
9.3. UNREGISTERED VOLUNTEERS AND REGISTERED VOLUNTEERS – RESPONSIBILITIES AND PROTECTIONS UNDER WHS AND FES ACT

By the Shire of Wagin

BACKGROUND

Consider the following scenario:

A fire occurs on a farm during harvest. The farm operator who is not a brigade member goes to extinguish the fire with some farmhands. Some of the farmhands are members of a volunteer brigade.

One of the farmhands who is a brigade member takes charge and directs some of the people responding that can hear him. As it becomes clear that the fire will not be easily extinguished help is called. Around this time three people are injured:

- 1. one is registered volunteer*
- 2. one is a farmhand who was with a registered volunteer, and*
- 3. one is a person who happened to be driving past and stopped and helped when asked by the farm operator.*

Now, consider the following questions:

- Who has an obligation to report the incident under the *Work Health and Safety Act 2020*?
- Who is afforded protection under the *Work Health and Safety Act 2020*?
- Who is the PCBU? Are there multiple PCBU? Does that change?
- Who is insured and from whom can they claim?
- Does this change depending on whether the volunteers were operating a registered or unregistered vehicle?
- Who enjoys protection from civil liability under the *Fire and Emergency Services Act 1998* and does that protection change during the scenario?
- Who can be investigated and prosecuted?

For members of the Zone to whom fire is a known quantity and to whom many are either themselves brigade members and/or operate agricultural businesses, or indeed Local Government CEOs, these questions are pertinent and should be simple.

The introduction of the *Work Health and Safety Act 2020* and its intersections with the *Bush Fire Act 1954* and *Fire and Emergency Services Act 1998* was intended to provide greater protection for volunteers. However, as demonstrated in the above scenario, it has also introduced complexity that detracts from the capacity of rural communities to protect themselves from fire.

The attached issues paper was attached to the agenda and describes these complexities and presents the potential consequences for those living, working, volunteering and running businesses in rural communities.

COMMENT

The attached issues paper highlights a growing misalignment between the *Work Health and Safety Act 2020* (WHS Act), the *Bush Fire Act 1954*, the *Fire and Emergency Services Act 1998* (FES Act), and the realities of rural fire response. While these legislative

frameworks were intended to improve protections for volunteers, their interaction has instead created complexity, uncertainty, and unintended legal exposure for those most actively involved in protecting their communities.

This is particularly evident in agricultural settings, where fires are often first attacked by landholders, workers, and nearby community members before formal resources arrive.

A central concern is the treatment of unregistered volunteers, who are critical to early fire suppression in rural areas. The paper identifies that these individuals may only receive protection under the FES Act when operating under the direction of a registered volunteer; however, in fast-moving and informal fireground conditions, such direction is often unclear or cannot be substantiated.

At the same time, the WHS Act may deem those same individuals to be “workers” if they are directed or controlled, thereby triggering safety obligations for whoever is perceived to be in control. This creates a fundamental tension where providing direction can both extend protection and generate liability, leaving responders uncertain about their legal position.

Under the FES Act, an unregistered volunteer becomes a volunteer if they are acting under the direction of any registered volunteer. This means that responsibility for volunteer safety can daisy-chain quickly on the fireground in a haphazard manner – but one that is essential to fighting fire in the real world.

The paper further emphasises the “multiple PCBU” problem, particularly on farms, where overlapping duties may rest with the landholder, Local Government, DFES, and others present at an incident. These duties are concurrent and cannot be transferred, meaning that several parties may simultaneously bear responsibility depending on their level of control or influence.

For farm operators—many of whom are also volunteers—this creates a heightened and often unrecognised risk. Actions taken in good faith, such as directing neighbours or workers to assist, may later be interpreted as the exercise of control, exposing them to WHS obligations and potential liability.

Compounding this issue is the lack of clarity in operational control on the fireground, where roles can shift rapidly between landholders, brigade members, Fire Control Officers, Local Government personnel, and DFES. The paper demonstrates that, in practice, responsibility is often only assessed after the event, based on technical interpretations of control, direction, and status. This uncertainty is reinforced by inconsistent regulatory and insurance outcomes, where entitlement to protection or compensation can depend on fine distinctions that are neither visible nor practical to determine in real time.

Importantly, the paper argues that the current framework does not reflect the operational reality of rural fire response, which depends on immediate, community-led action and the willingness of individuals to assist without hesitation. The risk is that increasing legal complexity and uncertainty will discourage participation, undermine early intervention, and ultimately diminish community safety. Those with the greatest capacity to respond—farmers, workers, and experienced locals—are placed in the most precarious position under the current system.

In summary, the issues paper presents a case that the existing legislative settings are not fit for purpose in rural emergency contexts. It calls for reform to provide clear, consistent, and practical protections for all responders, particularly unregistered volunteers, and to better align WHS obligations with the realities of emergency response.

This paper has been presented for consideration at both the Central Country Zone and the Shire of Wagin has discussed the matter with the Shire of Kent with the view that it be presented also to the Great Southern Country Zone. It is suggested that advocacy of the 27-member Local Governments of the respective Zones is required to sufficiently raise the profile of this issue.

In this instance it is argued that the collective advocacy by the member Local Governments is a more appropriate response than calling on WALGA to advocate on our behalf.

It is the communities of these 27 Local Governments that are most impacted by the muddled legislation and who understand the importance of the first few minutes in responding to a fire that cannot be delayed by indecision and second-guessing.

WALGA's position on this matter cannot enjoy this lived experience and must reflect the sensibilities of urban fringe Local Government and communities that have a different experience with fire and fire response.

SECRETARIAT COMMENT

WALGA acknowledges the important issues raised in this discussion paper regarding the interaction between the *Work Health and Safety Act 2020*, the *Bush Fires Act 1954* and the *Fire and Emergency Services Act 1998*. The paper highlights the significant uncertainty that can arise in relation to volunteer, spontaneous volunteer and PCBU responsibilities during bushfire response.

Western Australia's bushfire management arrangements are unique nationally, with Local Governments retaining statutory responsibility for managing Volunteer Bush Fire Brigades and undertaking initial bushfire response across most of the State. This creates a distinct operational and legal environment that was not adequately contemplated when the current WHS framework was developed and has resulted in ongoing uncertainty regarding responsibilities, liability and the practical application of WHS duties during emergency operations

WALGA has previously raised these issues in its submission to the Statutory Review of the *Work Health and Safety Act 2020* in December 2025. Greater legislative clarity and practical guidance are required to ensure volunteers remain protected, Local Governments can confidently meet their obligations, and community-based bushfire response remains sustainable. WALGA also continues to advocate for a contemporary and integrated legislative framework for emergency services in Western Australia, including through the proposed Consolidated Emergency Services Legislation.

WALGA further notes that findings from the recent [Local Government Emergency Management Survey](#) demonstrate that spontaneous volunteer management remains an area of significant variability and uncertainty across the sector. In bushfire response, regional Local Governments continue to rely heavily on informal local support: 60% of

metro Local Governments do not accept spontaneous volunteers; while regional Local Governments report greater integration into low risk roles (42%) and bushfire response (39%). These findings reinforce the need for legislative clarity and practical guidance regarding the management of spontaneous volunteers, recognising both the risks involved and the critical role these individuals often play in early bushfire suppression and community resilience.

RECOMMENDATION

That the Central Country Zone writes to the Minister for Emergency Services, the Minister for Commerce and Minister for the Wheatbelt providing the Issues Paper and calling for a review of the intersections of the *Work Health and Safety Act 2020*, *Bush Fire Act 1954* and *Fire Emergency Services Act 1998* to ensure the sustainability of volunteer fire response and protect volunteers and emergency services personnel from prosecution.

RESOLUTION

Moved: Cr Bryan Kilpatrick
Seconded: President Leigh Ballard

That the Central Country Zone:

1. **writes to the Minister for Emergency Services, the Minister for Commerce and Minister for the Wheatbelt providing the Issues Paper and calling for a review of the intersections of the *Work Health and Safety Act 2020*, *Bush Fire Act 1954* and *Fire Emergency Services Act 1998* to ensure the sustainability of volunteer fire response and protect volunteers and emergency services personnel from prosecution.**
2. **invites LGIS Chief Executive Officer, James Sheridan, to the November Zone meeting to speak on this topic.**

CARRIED

9.4. REVIEW OF REGIONAL MIGRATION SETTINGS

By the Shire of Quairading

BACKGROUND

The Australian Government's Working Holiday Maker (WHM) visa program (Subclass 417 and Subclass 462) enables eligible visa holders to apply for a second and third year visa where they complete a prescribed period of "specified work" in eligible industries and locations.

Currently, hospitality and tourism employment qualifies as "specified work" only when undertaken in locations classified by the Australian Bureau of Statistics (ABS) as Northern, Remote or Very Remote Australia.

A number of local governments within the WALGA Central Country Zone are classified as Outer Regional Australia. These communities continue to experience significant workforce shortages across the hospitality and tourism sectors but are unable to access the same labour market incentives available to neighbouring "remote" local governments.