

FIRE SERVICE AMENDMENT ACT 1986

No. 60 of 1986

TABLE OF PROVISIONS

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Principal Act. 4. Amendment of section 8 of Principal Act (Functions and powers of Commission). 5. Amendment of section 36 of Principal Act (Auxiliary fire brigade). 6. Amendment of section 49 of Principal Act (Fire hazards). 7. Amendment of section 55 of Principal Act (Hobart special fire area). 8. Amendment of section 78 of Principal Act (Application of Division 3 of Part VI). 9. Amendment of section 81D of Principal Act (Fixing of rate of levy). 10. Substitution of section 82 of Principal Act. 82—Persons required to pay levy. | <ol style="list-style-type: none"> 11. Repeal of section 83 of Principal Act (Persons required to pay levy in respect of land in the cities of Hobart and Launceston). 12. Substitution of section 88 of Principal Act. 88—Exemptions from fire protection levies. 13. Amendment of section 95 of Principal Act (Pensioners' rebates). 14. Amendment of section 109 of Principal Act (Charges for services at fires). 15. Amendment of section 118 of Principal Act (Evidence as to certain matters). 16. Amendment of section 121 of Principal Act (Liability of Commission, &c.). 17. Savings provisions. 18. Validations. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

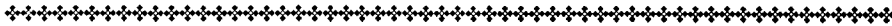


FIRE SERVICE AMENDMENT ACT 1986

—————
 No. 60 of 1986
 —————

AN ACT to amend the Fire Service Act 1979.

[Royal Assent 4 August 1986]



BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Fire Service Amendment Act* Short title. 1986.

2—(1) Except as provided in subsection (2), this Act shall Commence- commence on the day on which it receives the Royal assent. ment.

(2) Sections 8, 11, 14, and 17 shall be deemed to have commenced on 1st July 1985.

3—In this Act, the *Fire Service Act 1979** is referred to as the Principal Act. Principal Act.

* No. 35 of 1979. For this Act, as amended up to and including 30th April 1981, see the continuing Reprint of Statutes. Subsequently amended by Nos. 73 and 74 of 1981, Nos. 9 and 10 of 1982, Nos. 22, 24, 61, and 88 of 1983, Nos. 29, 34, and 81 of 1984, and Nos. 10, 31, and 51 of 1985.

Amendment of section 8 of Principal Act (Functions and powers of Commission).

4—Section 8 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) Without prejudice to the generality of paragraph (c) of subsection (1), the function referred to in that paragraph includes the establishment and maintenance by the Commission of effective training programmes for members of brigades in hazard reduction burning.

Amendment of section 36 of Principal Act (Auxiliary fire brigade).

5—Section 36 of the Principal Act is amended by omitting subsections (6), (8), and (9).

Amendment of section 49 of Principal Act (Fire hazards).

6—Section 49 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) “ or an authorized officer ” after “ the Commission ”, where firstly occurring;
- (b) by inserting in subsection (1) “ or authorized officer ” after “ the Commission ”, where secondly and thirdly occurring;
- (c) by inserting in subsection (5) “ or an authorized officer ” after “ the Commission ”, where firstly occurring;
- (d) by inserting in subsection (5) “ or authorized officer ” after “ the Commission ”, where secondly occurring;
- (e) by inserting in subsection (6) “ or an authorized officer ” after “ the Commission ”, where firstly occurring;
- (f) by inserting in subsection (7) “ or an authorized officer ” after “ the Commission ”, where firstly occurring;
- (g) by omitting from subsection (8) “, during a period that is declared, pursuant to this Act, to be a fire permit period in relation to any part of the State,” and “ within that part of the State ”;
- (h) by adding the following subsection after subsection (11):—

(12) In this section, “ authorized officer ” means an officer of the Commission authorized in writing by the Commission to give notices under this section.

Amendment of section 55 of Principal Act (Hobart special fire area).

7—Section 55 (3) of the Principal Act is amended as follows:—

- (a) by omitting paragraph (b) and substituting the following paragraph:—

- (b) 1 shall be an officer of the Commission, nominated by the Director of Country Fire Brigades, who shall be the executive officer of the committee;
- (b) by omitting from paragraph (d) “ an engineer ” and substituting “ a person ”;
- (c) by inserting the following paragraph after paragraph (e):—
- (ea) 1 shall be a person nominated by the corporation of the municipality of New Norfolk;
- (d) by omitting from paragraph (g) “ Brigades; and ” and substituting “ Brigades;”;
- (e) by omitting from paragraph (b) “ Brigades,” and substituting “ Brigades;”;
- (f) by inserting the following paragraphs after paragraph (b):—
- (i) 1 shall be the Chief Officer of the Fern Tree Volunteer Urban Fire Brigade; and
- (j) 3 shall be the group captains of the groups of brigades,

8—Section 78 (1) (a) of the Principal Act is amended by omitting “ subject to section 82,”.

Amendment of section 78 of Principal Act (Application of Division 3 of Part VI).

9—(1) Section 81D (1) of the Principal Act is amended by omitting “A” and substituting “ Subject to subsection (1A), a ”.

Amendment of section 81D of Principal Act (Fixing of rate of levy).

(2) Section 81D of the Principal Act is further amended by inserting the following subsection after subsection (1):—

(1A) Where a volunteer member urban fire brigade is established in a district, the fire protection levy for the financial year ending on 30th June 1987 or a subsequent financial year in respect of urban land in that district may, instead of being based on the assessed annual value of the land as at the beginning of the immediately preceding financial year, be based on that value less such amount as is determined by the Commission.

Substitution of
section 82 of
Principal Act.

10—Section 82 of the Principal Act is repealed and the following section is substituted:—

Persons
required to
pay levy.

82—(1) Subject to this Division, the person primarily responsible for a fire protection levy levied in respect of any land, for the financial year ending on 30th June 1986 or a subsequent financial year, shall be the owner of the land.

(2) For the purposes of subsection (1), the owner of land is the person named as owner of that land in the latest complete valuation list, and all valuation lists supplementary to that list, furnished, pursuant to section 42 of the *Land Valuation Act* 1971, to the corporation of the municipality in which that land is situated.

(3) A fire protection levy payable in respect of land for a financial year referred to in subsection (1) shall be paid by the occupier of the land and not by the owner of the land—

(a) where the owner of the land cannot be found by, or is not known to, the corporation of a municipality;
or

(b) where the land is owned by the Crown and is subject to a contract of sale, lease, or licence under the *Crown Lands Act* 1976.

(4) Where a fire protection levy is imposed on land owned by a corporation of a municipality, the levy shall be paid by the occupier or by that corporation at its discretion but, if that corporation bears the levy itself, it may take that into account in determining the rent payable in respect of that land.

(5) For the purposes of this section, land owned or occupied by the Director of Housing or the Tasmanian Development Authority for the purposes of the *Homes Act* 1935 shall be deemed not to be land owned or occupied by the Crown or land owned or occupied for a public purpose.

Repeal of
section 83 of
Principal Act
(Persons
required to
pay levy in
respect of land
in the cities of
Hobart and
Launceston).

11—Section 83 of the Principal Act is repealed.

Substitution of
section 88 of
Principal Act.

12—Section 88 of the Principal Act is repealed and the following section is substituted:—

88—(1) Except as provided in section 244 of the *Local Government Act 1962* the corporation of a municipality shall not levy a fire protection levy for a financial year ending on 30th June 1986 or a subsequent financial year—

Exemptions
from fire
protection
levies.

- (a) in respect of land owned by the Commonwealth;
- (b) in respect of land owned by the Crown or the corporation which is unoccupied or occupied exclusively for public purposes; or
- (c) in respect of any land owned and occupied exclusively for public or charitable purposes.

(2) Land of the corporation of a municipality that is occupied by a person who is employed by the corporation shall be deemed not to be occupied for public purposes.

(3) Land owned by the Crown that is occupied by a person who is employed by the Crown and who occupies the land for purposes arising out of or in connection with his employment by the Crown shall be deemed to be occupied for public purposes.

(4) Where any land is occupied, but not exclusively, for public purposes, the corporation of the municipality in which that land is situated may, by resolution made by the council, exempt that land totally or partially from fire service levies for as long as the land continues to be so occupied.

(5) For the purposes of this section—

- (a) land owned or occupied by the Director of Housing or the Tasmanian Development Authority for the purposes of the *Homes Act 1935* shall be deemed not to be land owned or occupied by the Crown or land owned or occupied for a public purpose; and
- (b) occupation merely as a caretaker shall be deemed not to be occupation of land.

13—Section 95 of the Principal Act is amended as follows:—

- (a) by inserting “(1)” before “A”;
- (b) by omitting “a financial year” and substituting “the financial year ending on 30th June 1986 or a subsequent financial year”;
- (c) by omitting “a rebate of 50 per cent” and substituting “the prescribed rebate”;

Amendment of
section 95 of
Principal Act
(Pensioners'
rebates).

(d) by adding the following subsection:—

(2) In subsection (1), “ the prescribed rebate ”, in relation to a fire protection levy, means—

(a) 20 per cent of that levy, where the corporation of a municipality has made the election referred to in section 81A (1)

(a) or is deemed by section 81A (3) to have made such an election; or

(b) 50 per cent of that levy, where the corporation of a municipality has made the election referred to in section 81A (1)

(b).

Amendment of section 109 of Principal Act (Charges for services at fires).

14—Section 109 of the Principal Act is amended by inserting the following subsection after subsection (3):—

(3A) Notwithstanding subsection (2), a charge is not payable under this section by—

(a) a person who has entered into a contract of insurance with an insurance company within the meaning of Part VI in relation to a prescribed class of insurance within the meaning of that Part, being a contract in force at the time when services are rendered by a brigade in respect of fire that has destroyed or damaged any property to which that contract relates; or

(b) a person who has paid for the registration or renewal of the registration of a motor vehicle (other than a motor cycle) pursuant to the *Traffic Act 1925* and the regulations under that Act, being a registration in force at the time when services are rendered by a brigade in respect of fire that has destroyed or damaged that motor vehicle,

unless it is otherwise provided in this Act or unless that person has been convicted of an offence under this Act or any other Act, or of a crime, relating to the fire.

Amendment of section 118 of Principal Act (Evidence as to certain matters).

15—Section 118 of the Principal Act is amended by adding the following subsection after subsection (2):—

(3) Where, in any proceedings for an offence alleged to have been committed under this Act during a period alleged to be or to have been a fire permit period or to have been so

committed on a day alleged to have been a day declared under section 70 (1) to be a day of total fire ban, a certificate purportedly signed by an officer of the Commission certifying—

(a) that the power of the Commission under this Act to declare periods to be fire permit periods or to declare specified days to be days of total fire ban was, pursuant to section 9, delegated by the Commission to the Commissioner by instrument in writing bearing the date specified in the certificate; and

(b) that, pursuant to such a delegation, the Commissioner, by declaration bearing the date specified in the certificate, declared that period to be a fire permit period or that day to be a day of total fire ban, as the case may be,

is admissible in those proceedings and shall, until the contrary is established, be evidence of the matters so certified.

16—Section 121 of the Principal Act is amended as follows:—

Amendment of section 121 of Principal Act (Liability of Commission, &c.).

(a) by omitting from subsection (2) “The Commission” and substituting “Subject to subsection (4), the Commission”;

(b) by omitting subsection (4) and substituting the following subsection:—

(4) Nothing in subsection (2) affects any liability of the Commission under the *Workers' Compensation Act 1927* or any duty of the Commission at common law towards any officer or employee of the Commission or any volunteer member or volunteer urban member.

17—(1) On and after 1st July 1985, the rights conferred on an occupier or owner of land by section 270 of the *Local Government Act 1962*, as in force immediately before that day, and as applied to and in respect of a fire protection levy by section 99 of the Principal Act, as so in force, continue to apply to and in relation to a fire protection levy payable in respect of the financial year ended on 30th June 1985 or a preceding financial year as if section 6 of the *Local Government Amendment (Rates and Charges) Act 1985* had not commenced on that first-mentioned day.

Savings provisions.

(2) On and after 1st July 1985, section 271 of the *Local Government Act 1962*, as in force immediately before that day, and as applied to and in respect of a fire protection levy by section 99 of the Principal Act, as so in force, continues to apply to the owner of land who is liable to pay any portion of a fire protection levy under that first-mentioned section, being a fire protection levy payable in respect of the financial year ended on 30th June 1985, as if section 6 of the *Local Government Amendment (Rates and Charges) Act 1985* had not commenced on that first-mentioned day.

Validations.

18—(1) Where, before the commencement of section 7 (*b*) of this Act, a person who was not an engineer was appointed as a member of the committee established under section 55 of the Principal Act, being a person so appointed on the nomination of the corporation of the city of Glenorchy in purported compliance with section 55 (3) (*d*) of that Act, that appointment shall be, and be deemed always to have been, as valid and effectual as it would have been if section 7 (*b*) of this Act had then commenced.

(2) Any functions performed before the commencement of section 7 (*b*) of this Act by the committee referred to in subsection (1) while a person referred to in that subsection was a member of that committee shall be deemed always to have been as validly and effectually performed by the committee as it would have been if section 7 (*b*) of this Act had then commenced.