression services.

In this case avoiding cross subsidies, there may be a cross subsidy *between* services users. Shorter time-interval allows the fee charged to better match the actual time taken in each individual attendance, reducing the extent of cross-subsidisation between fee payers. However, compared to the base case of no fees, all options introduce a level of cross-subsidisation, and hence have a negative score. There are likely to be smaller cross-subsidies for shorter time periods, and scores are assigned accordingly (MCA scores -3.0 (8 minute); - 3.5 (15 minute) and -4.0 for 20-minute charging increments).

For the effectiveness criterion, the options differ in how the fees work as effective incentives to avoid the need to unnecessarily draw on CFA resources. While the primary purpose of fees is to recover government costs, the existence of a fee (compared to no fee) is also a way to create economic incentives to change behaviour (in this case, by ensuring that alarm systems are properly functioning and not constantly triggering false alarms, thereby diverting scarce emergency services resources unnecessarily). Differences in the amount of the fee can, to a smaller extent, affect how strong this incentive is. However, calculating the fee based on time increments means the incentive will depend on the usual time expected for an attendance at a particular premises. For the majority of attendances (ranging from around 19 to 25 minutes), fees based on each 20-minute interval provide a slightly stronger incentive than those based on either 8- or 15-minute intervals. Recognising the practical difference of the incentive between the different time increments is likely to be inconsequential, overall each option was assigned an MCA score of 2: this is, 2 for the 20-minute time, 2 for the 8-minute increment, and 2 for the 5-minute time increment.

All options are also similar in relation to implementation, as CFA already has systems in place to measure the time each appliance is away from the station for an attendance, and there are systems in place to issue invoices for payment and consider requests for fee waivers. That said, these steps do involve effort from CFA to manage these processes, and therefore have a negative score compared to the base case where no fees were charged. However, the fewer fee 'steps' in place would make it easier to determine the appropriate fee on a case-by-case basis, and likely to lead to fewer disputes about the time on which the fee is based. A slight increase in the fee step to 20 minutes would also better align with managing resources within CFA.

Therefore, while the scores are very close, on balance, CFA prefers the option where fees are set on a 20-minute time interval.

Consideration of unintended consequences

CFA has considered the potential risks of unintended consequences of imposing charges that reflect full cost recovery for responses to false alarms also need to be considered, being:

- increased risk-taking behaviour on the part of building owners or occupiers, to avoid false alarm charges due to higher fees. For example, this could involve circumvention of monitored alarm signalling systems through rewiring; isolation of alarm signalling

equipment or isolation of circuits/zones at the Fire Indication Panel, such that systems only provide a local alarm instead of alerting CFA

- increased applications to VCAT for review of CFA decisions to impose charges, imposing legal and administrative costs on CFA, including time demands on the operational members involved in a VCAT case.

These risks are considered to be very low as some mitigating factors exist.

There are already laws in place to deter disabling and other forms of tampering with alarm systems. In particular, it is an offence under both the Act and the FRV Act to damage or interfere with a fire indicator panel (including any action that causes transmission of the signal to be isolated disconnected or disabled). This offence may attract a penalty of 60 penalty units. A penalty unit is currently \$197.59, hence 60 penalty units amounts to \$11,855. The prospect of a conviction and fine for this offence, including the risk of adverse publicity and reputational damage for a person or business who is prosecuted is likely to be a sufficient disincentive, provided that businesses are aware of the potential consequences of committing this offence.

In addition, alteration of monitored alarm systems without permission is a breach of the *Building Act 1983* and Building Regulations 2018. All buildings constructed after 1 July 1994 require an occupancy permit which must be issued by a registered building surveyor. Monitored alarm systems are required for some classes of buildings as part of the essential fire safety measures of these buildings. This includes requirements for maintenance in accordance with a maintenance schedule, to ensure the system continues to operate effectively. Any action that affects the operation of essential safety measures of a building also requires a permit by a registered building surveyor and, for automatic alarms, the only permissible disconnection or alteration is for repairs and maintenance. A permit is also required to transfer responsibility for monitoring of a site from one alarm monitoring business to another. Failure to obtain a permit where required is a breach of the Building Act.²⁰⁶

Alarm monitoring businesses are obliged to notify the local council or the Victoria Building Authority if an alarm system is offline. Councils are the regulators in relation to building compliance issues and, if they become aware of potential non-compliance in their municipality, they can issue a notice to the building owner or occupier and require a response within a specified time. Following this process councils can issue orders to the building owner or occupier (who has a right to appeal). Failure to comply with an order is an offence.

While the imposition of higher fees for false alarms may motivate more persons to consider seeking VCAT review of a CFA decision to impose a fee than is currently the case, the risk of a significant increase in VCAT applications is considered to be low. Businesses and individuals can reasonably be expected to weigh up all the costs involved in taking the matter to VCAT (including the cost of their time, and of obtaining legal advice and representation) and consider their likely prospects of success in determining whether to pursue this course of action.

CFA cannot lawfully impose a false alarm fee or charge unless it has followed the process set out in the Act. This involves writing to the property owner or occupier to request an explanation for the false alarm, and then considering whether or not there was a reasonable excuse for it, taking into account any explanation provided by the building owner within the specified response

²⁰⁶ *Building Act 1993*, s.8 contains the requirements with respect to permits while Parts 9 and 15 and Schedule 8 of the Building Regulations 2018 specify requirements with respect to the various essential fire safety measures

timeframe,²⁰⁷ the history of attendances at the premises, the report of the officer in charge of the brigade who attended the premises and any other relevant information. CFA can only issue a charge if, after considering these matters, it is satisfied that there was no reasonable excuse for the false alarm. Provided CFA has acted lawfully and reasonably and has only imposed fees or charges that are authorised by the Regulations, the prospect of a false alarm charge being overturned by VCAT is considered low.

9.7 Other matters outside the Regulations related to fees

As noted above, the Act sets out a process that must be followed prior to imposing a false alarm charge.²⁰⁸ CFA must issue a written notice, requiring the property owner/occupier or owners' corporation to provide details of the circumstances of the false alarm within a specified timeframe. CFA must consider any written response received within specified timeframe and then determine whether or not there was a reasonable excuse for the false alarm. A person who is charged may apply to VCAT for a review of the decision to impose a charge. CFA also has discretion to remit or excuse payment of fees and charges for CFA services in whole or in part.²⁰⁹

While the Act allows discretion and requires case by case consideration of whether or not there was a reasonable excuse for a false alarm, it is important that there is general consistency across CFA in approaches to charging and in the application of waivers or discounts of fees and charges, in the interests of cost recovery and fairness to those who are liable to pay. In the past, CFA's decision making about fees and charges for false alarms was decentralised, creating scope for inconsistency of approach. CFA has recently taken steps to ensure a systematic and consistent approach, including through implementing system changes and delegations which require central authorisation of any decision in relation to fees and charges for false alarms.

One of the types of attendances that attract a fee under the current Regulations is in respect of an attendance of a brigade in special circumstances requiring the protection of life or property in case of fire, the person requiring the attendance or the owner or occupier. CFA proposes to develop policies (outside of the Regulations) to help clarify when CFA will impose charges where brigade attendance is required in special circumstances (while still allowing for discretion).

²⁰⁷ Under s.20B(4) of the *Country Fire Authority Act 1958*, the building owner or occupier has 14 days to respond to a CFA notice seeking an explanation for a false alarm. In practice, CFA allows 21 days for a response.

²⁰⁸ *Country Fire Authority Act 1958*s.20B

²⁰⁹ *Country Fire Authority Act 1958*, s.87A(2)

9.8 Summary of proposed fees

Table 29: Summary of proposed fees and changes from current fees

Fee	Current fee	Proposed fee	% change
Attendance fees			
For false alarms, fires on vessels, hazardous material incidents, or fires involving special circumstances	39.45 fee units per 15 minutes (\$644.20 in 2024-25)	103 fee units per 20 minutes (\$1,685.500 in 2024-25)	Variable – between 31%-164% increase depending on the duration of the attendance with an average increase of 110% across all attendances (see table 27 above)
Specialist fees			
Inspections in relation to applications under the Building Act, advice on fire prevention and suppression matters, and testing and inspection of fire prevention and suppression equipment	The fees are to be fixed by CFA	No change	n/a
Property protection and loss mitigation services by agreement	CFA may set charges as CFA considers appropriate	No change	n/a
Road accident rescue	CFA may charge fees agreed with the TAC and WorkSafe (having regard to the matters set out in the regulations)	No change	n/a
Attending a hazardous material incident	The additional fee to be paid (in addition to the attendance fee) is the amount equivalent to the cost of the incident calculated in accordance with the criteria set out in the regulations	No change	n/a
New fees			
Attendance at commercial events	None	Fee for service basis (to reflect the costs unique to that event)	New fee

Estimated fee revenue

The aggregate revenue estimates (expressed in 2024-25 dollars) are as follows. No estimate has been provided for the proposed new fee for commercial events as the revenue will depend on policy decisions about application of the new fees.

Table 30: Fee revenue

Fee	Estimated revenue per annum (in 2024-25 dollars, trend average)
Specialist fees	
Testing and inspection of fire prevention and suppression equipment (<i>charged at cost on a fee-for-service basis</i>)	\$7.6 million
Road accident rescue (<i>paid by and in agreement with TAC and WorkSafe</i>)	\$1.8 million
Additional fee for hazardous material incidents (<i>calculated according to cost factors outlined in the proposed Regulations</i>)	Up to \$300,000
New fee for attendance at commercial events	Uncertain ²¹⁰
Fees for attendances	
For false alarms, fires on vessels, hazardous material incidents, or fires involving special circumstances	\$5.1 million
TOTAL fee revenue	\$14.6 million

²¹⁰ This is a new fee and the revenue raised will depend on decisions with respect to various matters including the types of commercial events for which a fee will be charged, CFA resources involved and the method of calculating the charges. A policy framework will be developed to support the implementation of the proposed regulation.

10 Market competition and small business impacts

10.1 Impact on competition

Any regulatory proposal needs to be scrutinised carefully to assess whether it is having an adverse impact on the ability of firms or individuals to enter and participate in the market. As a matter of good public policy, it is a fundamental principle in Victoria that any new legislation (both primary and subordinate) will not restrict competition unless it can be demonstrated that:

- the benefits of the restriction outweigh the costs, and
- the objectives of the legislation can only be achieved by restricting competition.

Overall, with the exception of the proposed Regulations which enable CFA to directly provide and charge for fire protection services, the Regulations are not considered to restrict competition, but even if they may do so, the public benefit from any proposed restrictions is considered to outweigh the public benefit in promoting competition.

In the case of the proposed Regulations enabling CFA to provide and charge for fire protection services, the broader 'market' is for fire protection services in geographic areas for which CFA is responsible. While the proposed Regulations generally do not deal with matters affecting the 'market,' there is one area of the proposed Regulations in which CFA may compete with services provided by the private sector.

Proposed Regulation 130 concerns inspection services provided by CFA in relation to the provision of advice on fire prevention and suppression matters, and the testing and inspection of fire prevention and suppression equipment. In practice, CFA's activities under this regulation are limited to Fire Equipment Maintenance (FEM) dealing with fire hose reels, fire extinguishers and fire blankets. CFA has around 260 brigades that undertake FEMs, and where CFA does not have capacity a number of private sector firms provide these services for CFA. In addition, in rural areas that are not well-served by the private sector, CFA often provides these services, thereby filling a gap in the market.

For context, the market for fire protection services in Victoria is \$648 million per annum, while the annual average revenue (2020–2022) generated by CFA for these services is \$7.8 million; so CFA represents around 1.2 per cent of the Victorian fire protection services market.

When considering whether a measure is likely to have an impact on competition, if any of the questions in the table below can be answered in the affirmative there may be a restriction on competition.

Table 31: Competition questions

Test question	Assessment	Reason
Are the proposed Regulations likely to affect the market structure of the affected sector(s) – i.e., will it reduce the number of participants in the market, or increase the size of incumbent firms?	No	The proposed Regulations do not create any restrictions that might distort or restrict the market or change the number of participants.
Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed Regulations?	No	The proposal does not affect entry requirements to the industry. Services provided by CFA complement rather than restrict private sector firms from entering the market.
Will the costs/benefits associated with the proposed measure affect some	No	The market characteristics of fire testing services does not affect

Test question	Assessment	Reason
firms or individuals substantially more than others (e.g., small firms, part-time participants in occupations, etc.)?		particularly classes of firms or individuals more than others.
Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?	No	The prices that CFA charges for its goods (e.g., fire blankets, extinguishers) and services are set at market prices (i.e., there are no price advantages enjoyed by CFA). The price of the services provided by CFA are reviewed triennially to ensure that such services provide an equal footing in the marketplace.
Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?	No	The proposal will apply equally to market incumbents and new entrants.
Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?	No	The proposal does not impose restrictions on the ability to innovate.

Given the negative answers to the competition questions above it is assessed that the proposed Regulations do not restrict competition.

10.2 Impact on small business

It is Victorian Government policy to specifically consider the impact of proposed Regulations on small business as part of the RIS assessment. Small businesses may experience disproportionate effects from regulatory requirements for a range of reasons, including limited resources to interpret compliance requirements, or to keep pace with regulatory changes, the cumulative effect of different requirements, and smaller administrative economies of scale.

The fire protection services industry is characterised by several large firms, a number of medium firms and specialist small firms. The larger companies tend to service all equipment, whilst the medium and smaller tend to provide specialist or niche services. For instance, servicing emergency lifts is often provided by a specialist lift maintenance company.

The proposed Regulations will not disproportionately impose burdens or impacts on small businesses.

11. Implementation and evaluation of the regulations

11.1 Implementation

Effective implementation of the proposed Regulations requires having appropriate systems in place to enable CFA to operationalise the regulations as intended and assist businesses and the community to understand and comply with their obligations. This RIS largely relates to proposals to substantively remake sunseting regulations and to remove some regulations that are now redundant due to other changes to the law that have occurred since the regulations were last made in 2014. For the most part, the proposed Regulations are substantively the same as the current regulatory requirements, and the regulatory approach will not change.

Accordingly, while CFA will need to thoroughly review and, where necessary, update CFA delegations, policies, procedures, guidance, manuals, information and communications materials to ensure those instruments and materials accurately refer to and reflect the design and intended operation of the new regulations, a detailed implementation plan for most regulations will not be necessary as the new regulations would maintain a longstanding regulatory approach.

That said, some substantive changes are proposed from the current Regulations in order to:

- enable the Authority to make model rules for the administration and management of CFA brigades and groups following consultation with CFA members, rather than prescribing these matters in the Regulations
- alter the Regulations about volunteer discipline and appeals processes, to enable a more proportionate and appropriate approach
- adjust the forms of permits to burn during fire danger periods and enable conditions to be better tailored to the proposed burning operation
- increase the fees that may be imposed for brigade attendance in response to false alarms (where no reasonable excuse applies) to enable the fees to reflect full cost recovery for this service
- enable CFA to charge fees for attendance at commercial public events, such as sporting or entertainment events.

CFA has developed an implementation plan for these and other changes. The table below contains more detail.

Table 32: Implementation plan for the proposed Regulations

Proposed change to regulations	Who is affected	Implementation Plan
Authority to develop model rules for the management and administration brigades and groups administratively, following consultation with members.	CFA members	<p>The Authority has determined that the first model rules made by the Authority upon implementation of the new regulations will be a remake of the current model rules with no substantive changes. There will be some technical adjustments to ensure alignment of the model rules with changes to the Regulations.</p> <p>CFA will then undertake detailed consultation with members to inform proposals for new model rules and allow a minimum of 6 months consultation with members on a draft of the new model rules as required by the regulations. The content of the model rules will also be</p>

Proposed change to regulations	Who is affected	Implementation Plan
		informed by consultation on the new operating model for CFA that is currently under development.
Volunteer discipline and appeals	CFA members	<p>CFA to review and revise relevant CFA policies, procedures, manuals, guidance and communications to reflect the changes to regulations about disciplinary and appeals processes, in consultation with members.</p> <p>CFA to develop updated information for members about their rights in the disciplinary and appeals process and how to access support.</p> <p>Roll out of the new policies to be accompanied by information sessions for members about the disciplinary regulations, linking to member information and training about behavioural standards and complaints processes.</p> <p>CFA to review and revise CFA's delegations and authorisation processes relating to disciplinary processes, to align with the new regulations.</p> <p>Communications will be developed to inform CFA officers and members about the changes and how to access information and support if they wish to make a complaint or are affected by the disciplinary process.</p>
Adjust form of permits to burn	<ul style="list-style-type: none"> • Local government • Public authority land managers • CFA officers and members • Businesses and individuals in the country area of Victoria 	<p>The Fire Permits Victoria online system and supporting online information and guidance is to be updated in consultation with fire services and other user agencies to reflect changes in the design of permit forms, incorporating additional scope for conditions to reflect approved burn plans.</p> <p>CFA to engage with local government and other public authorities so they are aware of the new permit forms and how to use them. Detailed communications and education materials to be developed and rolled out to CFA members, local government and public authorities so they can advise and support the community appropriately.</p> <p>CFA delegations, authorisation process and training for CFA permit holders (including clear information about their responsibilities) to be reviewed and adjusted as required.</p>
Enable charges that recover the costs to CFA of brigade attendance at false alarms where there is no reasonable excuse	<ul style="list-style-type: none"> • Building owners, occupiers and owners corporations with automatic alarm systems 	<p>CFA to develop information and communications for CFA members, building regulators (including local government) and the public about this change and the rationale for it.</p> <p>CFA has developed a new system to support a systematic approach to charging for false alarms that provide for centralised decision making to allow for</p>

Proposed change to regulations	Who is affected	Implementation Plan
		<p>overall consistency of decision-making approach while considering each case on its merits. Supporting policies procedures and guidance to be reviewed to ensure they reflect the new delegations.</p> <p>CFA to develop policies and procedures on how charges are to be applied, including approaches to determining whether there is a reasonable excuse for false alarms, and considerations to be taken into account if requests for waiver or reduction of charges are made.</p>
<p>Enable CFA to impose fees for brigade attendance at large commercial public events such as sporting and entertainment events</p>	<ul style="list-style-type: none"> • Commercial event sponsors, promoters, organisers etc • Local government 	<p>CFA to develop information and communications for CFA members, local government, regulators and the public about this change and the rationale for it and how it will be implemented.</p> <p>CFA to develop supporting systems, policies procedures, and delegations, including the approach when requests for waiver or reduction of charges are made.</p>

While most of the current Regulations will be substantively re-made, they will be organised differently and there will be some clarifications and changes in terminology. Hence information and guidance for CFA staff and volunteers will be necessary to ensure that members are aware of the changes. This also presents an opportunity to assist members' awareness and understanding of the regulations.

CFA has also committed to exploring opportunities for policy development that arose during the current Regulations review but were beyond its scope. The Authority has committed to a detailed review of the CFA compensation scheme, to examine the best long-term arrangements for providing compensation to members who are injured in the course of providing CFA services and other eligible persons, while ensuring the sustainability of the scheme. CFA is also interested in exploring the potential to expand industry brigades into other sectors and proposes to test the feasibility of this approach.

11.2 Evaluation

Evaluation is a tool to support evidence-based policy and decision making. It assists governments to learn and adapt to changing environments and involves communicating and sharing information with stakeholders, enabling broader insights to be generated. Evaluation can provide an understanding of how well an initiative is working, with the aim of adjusting its implementation to make it more effective and informing future policy decisions.

Evaluation is part of the continuous improvement cycle and, in the context of regulations, involves continually monitoring and reviewing qualitative and quantitative data and asking the following questions:

- Have the regulations been implemented as planned?
- Are the regulations continuing to meet community needs and expectations?
- Are the regulations achieving their intended outcomes? Are they producing any unintended outcomes?

- Is there a better way to achieve the same result?
- Can resources be allocated more efficiently?

The proposed Regulations do not meet the requirements for a mid-term evaluation after regulations have been in force for 5 years, so a formal mid-evaluation will not take place. For changes to regulations that impact CFA members rather than the wider public, CFA has well established processes for obtaining members' feedback which will be used to ensure that members views will be factored into the development of changes to CFA's regulatory approach.

For changes to regulations affecting business and the wider community and state and local government stakeholders, CFA will use survey tools to obtain feedback periodically from those affected by regulations to ascertain their experiences and obtain their views and suggestions for how the proposed Regulations or their implementation can be improved.

Appendix: Regulatory costs and assumptions

Table 33: Summary of regulatory costs of proposed Regulations

Regulation	Cost
CFA administrative and training costs	\$4,011,758
Forestry Industry Brigade costs	\$103,712
TOTAL Annual cost	\$4,115,470
TOTAL present value (10-year)	\$33,380,152

Table 34: Estimates of CFA administrative and training costs

Reg	Description	Tariff (\$) ²¹¹	Time (hrs)	Population ²¹²	Frequency	Cost (\$)
29	Membership applications	54.44	0.50	5,181	1	141,019
35	Member resignation - notification in writing	54.44	0.25	5,181	1	70,509
36	Leave of absence	54.44	0.25	100	1	1,361
38	Fitness - medical examination	54.44	2.00	60	1	6,533
39	Training	54.44	3.00	5,181	1	846,112
39	Training	54.44	1.00	51,807	1	2,820,373
135, 136, 137	Application of permits to burn during fire danger periods (Schedules 2, 3 and 4)	54.44	0.25	9,247	1	125,852
TOTAL Annual cost						4,011,758
TOTAL present value (10-year)						32,538,955

Table 35: Estimates of Forestry Industry Brigade costs

Reg	Description	Tariff (\$)	Time (hrs)	Population ²¹³	Frequency	Cost (\$)
87, 88	Requirements for apparatus ²¹⁴	1,092,000	-	19	0.1	1,856,400
89	Application for registration of a FIB	95.27	4.00	19	0.1	648
90	Notification of details	95.27	0.50	19	1.0	810
91	Fire incident reports	95.27	0.25	-	285	6,788
92	Training ²¹⁵	95.27	2200	-	1.0	209,594
GROSS TOTAL Annual cost						2,074,240
Annual incremental costs (assumed 5%)						103,712
TOTAL incremental present value (10-year)						841,197

²¹¹ For the purposes of analysis of this RIS a proxy valuation of \$54.44 per hour is assumed. See assumptions.

²¹² There are 51,807 volunteer members (CFA Annual Report 2022-23). The population assumes a 10% churn rate per year.

²¹³ There are currently 19 Forestry Industry Brigades. Source: CFA.

²¹⁴ An estimate of apparatus equipment is \$1,092,000: cost of slip-on - \$150,000, tanker - \$400,000, other equipment - \$500,000, and PPC per person \$1,500 (average 28 persons per brigade)).

²¹⁵ New members are trained in General Firefighter, Plantation Firefighting 1 and Class A Foam, which takes about 30 hours. All members received about 4 hours annual refresher skill training. (20 new members per annum x 30 hours plus 4 hours x 550 members).

Assumptions

1. Where values are expressed as net present values, annual costs are discounted by a real discount rate of 4 per cent.
2. A proxy for valuing an hour of time for an individual is given by the formula below. It is important to note that this value is only for analytical purposes for this RIS. Such an estimate is required by the Victoria Guide to Regulation when used to estimate costs and benefits for public policy purposes only. It is not a valuation that CFA places in its volunteers' time.

$$HR_x = (AE_x / AW_x \times AH_x),$$

where:

AE_x = average weekly earnings multiplied by 52

AW_x = number of weeks worked per annum (44 weeks)

AH_x = average weekly hours for full time workers (41 hours)

Labour on-costs and overhead costs are excluded from the calculation of an individual's time valuation of time. This provides an hourly value of a person's time of \$54.44 (i.e. \$1,880.80²¹⁶ x 52 divided by (44 x 41)). In the case of FIBs, labour on-costs are included. The \$54.44 figure is grossed-up by a factor of 1.75 to take account of these costs. This provides an hourly rate for FIBs of \$95.27.

²¹⁶ ABS, Average Weekly Earnings, Australia (Released 22/02/2024) Full-time adult average weekly ordinary time earnings, seasonally adjusted.