



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1981

No. 68 of 1981**An Act to amend the Fire Brigades Act, 1936-1976.***[Assented to 22 October 1981]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Fire Brigades Act Amendment Act, 1981".

(2) The Fire Brigades Act, 1936-1976, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Repeal of s. 1 and substitution of new section.

3. Section 1 of the principal Act is repealed and the following section is substituted:

Short title.

1. This Act may be cited as the "South Australian Metropolitan Fire Service Act, 1936-1981".

Amendment of s. 4—Arrangement of Act.

4. Section 4 of the principal Act is amended—

(a) by striking out the item:

PART II—Constitution, duties and powers of the board.

and substituting the item:

PART II—administration.;

and

(b) by striking out the item:

PART VI—Contributions to the board.

and substituting the item:

PART VI—Contributions towards the cost of administration of this Act.

5. The following section is inserted after section 4 of the principal Act:

Insertion of
new section.

4a. (1) All property, rights and liabilities vested in or attached to The Fire Brigades Board immediately before the commencement of the Fire Brigades Act Amendment Act, 1981, shall, upon the commencement of that Act, vest in, or attach to, the Corporation.

Transitional
provision.

(2) A reference in any Act, regulation, rule, by-law or document to The Fire Brigades Board shall, where the context admits, be construed as a reference to the Corporation.

(3) A person who was immediately before the commencement of the Fire Brigades Act Amendment Act, 1981, employed by The Fire Brigades Board shall become, upon the commencement of that amending Act, an officer or employee of the Corporation without loss of salary or status and without prejudice to his existing and accruing rights in relation to his employment.

6. Section 5 of the principal Act is amended—

Amendment of
s. 5—
Interpretation.

(a) by striking out the definitions of “board”, “by-law” and “chairman”;

(b) by striking out the definition of “chief officer” and substituting the following definitions:

“the Chief Officer” means the person for the time being holding, or acting in, the office of Chief Officer under this Act:

“commanding officer” means the Chief Officer or any other officer—

(a) to whom command of a fire brigade has been assigned by the Chief Officer;

(b) to whom control of operations at the scene of a fire has been assigned by the Chief Officer;

or

(c) to whom responsibility for investigating and reporting on the cause of a fire has been assigned by the Chief Officer;

(c) by striking out from the definition of “contributory company” the passage “the board” and substituting the passage “the Corporation”;

(d) by inserting after the definition of “contributory company” the following definition:

“the Corporation” means the body corporate entitled the “South Australian Metropolitan Fire Service” established under this Act;

(e) by striking out the definition of “member”;

(f) by striking out the definition of “secretary”;

and

(g) by striking out from the definition of “this Act” the passage “and by-laws”.

Repeal of
ss. 6 and 7
and substitution
of new section.

7. Sections 6 and 7 of the principal Act are repealed and the following section is substituted:

Establishment,
etc., of fire
districts.

6. (1) The Governor may, by proclamation—

- (a) constitute a fire district;
- (b) alter the boundaries of a fire district;

or

(c) abolish a fire district.

(2) A fire district must be constituted of land within the area of a council, or within the areas of a number of councils.

(3) Before a proclamation is made under this section at least one month's notice of the terms of the proposed proclamation must be given to any council affected by the proposal.

Substitution
of heading.

8. The heading immediately preceding section 8 of the principal Act is repealed and the following heading is substituted:

PART II ADMINISTRATION

Repeal of
ss. 8 to 33
and substitution
of new
sections.

9. Sections 8 to 33 (inclusive) of the principal Act are repealed and the following sections are substituted:

Establishment
of the
Corporation.

8. (1) There shall be a corporation entitled the "South Australian Metropolitan Fire Service".

(2) The Corporation shall be constituted of the Minister.

(3) A document purporting to bear the common seal of the Corporation and to be signed by the Minister or a delegate of the Minister shall be presumed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed by the Corporation.

Functions
and powers
of the
Corporation.

9. (1) The functions of the Corporation are as follows:

(a) to provide efficient fire fighting services in fire districts;

and

(b) to provide services with a view to preventing the outbreak of fire in fire districts.

(2) For the purposes of carrying out those functions, the Corporation may—

(a) establish and maintain fire stations and fire brigades;

(b) provide and maintain proper appliances and equipment for fire stations and fire brigades;

(c) acquire, hold, deal with and dispose of real and personal property;

(d) borrow moneys from the Treasurer, or, with the consent of the Treasurer, from any other person;

(e) enter into any other kind of contract or arrangement;

and

(f) exercise any other powers that are necessary for, or incidental to, the efficient discharge of its functions.

10. (1) The Corporation may delegate to the Chief Officer, or any other person, any of its powers or functions under this Act. Delegation.

(2) A delegation under this section is revocable at will and does not derogate from the power of the Corporation to act in any matter itself.

11. (1) The Corporation shall cause proper accounts to be kept of its financial affairs. Accounts and audit.

(2) The accounts of the Corporation shall be audited annually by the Auditor-General.

12. (1) On or before the 30th day of September in each year the Corporation shall cause a report on the administration of this Act during the preceding financial year to be prepared. Annual report.

(2) The Minister shall cause a copy of the report prepared under subsection (1) together with the audited accounts of the Corporation to be laid before each House of Parliament.

10. Section 34 of the principal Act is amended by striking out the passage "The board" and substituting the passage "The Corporation". Amendment of s. 34—
Power to establish and maintain salvage corps.

11. Section 35 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "subject to any by-laws" and substituting the passage "subject to this Act"; Amendment of s. 35—
Fire brigade to assist salvage corps.

and

(b) by striking out from subsections (2) and (3) the passage "the board", wherever it occurs, and substituting in each case, the passage "the Corporation".

12. Section 36 of the principal Act is amended—

(a) by striking out the passage "the board" and substituting the passage "the Corporation"; Amendment of s. 36—
Inspection of salvage corps.

and

(b) by striking out the passage "any by-laws" and substituting the passage "any provision of this Act".

13. Section 37 of the principal Act is amended by striking out from subsection (2) the passage "by by-law" and substituting the passage "by the regulations". Amendment of s. 37—
Registration of volunteer fire brigades.

14. Section 39 of the principal Act is amended by striking out the word "board" wherever it occurs and substituting, in each case, the word "Corporation". Amendment of s. 39—
Payment for services of volunteer fire brigades.

15. Sections 40, 41, 42 and 43 of the principal Act are repealed and the following sections are substituted: Repeal of ss. 40, 41, 42 and 43 and substitution of new sections.

40. (1) The Corporation shall have the following officers—

(a) the Chief Officer;

Officers and employees of the Corporation.

(b) the Deputy Chief Officer;

and

(c) such other officers as the Corporation thinks fit to appoint.

(2) The Corporation may appoint such employees as it thinks fit.

(3) In the absence of the Chief Officer, or in the event of his being unable to carry out his duties, the Deputy Chief Officer shall act in the office of Chief Officer and shall have all the powers and functions of the Chief Officer.

(4) The Corporation may appoint a suitable person to act in an office or position (other than the office of Chief Officer) in the absence of the person appointed to that office or position, or in the event of his being unable to carry out his duties.

(5) An officer or employee of the Corporation shall carry out the directions—

(a) of the Corporation;

and

(b) of any officer—

(i) to whom he is responsible by virtue of this Act;

or

(ii) who has been placed in a position of authority over him by the Corporation.

(6) The terms and conditions of employment of an officer or employee of the Corporation shall, subject to the terms of any relevant industrial award or agreement, be determined by the Corporation.

(7) A person shall not be appointed by the Corporation as Chief Officer, or Deputy Chief Officer, without the approval of the Governor.

Responsibilities
of the Chief
Officer.

41. (1) The Chief Officer is responsible to the Corporation—

(a) to carry out the policies and implement the decisions of the Corporation;

(b) for the general administration of the business of the Corporation;

(c) for the discipline and control of the fire brigades maintained by the Corporation;

and

(d) to carry out responsibilities assigned to him by the Corporation.

Command of
fire brigades.

42. A fire brigade maintained by the Corporation shall be under the command of—

(a) the Chief Officer;

or

(b) a commanding officer who is responsible to the Chief Officer for the discipline and control of the fire brigade.

16. Section 45 of the principal Act is amended—
- (a) by striking out the passage “The chief officer shall, subject to any by-laws” and substituting the passage “A commanding officer shall, subject to the regulations,”;
- and
- (b) by striking out from paragraph VIII the passage “the board” and substituting the passage “the Corporation”.
- Amendment of s. 45—
Duties and powers of commanding officers.
17. Section 46 of the principal Act is amended by striking out the passage “The chief officer” and substituting the passage “A commanding officer”.
- Amendment of s. 46—
Power to remove flammable materials from building.
18. Section 47 of the principal Act is repealed.
- Repeal of s. 47.
19. Section 48 of the principal Act is amended—
- (a) by striking out from subsection (1) the passage “authorized in that behalf by the board” and substituting the passage “authorized by him”;
- (b) by striking out from paragraph (b) of subsection (1) the passage “the board” and substituting the passage “the Corporation”;
- and
- (c) by striking out subsection (2).
- Amendment of s. 48—
Power to inspect.
20. Section 49 of the principal Act is amended by striking out from subsection (1) the passage “The chief officer, or any officer authorized in that behalf by the board, shall, at all times, but subject to any by-laws” and substituting the passage “The Chief Officer, or any other officer authorized by him, may, subject to the regulations”.
- Amendment of s. 49—
Right of access to place where explosives or dangerous materials are stored.
21. Section 50 of the principal Act is repealed and the following section is substituted:
- Repeal of s. 50 and substitution of new section.
50. (1) Where there is a fire in a locality to which this Act applies, the Chief Officer, or in his absence, the most senior commanding officer at the scene of the fire shall have command of all fire brigades present at the scene of the fire.
- Chain of command in respect of fire-fighting operations.
- (2) Where a fire brigade is called to a fire that is outside the localities to which this Act applies, the commanding officer of the fire brigade shall forthwith inform the Director of Country Fire Services—
- (a) of the fact that the fire brigade has been called to the fire;
- (b) of the position of the fire;
- and
- (c) whether or not the fire brigade is proceeding to the fire in response to the call.
22. Section 51 of the principal Act is amended—
- Amendment of s. 51—
Power to proceed beyond limits of municipality or district.
- (a) by striking out from subsection (1) the passage “The chief officer” and substituting the passage “A commanding officer”;

(b) by striking out from subsection (1) the passage "by the board, with their engines, hoses, reels, horses, vehicles, escapes, and other appliances" and substituting the passage "by the Corporation with their appliances and equipment";

(c) by striking out from subsection (2) the passage "the board" wherever it occurs and substituting, in each case, the passage "the Corporation";

and

(d) by striking out subsection (2a).

Amendment of
s. 52—
Police to
recognize
authority of
Chief Officer
and
commanding
officers.

23. Section 52 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "chief officer" and substituting the passage "Chief Officer and commanding officers";

and

(b) by striking out from subsection (2) the passage "chief officer" wherever it occurs and substituting, in each case, the passage, "Chief Officer or a commanding officer".

Substitution
of heading.

24. The heading immediately preceding section 53 of the principal Act is repealed and the following heading is substituted:

PART VI
CONTRIBUTIONS TOWARDS THE COST OF ADMINISTRATION
OF THIS ACT

Amendment of
s. 53—
Yearly estimate
of expenditure.

25. Section 53 of the principal Act is amended—

(a) by striking out subsections (1), (2) and (3) and substituting the following subsections:

(1) In the month of May of each year, the Corporation shall prepare an estimate of the costs to be incurred by it during the next financial year in the administration of this Act.

(2) The estimated amount shall be apportioned as the Corporation thinks just to each fire district, and to each municipality or district, or part of a municipality or district, within each fire district.

(3) A council becomes liable to contribute under this Act towards such proportion of the estimated costs of administering this Act as relates to its area or portion of its area.

(3a) The Corporation shall forward to each council a statement of the amount towards which it becomes liable to contribute under subsection (3).;

and

- (b) by striking out from subsection (4) the passage "expenditure of the board in any year" and substituting the passage "estimate prepared under subsection (1)".

26. Section 54 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage "the board" and substituting the passage "the Corporation";
- (b) by striking out from subsection (4) the passage "the board" wherever it occurs and substituting, in each case, the passage "the Corporation";
- (c) by striking out from subsection (8) the passage "the board" and substituting the passage "the Corporation";
- (d) by striking out from subsection (8) the passage "the chairman and the secretary" and substituting the passage "an officer of the Corporation";
- and
- (e) by striking out from subsection (9) the passage "the board" and substituting the passage "the Corporation".

Amendment of s. 54—
Contributions to the expenditure of the Corporation.

27. Section 55 of the principal Act is amended by striking out the passage "the board" and substituting the passage "the Corporation".

Amendment of s. 55—
Contributions by new companies

28. Section 58 of the principal Act is amended by striking out from subsections (1) and (3) the word "board" wherever it occurs and substituting, in each case, the word "Corporation".

Amendment of s. 58—
Returns by insurance companies.

29. Section 59 of the principal Act is amended by striking out from subsection (1) the passage "the board" and substituting the passage "the Corporation".

Amendment of s. 59—
Inspection of books.

30. Section 60 of the principal Act is amended by striking out from subsection (1) the passage "the board" wherever it occurs and substituting, in each case, the passage "the Corporation".

Amendment of s. 60—
Returns by councils.

31. Section 60a of the principal Act is amended—

- (a) by striking out from paragraphs (a) and (b) of subsection (1) the passage "the board" wherever it occurs and substituting, in each case, the passage "the Corporation";
- (b) by striking out from subsection (3) the passage "the board" where it occurs for the first time and substituting the passage "the Corporation";
- (c) by striking out from subsection (3) the passage "the chairman of the board and the secretary" and substituting the passage "an officer of the Corporation";
- and
- (d) by striking out from subsections (4) and (6) the passage "the board" wherever it occurs and substituting, in each case, the passage "the Corporation".

Amendment of s. 60a—
Contributions where insurer outside the State.

Amendment of
s. 61—
Brigades may
be employed
on special
services.

32. Section 61 of the principal Act is amended by striking out the word “board” wherever it occurs and substituting, in each case, the word “Corporation”.

Repeal of
s. 62 and
substitution
of new section.

33. Section 62 of the principal Act is repealed and the following section is substituted:

Uniforms.

62. The Corporation may furnish its officers and employees with such uniform as it thinks suitable.

Amendment of
s. 65—
Disconnection
of gas or
electricity.

34. Section 65 of the principal Act is amended—

(a) by striking out the passage “artificial light” wherever it occurs and substituting, in each case, the word “electricity”;

and

(b) by striking out the passage “the chief officer” and substituting the passage “the commanding officer”.

Amendment of
s. 66—
Offences.

35. Section 66 of the principal Act is amended—

(a) by striking out paragraph (a) and substituting the following paragraph:

(a) wilfully obstructs, hinders, delays or interferes with an officer or employee of the Corporation, or a person acting under the authority of the Corporation or an officer of the Corporation, in the exercise or discharge of any power or duty under this Act;

and

(b) by striking out from paragraphs (b), (c) and (d) of subsection (1) the passage “the board” wherever it occurs and substituting, in each case, the passage “the Corporation”;

Amendment of
s. 69—
Payment of
expenses where
ship or
property
uninsured.

36. Section 69 of the principal Act is amended—

(a) by striking out the passage “the board” wherever it occurs in subsections (1), (1a) and (4) and where it occurs for the first time in subsection (2) and substituting, in each case, the passage “the Corporation”;

and

(b) by striking out from subsection (2) the passage “The board’s apportionment, when intimated to the parties by writing under the seal of the board” and substituting the passage “The Corporation’s apportionment when intimated to the parties by instrument in writing under the hand of an officer of the Corporation”.

Amendment of
s. 70—
Duty to give
information
as to
insurance.

37. Section 70 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The owner of property that is destroyed or damaged by fire shall, at the request of any officer of the Corporation, inform him whether the property was insured, and if so, the name of the insurer and the amount of the insurance.

- 38.** Section 71 of the principal Act is amended by striking out the passage “the board, or by the chief officer or any member of a brigade” and substituting the passage “the Corporation, or by an officer or employee of the Corporation or any other person acting in pursuance of an authority conferred under this Act”.
- Amendment of s. 71—
Damage done to be within policy.
- 39.** Section 72 of the principal Act is repealed and the following section is substituted:
- Repeal of s. 72 and substitution of new section.
- 72.** The Corporation is entitled to be heard at any inquest into the causes of a fire and may be represented at the inquest by counsel or by one of its officers.
- Inquests.
- 40.** Section 73 of the principal Act is amended—
- Amendment of s. 73—
Debris of fire may be searched.
- (a) by striking out from subsection (1) the passage “or any officer, servant, or agent of the board” and substituting the passage “or any officer or employee of the Corporation”;
- and
- (b) by striking out from subsections (1) and (2) the passage “the board” wherever it occurs and substituting, in each case, the passage “the Corporation”.
- 41.** Section 74 of the principal Act is repealed.
- Repeal of s. 74.
- 42.** Section 75 of the principal Act is amended—
- Amendment of s. 75—
Power to take property that is unlawfully detained.
- (a) by striking out the passage “, or any officer, servant, or agent of the board” and substituting the passage “or any officer or employee of the Corporation”;
- and
- (b) by striking out the passage “the board” wherever it occurs and substituting, in each case, the passage “the Corporation”.
- 43.** Section 76 of the principal Act is amended—
- Amendment of s. 76—
Report of fire.
- (a) by striking out from subsection (1) the passage “chief officer or foreman” and substituting the passage “commanding officer”;
- (b) by striking out from subsections (1) and (2) the passage “the board” wherever it occurs and substituting, in each case, the passage “the Corporation”;
- and
- (c) by striking out from subsection (2) the passage “, or the secretary,”.
- 44.** Section 77 of the principal Act is amended—
- Amendment of s. 77—
Regulations.
- (a) by striking out subsection (1) and substituting the following subsections:
- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(1a) Without limiting the generality of subsection (1), the regulations may—

- (a) provide for the discipline of fire brigades, and of the officers and other members of fire brigades;
- (b) provide for the registration of voluntary fire brigades;
- (c) provide for payment to any person for voluntary or special services rendered to a fire brigade;
- (d) make any provision necessary or expedient for the prevention, extinction or containment of fire, or for the protection of persons or property in the event of fire.;

and

(b) by inserting after subsection (2) the following subsection:

(3) Any by-laws in force under this Act immediately before the commencement of the Fire Brigades Act Amendment Act, 1981, shall be deemed to be regulations under this section.

Repeal of
s. 79.

45. Section 79 of the principal Act is repealed.

Repeal of
s. 80.

46. Section 80 of the principal Act is repealed.

Repeal of
s. 81.

47. Section 81 of the principal Act is repealed.

Amendment of
s. 83—
Financial.

48. Section 83 of the principal Act is amended—

(a) by striking out the passage “the board” (firstly and thirdly occurring) and substituting, in each case, the passage “the Corporation”;

and

(b) by striking out the passage “the board” (secondly occurring) and substituting the word “it”.

Repeal of
third schedule.

49. The third schedule to the principal Act is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor