



AUTHORISED OFFICERS

Introduction

This information has been produced in response to queries from the general public, Municipal Fire Prevention Officers and CFA Members. There seems to be some confusion among these groups as to who is allowed to direct the extinguishment of fires and under what circumstances.

“Authorised Officers” – Who are they and what can they do?

“Authorised Officers” may order extinguishment of fires under specific conditions

In spite of their common name, they are not authorised under the same legislation and they do not have exactly the same powers. A brief outline of each group and the relevant legislation follows. Note that the different spelling of “authorised” in each of the following sections follows the spelling used in the particular piece of legislation.

1. “Authorised Officers” under the CFA Act 1958.

In the country area of Victoria, any “**authorised officer**” under section 48 of the CFA Act, may direct the extinguishment of fire or the taking of steps to extinguish the fire or to prevent the fire from spreading or causing injury.

This power is not restricted to the fire danger period or days of total fire ban, and may be applied to legally lit fires.

Under section 48 of the CFA Act, an “**authorised officer**” means—

- (a) a member of the police force; or
- (b) the Chief Officer; or
- (c) any officer exercising the powers of the Chief Officer; or
- (d) the captain of any brigade; or
- (e) any officer of a brigade appointed generally or specially in respect of any district for the purpose of this section.

2. “Authorised Officers” under the Forests Act 1958

Forests, national parks and protected public lands generally fall under the jurisdiction of the Department of Sustainability and Environment (DSE) for lighting of fires in the open air. Section 63 of the Forests Act (1958) and Regulations 9 and 12 of the Forests (Fire Protection) Regulations 2004 give an “authorised officer” the power to order the extinguishment of fires in any forest, national park or protected public land, and on any private land within 3km of any forest, national park or protected public land in the prohibited period.



AUTHORISED OFFICERS

An “authorised officer” in this context means a person appointed as an authorised officer under the Conservation, Forests and Lands Act 1987 for the purposes of the Forests Act. This will usually be an officer of DSE, Parks Victoria or DPI.

Members of the **Police Force**, while not defined as authorised officers for the purposes of the Forests Act, are also empowered **to order the extinguishment of fires in fire protected areas during the prohibited period.**

3. Authorised Officers (under the Local Government Act 1989)

MFPOs do not have the power under the CFA Act or the Forests Act to order the extinguishment of fires.

BUT:

Municipalities overcome this issue by using the provisions of the Local Government Act 1989 to create Local Laws about lighting of fires. The Local Government Act then allows them to appoint “authorised officers” to enforce those Local laws relevant to the municipality in which they work.

For your information, a copy of section 224 of the Local Government Act - Authorised Officers – follows.



AUTHORISED OFFICERS

Local Government Act 1989 Act No. 11/1989

224. *Authorised officers*

(1) A Council may appoint any person other than a Councillor to be an authorised officer for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

(1A) A Council must maintain a register that shows the names of all people appointed by it to be authorised officers.

(2) The Council must issue an identity card to each authorised officer.

(3) An identity card must--

(a) contain a photograph of the authorised officer; and

(b) contain the signature of the authorised officer; and

(c) be signed by a member of Council staff appointed for the purpose.

(3A) If a Council appoints a police officer to be an authorised officer under sub-section (1), for the purposes of this section the police officer's certificate of identity is deemed to be an identity card issued under section 224(2) and is deemed to comply with section 224(3).

(4) An authorised officer must produce his or her identity card upon being requested to do so.

(5) An action taken or thing done by an authorised person is not invalidated by the failure of an authorised officer to produce his or her identity card.

(6) For the purposes of this section, an authorised officer may demand the name and address of a person who has committed, or who the authorised officer reasonably suspects has committed or is about to commit, an offence against any Act, regulation or local law in respect of which he or she is appointed.

(6A) In making such a demand, the authorised officer must inform the person of the grounds on which the demand is made in sufficient detail to enable the person to understand the nature of the offence or suspected offence.

Penalty: 10 penalty units.

(7) An authorised officer may enter any land or building in the municipal district at any reasonable time to carry out and enforce this or any other Act or any regulation or local law.



AUTHORISED OFFICERS

- (8) A person is guilty of an offence if he or she--
- (a) refuses to give his or her name and address upon demand by an authorised officer; or
 - (b) obstructs or hinders an authorised officer while performing his or her duty; or
 - (c) falsely represents himself or herself to be an authorised officer.

Penalty: 10 penalty units.

Please note that this is not meant to be an exhaustive document or to represent formal legal advice. This overview is provided for your information, awareness and general guidance. It should not be used or relied upon as legal advice, although every care has been taken to ensure that the information provided is accurate.

Any matters requiring legal advice should be clarified with a qualified legal practitioner. Up to date copies of the actual legislation can be accessed and downloaded at no cost from the Victorian Legislation and Parliamentary Documents website: www.dms.dpc.vic.gov.au.