

**FIRE BRIGADES (HAZARDOUS MATERIALS) AMENDMENT
ACT 1993 No. 110**

NEW SOUTH WALES



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**FIRE BRIGADES (HAZARDOUS MATERIALS) AMENDMENT
ACT 1993 No. 110**

NEW SOUTH WALES



Act No. 110, 1993

An Act to amend the Fire Brigades Act 1989 so as to confer on New South Wales Fire Brigades certain powers and duties in respect of hazardous material incidents; and for other purposes. [Assented to 3 December 1993]

Fire Brigades (Hazardous Materials) Amendment Act 1993 No. 110

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Fire Brigades (Hazardous Materials) Amendment Act 1993.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Fire Brigades Act 1989 No. 192

3. The Fire Brigades Act 1989 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Long title:

After “fire” where firstly occurring, insert “and from hazardous material incidents,”.

(2) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“**hazardous material**” means anything that, when produced, stored, moved, used or otherwise dealt with without adequate safeguards to prevent it from escaping, may cause injury or death or damage to property;

“**hazardous material incident**” means an actual or impending land-based spillage or other escape of hazardous material that causes or threatens to cause injury or death or damage to property;

(3) Section 4 (**Application of Act**):

At the end of section 4, insert:

(2) This Act applies to land-based hazardous material incidents (and to any fires that may result from them) that occur anywhere in the State except on State waters, as defined in the Marine Pollution Act 1987.

(3) A hazardous material incident that occurs in or on a building, bridge or other structure or on any body of water (not being part of State waters) is taken to be land-based.

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(4) Section 6 (**Duty to deal with fires and hazardous material incidents**):

At the end of section 6, insert:

(2) It is the duty of the Director-General to take all practicable measures:

- (a) for protecting and saving life and property endangered by hazardous material incidents; and
- (b) for confining or ending such an incident; and
- (c) for rendering the site of such an incident safe.

(5) Section 7:

Omit the section, insert instead:

General authority to protect persons and property

7. (1) The Director-General is authorised to take measures anywhere in the State for protecting persons from injury or death and property from damage, whether or not fire or a hazardous material incident is involved.

(2) In the case of fire, it does not matter whether or not the persons are, or the property is, within a fire district.

(6) Section 9 (**Volunteer fire brigades**):

Omit section 9 (1) (a), insert instead:

- (a) the association is formed for the purpose of extinguishing fires and of taking measures referred to in section 6 (2) in relation to hazardous material incidents; and

(7) Part 3 and Division 1 of Part 3, headings:

Omit the headings, insert instead:

**PART 3—FIGHTING AND PREVENTING FIRES
AND DEALING WITH HAZARDOUS MATERIAL
INCIDENTS**

**Division 1—Powers at fires and hazardous material
incidents**

(8) Section 11 (**Brigades to proceed with speed to suspected fires or hazardous material incidents**):

At the end of section 11, insert:

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SCHEDULE 1—AMENDMENTS—*continued*

- (2) When there is a report of a hazardous material incident, a fire brigade must, despite anything to the contrary in any Act:
- (a) proceed with all speed to the site of the incident; and
 - (b) try by all possible means to render the site of the incident safe and save any lives and property that are in danger.
- (9) Section 12 (**Investigation of reported fires and hazardous material incidents**):
- Omit section 12 (1), insert instead:
- (1) The officer in charge may, with or without members of a fire brigade, enter any place:
 - (a) in respect of which an alarm of fire is raised to ascertain whether there is a fire at the place; or
 - (b) in respect of which a report of a hazardous material incident has been made to ascertain whether there is any hazardous material at the place that is, or is about to be, the subject of a hazardous material incident.
- (10) Section 13 (**General powers of officers at fires and hazardous material incidents**):
- After section 13 (1), insert:
- (1A) At the site of a hazardous material incident, the officer in charge:
 - (a) may take such measures as the officer thinks proper for the protection and saving of life and property, for confining and ending the incident and for rendering the site safe; and
 - (b) is to control and direct the operations of any fire brigade.
- The site is taken to be such area in the vicinity of the incident as is for the time being determined by the officer in charge.

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(11) Section 14 (**Closure of streets and public places**):

At the end of section 14, insert:

(2) The officer in charge at a hazardous material incident may cause any street or public place in the vicinity of the site of the incident to be closed to traffic until the site has been rendered safe.

(12) Section 15 (**Use of water etc**):

Omit “may, for the purpose of extinguishing or controlling a fire”, insert instead “or hazardous material incident may, for the purpose of extinguishing or controlling a fire or confining or ending the incident or rendering the site of the incident safe”.

(13) Section 16 (**Taking possession etc. of buildings and vessels during fires or hazardous material incidents**):

After section 16 (2), insert:

(2A) For the purpose of confining or ending a hazardous material incident or rendering the site of such an incident safe, the officer in charge may:

- (a) take possession of any building, vehicle or vessel in the vicinity of that site and any property (whether or not the property consists of a hazardous material) in it or on it; and
- (b) cause such a vehicle or vessel to be removed or remove any such property and keep it in safe custody.

(14) Section 17 (**Making walls and buildings safe**):

After section 17(1), insert:

(1A) The officer in charge at a hazardous material incident may, during the incident or immediately after it, pull down, destroy or shore up any wall or building damaged or rendered insecure by the incident or which, in the officer’s opinion, may be dangerous to life or property.

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SCHEDULE 1—AMENDMENTS—*continued*

- (15) Section 18 (**Disconnection etc. of gas and electricity**):
 After section 18 (1), insert:
 (1A) The officer in charge at a hazardous material incident may cause the supply of gas or electricity to any premises in the vicinity of the site of the incident to be shut off or disconnected.
- (16) Section 19 (**General power to remove persons or obstacles**):
 After “fire” where firstly and secondly occurring, insert “or hazardous material incident”.
- (17) Section 22 (**Authority to enter land and buildings**):
 (a) After “fire” where firstly occurring, insert “or hazardous material incident”.
 (b) After “fire” where secondly occurring, insert “or incident”.
- (18) Section 24 (**Officer in charge may authorise others to exercise functions**):
 In section 24 (1), after “at a fire”, insert “or hazardous material incident”.
- (19) Section 25 (**Duty to recognise authority of officers**):
 (a) From section 25, omit “Police Force” wherever occurring, insert instead “Police Service”.
 (b) In section 25 (3), after “fire”, insert “or a hazardous material incident”.
- (20) Section 26 (**Interstate assistance**):
 (a) From section 26 (1), omit “Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.”.
 (b) After section 26 (1), insert:
 (1A) A person who is a member of an interstate fire brigade and present at a hazardous material incident in the State for the purpose of trying to confine or end the incident, to render the site of the incident safe or to save any lives or property in danger there must:
 (a) obey any orders given to the person by the officer in charge at the incident; and

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- (b) place any gear or equipment in the person's charge at the disposal of the officer in charge at the incident.
 - (c) In section 26 (2), after "the fire" wherever occurring, insert "or incident".
- (21) Section 30 (**Information may be requested from owner**):
- Omit section 30 (2), insert instead:
- (2) On request made by a person authorised by this section, the owner of premises where a fire or hazardous material incident occurs, the owner or driver of a vehicle conveying personal property and involved in a hazardous material incident, or the owner of any personal property on any such premises or vehicle or which has been destroyed or damaged by fire or such an incident, must:
- (a) inform the authorised person whether the premises or property were or was insured at the time or during the period specified by the person; and
 - (b) give the authorised person full particulars of any such insurance, including the name of the insurer and the amount of the insurance.
- Personal property includes any hazardous material.
- (22) Section 31 (**Fire brigade not to be constituted unless authorised**):
- After section 31 (1), insert:
- (1A) It is unlawful for any persons to constitute or maintain any body for the purpose of taking measures referred to in section 6 (2) in relation to hazardous material incidents except:
- (a) as a permanent or volunteer fire brigade under the authority of this Act; or
 - (b) on premises or land owned or used by the persons or at which they are employed; or
 - (c) where the body consists of employees of the persons and the body is constituted to deal with incidents involving hazardous materials owned by or transported by vehicles or other means of transport owned by the persons; or
 - (d) with the approval of the Director-General.

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(23) Section 36 (**Director-General may be represented at inquiry**):

In section 36 (1), after "fire", insert "or hazardous material incident".

(24) Section 38 (**Certain damage to be covered by insurance**):

(a) In section 38 (1), after "at a fire", insert "or a hazardous material incident".

(b) In section 38 (2), after "fire", insert "or endangered by the escape or likely escape of hazardous material".

(25) Section 40 (**Charges for attending fires or hazardous material incidents**):

(a) From section 40 (2), omit "an area", insert instead "a fire district".

(b) After section 40 (4), insert:

(4A) If a hazardous material incident occurs anywhere in the State, the Director-General is entitled to recover charges, not exceeding the prescribed charges, for services rendered by any members of a fire brigade in endeavouring:

(a) to confine or end the incident, or to render the site of the incident safe; or

(b) to save any lives or property in danger.

(4B) Those charges may be recovered from:

(a) the owner of, or the person having charge of, the hazardous material involved; or

(b) the owner or occupier of the premises on which, or the owner or person in charge of the vehicle or vessel on or in which, or arising out of the use of which, the incident occurred.

(4C) This section does not allow recovery of charges for a fire within a fire district even though the fire arose from a hazardous material incident.

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SCHEDULE 1—AMENDMENTS—*continued*

(26) Section 41 (**Apportionment of charges**):

- (a) In section 41 (1), after “section 40”, insert “in respect of a fire”.
- (b) After section 41 (3), insert:
 - (4) The charges payable under section 40 otherwise than in respect of a fire are to be ratably apportioned in accordance with the regulations, if the regulations so provide.

(27) Schedule 4 (**Savings and transitional provisions**):

- (a) Omit the heading to Part 4, insert instead:

Part 4—Miscellaneous provisions relating to the commencement of this Act
- (b) At the end of Part 4, insert:

Part 5—Miscellaneous provisions relating to the Fire Brigades (Hazardous Materials) Amendment Act 1993

Transitional and saving provisions

22. (1) An amendment made by the Fire Brigades (Hazardous Materials) Amendment Act 1993 (the 1993 Act):

 - (a) applies to a hazardous material incident whether the spillage or other escape of the material concerned occurred before or occurs after the amendment commences; but
 - (b) does not so apply as to impose any duty on a person retrospectively.

(2) An approval of an association as a volunteer fire brigade that was in force under section 9 immediately before the amendment of that section by the 1993 Act is taken to have been granted under that section as so amended.

(3) The amendments made to section 38 by the 1993 Act apply only in respect of a hazardous material incident that occurs after those amendments commence and affect a policy of insurance in force when such an incident occurs whether the policy was effected before or is effected after that commencement.

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SCHEDULE 1—AMENDMENTS—*continued*

(4) Any maximum charges prescribed for the purposes of section 40 (2) when section 40 (4A) commences are, subject to the regulations, taken to be prescribed as maximum charges for the purposes of section 40 (4A) also.

*[Minister's second reading speech made in—
Legislative Assembly on 11 November 1993 a.m.
Legislative Council on 19 November 1993]*