

INSTRUMENT OF DELEGATION

INSTRUMENT OF DELEGATION UNDER THE FIRE AND EMERGENCY SERVICES ACT 2005

14 NOVEMBER 2023

Delegation Sources

- Fire and Emergency Services Act 2005
- Fire and Emergency Services 2005

Positions

Abbreviation	Position
CEO	Chief Executive Officer
CO	Compliance Officer
DIES	Director Infrastructure & Environmental Services
GI	General Inspector
Not delegated	Not delegated

Instrument of Delegation under the Fire and Emergency Services Act 2005

Fire and Emergency Services Act 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 81(13a)	Appoint a person to be an authorised officer to issue permits under section 81 of the Fire and Emergency Services Act 2005	CEO		rural council councils with a designated urban bushfire risk area

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 4A(3)	Participate in consultation with the South Australian Fires and Emergency Services Commission (SAFES Commission) regarding designation of an area of urban bushfire risk within council area	CEO, DIES		council

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 71C	Enter an arrangement with the State Bushfire Coordination Committee for the use of council staff, equipment or facilities	CEO, DIES		council
section 72D	Enter an arrangement with a bushfire management committee for the use of council staff, equipment or facilities	CEO, DIES		council
section 73A(7)(b)(iv)	Participate in consultation with a bushfire management committee regarding creation or amendment of a bushfire management area plan which includes the council area	CEO, DIES		council
section 81(13b)	Apply to the Chief Officer of the South Australian Country Fire Service (SACFS Chief Officer) for an exemption from the requirement to appoint a person to be an authorised officer to issue permits under section 81 of the Fire and Emergency Services Act 2005	CEO		rural council councils with a designated urban bushfire risk area
section 87(1)	Require a person to remove flammable debris on or in the vicinity of, a road as a result of work carried on by that person	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section	rural council councils with a designated urban bushfire risk area

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
			93 of the Fire and Emergency Services Act 2005.	
section 87(2)(a)	Burn or remove flammable debris left on road in contravention of a requirement under section 87(1)	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section 93 of the Fire and Emergency Services Act 2005.	rural council councils with a designated urban bushfire risk area
section 87(2)(b)	Recover costs of burning or removing flammable debris left on road in contravention of a requirement under section 87(1)	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section 93 of the Fire and Emergency Services Act 2005.	rural council councils with a designated urban bushfire risk area
section 94(3)	Participate in consultation with the SACFS Chief Officer with respect to a proposed withdrawal of council functions and powers	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section 93 of the Fire and Emergency Services Act 2005.	rural council councils with a designated urban bushfire risk area

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 94(4)(a)	Make a written submission to the Minister in relation to a recommendation of the SACFS Chief Officer to withdraw council function and powers	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section 93 of the Fire and Emergency Services Act 2005.	rural council councils with a designated urban bushfire risk area
section 94(4)(b)	Request and undertake a delegation to the Minister to discuss a recommendation of the SACFS Chief Officer to withdraw council function and powers	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section 93 of the Fire and Emergency Services Act 2005.	rural council councils with a designated urban bushfire risk area
section 94(6)	Receive written reasons for a decision of the Minister to withdraw the powers and functions of the council	GI, CO	Can only be delegated to a Fire Prevention Officer pursuant to section 93 of the Fire and Emergency Services Act 2005.	rural council councils with a designated urban bushfire risk area

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 103(1)	Request the SACFS Chief Officer to appoint a person as a fire control officer	CEO, DIES		council
section 103(2)	Participate in consultation with the SACFS Chief Officer regarding proposed appointment of a fire control officer for a designated area of the State which includes the council area	CEO, DIES		council
section 105	Pay any fine recovered for a summary offence under Part 4A committed in the council area where the complaint has been laid by the council into the general revenue of the council	CEO, DIES		council
section 105A	Appoint an authorised person for the purposed of Part 4A of the Fire and Emergency Services Act	CEO, DIES		council
section 105B(1)	Appoint a fire prevention officer by a rural council or a council with a designated urban bushfire risk area	CEO, DIES		council
section 105B(4)	Apply to SACFS Chief Officer for an exemption from requirement to appoint a fire prevention officer	CEO, DIES		council

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 105D(1)(c)	Approve the delegation by a fire prevention officer of a power or function under the Act to another person or body	CEO		council
section 105D(4)	Receive report from a fire prevention officer regarding delegation of a power or function under the Act to another person or body	CEO		council
section 105E	Provide report regarding the exercise or discharge of the functions, power or responsibilities of a fire prevention officer for the council area to the SAFES Commission, the State Bushfire Coordination Committee or a bushfire management committee for the council area	CEO, DIES		council
section 105F(5)	Issue notice to owner of land who has failed to take reasonable steps to prevent or inhibit the outbreak or spread of fire, protect property on the land from fire and minimise the threat to human life from fire on the land to remedy the default or protect the land or property	CEO, DIES, GI, CO		authorised person

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 105F(9)(c)	Publish notice to owner of land who has failed to comply with section 105F(1) to remedy the default or protect the land or property on website or a newspaper and leaving a copy of notice on land	CEO, DIES, GI, CO		authorised person
section 105F(10)	Vary or revoke a notice to owner of land who has failed to comply with section 105F(1) to remedy the default or protect the land or property	CEO, DIES, GI, CO		authorised person
section 105G(1)	Take reasonable steps in regard to land under the care, control or management of the council which is situated in the country or in a designated urban bushfire risk area to prevent or inhibit the outbreak or spread of fire, protect property on the land from fire and minimise the threat to human life from fire on the land	CEO		council
section 105G(5)	Participate in consultation with the Minister regarding a referral from the SACFS Chief Officer alleging a failure of the council to comply with section 105G(1)	Not delegated	Provision is not delegated (Refer to Section 44(3)(i) of the Local Government Act 1999)	council

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 105G(6)	Receive notice of requirements from the Minister	CEO		council
section 105G(7)	Comply with requirements of a notice issued to the council by the Minister under section 105G(6)	CEO, DIES		council
section 105J(1)(a)	Give notice of intended entry of land to the owner of land	CEO, DIES, GI, CO		authorised person
section 105J(1)(b)	Use reasonable force to break into or open any part of, or anything on, the land with the authority of a warrant issued by a magistrate or if immediate action is required	CEO, DIES, GI, CO		authorised person
section 105J(3)	Apply to a magistrate for a warrant to use reasonable force to break into or open any part of, or anything on, the land	CEO, DIES, GI, CO		authorised person

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 105J(4)(a)	Give directions with respect to stopping, securing or movement of a vehicle, plant, equipment or other thing	CEO, DIES, GI, CO		authorised person
section 105J(4)(b)	Take photographs, films, audio, video or other recordings	CEO, DIES, GI, CO		authorised person
section 105J(4)(a)	Give directions reasonably required in connection with the exercise of a power under Part 4A	CEO, DIES, GI, CO		authorised person
section 105J(5)	Select assistants to accompany authorised person in exercise of power under Part 4A	CEO, DIES, GI, CO		authorised person
section 105J(6)	Carry out requirements of a notice under section 105F(5) if the owner of land fails to comply	CEO, DIES, GI, CO		authorised person

Fire and Emergency Services 2005				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 105J(7)	Authorise a person to carry out requirements of a notice under section 105F(6) on behalf of an authorised person if the owner of land fails to comply	CEO, DIES, GI, CO		council
section 105J(8)	Recover the reasonable costs and expenses incurred in taking action under section 105J(6)	CEO, DIES, GI, CO		authorised person
section 129	Erect a siren for the purpose of giving warning of the outbreak or threat of fire or an emergency	CEO		council

Document history and version control

Date	Council/Chief Executive Officer	Comment
14/11/2023	Reviewed and adopted at 14 November 2023 Special Council meeting	