

# Association of Volunteer Bush Fire Brigades of WA

(Inc)

## ***Diverse. Rewarding. Invaluable.***

*Representing the interests of 26000 community volunteer fire fighters*

Fellow Volunteers  
Western Australia

Dear Volunteers

### **RE: Your insurance cover**

Your Association has been receiving enquiries and is becoming concerned with the miss truth and perception in regards to how well you are covered when you are out doing your bit for your community.

As a consequence we have worked directly with the people that protect you to ensure you have the facts in front of you. Please find below an overview of cover that you can share widely to ensure any myths are dispelled, however if you still have questions feel free to let us know so we can have it clarified for you.

The key point of interest that the most questions being asked is covered in **Section 37 Protection from personal and vicarious liability** below.

## **Bush Fire Insurance information sheet**

### **Information sheet**

Local governments in Western Australia who have Bush Fire Brigades are required to obtain and keep current insurance for Volunteer Fire Fighters (VFF) under the *Bush Fires Act 1954 (as amended) (BFA) Sections 35A, 36 and 37.*

Other related Acts are the Workers' Compensation and Injury Management Act 1981 and the Fire and Emergency Services Act 1988.

LGIS arrange the required coverage on behalf of local governments in Western Australia to meet their obligations in relation to the protection of your bushfire volunteer.

The coverage is:

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

Coverage applies when a volunteer fire fighter is carrying out "normal brigade activities" which are defined in the BFA as:

*(a) the prevention, control or extinguishment of bush fires;*

*(b) any Act or operation at or about the scene of a bush fire, or in connection with a bush fire, 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 bush fire 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*



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*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 bush fire brigade for the purpose of fighting fires or for carrying out fire prevention operations including activities associated with administration of a bush fire brigade;*

*(f) travelling in aircraft for the purposes of inspection of fire-breaks, fire hazards and bush fires;*

*(g) erection, removal or maintenance of radio masts used for fire related purposes;*

*(h) attending an incident where the skills of a volunteer fire fighter or the operation of firefighting equipment may reduce or remove a perceived threat to life or property;*

*(i) attending an incident subsequently found to be a false alarm;*  
**“volunteer fire fighter”** means a bush fire control officer, a person who is a registered member of a bush fire brigade established under this Act or a person working under the direction of that officer or member.

## **LGIS bush fire 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 (WCA) as amended. The cover can be briefly summarised as follows:

### **(a) Death**

Prescribed amount as per WorkCover WA prescribed amounts schedule

### **(b) Non-Medicare Medical and additional Expenses**

Prescribed amount as per WorkCover WA prescribed amounts schedule

### **(c) Weekly benefits**

➤ Self-employed or unemployed – either the actual weekly earnings received by the volunteer or the weekly earnings of a conservation and land management (CALM) officer at Level 2, year 5 whichever is the greater.

➤ Employed other than self-employed – weekly earnings calculated in accordance with the WCA or the weekly earnings of a CALM officer at Level 2, year 5 whichever is the greater.

In addition to the payment received from the Insurer a volunteer who suffers a **“specified injury”** under the BFA, is entitled to receive an additional payment so that the total amount received is 2.36 times the WCA prescribed amount for specified injury:

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“**specified injury**” under the BFA means -

- (a) death;
- (b) total loss of sight of both eyes;
- (c) total loss of sight of an only eye;
- (d) permanent and incurable loss of mental capacity resulting in total inability to work;
- (e) total and incurable paralysis of the limbs or of mental powers;
- (f) loss of both hands;
- (g) loss of a hand and foot;
- (h) loss of both feet;
- (i) severe facial scarring or disfigurement (including scarring or disfigurement as a result of burns);
- (d) 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 or his representatives are able, they should lodge an insurance claim through your local government insurance officer who will then forward it to LGIS for processing.

LGIS will require:

- ✓ Completed claim form
- ✓ Attending physicians statement plus any medical certificates, accounts / invoices involving your treatment.
- ✓ 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 your local government insurance officer.

Please note that in respect of claims for loss of earnings:

- 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, the insurer 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 insurer's 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 bush fire brigade
- any privately owned appliance, equipment or apparatus

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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 Bush Fire Control Officer or a member of a bush fire brigade for the purposes of the *Bush Fires Act 1954 (as amended) (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 have \$1,000,000 sum insured for bushfire volunteer brigade vehicles which exceeds the limit required under the BFA of \$2,000.

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

## **Claims procedure**

Loss of or damage to any vehicle should be reported immediately to your local government Insurance Officer so that a claim can be lodged with LGIS.

LGIS will require:

- ✓ Completed motor vehicle claim form and two quotes for repairs.
- ✓ Bush fire 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 your local governments insurance officer. Once completed return back to your 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 privately owned property including prescription glasses during the course of their normal brigade duties

Cover is for the reasonable cost of repairs or replacement whichever is the lesser and applies when a volunteer fire fighter is carrying normal brigade activities which are defined in the *Bush Fires Act 1954 (BFA)*.

There is no excess payable.

## **Claims procedure**

Loss of or damage to personal property should be reported immediately to your local governments 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.
- ✓ Bush fire 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.

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The above forms can be obtained from your local government insurance officer. Once completed, return back to your local government and they will forward to LGIS.

## **Third party liability**

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

The *Fire and Emergency Services Act 1998 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 fire fighter 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 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.*

*(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.*

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*(3) The Crown and the Authority, 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 thing 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;*

*(b) “motor vehicle” has the meaning given in section 3(1) of the Motor Vehicle (Third Party Insurance) Act 1973; and*

*(c) “policy of insurance” has the meaning given in section 4(1) of the Fire Brigades Act 1942.*

Local government public liability insurance through LGIS includes cover for volunteer bush fire fighters and registered bush fire brigades carrying out their duties in accordance with the *Bush Fires Act 1954 (as amended)*.

## **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 your local governments insurance officer immediately and they will seek instructions from LGIS.

## **Admissions of Liability and/or comments should never be given.**

We would be grateful if you have any further questions to contact your local government in the first instance and also contact your local zone representative or your association.

*D Gossage*

Dave Gossage AFSM  
A/President  
Association of Volunteer Bush Fire Brigades of Western Australia (inc)  
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