

Chapter 2

Introduction

2.1 This chapter provides a background to the firefighters' dispute in Victoria. It begins by outlining the key players in the dispute, provides an excerpt of the Volunteer Charter enshrined in the *Country Fire Authority Act 1958 (Vic)* (CFA Act), and sets out a brief timeline of the key events in the dispute.

Key players in the Victorian firefighting dispute

2.2 The key players in the dispute are:

- the Country Fire Authority (CFA);
- the United Firefighters Union (UFU); and
- firefighting volunteers represented by Volunteer Fire Brigades Victoria (VFBV).

Country Fire Authority

2.3 The CFA is a statutory body established under the CFA Act. It delivers prevention, preparedness, response, recovery and organisational support services for fires and other emergencies in outer metropolitan suburbs, regional and rural areas of Victoria.¹

2.4 The CFA has 1220 brigades that service over one million homes, protecting 3.3 million Victorians.² It is responsible for fire and emergency services (outside the metropolitan fire district) on private property throughout Victoria including:

- 60 per cent of Melbourne's suburbs;
- all provincial cities and towns; and
- all country areas.³

2.5 As at 30 June 2016, the CFA's workforce included 1086 career firefighters and more than 57 116 volunteers (of whom 35 796 are operational firefighters).⁴

2.6 The vast majority of the 1220 CFA fire stations are staffed entirely by volunteers. However, 35 non-metropolitan fire stations in peri-urban areas of

1 Victorian Government, *Submission 1*, p. 8.

2 Victorian Government, *Submission 1*, p. 8.

3 Volunteer Fire Brigades Victoria, 'About CFA volunteers', www.vfbv.com.au/index.php/about/ourvolunteers/aboutvolunteers, (accessed 22 September 2016).

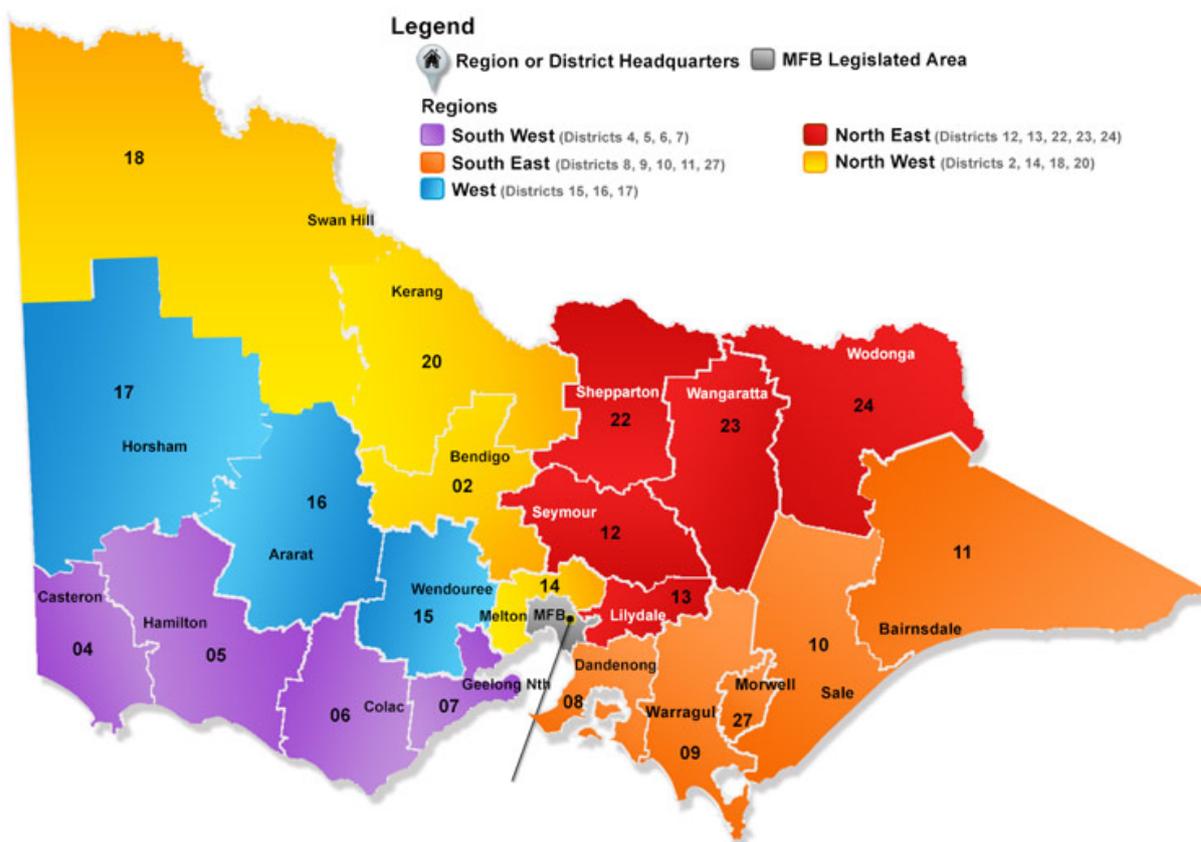
4 Victorian Government, *Submission 1*, p. 8.

Victoria—outer metropolitan Melbourne and major regional cities where the service demands are higher than in less densely populated regional and rural areas—are integrated: that is, they are staffed by both career and volunteer personnel.⁵

2.7 The Country Fire Authority District Map in Figure 2.1 indicates the division of Victoria into CFA districts.

2.8 The integrated firestations to which clause 77.5 (previously clause 83.5) of the EBA applies (see chapter three) generally surround Melbourne in districts 2, 7, 8, 13, 14, 15, and 27. Integrated stations to which clause 77.5 will apply will include Shepparton and Mildura by no later than 1 January 2017 and Warrnambool by no later than 1 January 2018.

Figure 2.1—Country Fire Authority District Map



Source: Country Fire Authority, www.cfa.vic.gov.au/contact/ (accessed 22 September 2016).

5 Victorian Government, *Submission 1*, p. 8.

Figure 2.2—Volunteer and integrated brigades in Victoria⁶



Source: Volunteer Fire Brigades Victoria, www.vfbv.com.au (accessed 22 September 2016).

2.9 The CFA has a nine member board appointed by the Minister for Emergency Services.⁷ Four of the members are nominated by the VFBV to ensure there is volunteer knowledge on the board.⁸

2.10 The committee heard evidence from current and former senior CFA officers at the public hearing in Melbourne.

United Firefighters Union

2.11 The UFU has eight branches in Tasmania, South Australia, Victoria, ACT, New South Wales, Western Australia, Queensland and an Aviation sector branch.⁹

2.12 The UFU represents just over 1000 career firefighters in the CFA in Victoria. In 2010 the Victoria Branch of the UFU negotiated the CFA UFU Operational Staff Agreement 2010 which was subsequently certified in accordance with the FW Act.

2.13 That agreement expired in 2013. For the past three years the Victorian Branch has been bargaining a new agreement with the CFA and the Victorian state government with the involvement of the FWC. The proposed EBA would cover approximately 1200 CFA operation staff including firefighters.¹⁰

2.14 The committee received submissions and heard evidence from both career and volunteer firefighters from the integrated brigades at the public hearing in Macedon, as well as from the UFU leadership at the public hearing in Melbourne.

6 Please note that the numbers of brigades shown in Figure 2.2 may not exactly match the figures provided in the Victorian Government submission. Figure 2.2 provides a valuable visual illustration of the breakdown of brigades in Victoria, but the numbers of brigades provided in the text of this chapter are drawn from the Victorian Government submission and should be taken as the most up-to-date data available.

7 *Country Fire Authority Act 1958 (Vic)*, s. 7.

8 *Country Fire Authority Act 1958 (Vic)*, ss. 7(4).

9 United Firefighters Union, *Submission 54*, p. 2.

10 Victorian Government, *Submission 1*, p. 8; United Firefighters Union, *Submission 54*, p. 2.

Volunteer Fire Brigades Victoria

2.15 The VFBV is established under the CFA Act to represent volunteers on all matters that affect their welfare and efficiency. Under the CFA Act, the VFBV nominates four members of the CFA Board.¹¹

2.16 The committee received submissions and heard evidence from volunteer firefighters from across rural and regional Victoria at the public hearing in Macedon, as well as from the VFBV leadership at the hearing in Melbourne.

The Country Fire Authority Act 1958 (Vic)

2.17 The 2009 Victorian Bushfire Royal Commission recognised the contribution that volunteers made to the CFA:

The strength of the CFA volunteer base was evident on 7 February [2009]; this includes its surge capacity, the local knowledge of its members and its rapid response.¹²

2.18 As noted earlier, the CFA is constituted and operates under the *Country Fire Authority Act 1958 (Vic)* (CFA Act). The CFA Act also accords statutory recognition to the role and voice of volunteers in the CFA. In 2011, the Parliament of Victoria enacted the *Country Fire Authority (CFA) Amendment (Volunteer Charter) Act 2011 (Vic)* which amended the CFA Act by adding four new sections (6F, 6G, 6H and 6I) to the CFA Act to:

- recognise the CFA as primarily a volunteer organisation supported by employees; and
- require the government and the CFA to, amongst other things:
 - recognise the role played by volunteers;
 - consult with the VFBV over matters that affect volunteers; and
 - develop policy and organisational arrangement that strengthen volunteer capacity to provide services to the CFA.

2.19 Section 6F, 6G, 6H and 6I of the CFA Act are reproduced below:

Section 6F

The Parliament recognises that the Authority is first and foremost a volunteer-based organisation, in which volunteer officers and members are supported by employees in a fully integrated manner.

Section 6G

11 *Country Fire Authority Act 1958 (Vic)*, ss. 7(4).

12 Victorian Bushfires Royal Commission, *Final Report*, July 2010, p. 4, www.royalcommission.vic.gov.au/finaldocuments/summary/PF/VBRC_Summary_PF.pdf, (accessed 22 September 2016).

The Parliament recognises that the Volunteer Charter—

- a) is a statement of the commitment and principles that apply to the relationship between the Government of Victoria, the Authority and volunteer officers and members; and
- b) requires that the Authority recognise, value, respect and promote the contribution of volunteer officers and members to the well-being and safety of the community; and
- c) requires that the Government of Victoria and the Authority commit to consulting with Volunteer Fire Brigades Victoria Incorporated on behalf of volunteer officers and members on any matter that might reasonably be expected to affect them.

Section 6H

The Authority must, in performing its functions, have regard to the commitment and principles set out in the Volunteer Charter.

Section 6I

The Authority has a responsibility to develop policy and organisational arrangements that encourage, maintain and strengthen the capacity of volunteer officers and members to provide the Authority's services.¹³

Timeline of the firefighting dispute in Victoria

2.20 The negotiations over the proposed Enterprise Bargaining Agreement (EBA) have been ongoing since March 2013. Table 2.1 provides a summary outline of key milestones in the firefighting dispute in Victoria.

Table 2.1—Timeline of the firefighting dispute in Victoria

September 2013	On 30 September 2013, the current EBA between the CFA and the UFU (agreed in 2010) reached its nominal expiry date but continues to operate.
2014 Victorian state election	Victorian Labor party promises to hire an additional 350 paid firefighters if elected to government.
2013–2016	Since March 2013, the CFA and UFU have been negotiating a new EBA.
October 2015	Negotiations between the UFU, CFA, and Victorian state Labor government break down.
November 2015	The Victorian government asks the FWC to intervene.
1 June 2016	The FWC makes recommendations intended to resolve the dispute. The FWC specifically notes that the requirement to dispatch seven

13 *Country Fire Authority Act 1958 (Vic)*, sections 6F–6I, www.austlii.edu.au/au/legis/vic/consol_act/cfaa1958292/ (accessed 22 September 2016).

	career firefighters to an incident only applies to the limited number of integrated fire stations.
6 June 2016	<p>The CFA rejects the proposed EBA.</p> <p>The CFA argues the EBA would give the UFU the power to veto operational decisions by the Chief Officer and undermine the role of volunteers.</p> <p>The CFA receives legal advice that certain clauses in the EBA appeared to be unlawful in terms of the CFA Act, and that the EBA was discriminatory.</p>
10 June 2016	<p>The VFBV successfully applies for a Supreme Court interim injunction to prevent the CFA putting the EBA to career firefighters (until 23 June).</p> <p>The court order also stipulates the parties are to meet on 20 June to talk about issues in the proposed pay agreement that might impact volunteers.</p>
10 June 2016	<p>The Victorian Government accepts the FWC's recommendations as a basis for agreement and inserts additional clauses protecting the position of volunteer firefighters.</p> <p>The Victorian Government appoints Emergency Services Commissioner Craig Lapsley to oversee implementation of the agreement particularly in relation to volunteers.</p>
10 June 2016	<p>Victorian Emergency Services Minister, the Hon. Jane Garrett MP resigns. Ms Garrett expresses concerns the new agreement would encroach on management decision-making and the role of volunteers. Ms Garrett does not accept the state government's proposals (based on the recommendations from the FWC) to end the dispute.</p> <p>The Victorian government begins the process of dismissing the CFA Board over its refusal to agree to the new EBA.</p>
17 June 2016	<p>The Victorian government appoints five new members to CFA Board. The VFBV nominates the remaining four Board members.</p> <p>The new Chair, Mr Greg Smith, is a former FWC deputy president and had portfolio responsibility for the CFA.</p>
17 June 2016	The CFA CEO Lucinda Nolan resigns.
19 June 2016	Four volunteer representatives nominated by the VFBV appointed to the CFA Board.
20 June 2016	The Victorian Supreme Court issues orders requiring the CFA and the VFBV to meet and discuss the volunteer firefighters' concerns with the proposed agreement on 8 July. This prevents the CFA putting the agreement to a ballot of employees until 23 July.
28 June 2016	The CFA Chief [Fire] Officer Joe Buffone resigns.

July 2016	The new CFA Board and the UFU produce a joint statement of intent affirming the agreement: <ul style="list-style-type: none"> • only applies to the small number of integrated fire stations with paid and volunteer firefighters; • does not require seven paid firefighters on the ground before firefighting begins; and • incident controllers maintain their authority in deploying resources.
12 August 2016	The new CFA Board endorses the EBA and authorises the CEO to put it a vote.
13 August 2016	The VFBV again rejects the agreement and claims the EBA contains clauses contrary to the CFA Act. The VFBV seeks a further court injunction to secure an undertaking from the CFA that the EBA will not be put to a ballot until the Supreme Court makes a decision on the agreement's legality in a trial beginning 22 September 2016.
2016 Federal election	The Coalition expresses strong support for the CFA and the VFBV during the election period.
31 August 2016	The Coalition Government introduces the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016.

Sources: Victorian Government, *Submission 1*, p. 8; Department of Employment, *Submission 2*, pp. 3–4; United Firefighters Union, *Submission 54*; Fair Work Commission, Final recommendation, *United Firefighters' Union of Australia v Country Fire Authority*, 1 June 2016; Julian Teicher, Professor of Human Resources and Employment, School of Business and Law, CQ University, 'Turnbull steps in as promised, but don't expect a swift end to firefighter dispute', *The Conversation*, 25 August 2016; Julian Teicher, 'What's the Victorian government's dispute with the CFA about? And how will it affect the election?', *The Conversation*, 29 June 2016; Workplace Express, 'Court restrains CFA from proceeding with agreement', 17 August 2016; Workplace Express, 'New flare-up looms in CFA dispute', 9 August 2016.

Agencies responsible for delivering firefighting services across Australia

2.21 Individual state and territory governments are responsible for delivering emergency services. While all Australian jurisdictions have their own rural fire service:

Most jurisdictions divide responsibilities for delivery of fire services between several agencies based on the discrete function of the organisation and the geographical area, although the structure and responsibilities of individual agencies varies across jurisdictions.¹⁴

14 Colleen Bryant, *Understanding bushfire: trends in deliberate vegetation fires in Australia*, Australian Institute of Criminology, January 2008, p. 7, www.aic.gov.au/media_library/publications/tbp/tbp027/tbp027.pdf (accessed 22 September 2016).

2.22 The major agencies responsible for firefighting across Australian jurisdictions are summarised in Table 2.2.

Table 2.2—Agencies responsible for firefighting across Australia

Jurisdiction	Urban	Rural	Land management agency
	Principally attend fire incidents within major urban centres	Principally attend fire incidents in rural areas	Attend fire incidents in National Parks and state forests
Queensland	Queensland Fire and Rescue Service incorporates both urban and rural fire services (Queensland Rural Fire Service); is staffed by largely permanent and volunteer staff		Queensland Parks and Wildlife Service is responsible for managing parks and forests reserves
			Forestry Plantations Queensland is responsible for managing softwood and hardwood forest plantations from the former Department of Primary Industry – Forestry
			Department of Natural Resources and Water (Forest Products) subsequent to the South East Queensland Regional Forests Agreement (December 1999); is responsible for native forests set aside for logging
South Australia	Metropolitan Fire Service provides fire services to major urban centres in South Australia; permanent and retained firefighters working from fire stations		Department of Environment and Heritage is responsible for fires that are on, or threaten, national parks and other conservation areas in South Australia
	Country Fire Service – provides fire services in rural areas as well as in smaller urban centres in South Australia; draws on volunteer firefighters		Forests SA manages state-owned forest resources
Western Australia	Fire and Emergency Services Authority (FESA) provides and coordinates fire services across WA. The Operations Services division within FESA incorporates two components – the Fire and Rescue Service of Western Australia (career and volunteer) and bushfire brigades (volunteer). Career firefighters within the Fire and Rescue Service operate from stations in metropolitan Perth and some major regional centres. The remainder of the state outside national parks and forests is covered by the Volunteer Fire and Rescue Service and volunteer Emergency Service Units (ESU), which are an amalgamation of the FRS, Bush Fire Service (BFS) and State Emergency Service (SES)		Department of Environment and Conservation is responsible for fires that are on, or threaten, national parks and forests in WA
Tasmania	Tasmania Fire Service provides coverage for both urban and rural areas, excluding national parks and state forests; comprises both career and volunteer firefighters		Tasmania Parks and Wildlife Service is responsible for managing national parks and other conservation reserves
			Forestry Tasmania is responsible for managing the state forests
Northern Territory	NT Fire and Rescue Service comprises both urban stations and volunteer/community fire units; includes permanent staff, part-time auxiliaries and volunteers; principally operates in urban/community settlements	Bushfires Council responds only to grass fires and bushfires on land outside the Fire and Rescue Service response areas	
Australian Capital Territory	ACT Fire Brigade principally provides fire services in urban areas; comprises career firefighters	ACT Rural Fire Service is principally responsible for suppressing bush and grass fires within rural and remote areas of the ACT; incorporates one brigade staffed by ACT land management agencies	

Jurisdiction	Urban Principally attend fire incidents within major urban centres	Rural Principally attend fire incidents in rural areas	Land management agency Attend fire incidents in National Parks and state forests
New South Wales	NSW Fire Brigades provides urban fire services to major metropolitan and regional urban centres; principally permanent and retained firefighters working from fire stations but also includes community fire units and their members	NSW Rural Fire Service provides fire services to most of regional New South Wales outside major urban centres, but does provide firefighting services in more than 1,200 towns and villages; fire-fighting duties principally lie with volunteers	Forests NSW is responsible for managing public native forests as well as hardwood and softwood planted forests
			National Parks and Wildlife Service is responsible for managing National Parks and other conservation reserves
Victoria	Metropolitan Fire and Emergency Services Board provides urban fire services coverage from the Melbourne CBD to the middle and outer suburbs; principally permanent and retained firefighters working from fire stations		Department of Sustainability and Environment is responsible for public lands
	Country Fire Authority provides urban and rural fire services coverage for all parts of Victoria other than the Melbourne Metropolitan Fire District and public lands; this includes outer metropolitan Melbourne and regional centres; incorporates some career firefighters who work from urban stations but is heavily reliant on volunteers in regional Victoria		

Source: Colleen Bryant, *Understanding bushfire: trends in deliberate vegetation fires in Australia*, Australian Institute of Criminology, January 2008, in National Farmers Federation, *Submission 7*, pp. 8–9.

