

# **Fire Authorities (Amendment) Bill**

## **EXPLANATORY MEMORANDUM**

### **PART 1—PRELIMINARY**

- Clause 1 sets out the purposes of the Act, to amend the **Country Fire Authority Act 1958** and the **Metropolitan Fire Brigades Act 1958**.
- Clause 2 provides for the Act to come into operation as to Part 1 on Royal Assent and as to the remainder on a day or days to be proclaimed, with the whole Act to commence not later than 1 January 1998.

### **PART 2—AMENDMENT TO COUNTRY FIRE AUTHORITY ACT 1958**

- Clause 3 provides that the **Country Fire Authority Act 1958** is the Principal Act.
- Clause 4 includes definitions of "designated area", "industry brigade" and "senior employee" and amendments to definitions in the Act.
- Clause 5 provides the Minister with a power of direction over the Authority.
- Clause 6 provides a power to the Authority to transfer employees.
- Clause 7 inserts a new section 23AA to provide for the formation of industry brigades in accordance with regulations, at the request of the Authority and the expense of the owner of designated land. The owner may appeal to the Administrative Appeals Tribunal. The Authority may form an industry brigade on owner's failure or request to do so. Owner is defined to include occupiers and forest property owner.
- Clause 8 inserts a provision for municipal fire prevention committee to advise municipal council on its preparation of a municipal fire prevention plan.
- Clause 9 inserts a new sections 55A and 55B. Section 55A provides for the preparation of a municipal fire prevention plan by the municipal council and section 55B provides for the audit of the plan by the Authority.
- Clause 10 substitutes Part VA—Appeals in the Principal Act as follows—
- Section 74A establishes a Country Fire Authority Appeals Commission.
- Section 74B provides the function of the Commission is to hear appeals.

Section 74C provides for up to 3 Commissioners appointed by the Governor in Council.

Section 74D provides a term of appointment of Commissioners of up to 3 years.

Section 74E provides for remuneration to be fixed by the Governor in Council.

Section 74F excludes the application of the **Public Sector Management Act 1992** to Commissioners.

Section 74G provides for vacation of office of a Commissioner.

Section 74H requires the Commissioner to report annually to the Minister.

Section 74I sets out an officer's or employee's right of appeal against suspension or removal and against a transfer exceeding 6 months and promotions.

Section 74J provides for an appeal to be by way of re-hearing.

Section 74K provides for an appeal to be heard by the full Commission or by a Commissioner sitting alone.

Section 74L provides for the Commissioner to be assisted by persons nominated by the Authority and the Appellant.

Section 74M provides for the procedures before the Commission.

Section 74N provides powers to the Commission on the hearing of an appeal.

Section 74O provides that parties to an appeal bear their own costs.

Section 74P provides for appeals against transfer and when they can be brought.

Section 74Q provides that appeals against promotions are determined on grounds of merit.

Section 74R specifies that determinations available to the Commission.

Section 74S provides that the Authority and the Chief Officer must give effect to the determination.

Section 74T provides for recognition of the Commission's determinations.

Clause 11 inserts new provisions allowing Regulations to be made for determining senior positions and for regulating Appeals to the Appeal Commission.

It also inserts provisions allowing Regulations to be made specifying the criteria for and method of designating areas for industry brigades, when they should be formed and providing for their performance, responsibilities, training and monitoring and for their cancellation.

It further provides for prescribing the matters to be included in municipal fire prevention plans.

Clause 12 makes clear which provisions of the Principal Act are not to apply to industry brigades.

It also amends the definition of casual firefighters to include a member of an industry brigade when firefighting other than with the industry brigade.

Clause 13 provides for transitional arrangements relating to the Appeal Commission.

Clause 14 is a statute law revision amendment.

### **PART 3—AMENDMENT TO THE METROPOLITAN FIRE BRIGADES ACT 1958**

Clause 15 provides that the **Metropolitan Fire Brigades Act 1958** is the Principal Act.

Clause 16 inserts the purposes of the Act to provide fire safety, fire suppression and prevention and emergency response services and to establish the Metropolitan Fire and Emergency Services Board.

Clause 17 provides definitions including the meaning of emergency.

Clause 18 substitutes a heading of Metropolitan Fire and Emergency Services Board.

Clause 19 repeals sections 6 to 21 of the **Metropolitan Fire Brigades Act 1958** and substitutes sections which provide for the establishment of the Metropolitan Fire and Emergency Services Board, the functions of the Board, its accountability, constitution, term of appointment of members, remuneration, acting members, entitlement to hold other office and Board decisions, immunity of members, meetings, participation in Board meetings, resolutions without meetings and conflicts of interest.

Clause 20 repeals sections 22 and 23 of the Act.

Clause 21 substitutes the new name of the Board in section 24A(2)(b) of the Act.

- Clause 22 substitutes section 24B and provides a power of delegation in new format.
- Clause 23 repeals section 25 of the Act, relating to duties of the Board.
- Clause 24 substitutes section 25A(4) of the Act and incorporates reference to units and inserts a new section 25(4A) permitting the Board to enter into agreements and arrangements to provide consultancy services.
- Clause 25 inserts a provision relating to employees of the Board.
- Clause 26 substitutes section 26 of the Act and provides for the formation of units.
- Clause 27 substitutes a new heading of Chief Executive Officer and Chief Officer.
- Clause 28 repeals sections 28, 29, 30 and 31 of the Act and substitutes sections which provide for the appointment of a Chief Executive Officer, an Acting Chief Executive officer and a Chief Officer and the powers of delegation of the Chief Executive Officer.
- Clause 29 substitutes section 32B(1) and (2) of the Act in new format as a result of changes in terminology and substitutes in section 32B(3)(5) and (6) references to senior members of the operational staff and units.
- Clause 30 substitutes section 32C(1) and provides a new format for powers of Chief Officer relating to property damaged by fire.
- Clause 31 in section 32D(1) of the Act substitutes unit for brigade and member of the operational staff for officer.
- Clause 32 repeals a heading and section 33A.
- Clause 33 inserts regulation making powers in section 34(1) of the Act and repeals powers which have been superseded.
- Clause 34 repeals section 35 of the Act.
- Clause 35 substitutes section 52 of the Act which provides for registration of units.
- Clause 36 repeals section 53 of the Act.
- Clause 37 substitutes new sections 54 and 54A dealing with damage to property and immunity from liability.
- Clause 38 substitutes section 55D to set out the Board's power to provide emergency prevention and response services.

- Clause 39 provides a power for Minister to direct the Board to provide an emergency response service outside the metropolitan fire district.
- Clause 40 substitutes section 56 of the Act to set out the Board's powers in relation to its functions under sections 55 to 55E of the Act.
- Clause 41 repeals section 57.
- Clause 42 substitutes section 58(1) and provides power to member of unit and police power to remove person from burning premises.
- Clause 43 provides for inclusion of operational staff and units in section 59.
- Clause 44 substitutes section 61 and provides in new format for police to aid units.
- Clause 45 repeals section 62 of the Act.
- Clause 46 amends section 70(1) to insert new terminology.
- Clause 47 substitutes section 72(3) in new format as a result of changes in terminology.
- Clause 48 amends section 75A(c) to include member of a unit in relation to offence of impersonation.
- Clause 49 amends section 77(1)b, 77(2) and 77(3)(b) to insert new terminology.
- Clause 50 repeals section 78.
- Clause 51 amends section 78A to insert new terminology.
- Clause 52 substitutes section 78B and provides for laying of charges on disciplinary matters. It also inserts section 78C which provides for the hearing of charges, section 78D which provides for the Chief Executive Officers decision and section 78E which provides for suspension of pay.
- Clause 53 substitutes a new heading of Metropolitan Fire Brigades Appeals Commission.
- Clause 54 substitutes section 79 which provides for establishment of Appeals Commission and inserts new sections 79A, 79B, 79C, 79D, 79E, 79F and 79G which provide for the Commission's function, membership, terms of appointment, remuneration and allowances, application of the **Public Sector Management Act 1992**, vacancies and Annual Report.
- It also inserts new sections 79H, 79I, 79J, 79K, 79L, 79M, 79N, 79O, 79P, 79Q, 79R and 79S which provide for the manner of appeals, the proceedings of the Commission, assistants to the Commission, procedure on appeal,

Commission powers, costs, appeals against transfer, promotion appeals, the determination of the Commission, its effect and evidence.

Clause 55 repeals section 81(5), 81(6), 83, 85 and 86.

Clause 56 amends superseded references to Chief Fire Officer.

Clause 57 amends superseded references to the term officer.

Clause 58 substitutes references to brigades by units.

Clause 59 is a statute law revision amendment.

Clause 60 inserts a new section 94 which provides for the limitation of the jurisdiction of the Supreme Court.

It also inserts the following new sections—

section 95 which provides for superseded references.

section 96 which provides transitional arrangements for the Board.

section 97 which provides transitional arrangements for the Chief Fire Officer

section 97 which provides transitional arrangements for appeals.