

FIRE BRIGADES (AMENDMENT) ACT, 1985, No. 107

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 107, 1985.

An Act to amend the Fire Brigades Act, 1909, to vary the method by which insurance company contributions to the fund of the Board of Fire Commissioners of New South Wales are made; to provide that the office of Deputy President of that Board shall be a full-time appointment; and for other purposes. [Assented to, 21st June, 1985.]

See also **Statutory and Other Offices Remuneration (Board of Fire Commissioners) Amendment Act, 1985.**

Fire Brigades (Amendment) 1985

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. This Act may be cited as the "Fire Brigades (Amendment) Act, 1985".

Principal Act.

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

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSURANCE CONTRIBUTIONS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE DEPUTY PRESIDENT OF THE BOARD.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

SCHEDULE 5.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 9, 1909.

4. The Principal Act is amended in the manner set forth in Schedules 1–4.

Savings and transitional provisions.

5. Schedule 5 has effect.

*Fire Brigades (Amendment) 1985***SCHEDULE 1.**

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSURANCE CONTRIBUTIONS.**(1) (a) Section 36 (1) (a), (a1), (a2)—**

Omit the paragraphs, insert instead:—

(a) An insurance company shall, in the year commencing on 1st January, 1985, and in each succeeding year, make an advance payment to the fund pending an assessment under section 36A, the advance payment being of an amount equal to the percentage fixed by the board in respect of that year of the total amount of the premiums subject to contribution in accordance with paragraph (c) received by or due to the company during the year immediately preceding the last preceding year.

(b) Section 36 (1) (b)—

Omit “to be”.

(c) Section 36 (1) (b), (c)—

Omit “, (a1) or (a2)” wherever occurring.

(2) Section 36A—

After section 36, insert:—

Assessments.

36A. (1) The board shall, in each year in which a return under section 39 is submitted by an insurance company, notify the company of the amount assessed by the board in relation to the company for the last preceding year in accordance with the formula—

$$x = \frac{a \times c}{b}$$

where—

x represents the amount assessed;

a represents the total amount of premiums subject to contribution specified in the return under section 39 made by the company;

*Fire Brigades (Amendment) 1985***SCHEDULE 1—continued.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSURANCE CONTRIBUTIONS—continued.**

- b** represents the total amount of all premiums subject to contribution specified in the returns under section 39 made by all insurance companies in the same year; and
- c** represents the total amount to be contributed under section 34 by all insurance companies in respect of all fire districts in the year to which the returns relate.

(2) Where the amount assessed by the board under subsection (1) in relation to an insurance company for a year is greater than the amount of the advance payment required to be made under section 36 by the company in that year, the company shall, not later than 1st July in the year in which the assessment is made, or at such later time as may be fixed by the board, pay to the fund the amount of the difference between the advance payment and the assessed amount.

(3) Where an amount is assessed by the board under subsection (1) in relation to an insurance company for a year in which the company did not make an advance payment under section 36, the company shall, not later than 1st July in the year in which the assessment is made, or at such later time as may be fixed by the board, pay the amount assessed to the fund.

(4) Except as provided by subsection (5), where an amount assessed by the board under subsection (1) in relation to an insurance company for a year is less than the amount of the advance payment required to be made under section 36 by the company in that year, the board shall credit the amount of the difference against any instalments—

(a) that remain to be paid in respect of the advance payment for the year in which the assessment is made; or

(b) that will be required to be paid in respect of the advance payment to be made during the next succeeding year, in such manner as the board may determine and, if any balance is outstanding at the end of the year referred to in paragraph (b), the board shall pay the amount thereof to the company not later than the next succeeding 31st January.

(5) Where an insurance company—

(a) is entitled to a credit referred to in subsection (4) in respect of an advance payment under section 36;

*Fire Brigades (Amendment) 1985***SCHEDULE 1—*continued.*****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSURANCE
CONTRIBUTIONS—*continued.***

- (b) did not receive, and was not entitled to receive, in the year in which the advance payment was made, any premium in respect of which it would have been required by section 39 to submit a return; and
- (c) the liabilities of the company in relation to the fund have been discharged,

the board shall, as soon as practicable, pay the amount of the credit or, as the case may be, the balance thereof to the company.

(3) Section 37—

After “contribution”, insert “or advance payment”.

(4) Section 39—

Omit the section, insert instead:—

Returns by insurance companies.

39. (1) An insurance company shall, in the month of March, 1986, and in the month of March in each subsequent year, or at such other time as the board may notify, submit to the board—

- (a) a return in or to the effect of the prescribed form showing the total amount of premiums received by or due to the company for the year that ended on 31st December then last past in respect of the insurances against loss of or damage to any property within the State under the classes of policies specified in Column 1 of Schedule 4; and
- (b) an auditor's certificate that relates to the return and complies with subsection (2).

(2) An auditor's certificate complies with this subsection if it is in the prescribed form and is given by—

- (a) a public accountant registered under the Public Accountants Registration Act, 1945; or
- (b) a person not resident in the State who has qualifications that, in the opinion of the board, are appropriate for the giving of the certificate.

*Fire Brigades (Amendment) 1985***SCHEDULE 1—continued.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSURANCE CONTRIBUTIONS—continued.**

(3) An insurance company that ceases to receive, and to be entitled to receive, any premiums in respect of which it would have been required by this section to submit a return shall, within the next succeeding period of 1 month, notify the board accordingly in writing.

(4) Where a notification by an insurance company under subsection (3) is received by the board—

(a) before 1st July in any year—the company is not discharged from its liability to pay any unpaid instalments of its advance payment under section 36 for that year; or

(b) on or after 1st July in any year—the company is not discharged from its liability to pay—

(i) any unpaid instalments of its advance payment under section 36 for that year; or

(ii) its advance payment under section 36 for the next succeeding year.

(5) An insurance company that—

(a) fails to comply with subsection (1) or (3)—is liable to a penalty not exceeding \$100 for every day during which the failure continues; or

(b) sends to the board in purported compliance with subsection (1) a return that is false in a material particular—is liable to a penalty not exceeding \$2,000.

(5) Section 40B—

Omit “contribution”, insert instead “amount”.

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE DEPUTY PRESIDENT OF THE BOARD.

(1) (a) Section 8 (3) (c)—

Omit the paragraph, insert instead:—

*Fire Brigades (Amendment) 1985***SCHEDULE 2—continued.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE DEPUTY PRESIDENT OF THE BOARD—continued.**

(c) The president or the deputy president of the board may be retired from office by the Governor after attaining the age of 60 years and before attaining the age of 65 years and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(b) Section 8 (4)—

Omit the subsection, insert instead:—

(4) The president and the deputy president of the board shall devote the whole of their time to the duties of their offices.

(2) Section 11 (1) (d1), (h)—

After “president” wherever occurring, insert “or deputy president”.

(3) (a) Section 12 (1)—

Omit “president of the board is”, insert instead “president and deputy president of the board are”.

(b) Section 12 (1) (b), (2)—

Omit “in respect of him” wherever occurring, insert instead “in each case”.

(c) Section 12 (2)—

After “president”, insert “and the deputy president”.

(4) Section 21A (3)–(6)—

After section 21A (2), insert:—

(3) Subject to subsection (2), the deputy president of the board shall exercise or perform such responsibilities, powers, authorities, duties or functions of the president of the board as the president may by instrument in writing—

(a) direct the deputy president to exercise or perform; or

Fire Brigades (Amendment) 1985

SCHEDULE 2—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
DEPUTY PRESIDENT OF THE BOARD—*continued.***

(b) delegate to the deputy president,

in addition to the responsibilities, powers, authorities, duties or functions required or permitted by or under this Act to be exercised or performed by the deputy president.

(4) The deputy president of the board while acting within the scope of a direction or delegation under subsection (3) shall be deemed to be the president of the board.

(5) The president of the board may by instrument in writing revoke a direction or delegation under subsection (3).

(6) Notwithstanding any direction or delegation under subsection (3), the president of the board may continue to exercise or perform all or any of the responsibilities, powers, authorities, duties or functions the subject of the direction or delegation.

SCHEDULE 3.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) Section 32A—

Omit “two hundred dollars”, insert instead “\$500”.

(2) Section 37—

Omit “five hundred dollars”, insert instead “\$1,000”.

(3) (a) Section 38—

Omit “fifty dollars”, insert instead “\$100”.

(b) Section 38—

Omit “one thousand dollars”, insert instead “\$2,000”.

(4) Section 39B—

Omit “four hundred dollars”, insert instead “\$1,000”.

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SCHEDULE 3—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—*continued.*****(5) Section 40—**

Omit “ten dollars”, insert instead “\$20”.

(6) Section 41—

Omit “two hundred dollars”, insert instead “\$500”.

(7) Section 44—

Omit “five hundred dollars”, insert instead “\$1,000”.

(8) Section 45—

Omit “fifty dollars”, insert instead “\$100”.

(9) Section 46—

Omit “five hundred dollars”, insert instead “\$1,000”.

SCHEDULE 4.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.**(1) Section 4A—**

Omit the section.

(2) Section 10—

Omit “subsection (5) or (5A) of section 9”, insert instead “section 9 (5) or (5A)”.

(3) Section 14 (1A)—

Omit “paragraph (a) of subsection (1)”, insert instead “subsection (1) (a)”.

(4) Section 16—

Omit “Revenue”.

*Fire Brigades (Amendment) 1985***SCHEDULE 4—continued.****AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—continued.****(5) (a) Section 27—**

Omit “The superintendent of fire brigades, under the Fire Brigades Act, 1902, is hereby appointed the chief officer of fire brigades. All other officers, and all firemen, clerks, servants, and employees appointed by the fire brigades board for the metropolitan district under the said Act, and in active service at the commencement of this Act, shall be officers, firemen, clerks, servants, and employees of the board constituted by this Act.”.

(b) Section 27—

Omit “Subject to the above provisions, the”, insert instead “The”.

(6) (a) Section 27B (2), (3) (a), (4)—

Omit “paragraphs (a) and (b) of subsection (1)” wherever occurring, insert instead “subsection (1) (a) and (b)”.

(b) Section 27B (3) (b), (4)—

Omit “paragraph (b) of subsection (1)” wherever occurring, insert instead “subsection (1) (b)”.

(7) Section 34 (3)—

Omit “ten per centum”, insert instead “10 per cent”.

(8) Headings—

Omit the italicized headings appearing before sections.

SCHEDULE 5.**(Sec. 5.)****SAVINGS AND TRANSITIONAL PROVISIONS.****Interpretation.**

1. Words and expressions used in this Schedule have the same meaning as they have in the Principal Act.

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SCHEDULE 5—continued.**SAVINGS AND TRANSITIONAL PROVISIONS—continued.****Savings.**

2. (1) Where, immediately before the date of assent to this Act, an insurance company was under a liability—

- (a) to send to the board a return under section 39 of the Principal Act as from time to time in force before the date of assent to this Act; or
- (b) to make a contribution to the fund, whether before or after that date of assent, the liability continues notwithstanding the amendment of the Principal Act by this Act.

(2) Subclause (1) does not affect any saving made by section 8 of the Interpretation Act, 1897.

Making of certain advance payments.

3. (1) A payment by an insurance company made during the year 1985 in compliance with the provisions of section 36 of the Principal Act as in force immediately before the date of assent to this Act shall, for the purposes of the Principal Act, as amended by this Act, be deemed to be an advance payment made under section 36 of that Act, as so amended, pending an assessment under section 36A of that Act, as so amended, in respect of the year 1985 in relation to that insurance company.

(2) For the purposes of the advance payment required to be made by an insurance company during the year commencing on 1st January, 1986, section 36 (1) (a) of the Principal Act, as amended by this Act, shall be construed as if the words “the year immediately preceding the last preceding year” were the words “the year that ended on 30th June, 1984”.
