

FIRE BRIGADES BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to repeal and re-enact the provisions of the Fire Brigades Act 1909 with the following modifications:

- * a Department of the Government will be created (known as New South Wales Fire Brigades) for the purposes of the administration of the proposed Act;
- * functions formerly exercised by the Board of Fire Commissioners under the 1909 Act will be exercised by the Director-General of the Department;
- * changes will be made to provisions concerning contributions towards fire brigade costs by local councils and the insurance industry, with a reduction in contribution rates;
- * obsolete provisions will be omitted.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation.

Clause 3 defines certain terms for the purposes of the proposed Act.

Clause 4 applies the provisions of the proposed Act to all fire districts.

Clause 5 enables the Governor-in-Council, by order, to declare areas as fire districts but such districts can only include land which is within either a local government area or a reserved area (that is, a national park, historic site or state recreation area).

Fire Brigades 1989

PART 2 - PROVISION OF FIRE BRIGADES ETC.

Clause 6 states the general duty of the Director-General of New South Wales Fire Brigades to prevent and extinguish fires.

Clause 7 enables the Director-General to take measures to protect persons from injury or death and property from damage whether or not a fire is involved and whether or not in a fire district.

Clause 8 authorises the Director-General to establish permanent and volunteer fire brigades.

Clause 9 allows the Minister to approve an association of persons as a volunteer fire brigade if satisfied it complies with specified requirements.

Clause 10 makes it clear that the Director-General may exercise functions under the proposed Act by his or her officers or agents (including members of permanent and volunteer fire brigades).

PART 3 - FIRE FIGHTING AND PREVENTION

Division 1 - Powers at fires

Clause 11 requires fire brigades to respond to an alarm of fire with all speed and to save lives and property in danger.

Clause 12 gives the Chief Officer of Fire Brigades or, in his or her absence, the officer in charge of the fire brigades present, power to enter any place where an alarm of fire has been raised.

Clause 13 sets out the general powers of the officer in charge present at a fire.

Clause 14 enables the officer in charge at a fire to close any street or public place to traffic during the fire.

Clause 15 permits the officer in charge at a fire to use or authorise the use of any water available to extinguish or control the fire.

Clause 16 gives the officer in charge at a fire certain powers in relation to property, including the pulling down of buildings and the removal or destruction of vessels where necessary.

Clause 17 enables the officer in charge at a fire to pull down, destroy or shore up any dangerous wall or building during or immediately after a fire. The cost of doing so is to be borne by the owner of the wall or building.

Clause 18 permits the officer in charge at a fire to cause the supply of gas or electricity to any premises on fire and adjacent premises to be shut off or disconnected.

Clause 19 enables the officer in charge at a fire to remove persons or things that might cause an obstruction.

Fire Brigades 1989

Division 2 - Special powers

Clause 20 authorises the Director-General to permit fire brigades to go beyond the areas to which the proposed Act applies to extinguish a fire.

Clause 21 sets out the Director-General's powers in relation to the clearing of fire breaks.

Clause 22 gives the Director-General power to enter and take possession of any place or vessel, by his or her agents, where a fire has occurred but only for a reasonable time or until an inquest has been held.

Division 3 - Command structure

Clause 23 enables the Chief Officer to delegate certain functions.

Clause 24 enables the officer in charge at a fire to delegate certain functions.

Clause 25 requires persons at the scene of a fire to recognise the authority of the Chief Officer, a member of a fire brigade acting under the Chief Officer's orders or the officer in charge at the fire. Members of the Police Force are required to support that authority.

Clause 26 requires members of interstate fire brigades present at a fire to obey the officer in charge and place their equipment at the officer's disposal.

Division 4 - Inspection etc.

Clause 27 sets out the powers of the Chief Officer in relation to inspection of fire brigades, premises and equipment.

Clause 28 enables the Chief Officer to enter public entertainment places to ascertain whether fire safety provisions are being contravened.

Clause 29 enables the Chief Officer to enter any place or vessel to ascertain whether provisions relating to explosives or flammable matter are being contravened and to serve a notice requiring any such contravention to be remedied.

Clause 30 requires the owner of premises or property affected by fire or of property on premises affected by fire to give information in relation to the insurance of the premises or property to the Director-General, the Chief Officer or any member of a fire brigade. (Maximum penalty for refusal or the giving of false information: 5 penalty units - currently \$500.)

Division 5 - Offences

Clause 31 makes it an offence to constitute a fire brigade except as authorised by the proposed Act. (Maximum penalty: 20 penalty units - currently \$2,000.)

Clause 32 makes it an offence to interfere with a fire hydrant. (Maximum penalty: 20 penalty units.)

Clause 33 makes it an offence to damage or destroy fire brigade equipment. (Maximum penalty for first offence: 20 penalty units or imprisonment for 1 month, or both; for second or subsequent offence - imprisonment for 2 years.)

Fire Brigades 1989

Clause 34 makes it an offence to tamper with a fire alarm or to give a false alarm of a fire. (Maximum penalty: for first offence - 20 penalty units or imprisonment for 1 month, or both; for second or subsequent offence - imprisonment for 2 years.)

Clause 35 makes it an offence to hinder the Director-General, the Chief Officer or members of the Department or a fire brigade exercising functions under the Act. (Maximum penalty: 10 penalty units - currently \$1,000.)

Division 6 - Miscellaneous

Clause 36 enables the Director-General to appoint a person to represent the Director-General at an inquiry into a fire.

Clause 37 allows the Director-General to make payments for voluntary or special services rendered to the Director-General.

Clause 38 states that damage to property caused by fire brigades at a fire in the exercise of their functions is to be treated as damage by fire for the purposes of any insurance policy.

Clause 39 enables the Chief Officer to make arrangements for the use free of charge of water for the purpose of drill or practice by fire brigades.

PART 4 - CHARGES FOR ATTENDING FIRES AND OTHER SERVICES

Clause 40 provides that no charge is to be made for the attendance of a fire brigade at a fire except where the fire occurs outside an area to which the proposed Act applies, in which case charges not exceeding the prescribed charges may be recovered.

Clause 41 provides for the apportionment of such charges between the owners of affected property.

Clause 42 deals with payment of charges for other services performed, on request, by the Director-General or a member of a fire brigade.

Clause 43 permits the Director-General to waive or reduce charges.

PART 5 - CONTRIBUTION TO FIRE BRIGADE COSTS

Division 1 - Estimates of fire brigade expenditure and contributions

Clause 44 defines certain expressions used in the proposed Part.

Clause 45 requires the Director-General, before the beginning of each financial year, to make an estimate of fire brigade expenditure for each fire district for that year.

Clause 46 provides that the total of those estimates is not to exceed an amount approved by the Treasurer in consultation with the Minister.

Clause 47 provides that the total of those estimates for a financial year is to be reduced by the aggregate of the amount standing to the credit of the Department's Working Account at the beginning of the financial year and the amounts that will be paid into that account during the financial year (except as unexpended appropriation).

Fire Brigades 1989

Clause 48 requires the resulting estimates for a financial year to be multiplied by a factor to give the calendar year equivalent of those estimates. The estimates arrived at are the amounts required to be contributed under the proposed Part for the calendar year.

Clause 49 deals with payment of contributions by quarterly instalments.

Division 2 - Contributions by local government areas

Clause 50 requires 12.3 per cent of the amount required to be contributed for a year to be paid by local government.

Clause 51 deals with apportionment of the required contribution between local government areas.

Clause 52 states the ways in which local government areas are to fund the contribution amount payable.

Clause 53 requires local councils to furnish returns to the Director-General. (Maximum penalty for failure to do so: 20 penalty units.)

Division 3 - Contributions by insurance companies

Clause 54 requires 73.7 per cent of the amount required to be contributed for a year to be paid by insurance companies.

Clause 55 requires advance payments to be made by an insurance company and provides for the method of calculating the amount of the advance payment.

Clause 56 provides for assessment of the contribution payable by an insurance company and for adjustment of the advance payments made.

Clause 57 deals with the situation where an owner of property insures with a foreign insurer. The Director-General may require the owner to pay the contribution amount that would otherwise be payable by the insurer. (Maximum penalty for failure to comply: 10 penalty units.)

Clause 58 requires returns to be furnished to the Director-General by insurance companies.

Clause 59 defines the term "total amount of premiums" for the purposes of making the necessary calculations under the proposed Division.

Clause 60 provides for the audit by the Auditor-General, at the request of the Minister, of the accounts of an insurance company required to pay a contribution.

Clause 61 provides for returns to be furnished by owners insuring with foreign insurers. (Maximum penalty for failure to lodge a return: 20 penalty units.)

Division 4 - Appropriation of estimated expenditure

Clause 62 provides for the appropriation each year from the Consolidated Fund of the estimate of fire brigade expenditure under proposed Division 1 reduced as required by clause 47. Any unspent appropriation in a year is to be paid into the Department's Working Account.

Fire Brigades 1989

Clause 63 requires the Treasurer to establish a working account for the Department within the Special Deposits Account. There is to be paid into the Working Account all fire brigade revenue (except contributions under the proposed Part), interest and unspent appropriations. Funds in the Account are to be applied towards meeting fire brigade expenditure.

Clause 64 provides for the establishment in the Special Deposits Account in the Treasury of a New South Wales Fire Brigades Capital Fund. The Fund is to consist of the accumulated cash reserves of the Board under the 1909 Act and is to be applied (with the Treasurer's approval) toward meeting fire brigade expenditure.

PART 6 - ADMINISTRATION

Division 1 - The Department

Clause 65 establishes New South Wales Fire Brigades as a Department of the Government.

Clause 66 deals with employment of staff and use of the services of staff and facilities of other Departments.

Clause 67 states that the Chief Officer is subject to the control and direction of the Director-General and sets out the general powers, duties and functions of the Chief Officer.

Division 2 - Fire fighters

Clause 68 defines "Authority" for the purposes of the proposed Division as meaning the Public Employment Industrial Relations Authority.

Clause 69 deals with the appointment of members of fire brigades by the Director-General.

Clause 70 states that the Authority is to be regarded for certain purposes as the employer of members of permanent or volunteer fire brigades.

Clause 71 enables the Authority to make determinations, fix salaries, wages and other remuneration of members of permanent fire brigades and payments to members of volunteer fire brigades.

Clause 72 empowers the Authority to enter into agreements with associations representing permanent or volunteer fire brigades with respect to industrial matters.

Clause 73 requires the Director-General to give effect to such determinations and agreements.

Clause 74 enables regulations to be made with respect to the employment of members of permanent fire brigades and service of members of volunteer fire brigades.

Division 3 - The Advisory Council

Clause 75 constitutes the New South Wales Fire Brigades Advisory Council and specifies its membership.

Fire Brigades 1989

Clause 76 sets out the matters on which the Council is to advise the Minister.

Clause 77 enables the Council to establish committees.

PART 7 - GENERAL

Clause 78 protects the Minister, the Director-General, the Chief Officer, Departmental staff, members of fire brigades and persons acting under the authority of the Director-General from liability for actions done in good faith under the proposed Act or any other Act.

Clause 79 enables land to be acquired or resumed under the Public Works Act 1912 for fire brigade premises.

Clause 80 requires an insurance company, if including part of a contribution required by the proposed Act in an insurance premium, to indicate to the policy holder how much of the premium is estimated to be attributable to the contribution and any contribution under the Bush Fires Act 1949. (Maximum penalty for failure to comply: 10 penalty units.)

Clause 81 allows an agent or trustee expending money under the proposed Act for a person to use money held for the person or to recover the amount expended from the person.

Clause 82 provides for the recovery by the Director-General of charges under the proposed Act.

Clause 83 allows the Director-General to delegate functions.

Clause 84 provides for proceedings for offences under the proposed Act to be dealt with summarily by a Local Court constituted by a Magistrate.

Clause 85 enables the making of regulations by the Governor-in-Council for the purposes of the proposed Act.

Clause 86 repeals certain Acts and gives effect to Schedule 3 which contains consequential amendments to certain Acts.

Clause 87 gives effect to Schedule 4 which contains savings and transitional provisions.

Schedule 1 specifies the proportion of premiums under different classes of policies of insurance which is to be subject to contribution. The amount has relevance for the calculation of advance payments by insurance companies under clause 55.

Schedule 2 contains provisions relating to the members and procedure of the New South Wales Fire Brigades Advisory Council.

Schedule 3 contains consequential amendments to other Acts.

Schedule 4 contains provisions of a savings or transitional nature. Included in the Schedule are provisions dealing with the dissolution of the Board of Fire Commissioners, and the transfer of staff and assets of the Board.