



Ms Kate Fitzgerald  
A/Deputy Secretary, Emergency Management Victoria  
Level 23, 121 Exhibition Street  
MELBOURNE VIC 3001

Dear Ms Fitzgerald

### **REGULATORY IMPACT STATEMENT FOR FIRE RESCUE VICTORIA (GENERAL) REGULATIONS 2020**

I would like to thank your staff at Emergency Management Victoria (EMV) for working with the team at Better Regulation Victoria on the preparation of the Regulatory Impact Statement (RIS) for the Fire Rescue Victoria (General) Regulations 2020 (the Regulations). These regulations are proposed to be made under section 34 of the *Fire Rescue Victoria Act 1958* (the Principal Act) which was established by the *Firefighter's Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* (the Reform Act).

As you know, under section 10 of the *Subordinate Legislation Act 1994* (the SLA), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and be proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 6 May 2020 meets the adequacy requirements of the SLA.

#### **Background**

The Reform Act received Royal Assent on 2 July 2019. The Reform Act establishes Fire Rescue Victoria (FRV) as a new organisation, replacing the Metropolitan Fire and Emergency Services Board (MFB) and bringing together MFB and the Country Fire Authority (CFA) career firefighters under one organisation. Provisions in the Reform Act also allow for the Minister to direct the transfer of CFA corporate and administrative staff to FRV.

The proposed regulations will be introduced on 1 July 2020 under Section 34 of the Principal Act. The regulations will revoke the current Metropolitan Fire Brigade

(General) Interim Regulations 2019 which were to expire on 18 October 2020. The scope of the proposed regulations is largely identical to that of the existing interim regulations, as are most specific provisions.

The main subject of this RIS is the proposed changes to the fees charged for firefighters attending false fire alarms, which contribute more than 79 per cent of the estimated total cost of the regulations. The RIS explains that modelling suggests that over the next ten years, the cost of false alarm attendances without reasonable excuses for FRV is estimated to be around \$510.54 million (due to an estimated 22,721 quarter hour attendances per annum). The attendance of fire trucks to false alarm calls:

- is an inefficient use of FRV resources;
- can lead to complacency in the event of real emergencies;
- increases the risk of accident and injury to firefighters and the general public as firefighters will attend under sirens and lights; and
- reduce response times to real emergencies due to diversions to attend false alarms.

The RIS explains that charging fees for firefighters attending false fire alarms, in addition to recovering costs, can send a price signal to incentivise owners to maintain their alarm systems. Both the MFB and CFA currently charge fees for false fire alarm attendances, and in 2018-19 received \$10.4 million and \$4.3 million for these fees respectively.

EMV also notes that setting fees too high may incentivise members of the public and businesses owning or leasing buildings circumventing their fire alarm signalling equipment, which could increase the risk of real fires due to delayed response by firefighters.

## **Analysis**

The RIS focuses its analysis on comparing false fire alarm fee options. The RIS uses a base case of no regulations, and thus no fees being prescribed. This would mean that all associated costs of FRV attending false alarms would be funded via general taxation revenue. Options are assessed on effectiveness, equity and efficiency criteria, which demonstrate the degree to which the proposed options:

- fund emergency attendance activities in a way that encourages property owners to proactively manage and maintain their alarm systems; and
- equitably and efficiently recover the costs of false alarms from relevant property owners.

The RIS explains that a key objective is to ensure that no changes are made which might discourage alarm owners from maintaining and managing their alarm systems.

The RIS analyses four options for false fire alarm attendance fees, with differing levels of cost recovery and with or without fixed or maximum fees. Fees are structured around the cost for each fire truck (and staff) attending where there is no 'reasonable excuse' for the false alarm. While there is no strict legal definition of what a reasonable excuse is, the RIS states that for the purpose of weighting false fire alarm fees, such an excuse

is where the assessing officer deems that all reasonable precautions have been taken to prevent a false alarm.

EMV has consulted with MFB and CFA in preparing the following options:

- **Option 1:** Full cost recovery fees set per fire truck, of \$2,510 per 15 minutes or part thereof basis for false alarm attendances deemed not to have a 'reasonable excuse';
- **Option 2:** Partial cost recovery fees set per fire truck, of \$578 per 15 minutes or part thereof basis for false alarm attendances deemed not to have a 'reasonable excuse' – the proposed regulation;
- **Option 3:** Partial cost recovery fees set per fire truck, of \$311 per 15 minutes or part thereof basis for false alarm attendances deemed not to have a 'reasonable excuse' with a maximum attendance fee of \$1,600; and
- **Option 4:** Partial cost recovery *fixed fees* of \$1,600 per fire truck for false alarm attendances deemed not to have a 'reasonable excuse'.

## Proposal

### *False fire alarm fees*

Based on the assessment above, EMV finds that Option 1 scored the highest against efficiency and equity objectives and had the highest weighted score under various weighting sensitivities. EMV, however, proposes to proceed with Option 2 (partial cost recovery of \$578 per 15 minutes), on the basis of:

- the unknown but potentially very serious nature of unintended consequences and lack of data over the threshold fee driving circumvention activities and increased VCAT challenges;
- the uncertainty around the weighting given to unintended consequences (the effectiveness criteria);
- the desire of FRV to avoid the 'risk' of such consequences and consideration of alternative mechanisms for addressing rewiring issues, given the uncertainty that reducing fees will actually affect rewiring rates;
- the proven effect in incentivising proactive steps to maintain and manage alarm systems; and
- reduction from full cost recovery is defensible from an equity point of view given that property owners already make a contribution to the cost of fire services through the Fire Services Property Levy (FSPL).

EMV states that the proposed option is expected to generate \$13.29 million in revenue per annum. This would result in a shortfall from the current estimated false fire alarm fee revenue of \$121.97 million over ten years of approximately \$0.57 million.

### *Other aspects of the regulations*

The proposed regulations retaining current settings for other fees charged by MFB and the CFA. This includes charging fees in response to 'careless behaviour' relating to emergency attendances for:

- giving false reports;
- fires on vessels;
- fires involving hazardous or toxic materials; and

- special circumstances requiring the protection of life and property.

The RIS estimates these fees will generate around \$4.31 million over ten years, noting that fees for incidents involving hazardous and toxic materials are highly variable and cannot be determined in advance. The RIS states that these charges either do not impose a significant cost, or occur infrequently, and are therefore not assessed in detail in this RIS.

The RIS also proposes that fire protection charges – currently charged by both the MFB and CFA in relation to inspections, advice and testing of fire suppression equipment for applications made under the *Building Act 1993* – be aligned to the current CFA regulatory powers. The RIS notes that modelling suggests that fire protection charges will be unlikely to meet the significance threshold for RIS scrutiny (more than \$2 million per annum). The total impact of the proposed fire protection charges under regulation 21 on the public, is estimated to be approximately \$1.1 million per annum or approximately \$8.96 million over 10 years.

Other parts of the regulations are either administrative or cover governance and management-related matters of FRV, such as:

- long service leave arrangements for CFA or MFB staff 'coming across' to FRV;
- FRV insignia;
- FRV appointments;
- promotions, general order and fitness for duty requirements for FRV members
- register-keeping requirements for FRV; and
- appeals processes.

The RIS argues that these elements are either machinery in nature or pose no material regulatory burden and thus does not discuss these in detail. The total incremental annual cost of the non-fee regulations is estimated to be approximately \$155,000 per annum. The incremental present value cost of the non-fee regulations, as compared to the base case of no regulation, is estimated to be \$1.4 million over 10 years.

The total estimated impost of the proposed regulations, including false fire alarm fees, are expected to impose costs of \$153 million over 10 years (or around \$18.86 million per annum). Of this amount the false alarm fees which apply where no reasonable excuse has been provided, are expected to recover around \$121.4 million over 10 years (in present value dollars), representing 79.35% of the total imposed costs of the regulations.

The significant cost of false fire alarm attendances where no reasonable excuse has been provided, estimated to be \$510.54 million in present value dollars over 10 years, is due to the large projected amount of quarterly hour false fire alarm call outs (22,721 per annum) and the cost of around \$2,510 per quarter hour per truck and crew to attend.

The shortfall of the estimated costs for FRV for false fire alarm attendances, where there is no reasonable excuse, will be made up through general revenue (around \$389.14 million) over this period.

### **Implementation and Evaluation**

EMV states that as the proposed regulations are substantially the same as current regulations, implementation focuses only on the proposed fee changes. FRV will communicate changes on its website and attach the new fee structure to each warning issued and on the first occasion it corresponds with a person charged for false fire alarm attendance.

Notification of *Building Act 1993* fee changes will be sent to FRV's existing customers, to inform them of the changes and when it takes effect.

Given the various unknowns detailed in the RIS' discussion of the preferred option, EMV have also committed to undertaking a mid-cycle review of the proposed false fire alarm fee structure, within three to five years of implementation.

Evaluation of the proposed regulations will review FRV's cost base, as well as collect and analyse data on cause and frequency of false fire alarms, as well as time taken for FRV to respond. The RIS also commits to gathering data on offender behaviour if possible, monitoring implementation and further research on fee setting and fire alarm circumvention.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 7005 9772.

Yours sincerely



**Anna Cronin**  
Commissioner for Better Regulation