

Powers of Members

The ACT Rural Fire Service Chief Officer has issued this service standard under Section 38(1) of the *Emergency Act 2004* – A Chief Officer may determine standards and protocols.

Purpose

This service standard is to define the powers of the ACT Rural Fire Service (ACT RFS) members and provide guidance in the use of these powers.

Applicability

This service standard is applicable to all ACT RFS personnel.

Background

To facilitate members to undertake the functions of the Service, certain powers under the Emergencies Act 2004 have been delegated by the Chief Officer (see Appendix A).

The level of the power delegated is dependent on the rank held by a member. Each rank has a different pathway to be followed for an individual to be nominated.

Responsibilities

Members	<p>At all times members must execute the powers delegated to them in a responsible manner and in accordance with the standard operating procedures, guidelines and instructions of the ACT RFS.</p> <p>Execution of these powers must be justified in line with the intent of the Emergencies Act 2004 and all subordinate legislation.</p> <p>Members are reminded that any abuse or misuse of these powers will subject the member to disciplinary action which may result in suspension or dismissal from the Service.</p>
RFS Chief Officer (CO)	<p>Endorse the approval of rank and delegations to members before any rank and associated powers are granted.</p>

Powers of members service standard

Once endorsed by the Chief Officer, members will receive an authority card stating their rank and delegations, that will be valid for a period of 12 months unless otherwise stated.

Powers of members

The following powers have been delegated to all members of the Service by the Chief Officer or by instrument within legislation. Details from the Act are provided in Appendix A.

Emergencies Act 2004

Section 34 – General Powers of the Chief Officer (excluding parts (1) (d) (k) (l) (m) + (n))

Section 59D – Casual volunteers

Section 196 – Authorised person's power to require name and address

Powers of Office Holders

In addition to the above, the following powers have been delegated to all members of the Service with the rank of Deputy Captain or higher by the Chief Officer or by instrument within legislation.

Emergencies Act 2004

Section 34 – General Powers of the Chief Officer (Part (1) (d) (k) (l) (m) + (n))

Section 35 – Direction by the Chief Officer to service members

Section 68 – Fires in rural areas

Section 69 – Securing the area at or after fire

Document information

Version history

Author	Version	Version Approval Date	Summary of Changes
Andrew Stark	1.0	03/12/2015	Version 1.0
Rohan Scott	2.0	20/02/2020	Reviewed and adjusted to new template & numbering Legislation extracts updated to Emergencies Act 2004, 07/12/18

Approved by

Name	Title/Role	Signature	Date
Joe Murphy	CO ACT RFS		20-02-2020

Document Owner

Position	Section
Manager	Operation

Next review due 20/02/2022

Related documents

Document name
3.1.1 Code of Conduct and Ethics of RFS Members
3.1.2 Rank and Insignia Service Standard
3.1.4 RFS Membership
ACT RFS Training Information Book
Emergencies Act 2004

Signed documents will be scanned and filed in TRIM.

Appendix A

Emergencies Act 2004

Section 34 – General Powers of the Chief Officer

(1) The chief officer of an emergency service may, for the protection or preservation of life, property or the environment—

- (a) with any necessary assistance and force, enter land; or
- (b) close a street or road to traffic; or
- (c) bring equipment onto land or into a structure or vehicle; or
- (d) open a container, or dismantle equipment, using any necessary or reasonable force; or
- (e) remove, dismantle, demolish or destroy a structure or vehicle; or
- (f) contain an animal or substance; or
- (g) remove or destroy an animal, a substance or vegetation; or
- (h) turn off, disconnect or shut down a motor or equipment; or
- (i) control, shut off or disconnect a supply of fuel, gas, electricity, water or anything else; or
- (j) use a supply of water without charge; or
- (k) give directions to regulate or prohibit the movement of people, animals or vehicles; or
- (l) evacuate people or animals from an area to another place; or
- (m) close any premises; or

Examples—premises

- government or independent schools
- child care centres
- business premises
- health care facilities
- residential homes

Note An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(n) require a person to give information, answer questions, or produce documents or anything else, reasonably needed; or

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

(o) require a person to give reasonable assistance to a member of an emergency service.

(2) A power under this section must, if practicable, be exercised in accordance with the commissioner's guidelines.

(3) In this section:

equipment includes a vehicle.

land includes any structure or vehicle on the land.

Section 35 – Direction by chief officer to service members

(1) The chief officer of an emergency service may, in the exercise of the chief officer's functions, give directions to emergency service members or any entity acting for the service.

(2) A direction by the chief officer (ambulance service) may be about the following:

(a) the provision of medical treatment (a **medical treatment direction**);

(b) the scope of practice of an ambulance service member (a **scope of practice direction**).

(3) A direction by the chief officer of an emergency service (other than a medical treatment direction or a scope of practice direction) must, if practicable, be in accordance with any direction of the commissioner and the commissioner's guidelines.

(4) A medical treatment direction and a scope of practice direction must, if practicable, be in accordance with the medical treatment standards.

(5) In this section:

scope of practice, for an ambulance service member, means the manner in which an ambulance service member may practise as a member, including, for example, the aspects of practice that an ambulance service member may undertake.

Note An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

59D Casual volunteers

(1) A person in charge of an activity that is part of an operation in which an emergency service is taking part may—

(a) ask someone else to take part in the activity without remuneration or reward;
or

(b) agree to someone else taking part in the activity without remuneration or reward.

Example

A member of the ambulance service may ask a volunteer to hold equipment.

Note An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) A person who takes part in an activity under this section is a **casual volunteer** for this Act.

(3) Subsection (2) does not apply to a member of an emergency service or a member of a support unit or a specialist acting under a cooperative arrangement.

(4) The Legislation Act, part 19.3 does not apply in relation to a casual volunteer.

Note The Legislation Act, pt 19.3 deals with appointments generally.

(5) In this section:

specialist—see section 175.

support unit—see section 175.

Section 68 – Fires in rural areas

(1) This section applies in relation to a fire in a rural area.

(2) For the purpose of extinguishing or preventing the spread of the fire, or responding to the consequences of the fire, the chief officer (rural fire service) may—

- (a) control and direct members of an emergency service; and
- (b) direct a person to leave any land or premises on fire, near the fire, or affected by the consequences of the fire; and
- (c) remove to any place the chief officer considers appropriate anything that the chief officer considers is interfering with, or may interfere with, the fire control operation; and
- (d) do anything else the chief officer considers appropriate.

Example

- 1 severing or pulling down a fence; or
- 2 burning grass or other vegetation

Note An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) Subsection (2) is in addition to anything the chief officer (rural fire service) may do under section 34 (1) (General powers of chief officers) or another territory law.

Note Under s 34 (1), the chief officer has a number of general powers including to enter land, shut off a power or water supply, demolish or destroy a structure or remove or destroy an animal.

(4) The chief officer (rural fire service) may do anything mentioned in subsection (2) at, immediately after, or in anticipation of the spread of, the fire.

(5) If the chief officer (rural fire service) removes stock from land, the chief officer must, as soon as practicable, tell the owner of the land about the removal.

(6) If the chief officer (rural fire service) severs or pulls down a fence on land, the chief officer must, as soon as practicable—

- (a) temporarily repair the fence; and
- (b) tell the owner of the land about the temporary repair.

- (7) For the protection of life or property or to control or extinguish the fire, a member of the rural fire service, a member of the fire and rescue service or a police officer may do anything the chief officer (rural fire service) may do under an applicable provision or another territory law without being directed or given authority by the chief officer, if—
- (a) the thing is done in accordance with the commissioner’s guidelines for the rural fire service; or
 - (b) it is not practicable for a direction or authority to be obtained.
- (8) For the application of subsection (7) to a member of the rural fire service, a member of the fire and rescue service or a police officer in relation an applicable provision or another territory law, the law applies to the member or police officer as if a reference to the chief officer (rural fire service) were a reference to the member or police officer.
- (9) In this section:
- applicable provision*** means—
- (a) this section; or
 - (b) section 34 (1) (General powers of chief officers); or
 - (c) section 69 (Securing area at or after fire).
- fire*** includes a fire that the chief officer (rural fire service) has reasonable grounds for believing may exist.

Section 69 – Securing area at or after fire

- (1) The chief officer (fire and rescue service) may do anything the chief officer considers necessary to make premises safe at or immediately after a fire.

Examples

shoring up, pulling down or destroying a wall or structure that is damaged or made insecure

- (2) The chief officer (rural fire service) may do anything the chief officer considers necessary to make premises safe at or immediately after a fire in a rural area, other than a fire that is in a building if a member of the fire and rescue service is present.

Note 1 The rural fire service may assist the fire and rescue service in the exercise of its functions in relation to fires in buildings and rural areas.

Note 2 An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An amount of expenses incurred by the chief officer in doing anything mentioned in subsection (1) maybe recovered by the Territory as a debt owing to the Territory by the owner of the premises.
- (4) In this section:
- owner***, of a wall or structure, includes the occupier of the land on which the wall or structure is situated.

Section 196 - Authorised person’s power to require name and address

- (1) An authorised person may require a person to state the person's name and home address if the authorised person suspects, on reasonable grounds, that the person is committing, is about to commit, or has just committed, an offence against this Act.

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, including a regulation and any law or instrument applied, adopted or incorporated by the Act (see legislation act s 104).

- (2) If an authorised person makes a requirement of a person under subsection (1), the authorised person must—
 - (a) tell the person the reasons for the requirement; and
 - (b) as soon as practicable, record those reasons.
- (3) A person commits an offence if the person contravenes a requirement under subsection (1).

Maximum penalty: 10 penalty units.

- (4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the authorised person does not produce, for inspection by the person—
 - (a) his or her identity card; or
 - (b) if the authorised person is an emergency controller or a person authorised by the controller—evidence of his or her appointment or authorisation.
- (5) Subsection (4) does not apply in relation to an authorised person who is a member of an emergency service, or a police officer, in uniform.
- (6) An offence against this section is a strict liability offence.
- (7) In this section:

authorised person means the commissioner, an emergency controller, a member of an emergency service, an inspector, an investigator, a police officer or someone else authorised in writing by the emergency controller for this section.