

Bushfire Insurance Information Sheet

Local governments in Western Australia who have bushfire brigades are required to obtain and keep current insurance for volunteer firefighters (VFF) under the *Bush Fires Act 1954 (as amended) (BFA)* and the *Fire and Emergency Services Act 1998 (as amended) (FES)* Part 6B.

Another related Act is the *Workers' Compensation and Injury Management Act 1981*.

LGIS arrange the required insurance on behalf of local government as per below cover:

- **LGIS Bushfire Injury (VFF Personal Injury)**
- **Motor Vehicle and Plant Damage**
- **VFF Personal Property**
- **Third Party Liability**

This cover applies when a volunteer firefighter is carrying out **"normal brigade activities"** which are defined in the BFA as:

- a. the prevention, control or extinguishment of bushfires;
- b. any Act or operation at or about the scene of a bushfire, or in connection with a bushfire, which is necessary for, directed towards, or incidental to, the control or suppression of the fire or the prevention of spread of the fire, or in any other way necessarily associated with the fire including travelling and support services such as meals and communication systems;
- c. any bushfire prevention activity including the burning, ploughing or clearing of fire-breaks or any other operation, including but without being limited to, the inspection of fire-breaks or other works and the survey of areas for the purpose of detecting fire or ascertaining the need for precautions against the outbreak of fire, but not including the activities of an owner or occupier providing a fire-break or fire prevention works on his own property in order to comply with a notice given under section 33 (1) or a local law made under section 33 (5a);

- d. demonstrations, exercises, fundraising, promotions, public education, competitions or a training process for volunteers;
- e. examination, preparation, maintenance, adjustment or repair of any vehicle, equipment, building or thing used or intended to be used by a bushfire brigade for the purpose of fighting fires or for carrying out fire prevention operations including activities associated with administration of a bushfire brigade;
- f. travelling in aircraft for the purposes of inspection of fire-breaks, fire hazards and bushfires;
- g. erection, removal or maintenance of radio masts used for fire related purposes;
- h. attending an incident where the skills of a volunteer firefighter or the operation of firefighting equipment may reduce or remove a perceived threat to life or property; and
- i. attending an incident subsequently found to be a false alarm.

"Volunteer firefighter" means a bushfire control officer, a person who is a registered member of a bushfire brigade established under this Act or a person working under the direction of that officer or member.

LGIS Bushfire Injury

Insurance for personal injury to a VFF whilst undertaking normal brigade activities applies as if the volunteer were a worker and suffered that injury under the *Workers' Compensation and Injury Management Act 1981 (as amended)*. The cover can be briefly summarised as follows:

- a. **Death**
Benefit as per the WorkCover WA Prescribed Amounts Schedule
- b. **Non-Medicare Medical and Additional Expenses**
Benefit as per the WorkCover WA Prescribed Amounts Schedule

c. Weekly Benefits

- If the volunteer is a self-employed or unemployed person, the actual weekly earnings received by the volunteer; or
- In any other case, the volunteer's weekly earnings calculated in accordance with the *Workers' Compensation and Injury Management Act 1981 (as amended)*.

In addition to the payment received from the Insurer a volunteer who suffers a **"specified injury"** under the FES (as amended), is entitled to receive an additional payment so that the total amount received is 2.36 times the WCA prescribed amount for specified injury:

"specified injury" under the FES means:

- death;
- total loss of sight of both eyes;
- total loss of sight of an only eye;
- permanent and incurable loss of mental capacity resulting in total inability to work;
- total and incurable paralysis of the limbs or of mental powers;
- loss of both hands;
- loss of a hand and foot;
- loss of both feet;
- severe facial scarring or disfigurement (including scarring or disfigurement as a result of burns); and
- severe bodily, other than facial, scarring or disfigurement (including scarring or disfigurement as a result of burns).

Claims Procedure

In the event that a volunteer is injured, priority should be given to seeking medical treatment. Once the volunteer is able, they should lodge an insurance claim through the local government who will then forward it to LGIS for processing.

LGIS will require:

- Completed LGIS Bushfire claim form
- LGIS Bushfire – attending physician statement plus any medical certificates, accounts / invoices involving your treatment; and
- Bushfire Declaration – to be completed by the bushfire control officer or other member of the bushfire brigade under whose direction the injured person was fighting the bushfire at the time of the accident.

The above forms can be obtained from the insurance officer or on the LGIS website (www.lgiswa.com.au).

- The volunteer will need to produce sufficient evidence of his or her actual weekly earnings (e.g. payslips, tax returns etc.). (Depending upon the complexity of the documentation provided, LGIS may need to refer the documentation to an accountant or similar – with the written approval of the volunteer).
- In the event that the volunteer does not agree with the decision concerning the claim, the matter can be referred to an independent arbitrator under the *Commercial Arbitration Act 1985 (WA)*.

Motor Vehicle and Plant Damage

Cover is provided for loss or damage to:

- all appliances, equipment and apparatus of a bushfire brigade; and
- any privately owned appliance, equipment or apparatus.

Cover is for the market value or the reasonable cost of repair, whichever is the lesser, of any such vehicle, appliance, equipment or apparatus lost or damaged that is used under the direction of a bushfire control officer or a member of a bushfire brigade for the purposes of the BFA.

Such loss or damage occasioned in the course of normal brigade activities, or whilst such vehicle, appliance, equipment or apparatus is proceeding to or returning from or parked whilst engaged in normal brigade activities as defined in the BFA.

There is no excess payable.

All WA Local Governments who are with LGIS have \$1,000,000 sum insured for bushfire volunteer brigade vehicles which exceeds the limit required under the FES of \$2,000.

This is to allow for the use of large plant and machinery in the suppression of bushfires.

Claims Procedure

Loss of or damage to any vehicle should be reported immediately to the insurance officer so that a claim can be lodged with LGIS.

LGIS will require:

- Completed motor vehicle claim form and at least one quote for repairs; and
- Bushfire Declaration – to be completed by the bushfire control officer or other member of the bushfire brigade under whose direction the injured person was fighting the bushfire at the time of the accident.

The above forms can be obtained from the insurance officer or LGIS. Once completed return back to the local government and they will forward direct to the insurer as per normal motor vehicle claims procedures.

Personal Property Damage

Cover is provided for loss or damage to any privately owned property including prescription glasses.

Cover is for the reasonable cost of repairs or replacement whichever is the lesser and applies when a volunteer firefighter is carrying “normal brigade activities” which are defined in the BFA.

There is no excess payable.

Claims Procedure

Loss of or damage to personal property should be reported immediately to the insurance officer so that a claim can be lodged with LGIS.

LGIS will require:

- Completed property claim form and a quote for the repair. If not repairable, the repairer’s report would be required to confirm that the damaged item is not repairable. Please provide a quote for replacement of the item; and
- Bushfire declaration – to be completed by the bushfire control officer or other member of the bushfire brigade under whose direction the injured person was fighting the bushfire at the time of the accident.

The above forms can be obtained from the insurance officer or LGIS. Once completed, return back to the local government and they will forward to LGIS as per normal Property claims procedures.

Third Party Liability

On occasion injury and/or damage are incurred by third parties when volunteer firefighters are carrying out their normal brigade activities and you may get threats of lawsuits claiming compensation for damages.

FES *Section 37* provides an indemnity to emergency services workers. This is as follows:

Section 37 – Protection from personal and vicarious liability

1. Subject to subsection (2), a person does not incur civil liability for anything that the person has done, in good faith, in the performance or purported performance of a function under the emergency services Acts.
 - 1a. Without limiting subsection (1) a person is taken to be performing a function under an emergency services Act if the person is:
 - a. a member or officer of a private fire brigade or a volunteer fire brigade who is taking part in an activity carried out by the brigade for the purposes for which it was formed; or

- b. a volunteer firefighter who is carrying out normal brigade activities (within the meaning of the BFA); or
 - c. taking part in the performance by an SES Unit of its functions under Part 3A and is either:
 - i. a member of the SES Unit; or
 - ii. acting under the direction of a member of the SES Unit or a member of staff;

or

- d. taking part in the performance by a Volunteer Marine Rescue Services (VMRS) Group of its functions under Part 3B and is either:
 - i. a member of the VMRS Group; or
 - ii. acting under the direction of a member of the VMRS Group or a member of staff;

or

- e. taking part in the performance by a FES Unit of its functions under Part 3 and is either:
 - i. a member of the FES Unit; or
 - ii. acting under the direction of a member of the FES Unit or a member of staff.

2. Subsection (1) does not affect any right to recover damages in respect of the death of or bodily injury to any person directly caused by, or by the driving of, a motor vehicle, if at the time of the death or bodily injury;
 - a. the vehicle was owned or was being driven by a person who, but for subsection (1), would incur liability in respect of the death or injury; and
 - b. there was in force in respect of the vehicle a contract of insurance in accordance with section 4 of the *Motor Vehicle (Third Party Insurance) Act 1943* or the corresponding legislation of a State or Territory prescribed for the purposes of section 3(4) of that Act.
3. The Crown, a local government and any other person are also relieved of any civil liability that any of them might otherwise have had for another person having done anything as described in subsection (1).
4. The protection given by this section applies even though the action done in the performance or purported performance of a function under the emergency services Acts may have been capable of being done whether or not those Acts had been enacted.

5. Any damage, loss or injury to property that results from anything done, in good faith, in the performance or purported performance of a function under the emergency services Acts is taken to be damage by fire within the meaning of any policy of insurance covering the property damaged, lost or injured, despite any clause or condition to the contrary contained in the policy.
6. In this section:
 - a. a reference to the doing of anything includes a reference to the omission to do anything; and
 - b. **“motor vehicle”** has the meaning given in section 3(1) of the Motor Vehicle (Third Party Insurance) Act 1943.

Local government Public Liability cover through LGIS includes protection for volunteer firefighters and registered bushfire brigades carrying out their duties in accordance with the BFA.

Claims Procedure

If any advice is received from a third party intending to take legal action against you personally or your brigade, then please notify insurance officer immediately and they will seek instructions from LGIS.

Admissions of liability and/or comments should never be given.

Further Queries

For more information, please contact LGIS on:

Level 3, 170 Railway Parade
West Leederville WA 6007

Ph: o8 9483 8888
Email: admin@lgisw.com.au
Website: www.lgisw.com.au