

FIRE BRIGADES (AMENDMENT) ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 12, 1970.

An Act to reconstitute the Board of Fire Commissioners of New South Wales; to make further provisions relating to the powers under the Fire Brigades Act, 1909, of the president of that Board, the chief officer and certain other officers; to increase the penalties for certain offences under that Act; for these and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 26th March, 1970.]

BE

Fire Brigades (Amendment).

No. 12, 1970 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** (1) This Act may be cited as the "Fire Brigades (Amendment) Act, 1970".

(2) The Fire Brigades Act, 1909, is in this Act referred to as the Principal Act.

Reconsti-
tution of
Board of
Fire Com-
missioners.

2. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Board of Fire Commissioners of New South Wales shall be reconstituted and shall consist of seven members who shall be appointed or elected in accordance with Part II of the Principal Act as amended by this section.

(2) A person who immediately before the appointed day held office as president or as another member of the Board of Fire Commissioners of New South Wales is not entitled, by reason of his holding that office before that day, to receive after that day any further salary or fees or other remuneration not due to him before that day.

(3) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted under Part II of the Principal Act and it shall continue notwithstanding the provisions of this section and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or of any one or more of them, to have always continued.

(4)

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(4) For the purposes only of the appointment and election of persons to be the president and the other members of the Board of Fire Commissioners of New South Wales as reconstituted under this section, and of any matters necessary for or incidental to that appointment, election or reconstitution, the provisions of subsection eight of this section shall commence on the day upon which the assent of Her Majesty to this Act is signified. No. 12, 1970

(5) The persons so appointed and elected shall assume their offices as president and the other members of the Board of Fire Commissioners of New South Wales upon the appointed day, and on that day the provisions of subsection eight of this section shall come into force for all purposes.

(6) The provisions of subsections one and (1A) of section eight of the Principal Act as amended by this section shall in their application to the president and deputy president of the Board of Fire Commissioners of New South Wales first appointed to that board after the day upon which the assent of Her Majesty to this Act is signified be read and construed as if the words "date of appointment" were omitted therefrom and the words "appointed day" were inserted in lieu thereof.

(7) The provisions of subsection two of section eight of the Principal Act as amended by this section shall in their application to the members first elected to the Board of Fire Commissioners of New South Wales after the day upon which the assent of Her Majesty to this Act is signified be read and construed as if the words "date of election" were omitted therefrom and the words "appointed day" were inserted in lieu thereof.

(8) The Principal Act is amended—

Amendment
of Act No. 9,
1909.

- (a) (i) by omitting from subsection one of section seven the words "and four" and by inserting in lieu thereof the words ", a deputy president and five"; Sec. 7.
(Constitution of
board.)

(ii)

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- (ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection :—

(2) (a) Four members shall be a quorum of the board for the exercise of its powers.

(b) The president shall preside at all meetings of the board at which he is present and in his absence the deputy president shall preside.

(c) If the president and deputy president are both absent from any meeting the members present may elect one of their number to preside at the meeting.

(d) At any meeting of the board the president, deputy president or other person presiding at the meeting, shall have an original vote and, when the voting on any matter is equal, a casting vote.

Sec. 8.
(Appointment and election of members of board.)

- (b) (i) by omitting from subsection one of section eight the words "Provided that any person appointed to supply a vacancy in the office of president shall hold office for the residue of his predecessor's term, but shall be eligible for re-appointment.";

- (ii) by inserting next after the same subsection the following new subsection :—

(1A) The deputy president of the board shall be appointed by the Governor and shall hold office for five years from the date of appointment.

(iii)

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- (iii) by omitting from subsection two of the same section the word "four" and by inserting in lieu thereof the word "five";
- (iv) by inserting in paragraph (a) of subsection three of the same section after the word "president" the words "or deputy president";
- (v) by inserting in paragraph (b) of the same subsection after the word "president" the words ", deputy president";
- (c) (i) by omitting from subsection four of section nine the words "One member" and by inserting in lieu thereof the words "Two members";
- (ii) by inserting in subsection five of the same section after the word "board" the words ", being a person who, at the time of his election, is a member of a volunteer fire brigade,";
- (iii) by omitting from the same subsection the word "the" where thirdly occurring;
- (iv) by omitting subsection (5A) of the same section and by inserting in lieu thereof the following subsection :—
- (5A) One member of the board, being a person who, at the date of his election, is a member of a permanent fire brigade or an officer employed by the board shall be elected by the members of permanent fire brigades and officers so employed. At the election each such member and officer shall have one vote.
- (d) by omitting sections ten and eleven and by inserting in lieu thereof the following sections :—
10. A person who is an employee of the board shall not be eligible for appointment or election as a member of the board otherwise than under subsection five or (5A) of section nine of this Act.
- 11.

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Sec. 9.
(Election by insurance companies.)

By permanent officers and fireman.

Subst. secs. 10 and 11.

Disqualification.

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Removal of
members and
appointment
to vacancies.

11. (1) The office of a member shall become vacant if such member—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes bankrupt, compounds with his creditors, or makes an assignment of his estate for their benefit;
- (d) is absent without leave of the board from three consecutive meetings of the board of which notice has been sent to him, by ordinary post, at his last known address;
- (e) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (f) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or a misdemeanour so punishable; or
- (g) is removed from office by the Governor.

(2) The Governor may for any cause which appears to him sufficient remove any member from office.

(3) If the office of the president or deputy president becomes vacant otherwise than by reason of the expiration of his term of office, the Governor

may

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may appoint a person to the vacant office for the residue of the term of office of his predecessor and, on the expiration of his term of office, he shall, subject to this Act, be eligible for re-appointment. No. 12, 1970

(4) If the office of a member other than the president or deputy president becomes vacant otherwise than by reason of the expiration of his term of office, the vacancy shall be filled by an election which shall be conducted as nearly as may be in the same manner as the periodical elections under this Act, and the person so elected shall hold office for the residue of his predecessor's term but shall be eligible for re-election.

3. The Principal Act is further amended—

- (a) (i) by omitting from section twelve the words "The members" and by inserting in lieu thereof the words "Each member"; Further amendment of Act No. 9, 1909.
- (ii) by omitting from the same section the words "such fees, not exceeding in the aggregate two thousand one hundred dollars for any year, as may be prescribed by the by-laws" and by inserting in lieu thereof the words "remuneration for his services and travelling expenses at such rate as may be fixed from time to time by the Governor"; Sec. 12.
(Fees to members of board and salary of president.)
- (b) (i) by omitting subsection one of section fourteen and by inserting in lieu thereof the following subsections :— Sec. 14.
(Power to acquire and deal with property.)
- (1) Subject to subsection (1A) of this section, the board may—
- (a) purchase, take on lease, hold, grant, demise, dispose of or otherwise deal with real and personal property; and
- (b) erect buildings on any lands held by it.
- (1A)

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(1A) The powers of the board under paragraph (a) of subsection one of this section in relation to real or leasehold property shall not be exercised except with the consent of the Minister and subject to such conditions as he may, in giving his consent, impose, but the exercise or purported exercise of any such power shall be valid and effectual whether or not any such condition is complied with.

- (ii) by omitting from subsection two of the same section the words "such sale" and by inserting in lieu thereof the words "disposition of property made by the board";
- (iii) by inserting next after the same subsection the following new subsection : —

(3) The board may by the chief officer, or any officer, servant, or agent of the board, enter, or if necessary break into and enter, any place where any property of the board is detained contrary to the order of the board, and remove such property.

Sec. 17.
(Power of
board to
borrow.)

- (c) (i) by omitting from subsection one of section seventeen the words "consent of the Governor" and by inserting in lieu thereof the words "approval of the Treasurer and the consent of the Governor";
- (ii) by omitting from the same subsection the word "consent" where secondly occurring and by inserting in lieu thereof the words "approval and consent";
- (iii) by omitting from subsection three of the same section the words "The amount so borrowed, whether by debentures or otherwise, shall be so that the amount owing by the board shall not at any time exceed two million dollars.";

(d)

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- (d) by inserting next after section twenty-one the following new sections and short headings thereto : —

No. 12, 1970
New secs.
21A, 21B.

Duties and powers of president.

21A. (1) The president shall be the executive officer of the board and, subject to this Act and the by-laws, shall be responsible for the implementation of the board's decisions and directions.

Duties and
powers of
president.

(2) The secretary of the board or the person for the time being acting in that position shall be the deputy executive officer of the board and during any period of absence of the executive officer shall have and may exercise and perform the responsibilities, powers, authorities, duties and functions of the executive officer under subsection one of this section and under any delegation made to the executive officer under section 21B of this Act.

Delegation of board's powers.

21B. (1) The board may, from time to time, by instrument in writing delegate to the executive officer or any person employed by the board, either generally or in any particular case or class of cases, such of the powers, authorities, duties or functions of the board (other than the power conferred by this subsection) as may be specified in the instrument.

Delegation.

(2) A delegation under subsection one of this section shall not have any force or effect unless it has been approved by the Minister.

(3) A delegate while acting within the scope of any such delegation to him shall be deemed to be the board.

(4) The board may by resolution revoke any such delegation, and where it does so shall submit a full report of the circumstances to the Minister.

(5)

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(5) Notwithstanding any delegation made under this section, the board may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

Sec. 22.
(Charges
for
attending
fires.)

- (e) (i) by omitting from subsection one of section twenty-two the words "Schedules Two and Three" and by inserting in lieu thereof the words "Schedule Two";
- (ii) by omitting from the same subsection the word "Schedules" where secondly occurring and by inserting in lieu thereof the word "Schedule";
- (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection :—

(2) The Governor may by regulations made under this Act alter or replace Schedule Two to this Act and that Schedule as so altered or replaced shall be Schedule Two to this Act.

Sec. 27.
(Appoint-
ment of
officers.)

- (f) (i) by inserting in section twenty-seven after the words "shall appoint" where secondly occurring the words "the secretary and";
- (ii) by inserting in the same section after the words "the chief officer," where thirdly occurring the words "the secretary";

Sec. 27B.
(Special
provisions
as to
ordinary
working
hours.)

- (g) by inserting next after subsection five of section 27B the following new subsection :—

(5A) Nothing in this section shall be construed as requiring the ordinary hours of duty and leave of firemen and officers of fire brigades employed by the board on a full-time basis at fire stations which the board determines shall be manned by such officers or firemen for less than one hundred and sixty-eight hours per week and by volunteer firemen

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firemen for the balance of the week to be so arranged as to provide that such ordinary hours be worked on a system of three shifts per day : No. 12, 1970

Provided that this subsection shall not apply to officers and firemen employed at fire stations which are operating on a system of three shifts per day at the date of commencement of the Fire Brigades (Amendment) Act, 1970.

- (h) by inserting in subsection three of section thirty-five after the words "shire shall" the words ", as it determines, pay the required amount out of the general fund or"; Sec. 35.
(Contribution by municipalities and shires.)
- (i) by omitting from section 39B the word "board" wherever occurring and by inserting in lieu thereof the word "Minister"; Sec. 39B.
(Audit of accounts of insurance companies.)
- (j) (i) by omitting from section forty-seven the words "six months" and by inserting in lieu thereof the words "the period (in this section referred to as "prescribed period") of twelve months"; Sec. 47.
(Actions against board or for anything done in pursuance of Act.)
- (ii) by omitting from the same section the words "time limited for bringing the same" and by inserting in lieu thereof the words "expiry of the prescribed period or any extension thereof granted under subsection two of this section";
- (iii) by inserting at the end of the same section the following new subsection :—

(2) Where an application is made either within the prescribed period or at any time within twelve months thereafter to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, may make an order for the

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 the extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Schedules. (k) by omitting Schedules Two and Three and by inserting in lieu thereof the following Schedule :—

Sec. 22. SCHEDULE TWO.

Maximum scale of charges for attendance at a fire outside a fire district.

For the Chief Officer	for each hour	\$10.00
For each other officer above the rank of station officer	for each hour	\$ 5.00
For each station officer or captain	for each hour	\$ 3.50
For each fireman	for each hour	\$ 2.50
For each motor fire engine	for each hour	\$15.00
For each turntable extension ladder	for each hour	\$30.00
For each floating fire engine	for each hour	\$60.00
For the use of each hose		\$ 2.00
For the use of any liquid carbon dioxide or prescribed fire-extinguishing substance.		Such amount as is certified by the board to be the cost to the board of the liquid carbon dioxide or prescribed fire-extinguishing substance	

One quarter of the charges specified in this Schedule shall be payable in respect of each quarter hour, or remaining part of a quarter hour, for which the officer or fireman is in attendance, or the equipment is available for use, at the fire.

Further amendment of Act No. 9, 1909.

4. The Principal Act is further amended—

Sec. 5.
(Definitions.)

(a) by inserting in section five next after the definition of “Shire” the following new definition :—

“Superior fire brigade officer” means—

(a) in relation to any members of a permanent fire brigade present at a fire, or at a place in respect of which

an

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an alarm of fire has been received **No. 12, 1970**
 by the board, the officer or fireman
 for the time being in charge of those
 members; or

- (b) in relation to any members of a volunteer fire brigade present at a fire, or at a place in respect of which an alarm of fire has been received by the board and at which members of a permanent fire brigade are not present, the captain or volunteer fireman in charge of those members of the volunteer fire brigade.

- (b) by inserting at the end of section twenty-eight the following new subsection : —

Sec. 28.
 (Brigades
 to proceed
 with speed
 to fire.)

(2) The chief officer, or in his absence the superior fire brigade officer attending premises at a place in respect of which an alarm of fire has been received by the board, may, with or without any members of a permanent fire brigade or volunteer fire brigade then with him, enter that place and any premises thereon to ascertain whether there is a fire in or on those premises and may use reasonable force, whether by breaking down gates or fences or breaking open doors or otherwise, for making that entry.

- (c) (i) by inserting in section twenty-nine after the words "present at a fire," the words "may take such measures as he thinks proper for the protection and saving of life and property and for the control and extinguishing of the fire and in particular and without limiting the generality of the foregoing";

Sec. 29.
 (Powers of
 chief officer
 and other
 officers
 at a fire.)

(ii)

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(ii) by inserting in paragraph (e) of the same section after the words "fire brigade" the words "or the exercise of any of the powers or functions conferred upon him";

(iii) by omitting paragraph (g) of the same section;

Sec. 31.
(Authority
of chief
officer and
others to be
recognised.)

(d) (i) by inserting in section thirty-one after the word "officers" where secondly occurring the words "and members";

(ii) by inserting at the end of the same section the following new subsection :—

(2) The authority of a superior fire brigade officer shall be recognised by all officers and members of the police force and other persons. It shall be the duty of officers and members of the police force to support the authority of a superior fire brigade officer and assist him in enforcing obedience to any orders given in pursuance of this Act or the by-laws.

Sec. 32.
(Damage
caused to
be a damage
by fire.)

(e) by inserting in section thirty-two after the word "officer," where secondly occurring the words "or superior fire brigade officer,".

Further
amendment
of Act No.
9, 1909.

5. The Principal Act is further amended—

Sec. 21.
(By-laws
of board.)

(a) (i) by omitting from paragraph (1) of section twenty-one the words "forty dollars" and by inserting in lieu thereof the words "two hundred dollars";

(ii)

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- (ii) by omitting from the same paragraph the words "ten dollars" and by inserting in lieu thereof the words "fifty dollars"; No. 12, 1970
- (b) by omitting from paragraph (e) of section thirty the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred and fifty dollars"; Sec. 30.
(General powers of chief officer and other officers.)
- (c) by omitting from subsection two of section thirty-six the words "ten dollars" and by inserting in lieu thereof the words "fifty dollars"; Sec. 36.
(Payment by insurance companies.)
- (d) by omitting from section thirty-seven the words "one hundred dollars" and by inserting in lieu thereof the words "five hundred dollars"; Sec. 37.
(Penalty for non-payment.)
- (e) (i) by omitting from section thirty-eight the words "ten dollars" and by inserting in lieu thereof the words "fifty dollars"; Sec. 38.
(Returns by municipalities.)
- (ii) by omitting from the same section the words "two hundred dollars" and by inserting in lieu thereof the words "one thousand dollars";
- (f) (i) by omitting from subsection two of section thirty-nine the words "ten dollars" and by inserting in lieu thereof the words "fifty dollars"; Sec. 39.
(Returns by insurance companies.)
- (ii) by omitting from the same subsection the words "two hundred dollars" and by inserting in lieu thereof the words "one thousand dollars";
- (g) by omitting from subsection three of section 39B the words "two hundred dollars" and by inserting in lieu thereof the words "four hundred dollars"; Sec. 39B.
(Audit of accounts of insurance companies.)
- (h)

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Sec. 40.
(Returns
by owners
of property.)

- (h) by omitting from section forty the words “two dollars” and by inserting in lieu thereof the words “ten dollars”;

Sec. 41.
(Salvage
corps or
fire brigade
may not be
constituted
unless
authorised.)

- (i) by omitting from section forty-one the words “forty dollars” and by inserting in lieu thereof the words “two hundred dollars”;

Sec. 44.
(Concealing
fire-plug
or hydrant.)

- (j) by omitting from section forty-four the words “one hundred dollars” and by inserting in lieu thereof the words “five hundred dollars”;

Sec. 45.
(Injuring
building,
appliance,
&c.)

- (k) (i) by omitting from section forty-five the words “ten dollars” and by inserting in lieu thereof the words “fifty dollars”;
(ii) by omitting from the same section the words “seven days” and by inserting in lieu thereof the words “one month”;

Sec. 46.
(Bona fide
exercise
of powers
protected.)

- (l) by omitting from section forty-six the words “one hundred dollars” and by inserting in lieu thereof the words “five hundred dollars”;

Sec. 53.
(Owner to
give infor-
mation as to
insurance.)

- (m) by omitting from subsection three of section fifty-three the words “forty dollars” and by inserting in lieu thereof the words “one hundred dollars”;

Sec. 54.
(Regula-
tions.)

- (n) by omitting from subsection two of section fifty-four the words “one hundred dollars” and by inserting in lieu thereof the words “two hundred dollars”.

Further
amendment
of Act No.
9, 1909.

6. The Principal Act is further amended—

Sec. 15.
(Exemption
from legal
process.)

- (a) by omitting from section fifteen the words “fire-escape, ladder, reel, cart, tools, horse, implement, appliance, or accoutrements” and by inserting in lieu thereof the words “ladder, tools, implement, appliance, or other equipment or uniforms”;

(b)

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- (b) by omitting from section sixteen the word "Colonial"; **No. 12, 1970**
 Sec. 16.
 (Treasurer may advance money.)
- (c) by omitting from section eighteen the word "Colonial"; **Sec. 18.**
 (Purchase, resumption, or appropriation of land.)
- (d) (i) by omitting from paragraph (b) of section twenty the words "reels, carts, waggons, horses, accoutrements,"; **Sec. 20.**
 (Powers of board.)
- (ii) by omitting from the same paragraph the word "appliances" and by inserting in lieu thereof the words "equipment and uniforms";
- (e) by omitting from paragraph (c) of subsection two of section thirty-four the word "Colonial"; **Sec. 34.**
 (Contributions by municipalities, insurance companies, and the Treasurer.)
- (f) by omitting from subsection one of section thirty-five the word and figures "of 1919" and by inserting in lieu thereof the figures ", 1919". **Sec. 35.**
 (Contribution by municipalities and shires.)
- (g) (i) by omitting from section forty-five the word "reel,"; **Sec. 45.**
 (Injuring building, appliance, &c.)
- (ii) by omitting from the same section the word "horse" and by inserting in lieu thereof the word "uniforms".