



New South Wales

# Fire Brigades Regulation 2014

under the

Fire Brigades Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Fire Brigades Act 1989*.

STUART AYRES, MP  
Minister for Police and Emergency Services

## Explanatory note

The object of this Regulation is to repeal and remake, with some changes, the *Fire Brigades Regulation 2008*, which would otherwise be repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the appointment and conditions of service of firefighters,
- (b) the functions and duties of firefighters,
- (c) misconduct by firefighters,
- (d) disciplinary action in relation to firefighters,
- (e) the awarding of bravery and service awards by the Commissioner,
- (f) the charges payable for certain services performed by the Commissioner or by firefighters.

This Regulation is made under the *Fire Brigades Act 1989*, including sections 74 and 85 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Fire Brigades Regulation 2014

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### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Fire Brigades Regulation 2014*.

#### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

#### 3 Definitions

- (1) In this Regulation:

*approved* means approved by the Commissioner.

*Commissioner's Orders* means the written instructions in force under clause 4.

*corrupt conduct* has the same meaning as it has in Part 3 of the *Independent Commission Against Corruption Act 1988*.

*departmental premises* means a fire station or other premises leased or operated by Fire and Rescue NSW.

*departmental property* includes property used by or for the purposes of Fire and Rescue NSW.

*disciplinary action*, in relation to a firefighter, means any one or more of the following:

- (a) terminating the firefighter's appointment,
- (b) directing the firefighter to resign, or to be allowed to resign, within a specified time,
- (c) a demotion in rank,
- (d) the imposition of a fine not exceeding 10 penalty units,
- (e) a caution or reprimand.

*fire appliance* means any vehicle that forms part of the equipment of Fire and Rescue NSW and that is equipped with an audible warning device and flashing lights.

*firefighter* means a permanent firefighter or a retained firefighter.

*officer* means a firefighter of a rank that, by operation of clause 6 (2), is an officer rank for the purposes of this Regulation.

*permanent firefighter* means a member of a permanent fire brigade.

*procedural guidelines* means the guidelines in force from time to time under clause 34.

**record** means any document or other source of information compiled, recorded or stored in written form, on film, by electronic process or in any other manner or by any other means.

**remedial action**, in relation to a firefighter, means any one or more of the following:

- (a) counselling,
- (b) training and development,
- (c) monitoring the firefighter's conduct,
- (d) implementing a conduct improvement plan,
- (e) the issuing of a warning to the firefighter that certain conduct is unacceptable,
- (f) transferring the firefighter to another firefighter position of the same rank,
- (g) any other action of a similar nature.

**retained firefighter** means a person who is classified by the Commissioner as a retained firefighter.

**the Act** means the *Fire Brigades Act 1989*.

- (2) Notes included in this Regulation do not form part of this Regulation.

#### 4 Commissioner's Orders

- (1) The Commissioner may, by order in writing, issue, amend or revoke instructions with respect to the efficiency, discipline and good conduct of firefighters.
- (2) The instructions may be published under the title of "In Orders" or "Standing Orders".
- (3) The Commissioner must take steps to ensure that all current In Orders and Standing Orders are brought to the attention of all firefighters.

#### 5 Areas of operation

- (1) The Commissioner is to assign to each fire brigade a fire district or part of a fire district within which the brigade is responsible for preventing and extinguishing fires.
- (2) A brigade may operate beyond the area assigned to it, and must do so in accordance with the Commissioner's Orders.

## Part 2 Appointments and conditions of service

### 6 Ranks of firefighter

- (1) The Commissioner may establish such ranks of firefighters as the Commissioner considers appropriate.
- (2) Any rank declared by the Commissioner to be an officer rank is an officer rank for the purposes of this Regulation.

### 7 Firefighters' positions

The Commissioner may create, abolish or otherwise deal with any firefighter's position.

### 8 Appointment as a permanent firefighter

- (1) An application for appointment as a permanent firefighter must be in the approved form.
- (2) Before appointing an applicant as a permanent firefighter, the Commissioner must be satisfied that the applicant:
  - (a) is medically and psychologically fit to exercise the functions of a firefighter, and
  - (b) has passed examinations and assessments set or nominated by the Commissioner for appointment as a permanent firefighter, and
  - (c) holds a current driver licence under the *Road Transport Act 2013*, and
  - (d) is of good character, and
  - (e) is an Australian citizen or a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law, and
  - (f) is otherwise suitable for employment as a permanent firefighter.
- (3) An applicant for appointment as a permanent firefighter must produce any evidence with respect to the applicant's driving qualifications, citizenship or entitlement to reside in Australia that the Commissioner requires.
- (4) A successful applicant is to be appointed:
  - (a) except in the case of a former permanent firefighter—as a recruit firefighter, or
  - (b) in the case of a former permanent firefighter—to the rank that the Commissioner considers appropriate to the applicant's skill and experience.

### 9 Appointment as a retained firefighter

- (1) An application for appointment as a retained firefighter must be in the approved form.
- (2) Before appointing an applicant as a retained firefighter, the Commissioner must be satisfied that the applicant:
  - (a) is medically and psychologically fit to exercise the functions of a firefighter, and
  - (b) has passed examinations and assessments set or nominated by the Commissioner for appointment as a retained firefighter, and
  - (c) holds a current driver licence under the *Road Transport Act 2013*, and
  - (d) is of good character, and

- (e) is an Australian citizen or a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law, and
  - (f) is otherwise suitable to be a retained firefighter.
- (3) An applicant for appointment as a retained firefighter must produce any evidence with respect to the applicant's driving qualifications, citizenship or entitlement to reside in Australia that the Commissioner requires.

## 10 Examinations and assessments

The Commissioner may set or nominate any examinations or assessments that the Commissioner considers appropriate as a requirement for promotion, transfer or appointment to a position.

## 11 Termination of appointment

- (1) The Commissioner may terminate a firefighter's appointment as a firefighter if:
  - (a) the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter, or
  - (b) the firefighter is no longer a suitable person to exercise the functions of a firefighter, providing the Commissioner is satisfied that there are exceptional circumstances to justify the termination and that in the circumstances it is not appropriate or practicable to take disciplinary action under Part 4.
- (2) The Commissioner may, without limiting subclause (1), terminate a firefighter's appointment as a firefighter of a particular rank:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter of that rank, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter of that rank, or
  - (c) at the firefighter's own request.
- (3) The Commissioner may, without limiting subclause (1), terminate a firefighter's appointment as a firefighter of a particular position:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter of that position, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter of that position, or
  - (c) at the firefighter's own request.
- (4) The Commissioner may also terminate the appointment of any retained firefighter who, except when on approved leave or other authorised absence:
  - (a) for 3 consecutive months fails to attend drills appointed by the Commissioner or the officer in charge of the firefighter, or
  - (b) fails to attend the approved number or proportion of drills, fires or other incidents in any period of 6 months.
- (5) The Commissioner must terminate the appointment of a firefighter who is not an Australian citizen or who ceases to satisfy or does not satisfy the requirements of clause 8 (2) (e) or 9 (2) (e).
- (6) The termination of a firefighter's appointment to a particular rank operates to demote the firefighter to a rank determined by the Commissioner.

- (7) The Commissioner must cause notice of a proposed termination of appointment:
- (a) as a firefighter, or
  - (b) to a particular rank, or
  - (c) to a particular position,
- to be given to the firefighter. That notice must specify the reasons for the proposed termination.
- (8) The Commissioner must:
- (a) allow the firefighter to respond to the reasons for the proposed termination within a reasonable time specified in the notice of proposed termination, and
  - (b) consider any response by the firefighter before determining whether to terminate any appointment.
- (9) The Commissioner must cause notice of the final reasons for a termination of appointment:
- (a) as a firefighter, or
  - (b) to a particular rank, or
  - (c) to a particular position,
- to be given to the firefighter.

## **12 Leave**

The granting of all leave is subject to the approval of the Commissioner.

## **Part 3 Functions of firefighters**

### **13 Contraventions of Part 3**

A contravention of this Part does not give rise to an offence but may be the subject of disciplinary action or remedial action under Part 4.

### **14 Firefighters to acquire and maintain knowledge of legislation, orders and functions**

- (1) A firefighter must acquire and maintain a thorough knowledge of, and must comply with the requirements of, the Act, this Regulation and the Commissioner's Orders.
- (2) A firefighter must acquire and maintain the knowledge and skills that are relevant to the performance of the firefighter's functions.

### **15 Honesty and truthfulness**

- (1) A firefighter must act honestly and truthfully in the performance of the firefighter's functions.
- (2) In particular, a firefighter must not in the capacity of a firefighter:
  - (a) wilfully or negligently make a false or misleading statement to a person, or
  - (b) knowingly make a false or misleading statement in any official record, or
  - (c) without good or sufficient cause, destroy or mutilate any official record or alter or erase any entry in it, or
  - (d) fail to account promptly for any money or property that comes into the firefighter's possession during the course of the firefighter's functions, or
  - (e) otherwise be concerned, whether directly or indirectly, in corrupt conduct.

### **16 Duty to obey orders and act fairly and responsibly**

A firefighter must not:

- (a) disobey or disregard any lawful order made or given by a person having the authority to make or give the order, or
- (b) be disrespectful or insolent to a person in authority over the firefighter, or
- (c) abuse the firefighter's authority by acting oppressively towards a subordinate, or
- (d) without good or sufficient reason, be absent from duty or be late for any parade, drill or other required attendance, or
- (e) through negligence, carelessness or malice, allow any loss, damage or injury to occur to any person or property, or
- (f) fail to report any matter, or make an entry in an official record, that it is the firefighter's duty to report or make.

### **17 Unacceptable behaviour**

- (1) A firefighter must not:

- (a) come on duty while under the influence of alcohol or a drug, or
- (b) while on duty, consume, use or possess any alcohol or drug, or
- (c) while on duty, gamble in circumstances that adversely affect the discipline or efficiency of Fire and Rescue NSW, or
- (d) smoke at a fire or drill, in any departmental premises or in any departmental vehicle, or
- (e) smoke in any public place while in uniform, or

- (f) while off duty, enter or remain on departmental premises without authority, or
  - (g) while on or off duty, by words or action, behave in a manner that is subversive of discipline or calculated to bring discredit on Fire and Rescue NSW, or
  - (h) while on duty, by words or action, harass, intimidate or threaten another firefighter, or
  - (i) while on duty, by words or action, harass or discriminate against any person on the grounds of sex, marital status, pregnancy, age, ethnic or national origin, physical or intellectual impairment, sexual preference, transgender status, carer's responsibilities or any other ground in respect of which discrimination is prohibited by the *Anti-Discrimination Act 1977*.
- (2) The officer in charge of any departmental premises must refuse to permit a firefighter to come on duty if of the opinion that the firefighter is under the influence of alcohol or a drug to the extent that the firefighter is unable to exercise the functions of a firefighter.
- (3) In this clause:  
*drug* has the same meaning as in the *Road Transport Act 2013* (paragraph (a) of the definition of *drug* in section 4 (1) of that Act excepted).

**18 Damage or misuse of departmental property**

- (1) A firefighter must not wilfully or negligently damage any departmental property or fail to report promptly any such damage, however caused.
- (2) A firefighter must not use departmental property for an unauthorised purpose or be concerned, whether directly or indirectly, in unauthorised use of departmental property.

**19 Uniforms**

Uniform may be worn by a firefighter only in accordance with the Commissioner's Orders.

**20 Loss or damage to uniform or personal equipment**

- (1) A firefighter:
  - (a) must take care of all articles of uniform and personal equipment issued to the firefighter, and
  - (b) may be required to meet the replacement cost of any article of uniform or equipment damaged or lost through the firefighter's negligence.
- (2) Before a firefighter leaves his or her employment or service, the firefighter must return all departmental property, uniform and equipment that is in the firefighter's possession, other than any article of uniform or equipment that the Commissioner permits the firefighter to retain.
- (3) The Commissioner may require a firefighter who fails to return any such property or who returns it in a damaged condition (other than damage due to fair wear and tear) to pay compensation for the loss or damage.
- (4) The amount of any such loss or damage may be offset from any money due to the firefighter with respect to the firefighter's service.

**21 Solicitation, acceptance or retention of rewards or other benefits**

A firefighter must not:

- (a) directly or indirectly solicit or accept a reward (whether the reward involves pecuniary gain, material gain, the provision of services, the provision of training or any other benefit) in connection with the exercise of the firefighter's functions, or
- (b) retain any money received as a gratuity or payment from any person, or accept any address, presentation or testimonial, in connection with the firefighter's official position,

without the prior written permission of the Commissioner.

**22 Disclosure of information**

A firefighter must not disclose any information obtained in the firefighter's capacity as a firefighter unless the disclosure is made:

- (a) in the exercise of the firefighter's functions, or
- (b) about factual matters that are generally available to the public, or
- (c) by an approved firefighter to media representatives concerning operations at a fire or other incident, or
- (d) at the direction or with the permission of the Commissioner, or
- (e) with other lawful excuse.

**23 Public comment on administration**

A firefighter must not comment publicly on the administration of Fire and Rescue NSW, except with the approval of the Commissioner.

**24 Incompatible activities**

A firefighter must not engage in any activity outside the firefighter's functions as a firefighter if to do so would be incompatible with the performance of those functions.

**25 Functions of firefighters**

The functions of each rank and position of firefighter are those determined for the time being by the Commissioner.

**26 Performance of functions**

- (1) A firefighter must attend such drills as may be appointed by the Commissioner or the officer in charge of the firefighter.
- (2) A firefighter must perform all firefighting or other functions that the firefighter is lawfully directed to perform.
- (3) A firefighter must serve wherever the firefighter is directed by the Commissioner.

**27 Recall of off-duty firefighters**

- (1) A firefighter who is off-duty (including a firefighter who is on leave) may be recalled to duty in an emergency unless the firefighter is on sick leave, in court or subject to a subpoena to appear in court.
- (2) A firefighter must ensure that the Commissioner is kept aware of where and how the firefighter may be contacted in an emergency.

**28 Calls to fires, hazardous material incidents or other emergencies**

A firefighter receiving a call to a fire, hazardous material incident or other emergency is responsible for recording the details of the call and must make every effort to ensure an immediate response in accordance with the Commissioner's Orders.

**29 Occurrence book**

The officer in charge of a fire station must ensure that:

- (a) all events of significance relating to the operation of the fire station, and
- (b) all other matters required by this Regulation or the Commissioner's Orders to be so recorded,

are recorded in an occurrence book maintained at the fire station.

**30 Absence of firefighter from fire station**

- (1) A firefighter who is on duty at a fire station must not leave the fire station without the permission of the officer in charge of the fire station or, if the firefighter is an officer, a more senior officer.
- (2) Any such firefighter who leaves a fire station must record in the occurrence book the fact of the absence, the reason for the absence and the name of the person giving permission to leave the fire station.
- (3) This clause does not apply to a firefighter who leaves the fire station to attend to a fire call or other incident or to engage in official functions away from the fire station.

**31 Operation of fire appliances**

When responding to a call to a fire, hazardous material incident or other emergency the driver of a fire appliance must ensure that the appliance's lights and audible warning devices are operated to give the best practicable warning to the public.

**32 Security on fire duty and watch duty**

A firefighter on fire duty or watch duty at the site of a fire, hazardous material incident or other emergency must:

- (a) ensure that:
  - (i) any premises at the site are not entered, and
  - (ii) goods are not interfered with or removed from any such premises, otherwise than by persons who can establish their identity and authority to do so, and
- (b) report any breach of security to the officer in charge at the site.

## Part 4 Misconduct

### Division 1 Preliminary

#### 33 Meaning of “misconduct”

- (1) For the purposes of this Part, **misconduct** includes, but is not limited to, any of the following:
  - (a) a contravention of Part 3,
  - (b) performance of duties in such a manner as to justify the taking of disciplinary action,
  - (c) making a statement in connection with an application for appointment as a firefighter that is false or misleading in a material particular,
  - (d) taking any detrimental action (within the meaning of the *Public Interest Disclosures Act 1994*) against a person that is substantially in reprisal for the person making a public interest disclosure within the meaning of that Act,
  - (e) taking any action against another firefighter that is substantially in reprisal for an internal disclosure made by that firefighter.
- (2) For the purposes of this Part, the subject-matter of an allegation of misconduct may relate to an incident or conduct that happened:
  - (a) while the firefighter concerned was not on duty, or
  - (b) before the firefighter was appointed to his or her position.
- (3) In this Part, a reference to an allegation that a firefighter may have engaged in misconduct includes a reference to the Commissioner being made aware, or becoming aware, by any means that the firefighter may have engaged in misconduct.
- (4) In this clause, **internal disclosure** means a disclosure made by a firefighter regarding the alleged misconduct of another firefighter.

#### 34 Issuing of procedural guidelines

- (1) The Commissioner may, from time to time, issue guidelines for the purposes of:
  - (a) dealing with allegations of misconduct against firefighters as a disciplinary matter, and
  - (b) the taking of disciplinary action with respect to firefighters under this Part, and
  - (c) any other matter referred to in this Part.
- (2) The procedural guidelines must be consistent with the rules of procedural fairness.
- (3) Without limiting subclause (2), the procedural guidelines are to ensure that:
  - (a) a firefighter to whom an allegation of misconduct relates:
    - (i) is advised in writing of the alleged misconduct and that the allegation may lead to disciplinary action being taken with respect to the firefighter, and
    - (ii) is given an opportunity to respond to the allegation, and
  - (b) a firefighter against whom the Commissioner is proposing to take disciplinary action under Division 2 or 3 is given a reasonable opportunity to make a submission in relation to that proposed action.
- (4) The Commissioner may from time to time amend, revoke or replace the procedural guidelines.

- (5) The Commissioner must not amend, revoke or replace the procedural guidelines unless the Commissioner has first consulted with the Fire Brigade Employees' Union of NSW on the amendment, revocation or replacement.
- Note.** The Industrial Relations Commission may deal with industrial disputes in relation to the privileges, rights, duties or obligations of employers or employees in any industry under the *Industrial Relations Act 1996*. See, in particular, Chapter 3 of that Act.
- (6) The procedural guidelines as in force from time to time must be made publicly available in such manner as the Commissioner thinks appropriate.

## Division 2 Dealing with misconduct and other matters

### 35 Dealing with allegations of misconduct

- (1) If the Commissioner is made aware of an allegation that a firefighter may have engaged in any misconduct, the Commissioner may:
- decide to deal with the allegation as a disciplinary matter in accordance with the procedural guidelines, or
  - decide that it is appropriate to take remedial action with respect to the firefighter.
- (2) After dealing with an allegation of misconduct as a disciplinary matter in accordance with this Part and the procedural guidelines, the Commissioner may, if the Commissioner is of the opinion that the firefighter has engaged in any misconduct, decide to take disciplinary action with respect to the firefighter.
- (3) Before any disciplinary action is taken with respect to a firefighter under this clause, the firefighter must be given an opportunity to make a submission in relation to the disciplinary action that the Commissioner is considering taking.
- (4) Even though the Commissioner decides to deal with an allegation of misconduct as a disciplinary matter in accordance with the procedural guidelines, the Commissioner may, at any stage of the process:
- decide to take remedial action with respect to the firefighter concerned, or
  - decide to dismiss the allegation, or decide that no further action is to be taken in relation to the matter, or both.
- (5) A decision under this clause by the Commissioner to take remedial action with respect to a firefighter does not, if it appears to the Commissioner that the firefighter may have engaged in any misconduct while the remedial action is being taken, prevent the Commissioner from dealing with the alleged misconduct as a disciplinary matter under this clause.
- (6) If a firefighter fails to do anything that is required of the firefighter by the remedial action taken in accordance with a decision under subclause (1) (b) or (4) (a), the Commissioner may decide to deal with the allegation against the firefighter as a disciplinary matter in accordance with the procedural guidelines.

### 36 Formal hearings not to be held

- (1) A formal hearing involving the legal representation of parties and the calling and cross-examination of witnesses is not to be held in relation to an allegation of misconduct or the taking of disciplinary action with respect to a firefighter.
- (2) However, subclause (1) does not prevent the Commissioner from:
- conducting such investigations into an allegation of misconduct as the Commissioner considers necessary, or
  - conducting interviews with the firefighter to whom the allegation relates or with any other person in connection with the matter concerned, or

- (c) taking signed statements from the firefighter or any other person in connection with the matter concerned.

**37 Disciplinary action may be taken if firefighter is convicted of serious offence**

- (1) If a firefighter is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be an offence so punishable, the Commissioner may:
  - (a) decide to take disciplinary action with respect to the firefighter, or
  - (b) decide to take remedial action with respect to the firefighter.
- (2) Before any disciplinary action is taken with respect to a firefighter under this clause, the firefighter must be given an opportunity to make a submission in relation to the disciplinary action that the Commissioner is considering taking.
- (3) If a firefighter is found guilty of an offence referred to in subclause (1), the Commissioner may take action against the firefighter as if the firefighter had been found to have engaged in misconduct.
- (4) A reference in subclause (1) to the conviction of a firefighter for an offence punishable by imprisonment for 12 months or more includes a reference to the firefighter having been found guilty by a court of such an offence but where no conviction is recorded.

**Division 3 Suspension of firefighters**

**38 Suspension of firefighters from duty pending decision in relation to misconduct or criminal charge**

- (1) If:
  - (a) an allegation that a firefighter has engaged in misconduct is being dealt with as a disciplinary matter in accordance with the procedural guidelines, or
  - (b) a firefighter is charged with having committed an offence referred to in clause 37,the Commissioner may suspend the firefighter from duty until the allegation of misconduct or the criminal charge (or any action that the Commissioner is considering taking under clause 37) has been dealt with.
- (2) A firefighter may not be suspended unless all reasonable steps have been taken to ensure that the firefighter has been informed of the reason for the proposed suspension and has been given an opportunity to respond.
- (3) Any salary payable to a person as a firefighter while the person is suspended from duty under this clause is (if the Commissioner so directs) to be withheld.
- (4) If:
  - (a) it is decided to take disciplinary action with respect to the person for the misconduct, or
  - (b) the person is convicted of the offence concerned,the salary withheld under subclause (3) is forfeited to the State unless the Commissioner otherwise directs or that salary was due to the person in respect of a period before the suspension was imposed.
- (5) If the Commissioner has suspended a firefighter from duty under this clause, the Commissioner may at any time remove the suspension.

### **39 Suspension of firefighters from duty by authorised officers**

- (1) An officer authorised by the Commissioner for the purposes of this clause may suspend a firefighter from duty if the officer is of the opinion that:
  - (a) the firefighter has engaged in misconduct, and
  - (b) a failure to suspend the firefighter may pose a risk to the safety and protection of other people or prevent other firefighters from adequately performing their duties.
- (2) A firefighter may be suspended under subclause (1) whether or not a complaint of misconduct has been made against the firefighter.
- (3) A firefighter may not be suspended unless all reasonable steps have been taken to ensure that the firefighter has been informed of the reason for the suspension and has been given an opportunity to respond.
- (4) A suspension under this clause has effect for the period (not exceeding 14 days) specified by the authorised officer and may be terminated at any time by the Commissioner.
- (5) If a suspension relates to the absence from duty of a firefighter without authority, the suspension is taken to have commenced when the unauthorised absence began, unless the Commissioner determines otherwise.
- (6) An officer who suspends a firefighter must, as soon as practicable, report the suspension and the reason for it to the Commissioner.

## **Division 4      Miscellaneous provisions**

### **40 Suspension of disciplinary action**

- (1) The Commissioner may suspend disciplinary action taken against a firefighter for a period not exceeding 2 years on condition that the firefighter is of good behaviour during that period but only if the disciplinary action concerned is the imposition of a fine, a caution or reprimand, a demotion in rank or a termination of appointment to a particular position.
- (2) The Commissioner may permit a firefighter to resign instead of taking disciplinary action where the disciplinary action concerned is termination of the firefighter's appointment.

### **41 Officers retiring or resigning before disciplinary action is taken**

- (1) An allegation that a firefighter has engaged in misconduct may be dealt with under this Part, and disciplinary action may be taken with respect to the firefighter, even though the firefighter has retired or resigned.
- (2) The taking of disciplinary action (other than a fine) with respect to the former firefighter does not affect the former firefighter's retirement or resignation or the benefits, rights and liabilities arising from the retirement or resignation.
- (3) A fine imposed under any such disciplinary action may be recovered from the former firefighter as a debt due to the Crown in any court of competent jurisdiction, or out of any money payable to or in respect of the former firefighter by the Crown, or both.

### **42 Fines**

- (1) Subject to this clause, if a fine is imposed under this Part on a firefighter, the person responsible for paying the firefighter's salary is, on receiving notice of the imposition of the fine, to deduct the amount of the fine from the salary payable to the firefighter in such manner as the Commissioner directs.

- (2) Notice must be given to the firefighter of the imposition of a fine and a deduction is not to be made under subclause (1) until the expiration of 30 days after the date of the notice.
- (3) A firefighter may, during the 30-day period referred to in subclause (2), apply to the Commissioner for further time to pay the fine and the Commissioner may direct the person responsible for paying the firefighter's salary to deduct from the salary payable to the firefighter the amount of the fine on such date following the expiry of the 30-day period as the Commissioner specifies.
- (4) If, during the 30-day period referred to in subclause (2), the firefighter lodges an appeal against the imposition of the fine with the Industrial Relations Commission, a deduction is not to be made under subclause (1) until the determination of that appeal.

**43 Implementation of decisions under this Part**

A decision of the Commissioner to take disciplinary action or remedial action under this Part with respect to a firefighter may be carried into effect at any time.

**44 Application of Part**

- (1) This Part extends to conduct occurring before the commencement of this Regulation.
- (2) Any proceedings pending under Part 4 of the *Fire Brigades Regulation 2008* immediately before the repeal of that Regulation are to continue to be dealt with under the provisions of that Part as if it had not been repealed.

## Part 5 Charges

### 45 Hazardous material incidents

- (1) For the purposes of section 40 (4A) of the Act, the charges prescribed for services performed in respect of a hazardous material incident are:
  - (a) in relation to an item in Column 1 of Part 1 of Schedule 1 that is used (or made available for use), the charge per hour specified in Column 2 of Part 1 of that Schedule opposite that item, and
  - (b) in relation to an item in Column 1 of Part 2 of Schedule 1 that is hired or purchased, the charge specified in Column 2 of Part 2 of that Schedule opposite that item, and
  - (c) in relation to consumables, the charge specified in Column 2 of Part 3 of that Schedule.
- (2) If an item referred to in Part 1 of Schedule 1 is used on an hourly basis, half of the charges specified is prescribed in respect of each half hour, or part of a half hour, during which the item is used (or made available for use).
- (3) If any fully encapsulated gas suit or spillage suit is damaged or contaminated to the extent that it cannot be reused, the prescribed charge in respect of the suit concerned is the cost of replacing the suit.
- (4) If an item is purchased for use in respect of a particular hazardous material incident and the Commissioner is of the opinion that the item can be reused, the prescribed charge in respect of that item under Part 2 of Schedule 1 is to be reduced by such amount as the Commissioner considers reasonable having regard to the extent to which the item can be reused.

### 46 Services performed in connection with statutory fire safety

- (1) The charge prescribed for the provision of an initial fire safety report in respect of a development is the amount specified in Column 2 of Schedule 2 opposite the estimated cost of the development specified in Column 1 of that Schedule.
- (2) The charges prescribed for the inspection of premises for the purposes of the provision of a final fire safety report for the premises are:
  - (a) in the case of an initial inspection, \$215 plus, if the inspection takes more than 2 hours (including time spent travelling to and from the premises), \$200 for each additional hour, or part of an hour, of the inspection, and
  - (b) in the case of a re-inspection, \$430 plus, if the re-inspection takes more than 2 hours (including time spent travelling to and from the premises), \$200 for each additional hour, or part of an hour, of the re-inspection.
- (3) The charge prescribed for each assessment of a Building Code of Australia Category 2 fire safety provision by the Commissioner or a fire brigade member is \$180.
- (4) The charge prescribed for attendance by the Commissioner or a fire brigade member at a fire safety meeting in connection with a development or proposed development is \$200 for each hour, or part of an hour, of the meeting.
- (5) The amount of \$2,600 is the charge prescribed for each day (or part of a day) spent by the Commissioner or a fire brigade member providing advisory, assessment or consultancy services (for which a fee is not otherwise prescribed by this clause) in respect of:
  - (a) State significant infrastructure (within the meaning of section 115U of the *Environmental Planning and Assessment Act 1979*), or

- (b) Crown building work (within the meaning of section 109R of the *Environmental Planning and Assessment Act 1979*), or
  - (c) other development.
- (6) This clause has effect for the purposes of section 42 (1) of the Act.
- (7) In this clause:
- Building Code of Australia*** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.
- Category 2 fire safety provision*** has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.
- development*** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.
- final fire safety report*** has the same meaning as in clause 152 of the *Environmental Planning and Assessment Regulation 2000*.
- initial fire safety report*** has the same meaning as in clause 144 of the *Environmental Planning and Assessment Regulation 2000*.
- premises*** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

#### 47 False alarms

The amount of \$1,250 is the charge prescribed for the performance of the service specified in section 42 (1) (e) of the Act (that is, the service of responding to an alarm that is afterwards discovered to have been a false alarm) if:

- (a) the false alarm resulted from any activation of the alarm except in the course of a test of which prior notice was given to a fire brigade officer and that the Commissioner is satisfied was properly carried out, and
- (b) it is the second or subsequent occasion of any such false alarm by the alarm during any period of 60 days.

#### 48 Other services

- (1) The charges prescribed for the performance of any other service specified in section 42 (1) of the Act (not being a service for which a charge is otherwise prescribed by this Part) are:
  - (a) in relation to each fire brigade member performing the service, the charge per hour specified in Column 2 of Part 1 of Schedule 3 opposite the rank of the member concerned, and
  - (b) in relation to an item in Column 1 of Part 2 of Schedule 3 that is hired or purchased, the charge specified in Column 2 of Part 2 of that Schedule opposite that item, and
  - (c) in relation to consumables, the charge specified in Column 2 of Part 3 of that Schedule.
- (2) If an item is purchased for the purpose of performing services specified in section 42 (1) of the Act and the Commissioner is of the opinion that the item can be reused, the prescribed charge in respect of that item under Part 2 of Schedule 3 is to be reduced by such amount as the Commissioner considers reasonable having regard to the extent to which it can be reused.

## Part 6 Miscellaneous

### 49 Medal for Conspicuous Bravery

- (1) The Commissioner may award the New South Wales Fire Brigades Medal for Conspicuous Bravery to any firefighter who, while performing firefighting or emergency duty, exhibits exceptional bravery.
- (2) A firefighter who has previously been awarded the Medal may, for each additional act of exceptional bravery, be awarded a Bar to be attached to the ribbon from which the Medal is hung.
- (3) An award of the Medal or Bar may be made only on the recommendation of a committee appointed by the Commissioner to consider the merit of any such action.
- (4) The names of firefighters who receive awards, and details of the awards, are to be published in the In Orders publication and a record of awards is to be kept by the Commissioner.

### 50 Commendations

- (1) The Commissioner may award commendations for courageous action or for meritorious or long service.
- (2) The names of recipients of awards and details of the awards are to be published in the In Orders publication and a record of awards is to be kept by the Commissioner.

### 51 Honorary list

The Commissioner may place on an honorary list the names of former firefighters who have had long and meritorious service.

### 52 Repeal and saving

- (1) The *Fire Brigades Regulation 2008* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Fire Brigades Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.
- (3) Without limiting subclause (1), any In Orders or Standing Orders in force under clause 4 of the *Fire Brigades Regulation 2008* immediately before its repeal continue to have effect as Commissioner's Orders under this Regulation.

## Schedule 1    Charges for performing services in relation to hazardous material incidents

(Clause 45 (1))

### Part 1   Standard equipment

Column 1	Column 2
Item	Amount per hour
Each standard pumper	\$423
Each hazmat pumper	\$423
Each hazmat vehicle other than a hazmat pumper	\$286
Each hazmat delta decontamination shelter	\$286
Each special operations response vehicle	\$286
Each boat (including a trailer and vehicle to tow it)	\$286
Each helicopter	\$3,300
Each incident command vehicle	\$275
Each hose	\$55
Each fully encapsulated gas suit	\$275
Each spillage suit	\$55
Each self-contained breathing apparatus	\$55
Each standard gas detector	\$55
Each unit of specialised detection equipment	\$110

### Part 2   Special items

Column 1	Column 2
Item	Amount
Goods or services hired or purchased by the Commissioner for the purpose of performing services referred to in section 40 (4A) of the Act in respect of a particular hazardous material incident (not being items referred to in Part 1 of this Schedule)	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring or purchasing the goods or services
Premises hired by the Commissioner for the purpose of performing services referred to in section 40 (4A) of the Act in respect of a particular hazardous material incident (not being items referred to in Part 1 of this Schedule)	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring the premises

### Part 3 Consumables

Column 1	Column 2
Item	Amount
Consumables	Such amount as is certified by the Commissioner to be the cost to the Commissioner of the consumables, plus 10% for handling costs

## Schedule 2 Charges for providing initial fire safety reports

(Clause 46 (1))

Column 1	Column 2
Estimated cost of development	Amount
Up to and including \$250,000	\$500
\$250,001–\$500,000	\$500, plus an additional \$0.40 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$250,000
\$500,001–\$1,000,000	\$600, plus an additional \$0.30 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$500,000
\$1,000,001–\$10,000,000	\$750, plus an additional \$0.20 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$1,000,000
More than \$10,000,000	\$2,550, plus an additional \$0.10 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$10,000,000

## Schedule 3 Charges for performing other services

(Clause 48 (1))

### Part 1 Fire brigade members

Column 1	Column 2
Rank of member of fire brigade	Amount per hour per member
Fire safety engineer	\$200
Chief superintendent or above	\$132
Building surveyor	\$130
Engineer	\$130
Fire safety manager	\$125
Superintendent	\$121
Fire safety team leader	\$110
Inspector	\$99
Fire safety officer	\$90
Station commander or captain	\$83
Firefighter	\$66

### Part 2 Special items

Column 1	Column 2
Item	Amount
Goods or services hired or purchased by the Commissioner for the purpose of performing the services referred to in section 42 (1) of the Act	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring or purchasing the goods or services
Premises hired by the Commissioner for the purpose of performing the services referred to in section 42 (1) of the Act	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring the premises

### Part 3 Consumables

Column 1	Column 2
Item	Amount
Consumables	Such amount as is certified by the Commissioner to be the cost to the Commissioner of the consumables, plus 10% for handling costs