

Fire Authorities (Contributions) Bill

No.

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By Authority Jean Gordon Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 11 October 1989

(Brought in by Mr Crabb and Mr Jolly)

A BILL

to amend the *Country Fire Authority Act 1958*, the *Metropolitan Fire Brigades Act 1958* and the *Fire Authorities Act 1989* and for other purposes.

Fire Authorities (Contributions) Act 1989

The Parliament of Victoria enacts as follows:

Purpose

1. The purpose of this Act is to—

- 5 (a) increase the contributions of insurance companies to the annual expenditure of the Country Fire Authority; and
- (b) make consequential amendments to the *Country Fire Authority Act 1958* and the *Metropolitan Fire Brigades Act 1958*; and
- 10 (c) make miscellaneous amendments to the *Fire Authorities Act 1989*.

Commencement

2. This Act comes into operation on a day or days to be proclaimed.

Amendments to contribution provisions of *Country Fire Authority Act 1958*

15 3. For sections 76, 77, 78, 79, 80, 80A and 81 of the *Country Fire Authority Act 1958* substitute—

Amounts of contributions

“76. (1) The total amount of contributions are to be contributed as follows:

- (a) 22·5 per cent from the Consolidated Fund;
 - (b) 77·5 per cent by the insurance companies insuring
against fire property situated within the country area of
Victoria. 5
- (2) The amount to be contributed under sub-section (1) (a)
is to be paid to the Authority in equal quarterly instalments on
1 July, 1 October, 1 January and 1 April in each financial year.”. 10

Returns of Premiums

“77. (1) Each insurance company must before 15 August in
each year lodge with the Authority a return in the prescribed
form showing the portion of the total amount of the gross
premiums received by or due to the insurance company during
the preceding financial year as is properly attributable to
insurance against fire in respect of property situated in the
country area of Victoria. 15

(2) The gross premiums shown in the return must include
any commission or discount but exclude any amounts received
by or due to the insurance company in respect of reinsurance
contracts or agreements. 20

(3) The return must include a statutory declaration made by
the manager, secretary, agent or other person for the time being
performing the duties of the manager, secretary or agent of the
company to the effect that according to the books of the company
and to the best of his or her knowledge and belief the return
contains a true statement of the amount of gross premiums.” 25

Determination of provisional contributions

“77A. The Authority must issue a determination of the
provisional contribution of each insurance company as follows: 30

- (a) For the quarter beginning 1 July—
 - (i) the aggregate of all provisional contributions by all
insurance companies must equal 25% of the total
amount to be contributed by insurance companies
under section 76; and 35
 - (ii) the portion to be contributed by each insurance
company must bear the same proportion to the
whole contribution by insurance companies as the
portion of gross premiums shown in the insurance
company’s return bears to the aggregate portions
of gross premiums shown in all returns in respect
of the previous preceding financial year; and 40

(iii) the amounts of provisional contributions are to be paid to the Authority by 1 July;

(b) For the quarters beginning 1 October, 1 January and 1 April—

(i) the aggregate of all provisional contributions by all insurance companies must equal 75% of the total amount to be contributed by insurance companies under section 76; and

(ii) the portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the preceding financial year; and

(iii) for the purposes of this paragraph the amount of gross premiums shown in all returns excludes the amount of gross premiums returned by any insurance company which has failed within 45 days of the due date to pay the whole or any part of the provisional contributions payable by that insurance company under paragraph (a); and

(iv) unless section 78 or 80 applies, the amounts to be contributed under this paragraph are to be paid to the Authority in equal quarterly instalments on 1 October, 1 January and 1 April in each financial year.”.

Determination of final contribution

“77B. (1) The Authority must issue a determination of the final contribution of each insurance company for the financial year in respect of which the return is lodged in accordance with the following:

(a) In the case of an insurance company which has lodged a return in respect of that financial year but was not required to lodge a return in respect of the preceding financial year, the final contribution equals—

$$\frac{C}{P_a} \times P_i;$$

(b) In the case of an insurance company which has paid only part of its provisional contributions or has not paid any of its provisional contributions, the final contribution in respect of payments made or payable under any notice issued under section 78 (3), 78 (4) (a), 78 (5) (d), 80 (1) (b) or 81 (b) in respect of that financial year equals—

$$\left[\frac{C}{T} \times P_i \right] \times [1 - A];$$

- (c) In the case of an insurance company which has paid all or only part of its provisional contributions, the final adjustment in respect of the provisional contributions paid equals— 5

$$\left[\frac{C}{T} \times P_i \right] \times A;$$

- (2) If as a result of the issue of a determination of the final contribution, the contributions paid by an insurance company in respect of a financial year are more or less than the final contribution, the instalment due for the quarter beginning 1 October or, if section 78 (3), 78 (4) or 78 (5) applies, the quarter beginning 1 January, in the financial year in which the return is lodged must be adjusted as follows: 10 15

- (a) In the case of an insurance company which has paid all of its provisional contributions, the amount under sub-section (1) (c) less $(X + Z_1)$;
- (b) In the case of an insurance company which has paid only part of its provisional contributions or has not paid any of its provisional contributions, the amount under sub-section (1) (b) less $(Y + Z_2)$. 20

- (3) In this section—

“A” means the proportion of provisional contributions paid by an insurance company under section 77A. 25

“C” means the total amount required to be contributed by all insurance companies under section 76.

“Pa” means the sums of the amounts of the portions of gross premiums specified in the return of each insurance company multiplied by the proportion of provisional contributions paid by each insurance company under section 77A added to the sum of the amounts of the portions of gross premiums specified in the return of each insurance company which has made a return in respect of that financial year but which was not required to lodge a return in respect of the preceding financial year. 30 35

“Pi” means the amount comprising the portion of gross premiums specified in the return of the insurance company whose final contribution is being determined. 40

“T” means the total amount of the portions of gross premiums shown in the returns of all insurance companies.

“X” means the total amount of provisional contributions paid by the insurance company whose final contribution is being determined.

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“Y” means the total amount of all payments made or payable by the insurance company whose final contribution is being determined under any notice issued under section 78 (3), 78 (4) (a), 78 (5) (d) or 80 (1) (b).

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“Z₁” means the amount paid or payable by an insurance company under any notice issued under section 81 (b) in respect of the financial year for which a final contribution is being determined, multiplied by A.

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“Z₂” means the amount paid or payable by an insurance company under any notice issued under section 45 (b) in respect of the financial year for which a final contribution is being determined, multiplied by $X(1 - A)$.”

Penalties in relation to returns

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“78. (1) Any insurance company which fails to lodge a return before 15 August is guilty of an offence and liable to a penalty of not more than 10 penalty units and a further penalty of 1 penalty unit for each day after 15 August during which the return is not lodged.

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(2) Any insurance company which lodges a return which is incomplete is to be treated for the purposes of this section as not having lodged the return until it lodges a complete return.

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(3) In addition to the penalty under sub-section (1), if an insurance company lodges a return after the Authority has made its determinations of provisional contributions under section 77A (b) but before 1 October the Authority may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company’s provisional contributions for the financial year in which the return is to be lodged had the return been lodged on or before 15 August within the period specified by the Authority in the notice.

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(4) In addition to the penalty under sub-section (1), if an insurance company lodges a return on or after 1 October—

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(a) the Authority may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company’s provisional contributions for the financial year in which the return is to be lodged had the return been lodged on or before 15 August within the period specified by the Authority in the notice; and

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(b) the Authority may charge the insurance company penalty interest at the rate for the time being fixed by

the Governor in Council by Order in Council published in the *Government Gazette* on the balance of the insurance company's provisional contributions for the financial year in which the return is to be lodged as from 1 October.

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(5) In addition to the penalty under sub-section (1), if an insurance company has not lodged a return by 1 October and in the opinion of the Authority it is unlikely to do so the following apply:

- (a) The Authority may estimate the portion of the total amount of gross premiums received by or due to the insurance company during the preceding financial year as is properly attributable to insurance against fire in the country area of Victoria on any basis which the Authority considers reasonable in the circumstances; 10
- (b) For the purposes of this Act, the Authority's estimation under paragraph (a) is deemed to constitute the insurance company's return; 15
- (c) For the purposes of determining the appropriate penalty under sub-section (1), the insurance company is deemed to have lodged its return with effect from the date on which the Authority completes its estimation under paragraph (a); 20
- (d) The Authority may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company's provisional contributions for the financial year in which the return is deemed to be lodged had the return been lodged on or before 15 August within the period specified by the Authority in the notice; 25
- (e) The Authority may charge the insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the balance of the insurance company's provisional contributions for the financial year in which the return is deemed to have been lodged as from 1 October." 30 35

Inspection of documents

"79. (1) The manager, secretary, agent or any other person having the custody of the documents of any body corporate or unincorporate must allow any officer appointed by the Authority to exercise the powers specified in sub-section (2) for the purpose of— 40

- (a) verifying any return or declaration made under this Act; or 45

- (b) determining whether the body is carrying on the business of insurance against fire; or
- (c) ascertaining the details of any contract of insurance held by that body and determining whether the body is liable to pay a contribution to the Authority under section 80A.

(2) An officer appointed by the Authority has power for the purposes of sub-section (1)—

- (a) to inspect any documents of the body during normal business hours; and
- (b) to make copies and take extracts from the documents; and
- (c) to require the manager, secretary, agent or other person to answer any questions or provide any information in relation to the inspection.

(3) A manager, secretary, agent or other person who does not comply with any requirement under this section is guilty of an offence and liable to a penalty of not more than 5 penalty units and a further penalty of 1 penalty unit for each day that the failure to comply continues.”.

Penalty for failure to make payment

“80. (1) If an insurance company does not pay any quarterly instalment or amount payable under sub-section (2), (3) or (4) within 14 days after it is due or after the date on which notice of demand is given (whichever is the later date)—

- (a) the insurance company is guilty of an offence and liable to a penalty of 10 penalty units; and
- (b) the Authority may by notice require the insurance company to pay the balance of the insurance company’s provisional contributions for the financial year to which the overdue instalment relates within the period specified by the Authority in the notice; and
- (c) the Authority may charge the insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the outstanding instalment from the date on which it became due.

(2) If an insurance company fails to pay within 45 days after the due date of the instalment for the quarter beginning 1 July any contribution assessed as being payable by the Authority, the Authority may increase in accordance with the method specified in section 77A (b) the provisional contributions that would otherwise have been payable by the other insurance companies in the quarters beginning 1 October, 1 January and 1 April of that financial year to meet the amount of the provisional

contribution which the insurance company has failed to pay.

(3) If an insurance company fails to pay within 45 days after the due dates of the instalments for the quarters beginning 1 October and 1 January any contribution assessed as being payable by the Authority, the Authority may— 5

(a) re-calculate in accordance with the method specified in section 77A (b) the provisional contributions due by other insurance companies during the remainder of the financial year to meet the amount which the Authority considers to be the estimated shortfall in total provisional contributions; and 10

(b) issue a new determination of the provisional contributions payable by each insurance company in the remaining quarters of that financial year. 15

(4) If an insurance company fails to pay within 45 days after the due date of an instalment for the quarter beginning 1 April any contribution assessed as being payable to the Authority, the Authority may—

(a) recalculate in accordance with the method specified in section 77A (b) the provisional contributions due by other insurance companies to meet the amount of the provisional contribution which the insurance company has failed to pay; and 20

(b) issue a notice of additional provisional contributions payable by each insurance company to meet the amount of the unpaid provisional contributions.”. 25

Contributions by owners and brokers

“80A. (1) This section applies if property in the country area of Victoria is insured against fire with an insurance company other than an insurance company required to make a return under section 77. 30

(2) Within 14 days after the insurance is effected or renewed—

(a) the broker through whom the insurance is effected or renewed; or 35

(b) if the insurance is not effected or renewed through a broker or is effected or renewed through a broker who does not carry on business in Victoria, the owner of the property so insured— 40

must comply with sub-section (3).

(3) The broker or owner must—

(a) lodge with the Authority a return in the prescribed form showing the portion of the total amount of the

premium paid to the insurance company as is properly attributable to insurance against fire; and

- (b) pay to the Authority as a contribution an amount equal to $\frac{C \times P}{T - C}$ together with an amount equal to one per cent of the portion of the premium shown in the return.

Penalty: 10 penalty units and an additional penalty of double the amount that would have been payable under paragraph (b) if paragraph (b) had been complied with.

- (4) In sub-section (3)—

“C” is the total amount required to be contributed to the Authority by insurance companies under section 76 in the year in which the insurance is effected or renewed;

“P” is the amount comprising the portion of the premium shown in the return lodged under sub-section (3);

“T” is the total amount of the portions of gross premiums shown in the returns lodged by insurance companies under section 77—

- (a) for the previous preceding financial year, if the insurance is effected or renewed in the quarter of a financial year beginning 1 July; or
- (b) for the preceding financial year, if the insurance is effected or renewed in the quarter of a financial year beginning 1 October, 1 January or 1 April.”.

Adjustment of contribution

“81. Despite anything in this Act, if the Authority is satisfied that, whether by reason of any error in any return or otherwise, the amount contributed by any insurance company is more or less than the proper contribution of that insurance company—

- (a) the Authority may require that insurance company to submit an amended return; and
- (b) the Authority may reduce or increase the amount of any subsequent contribution payable by that insurance company by the amount of the excess or deficiency and that amount may be added to or deducted from the amount to be contributed by other insurance companies in any subsequent period; and
- (c) the Authority may charge the insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the amount of any deficiency with effect from the date upon which that amount would have become payable had the error not occurred.”.

Transitional provision

4. (1) Despite anything to the contrary in the *Country Fire Authority Act 1958* the following provisions apply in respect of contributions under section 76 of the *Country Fire Authority Act 1958* for the financial year ending 30 June 1990: 5
- (a) The determination of the Minister under section 75 of the *Country Fire Authority Act 1958* in respect of the financial year ending 30 June 1990 continues to apply;
 - (b) One-half of the total amount of contributions as determined by the Minister must be paid to the Authority in equal instalments on 1 July 1989 and 1 October 1989 contributed as follows: 10
 - (i) One-third from the Consolidated Fund;
 - (ii) Two-thirds by the insurance companies insuring against fire property situated within the country area of Victoria; 15
 - (c) The amount to be contributed by each insurance company under paragraph (b) is one-half of the amount which the Authority has advised each insurance company as being the contribution of that insurance company for the financial year ending 30 June 1990; 20
 - (d) The other half of the total amount of contributions as determined by the Minister must be paid to the Authority in equal instalments on 1 January 1990 and 1 April 1990 contributed as follows: 25
 - (i) 22.5 per cent from the Consolidated Fund;
 - (ii) 77.5 per cent by the insurance companies insuring against fire property situated within the country area of Victoria;
 - (e) The amount to be contributed by each insurance company under paragraph (d) is the amount to be determined by the Authority from the returns of each insurance company for the period of 12 months ending 31 December 1988 under section 77 of that Act. 30
- (2) Despite anything to the contrary in the *Country Fire Authority Act 1958* the following provisions apply: 35
- (a) By 31 March 1990 each insurance company must lodge with the Authority a return in the prescribed form under section 77 of that Act relating to the year ending 31 December 1989 to enable the Authority to make a determination of the provisional contribution for the quarter beginning 1 July 1990; 40
 - (b) The Authority must issue a determination of the provisional contribution of each insurance company for the quarter beginning 1 July as follows: 45

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- (i) The aggregate of all provisional contributions by all insurance companies must equal 25 percent of the total amount to be contributed by insurance companies under section 76 of that Act;
 - (ii) The portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate amount of gross premiums shown in all returns in respect of the year ending 31 December 1989;
 - (iii) The amounts of provisional contributions are to be paid to the Authority by 1 July 1990;
 - (c) By 15 August 1990 each insurance company must lodge with the Authority a return in the prescribed form under section 77 of that Act relating to the financial year ending 30 June 1990 to enable the Authority to make a determination of the provisional contributions for the quarters beginning 1 October 1990, 1 January 1991 and 1 April 1991;
 - (d) The Authority must issue a determination of the provisional contribution of each insurance company for the quarters beginning 1 October 1990, 1 January 1991 and 1 April 1991 as follows:
 - (i) The aggregate of all provisional contributions by all insurance companies must equal 75 percent of the total amount to be contributed by insurance companies under section 76 of that Act;
 - (ii) The portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate amount of the portions of gross premiums shown in all returns in respect of the preceding financial year;
 - (iii) For the purposes of this paragraph the amount of gross premiums shown in all returns excludes the amount of the portions of gross premiums returned by any insurance company which has failed within 45 days of the due date to pay the whole or any part of the provisional contributions payable by that insurance company under paragraph (b);
 - (iv) Unless section 78 or 80 of that Act applies, the amounts to be contributed under this paragraph are to be paid to the Authority in equal quarterly instalments on 1 October 1990, 1 January 1991 and 1 April 1991;

(e) For the purposes of section 80A (3) of that Act, in relation to insurance effected or renewed in the quarters beginning 1 January 1990 and 1 April 1990, "C" is 77.5 per cent of the total amount of contributions as determined by the Minister for that financial year and "T" is the total amount of the portions of gross premiums shown in the returns lodged by insurance companies under paragraph (a) for the year ending 31 December 1988; 5

(f) For the purposes of section 80A (3) of that Act, in relation to insurance effected or renewed in the quarter beginning 1 July 1990, "T" is the total amount of the portions of gross premiums shown in the returns lodged by insurance companies under paragraph (a) for the year ending 31 December 1989. 10

Amendments to contribution provisions of the *Metropolitan Fire Brigades Act 1958* 15

5. (1) In section 37 (2) of the *Metropolitan Fire Brigades Act 1958* for "sub-section (1)" substitute "sub-sections (1) (a) and (1) (b)".

(2) For sections 40, 41, 42 and 43 of the *Metropolitan Fire Brigades Act 1958* substitute— 20

Returns of premiums

"40. (1) Each insurance company must before 15 August in each year lodge with the Board a return in the prescribed form showing the portion of the total amount of the gross premiums received by or due to the insurance company during the preceding financial year as is properly attributable to insurance against fire in respect of property situated in the metropolitan district. 25

(2) The gross premiums shown in the return must include any commission or discount but exclude any amounts received by or due to the insurance company in respect of re-insurance contracts or agreements. 30

(3) The return must include a statutory declaration made by the manager, secretary, agent or other person for the time being performing the duties of the manager, secretary or agent of the company to the effect that according to the books of the company and to the best of his or her knowledge and belief the return contains a true statement of the amount of gross premiums." 35

Determination of provisional contributions

"40A. The Board must issue a determination of the provisional contribution of each insurance company as follows: 40

(a) For the quarter beginning 1 July—

(i) the aggregate of all provisional contributions by all insurance companies must equal 25% of the total

amount to be contributed by insurance companies under section 37 (1) (c); and

(ii) the portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the previous preceding financial year; and

(iii) the amounts of provisional contributions are to be paid to the Board by 1 July;

(b) For the quarters beginning 1 October, 1 January and 1 April—

(i) the aggregate of all provisional contributions by all insurance companies must equal 75% of the total amount to be contributed by insurance companies under section 37 (1) (c); and

(ii) the portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premium shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the preceding financial year; and

(iii) for the purposes of this paragraph the amount of gross premiums shown in all returns excludes the amount of gross premiums returned by any insurance company which has failed within 45 days of the due date to pay the whole or any part of the provisional contributions payable by that insurance company under paragraph (a); and

(iv) unless section 41 or 43 applies, the amounts to be contributed under this paragraph are to be paid to the Board in equal quarterly instalments on 1 October, 1 January and 1 April in each financial year.”.

Determination of final contributions

“40B. (1) The Board must issue a determination of the final contribution of each insurance company for the financial year in respect of which the return is lodged in accordance with the following:

(a) In the case of an insurance company which has lodged a return in respect of that financial year but was not

was not required to lodge a return in respect of the preceding financial year, the final contribution equals—

$$\frac{C}{Pa} \times Pi;$$

- (b) In the case of an insurance company which has paid only part of its provisional contributions or has not paid any of its provisional contributions, the final contribution in respect of payments made or payable under any notice issued under section 41 (3), 41 (4) (a), 41 (5) (d), 43 (1) (b) or 45 (b) in respect of that financial year equals— 5 10

$$\left[\frac{C}{T} \times Pi \right] \times [1 - A];$$

- (c) In the case of an insurance company which has paid all or only part of its provisional contributions, the final adjustment in respect of the provisional contributions paid equals— 15

$$\left[\frac{C}{T} \times Pi \right] \times A;$$

- (2) If as a result of the issue of a determination of the final contribution, the contributions paid by an insurance company in respect of a financial year are more or less than the final contribution, the instalment due for the quarter beginning 1 October or, if section 41 (3), 41 (4) or 41 (5) applies, the quarter beginning 1 January, in the financial year in which the return is lodged must be adjusted as follows: 20 25

- (a) In the case of an insurance company which has paid all of its provisional contributions, the amount under sub-section (1) (c) less $(X + Z_1)$;
(b) In the case of an insurance company which has paid only part of its provisional contributions or has not paid any of its provisional contributions, the amount under sub-section (1) (b) less $(Y + Z_2)$; 30

- (3) In this section—

“A” means the proportion of provisional contributions paid by an insurance company under section 40A. 35

“C” means the total amount required to be contributed by all insurance companies under section 37.

“Pa” means the sums of the amounts of the portions of gross premiums specified in the return of each insurance company multiplied by the proportion of provisional contributions paid by each insurance company under section 40A added to the sum of the amounts of the portions of gross premiums specified 40

in the return of each insurance company which has made a return in respect of that financial year but which was not required to lodge a return in respect of the preceding financial year.

5 “Pi” means the amount comprising the portion of gross premiums specified in the return of the insurance company whose final contribution is being determined.

10 “T” means the total amount of the portions of gross premiums shown in the returns of all insurance companies.

 “X” means the total amount of provisional contributions paid by the insurance company whose final contribution is being determined.

15 “Y” means the total amount of all payments made or payable by the insurance company whose final contribution is being determined under any notice issued under section 41 (3), 41 (4) (a), 41 (5) (d) or 43 (1).

20 “Z” means the amount paid or payable by an insurance company under any notice issued under section 45 (b) in respect of the financial year for which a final contribution is being determined, multiplied by A.

25 “Z₂” means the amount paid or payable by an insurance company under any notice issued under section 45 (b) in respect of the financial year for which a final contribution is being determined, multiplied by $X(1 - A)$.”.

Penalties in relation to returns

30 “41. (1) Any insurance company which fails to lodge a return before 15 August is guilty of an offence and liable to a penalty of not more than 10 penalty units and a further penalty of 1 penalty unit for each day after 15 August during which the return is not lodged.

35 (2) Any insurance company which lodges a return which is incomplete is to be treated for the purposes of this section as not having lodged the return until it lodges a complete return.

40 (3) In addition to the penalty under sub-section (1), if an insurance company lodges a return after the Board has made its determinations of provisional contributions under section 40A (b) but before 1 October the Board may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company’s provisional contributions for the financial year in which the return is to be lodged had the return been lodged on or before 15 August within the period specified by the Board in the notice.

(4) In addition to the penalty under sub-section (1), if an insurance company lodges a return on or after 1 October—

- (a) the Board may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company's provisional contributions for the financial year in which the return is to be lodged had the return been lodged on or before 15 August within the period specified by the Board in the notice; and 5
- (b) the Board may charge the insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the balance of the insurance company's provisional contributions for the financial year in which the return is to be lodged as from 1 October. 10 15

(5) In addition to the penalty under sub-section (1), if an insurance company has not lodged a return by 1 October and in the opinion of the Board it is unlikely to do so the following apply: 20

- (a) The Board may estimate the portion of the total amount of gross premiums received by or due to the insurance company during the preceding financial year as is properly attributable to insurance against fire in the metropolitan area of Victoria on any basis which the Board considers reasonable in the circumstances; 25
- (b) For the purposes of this Act, the Board's estimation under paragraph (a) is deemed to constitute the insurance company's return;
- (c) For the purposes of determining the appropriate penalty under sub-section (1), the insurance company is deemed to have lodged its return with effect from the date on which the Board completes its estimation under paragraph (a); 30
- (d) The Board may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company's provisional contributions for the financial year in which the return is deemed to be lodged had the return been lodged on or before 15 August within the period specified by the Board in the notice; 35 40
- (e) The Board may charge the insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the balance of the insurance company's provisional contributions for the financial year in which the return is deemed to have been lodged as from 1 October." 45

Inspection of documents

“42. (1) The manager, secretary, agent or any other person having the custody of the documents of any municipal council or of any body corporate or unincorporate must allow any officer appointed by the Board to exercise the powers specified in sub-section (2) for the purpose of—

- (a) verifying any return or declaration made under this Act; or
- (b) determining whether the body corporate or unincorporate is carrying on the business of insurance against fire; or
- (c) ascertaining the details of any contract of insurance held by that body corporate or unincorporate and determining whether the body is liable to pay a contribution to the Board under section 44A; or
- (d) in the case of a municipal council, verifying any information provided by or contained in the documents or papers provided by the municipal council or its officers under section 38 (c).

(2) An officer appointed by the Board has power for the purposes of sub-section (1)—

- (a) to inspect any documents of the municipal council or body corporate or unincorporate during normal business hours; and
- (b) to make copies and take extracts from the documents; and
- (c) to require the manager, secretary, agent or other person to answer any questions or provide any information in relation to the inspection.

(3) A manager, secretary, agent or other person who does not comply with any requirement under this section is guilty of an offence and liable to a penalty of not more than 5 penalty units and a further penalty of 1 penalty unit for each day that the failure to comply continues.”.

Penalty for failure to make payment

“43. (1) If a municipal council or an insurance company does not pay any quarterly instalment or amount payable under sub-section (2), (3) or (4) within 14 days after it is due or after the date on which notice of demand is given (whichever is the later date)—

- (a) the municipal council or insurance company is guilty of an offence and liable to a penalty of 10 penalty units; and
- (b) the Board may by notice require the municipal council or insurance company to pay the balance of its

provisional contributions for the financial year to which the overdue instalment relates within the period specified by the Board in the notice; and

- (c) the Board may charge the municipal council or insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the outstanding instalment from the date on which it became due. 5
- (2) If an insurance company fails to pay within 45 days after the due date of the instalment for the quarter beginning 1 July any contribution assessed as being payable by the Board, the Board may increase in accordance with the method specified in section 40A (b) the provisional contributions that would otherwise have been payable by the other insurance companies in the quarters beginning 1 October, 1 January and 1 April of that financial year to meet the amount of the provisional contributions which the insurance company has failed to pay. 10 15
- (3) If an insurance company fails to pay 45 days after the due dates of the quarterly instalments for the quarters beginning 1 October and 1 January any contribution assessed as being payable by the Board, the Board may— 20
 - (a) re-calculate in accordance with the method specified in section 40A (b) the provisional contributions due by other insurance companies during the remainder of the financial year to meet the amount of the provisional contributions which the insurance company has failed to pay; and 25
 - (b) issue a new determination of the provisional contributions payable by each insurance company in the remaining quarters of that financial year. 30
- (4) If an insurance company fails to pay within 45 days after the due date of an instalment for the quarter beginning 1 April any contribution assessed as being payable to the Board, the Board may— 35
 - (a) re-calculate in accordance with the method specified in section 40A (b) the provisional contributions due by other insurance companies to meet the amount of the provisional contributions which the insurance company has failed to pay; and 40
 - (b) issue a notice of additional provisional contributions payable by each insurance company to meet the amount of the unpaid provisional contributions.”.

(3) For sections 44A and 45 of the *Metropolitan Fire Brigades Act* 1958 substitute—

Contributions by owners and brokers

“44A. (1) This section applies if property in the metropolitan district is insured against fire with an insurance company other than an insurance company required to make a return under section 40.

(2) Within 14 days after the insurance is effected or renewed—

(a) the broker through whom the insurance is effected or renewed; or

(b) if the insurance is not effected or renewed through a broker or is effected or renewed through a broker who does not carry on business in Victoria, the owner of the property so insured—

must comply with sub-section (3).

(3) The broker or owner must—

(a) lodge with the Board a return in the prescribed form showing the portion of the total amount of the premium paid to the insurance company as is properly attributable to insurance against fire; and

(b) pay to the Board as a contribution an amount equal to $\frac{C \times P}{T - C}$ together with an amount equal to one per cent

of the portion of the premium shown in the return.

Penalty: 10 penalty units and an additional penalty of double the amount that would have been payable under paragraph (b) if paragraph (b) had been complied with.

(4) In sub-section (3)—

“C” is the total amount required to be contributed to the Board by insurance companies under section 37 in the year in which the insurance is effected or renewed;

“P” is the amount comprising the portion of the premium shown in the return lodged under sub-section (3);

“T” is the total amount of the portions of gross premiums shown in the returns by insurance companies under section 40—

(a) for the previous preceding financial year, if the insurance is effected or renewed in the quarter of a financial year beginning 1 July; or

(b) for the preceding financial year, if the insurance is effected or renewed in the quarter of a financial year beginning 1 October, 1 January or 1 April.”.

Adjustment of contribution

“45. Despite anything in this Act, if the Board is satisfied that, whether by reason of any error in any return or otherwise, the amount contributed by any municipal council or insurance company is more or less than the proper contribution of that municipal council or insurance company— 5

- (a) the Board may require that municipal council or insurance company to submit an amended return; and
- (b) the Board may reduce or increase the amount of any subsequent contribution payable by that municipal council or insurance company, by the amount of the excess or deficiency, and that amount may be added to or deducted from the amount to be contributed by other municipal councils or insurance companies in any subsequent period; and 10 15
- (c) the Board may charge the municipal council or insurance company penalty interest at the rate for the time being fixed by the Governor in Council by Order in Council published in the *Government Gazette* on the amount of any deficiency with effect from the date upon which that amount would have become payable had the error not occurred. 20

Transitional provision

6. Despite anything to the contrary in the *Metropolitan Fire Brigades Act 1958* the following provisions apply: 25

- (a) By 31 March 1990 each insurance company must lodge with the Board a return in the prescribed form under section 40 of that Act relating to the year ending 31 December 1989 to enable the Board to make a determination of the provisional contribution for the quarter beginning 1 July 1990; 30
- (b) The Board must issue a determination of the provisional contribution of each insurance company for the quarter beginning 1 July as follows:
 - (i) The aggregate of all provisional contributions by all insurance companies must equal 25 percent of the total contributions under section 37 of that Act; 35
 - (ii) The portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the year ending 31 December 1989; 40
 - (iii) The amounts of provisional contributions are to be paid to the Board by 1 July 1990; 45

- 5 (c) By 15 August 1990 each insurance company must lodge with the Board a return in the prescribed form under section 40 of that Act relating to the financial year ending 30 June 1990 to enable the Board to make a determination of the provisional contributions for the quarters beginning 1 October 1990, 1 January 1991 and 1 April 1991;
- 10 (d) The Board must issue a determination of the provisional contribution of each insurance company for the quarters beginning 1 October 1990, 1 January 1991 and 1 April 1991 as follows:
- 15 (i) The aggregate of all provisional contributions by all insurance companies must equal 75 percent of the total amount to be contributed by insurance companies under section 37 of that Act;
- 20 (ii) The portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the preceeding financial year;
- 25 (iii) For the purposes of this paragraph the amount of gross premiums shown in all returns excludes the amount of gross premiums returned by any insurance company which has failed within 45 days of the due date to pay the whole or any part of the provisional contributions payable by that insurance company under paragraph (b);
- 30 (iv) Unless section 41 or 43 of that Act applies, the amounts to be contributed under this paragraph are to be paid to the Board in equal quarterly instalments on 1 October 1990, 1 January 1991 and 1 April 1991;
- 35 (e) For the purposes of section 44A (3) of that Act, in relation to insurance effected or renewed in the quarter beginning 1 July 1990, "T" is the total amount of the portions of gross premiums shown in the returns lodged by insurance companies under paragraph (a) for the year ending 31 December 1989.

Amendments to the *Fire Authorities Act* 1989

- 40 7. The *Fire Authorities Act* 1989 is amended as follows:
- (a) In section 17 after paragraph (a) insert—
- “(ab) In sub-section (4) for “Australian Standard 1019-1985” substitute “the standard prescribed under sub-section (5)”;
- 45 (b) In section 26 (3) (a) in the proposed paragraph (i) for “(i)” substitute “(g)”;

- (c) In section 26 (7) in the proposed section 97B (2) omit “the Transport Accident Commission”;
- (d) In section 44 (3) in the proposed section 55B (2) omit “the Transport Accident Commission”;
- (e) In section 49 (b) in the proposed paragraph (ba) omit “to the Transport Accident Commission”; 5
- (f) In the heading to Part 7 after “1986” insert “AND THE ACCIDENT COMPENSATION ACT 1985”
- (g) In section 52 after “52” insert “(1)”;
- (h) After section 52 (1) insert: 10
 - “(2) In section 99 of the *Accident Compensation Act* 1985—
 - (a) in sub-section (1) (a) after “reasonable costs of the” insert “road accident rescue services,”;
 - (b) in sub-section (2) after “reasonable costs of any” insert 15
“road accident rescue services,”.