

Western Australia

**Fire and Emergency Services Authority of
Western Australia (Consequential
Provisions) Act 1998**

(No. 42 of 1998)

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Western Australia

Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998

No. 42 of 1998

An Act to amend the *Bush Fires Act 1954* and *Fire Brigades Act 1942* and various other Acts as a consequence of the enactment of the *Fire and Emergency Services Authority of Western Australia Act 1998*, and for related purposes.

[Assented to 4 November 1998]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998*.

2. Commencement

This Act comes into operation on the day fixed under section 2 of the *Fire and Emergency Services Authority of Western Australia Act 1998*.

Part 2 — *Bush Fires Act 1954*

3. The Act amended

The amendments in this Part are to the *Bush Fires Act 1954**.

[* *Reprinted as at 20 January 1997.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 26 and Act No.10 of 1998.]

4. Section 7 amended

Section 7 is amended as follows:

- (a) after the definition of “adjoining”, by inserting the following definition —

“

“**Authority**” means the Fire and Emergency Services Authority of Western Australia established by section 4 of the FESA Act;

”;

- (b) by deleting the definition of “Board”;
- (c) by deleting the definition of “Chairman”;
- (d) in the definition of “Chief Executive Officer”, by deleting “Chief Executive Officer of the Board referred to in section 15;” and inserting instead —

“

chief executive officer of the Authority, as referred to in section 19 of the FESA Act;

”;

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- (e) in the definition of “forest officer”, by deleting “appointed under the *Forests Act 1918*,” and inserting instead —

“

within the meaning of the *Conservation and Land Management Act 1984*;

”.

- (f) by deleting the definitions of “Fund” and “member of the Board” and inserting the following definition instead —

“

“member of the Authority” means a member of the board of management referred to in section 6 of the FESA Act;

”.

- (g) by deleting the full stop at the end of the definition of “restricted burning times” and inserting a semicolon instead;

- (h) at the end of the section, by inserting the following definition —

“

“the FESA Act” means the *Fire and Emergency Services Authority of Western Australia Act 1998*.

”.

5. Part II, Division 1 heading deleted

Part II is amended before section 8 by deleting the heading to Division 1.

6. Sections 8 and 9 repealed

Sections 8 and 9 are repealed.

7. Part II, Division 2 heading deleted

Part II is amended before section 10 by deleting the heading to Division 2.

8. Section 10 amended

Section 10(2)(a) is amended by deleting “the appointment of and employ such persons as it” and inserting instead —

“

that the Chief Executive Officer appoint and employ such persons as the Authority

”.

9. Sections 11 and 11A repealed

Sections 11 and 11A are repealed.

10. Section 12 amended

Section 12(1) is amended by deleting “Board may with the approval of the Minister appoint persons” and inserting instead —

“

Chief Executive Officer may, on the recommendation of the Authority and with the approval of the Minister, appoint persons under section 20 of the FESA Act

”.

11. Part II, Divisions 3 and 4, repealed, and transitional

- (1) Divisions 3 and 4 of Part II are repealed.
- (2) Any funds standing to the credit of the Bush Fires Board Fund under section 16A of the *Bush Fires Act 1954*, as in force immediately before the commencement of this section, are to be

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credited to the Fire and Emergency Services Authority Account referred to in section 30 of the FESA Act.

12. Section 51 amended

Section 51(3) is amended by deleting “section 63.” and inserting instead —

“ section 37 of the FESA Act. ”.

13. Section 63 repealed

Section 63 is repealed.

14. Section 65 amended

Section 65(2)(b) is amended by deleting “hand of the executive officer of the Board;” and inserting instead —

“ seal of the Authority; ”.

15. Section 69 repealed

Section 69 is repealed.

16. Various references to “Board” amended to “Authority”

The provisions mentioned in the Table to this section are amended by deleting “Board” in each place where it occurs and inserting instead —

“ Authority ”.

Table

section 7 (definition of “restricted burning times”)	section 35(1)
section 10(1)	section 35(2)
section 10(2)	section 35(3)(a) (in 2 places)

section 13(1)	section 35(3)(b) (in 2 places)
section 13(2) (in 2 places)	section 35(4)
section 14 (in 2 places)	section 35(5)(a) (in 2 places)
section 17(4) (in 2 places)	section 35(5)(b) (in 2 places)
section 17(5)	section 38(2)(c)
section 17(6) (in 2 places)	section 38 (2)(d)
section 17(8)(a)(ii)	section 38(2)(e) (in 2 places)
section 17(8)(b)	section 38(6)(a)
section 17(9)	section 38(6)(b) (in 3 places)
section 18(2)	section 38(6)(d) (in 2 places)
section 18(5)(b)	section 50(2)(b)
section 24B(1) (in 2 places)	section 54
section 25A(1) (in 2 places)	section 55
section 25B(1)	section 56(1)(a) (in 2 places)
section 27B(1)	section 56(2) (in 2 places)
section 27B(2)	section 57 (in 2 places)
section 27C(1)	section 58(3)
section 27C(2)	section 59(2)(a) (in 2 places)
section 28(4)(a)	section 65(1)(a)
section 28(4)(b)	section 65(1)(c)
section 34(1a) (in 3 places)	

Part 3 — *Fire Brigades Act 1942*

17. The Act amended

The amendments in this Part are to the *Fire Brigades Act 1942**.

[* Reprinted as at 17 June 1996.

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 86-87 and Act No.10 of 1998.]

18. Section 4 amended

(1) Section 4(1) is amended as follows:

- (a) by deleting the definition of “Board” and inserting the following definition instead —

“

“**Authority**” means the Fire and Emergency Services Authority of Western Australia established by section 4 of the FESA Act;

”;

- (b) by deleting the definition of “Chairman”;
- (c) in the definition of “Chief Executive Officer”, by deleting “person appointed to be the Chief Executive Officer under section 8A;” and inserting instead —

“

chief executive officer of the Authority, as referred to in section 19 of the FESA Act;

”;

- (d) by deleting the definition of “Deputy Chairman”;

- (e) after the definition of “insurance company”, by inserting the following definition —

“

“member of the Authority” means a member of the board of management referred to in section 6 of the FESA Act;

”;

- (f) in the definition of “permanent fire brigade”, by deleting “Board” in the 2 places where it occurs and inserting instead —

“ Authority ”;

- (g) in the definition of “private fire brigade”, by deleting “Board” and inserting instead —

“ Authority ”;

- (h) by deleting the definition of “Secretary” and inserting the following definition instead —

“

“the FESA Act” means the *Fire and Emergency Services Authority of Western Australia Act 1998*;

”;

- (i) in the definition of “volunteer fire brigade”, by deleting “Board” and inserting instead —

“ Authority ”.

- (2) Section 4(2) and (3) are repealed and the following subsection is inserted instead —

“

- (2) A reference in this Act to an officer or employee of the Authority, or to a person employed by the Authority, is a reference to a person appointed or engaged under

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section 20 of the FESA Act for the purposes of this Act.

”.

19. Parts III, IV and V repealed

Parts III, IV and V are repealed.

20. Part VI heading amended

The heading to Part VI is amended by deleting “**VESTING OF PROPERTY AND GENERAL POWERS AND DUTIES OF BOARD**” and inserting instead —

“

**GENERAL POWERS AND DUTIES OF
AUTHORITY**

”.

21. Section 23 repealed

Section 23 is repealed.

22. Section 24 amended

Section 24(2) is amended in the proviso —

- (a) by deleting “Board, or the Board to which the Board” and inserting instead —

“

Authority, or a body corporate to which the
Authority

”.

and

- (b) by deleting “to the Board” and inserting instead —

“ to the Authority ”.

23. Section 25 amended

- (1) Section 25(1) is amended as follows:
- (a) by deleting the subsection designation “(1)”;
 - (b) by deleting “Board are —” and inserting instead —
“ Authority under this Act are — ”.
- (2) Section 25(2) and (3) are repealed.

24. Section 26A amended

Section 26A is amended as follows:

- (a) in paragraph (a)(iii), by deleting “Board” in the first and second places where it occurs and inserting instead —
“ Authority ”;
- (b) in paragraph (a)(iii), by deleting “Board” in the third place where it occurs and inserting instead —
“ Authority under this Act ”;
- (c) in paragraph (b)(i) after “of its functions”, by inserting the following —
“ under this Act ”;
- (d) in paragraph (ca), by deleting “Board” in the first place where it occurs and inserting instead —
“ Authority ”;
- (e) in paragraph (ca), by deleting “Board referred to in section 25(1)” and inserting instead —
“ Authority referred to in section 25 ”;
- (f) in paragraph (d) after “of any function”, by inserting the following —
“ under this Act ”.

25. Section 29 amended

- (1) Section 29(1) is amended as follows:

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- (a) by deleting the subsection designation “(1)” and “The Board shall from time to time appoint” and inserting instead —

“

For the purposes of this Act, the Chief Executive Officer shall from time to time appoint under section 20 of the FESA Act

”.

- (b) by deleting “including an employee to be called the Secretary to the Board,”;
- (c) by deleting “Board shall have” and inserting instead —
- “ Chief Executive Officer has ”.

- (2) Section 29(1a) and (2) are repealed.

26. Section 35 amended

Section 35 is amended by deleting paragraphs (a), (b), (t) and (u).

27. Section 36 amended

- (1) Section 36(1) is amended as follows:

- (a) in paragraph (b), by inserting after “Fire Brigades Board under” the following —

“ this Act or ”;

- (b) in paragraph (c), by deleting “Board:” and inserting instead —

“

Authority to be incurred in the operation of this Act:

”.

- (2) Section 36(2) is amended in the proviso by inserting after “have been expended” the following —

“ , for the purposes of this Act, ”.

28. Section 40 amended

Section 40(6) is repealed.

29. Section 45 amended

- (1) Section 45(1) is amended by deleting “subsections (2) and” and inserting instead —

“ subsection ”.

- (2) Section 45(2) is repealed.

30. Section 46 amended

- (1) Section 46(1) is amended by deleting “Governor,” and inserting instead —

“ Treasurer of Western Australia, ”.

- (2) Section 46(5) is amended by deleting “Governor.” and inserting instead —

“ Treasurer of Western Australia. ”.

- (3) Section 46(10) is amended after “Board under” by inserting —

“ this Act or ”.

31. Section 47 amended

- (1) Section 47(1) is amended by deleting “Board and its operations.” and inserting instead —

“ Authority and its operations under this Act. ”.

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- (2) Section 47(2) is amended by deleting “Board” and inserting instead —

“ Authority and its operations under this Act ”.

32. Section 47A amended

Section 47A is amended as follows:

- (a) by deleting “appointed under —” and inserting instead —
“ appointed — ”;
- (b) in paragraph (a), by deleting “section 8A”;
- (c) in paragraph (b) before “section 29”, by inserting —
“ in accordance with ”;
- (d) in paragraph (c) before “section 31”, by inserting —
“ under ”;
- (e) by deleting “*Pubic Service Act 1978*” and inserting instead —
“ *Public Sector Management Act 1994* ”.

33. Section 54 amended

Section 54(3)(g)(i) is amended in item 3 of the Table by deleting “Board” and inserting instead —

“ Authority ”.

34. Section 64 repealed

Section 64 is repealed.

35. Section 71 repealed

Section 71 is repealed.

36. Fourth Schedule amended

Clause 6 of the Fourth Schedule is amended by deleting “Board’s” and inserting instead —

“ Authority’s ”.

37. Various references to “Board” amended to “Authority”

The provisions mentioned in the Table to this section are amended by deleting “Board” in each place where it occurs, or in the places mentioned in the Table, and inserting instead —

“ Authority ”.

Table

section 24(1) (in 3 places)	section 46(2) (in 2 places)
section 24(2) (in the 1 st , 2 nd and 3 rd places)	section 46(3)
section 25A(1) (in 2 places)	section 46(8) (in 3 places)
section 25A(4)(a) (in 2 places)	section 46(9)
section 26	section 46A(1) (in 3 places)
section 26A(in the 1 st place)	section 46A(2)
section 26A(b) (in 3 places)	section 46B(in 2 places)
section 27(1) (in 2 places)	section 48
section 27(2) (in 3 places)	section 49
section 30	section 50 (in 2 places)
section 31(2)	section 51 (in 3 places)
section 33 (in the 1 st and 2 nd places)	section 52(1)

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section 33(c), (d), and (g) (in 2 places)	section 52(2)
section 33A(1)	section 54(3)(b) (in 2 places)
section 33A(15) (definition of “authorized officer”)	section 54(3)(c) (in the 1 st and 2 nd places)
section 34(h)	section 54(3)(f) (in 2 places)
section 35(g)	section 54(3)(g)(i) (in the 1 st place)
section 36(1) (in the 1 st place)	section 55
section 36(1)(b) (in the 1 st place)	section 56(b)
section 36(2) (in 2 places)	section 57
section 36(3)	section 59(ii)
section 37(1)	section 61 (in 2 places)
section 37(4)	section 62(1)
section 39(2) (in 3 places)	section 62(2)
section 40(1)	section 65(1)(a) (in 3 places)
section 40(2)	section 65(2) (in 3 places)
section 40(4)	section 65(4)
section 40(5) (in 2 places)	section 65(5)
section 41	section 66 (in 5 places)
section 42(1)	section 67(1) (in 4 places)
section 42(3)	section 73

section 43(2)	Fourth Schedule, clause 3 (in 2 places)
section 44(1) (in 2 places)	Fourth Schedule, clause 4 (in 3 places)
section 45(1) (in 2 places)	Fourth Schedule, clause 6
section 45(3)	Fourth Schedule, clause 7 (in 2 places)
section 46(1) (in 3 places)	

Part 4 — Miscellaneous amendments

38. Miscellaneous amendments

The Acts mentioned in Schedule 1 are amended as set out in that Schedule.

Schedule 1 — Miscellaneous amendments

[Section 38]

1. *Constitution Acts Amendment Act 1899* amended

Part 3 of Schedule V is amended as follows:

- (a) by deleting the item that begins “The Bush Fires Board”;
- (b) after the item that begins “The Finance Brokers Supervisory Board”, by inserting the following item —

“

The Fire and Emergency Services Authority of
Western Australia established by the *Fire and
Emergency Services Authority of Western Australia
Act 1998*.

”;

- (c) by deleting the item that begins “The Western Australian Fire Brigades Board”.

2. *Country Areas Water Supply Act 1947* amended

(1) Section 37(1) is amended as follows:

- (a) before the definition of “Fire Brigades Act”, by inserting the following definition —

“

“Authority” means the Fire and Emergency Services
Authority of Western Australia established by section 4
of the *Fire and Emergency Services Authority of
Western Australia Act 1998*;

”;

- (b) by deleting the definition of “Fire Brigades Board”.
- (2) The provisions mentioned in the Table to this subclause are amended by deleting “Board” in each place where it occurs and inserting instead —

“ Authority ”.

Schedule 1 Miscellaneous amendments

Table

section 37(3) (in 2 places)	section 37(10)
section 37(7)	section 37(11)
section 37(9)	section 37(15) (in 2 places)

3. *Financial Administration and Audit Act 1985* amended

Schedule 1 is amended as follows:

- (a) by deleting the item “Bush Fires Board”;
- (b) after the item “Esperance Port Authority”, by inserting the following item —

“

Fire and Emergency Services Authority of Western
Australia

”.

- (c) by deleting the item “Western Australian Fire Brigades Board”.

4. *Fire Brigades Superannuation Act 1985* amended, and savings

- (1) The long title is amended by deleting “**the employees, and certain former employees, of the Western Australian Fire Brigades Board and**” and inserting instead —

“

certain persons employed for the purposes of the *Fire and Emergency Services Authority of Western Australia Act 1998*, for certain former employees of the Western Australian Fire Brigades Board, for the employees, and certain former employees, of

”.

(2) Section 3(1) is amended as follows:

- (a) after the definition of “associated employer”, by inserting the following definitions —

“

“**Authority**” means the Fire and Emergency Services Authority of Western Australia established by section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

“**chief executive officer**” means the chief executive officer of the Authority, as referred to in section 19 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

”;

- (b) after the definition of “Commonwealth standards”, by inserting the following definition —

“

“**eligible Authority employee**” means a firefighter, or a person holding a prescribed office or of a prescribed class employed under section 19 or 20 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

”;

- (c) in the definition of “Fire Brigades Board”, by inserting after “Act 1942” the following —

“

, as in force immediately before the coming into operation of the *Fire and Emergency Services Authority of Western Australia Act 1998*

”;

- (d) by deleting the definition of “Fire Brigades Board employee”;

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- (e) by inserting after the definition of “firefighter” the following definition —
- “
- “former Fire Brigades Board employee”** means a person formerly in the employment of the Fire Brigades Board;
- ”
- (3) Section 5(1) is amended by deleting “Fire Brigades Board employees, associated employees,” and inserting instead —
- “
- eligible Authority employees, associated employees, former eligible Authority employees,
- ”
- (4) Section 5(2)(a) is amended by deleting “Fire Brigades Board” and inserting instead —
- “ chief executive officer ”.
- (5) Section 27(1) is amended by deleting “Fire Brigades Board” in both places where it occurs and inserting instead —
- “ chief executive officer ”.
- (6) Section 27(2) is amended by deleting “Fire Brigades Board” and inserting instead —
- “ chief executive officer ”.
- (7) Section 28(1) is amended by deleting “Fire Brigades Board” and inserting instead —
- “ chief executive officer ”.

- (8) Section 32(a) is amended by deleting “Fire Brigades Board employees, associated employees,” and inserting instead —
- “
eligible Authority employees, associated employees,
prescribed former eligible Authority employees,
”
- (9) Section 32(b) is amended by deleting “Fire Brigades Board” and inserting instead —
- “ chief executive officer ”.
- (10) Schedule 1 is amended by deleting “Chief Executive Officer of the Western Australian Fire Brigades Board.” and inserting instead —
- “ Chief executive officer of the Authority. ”.
- (11) Clause 1 of Schedule 2 is amended in the definition of “appointed member” by deleting “Fire Brigades Board” and inserting instead —
- “ Authority ”.
- (12) The provisions mentioned in the Table to this subclause are amended by deleting “Fire Brigades Board” in each place where it occurs and inserting instead —
- “ Authority ”.

Table

section 4(4)(a)	Schedule 2, clause 6(2)
section 4(5)	Schedule 2, clause 7(2)
section 17(4)	Schedule 2, clause 7(3)
section 31 (in 2 places)	

- (13) Despite the amendments made to section 4 of the *Fire Brigades Superannuation Act 1985* by subclause (12), a person appointed and holding office under that section immediately before the commencement of this clause as a member or alternate member of the Western Australian

Schedule 1 Miscellaneous amendments

Fire Brigades Superannuation Board continues, subject to that Act, to hold that office on and after that commencement for the remainder of the period for which the person was appointed.

5. *Government Employees Superannuation Act 1987* amended

Part B of Schedule 1 is amended as follows:

- (a) by deleting the item “Bush Fires Board”;
- (b) after the item “Family Court” by inserting the following item —

“

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Australia

”.

- (c) by deleting the item “Western Australian Fire Brigades Board”.

6. *Litter Act 1979* amended

The Third Schedule is amended in column 2 by deleting “The Bush Fires Board” and inserting instead —

“

The Fire and Emergency Services Authority of Western
Australia

”.

**7. *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*
amended**

- (1) Section 45(1) is amended by deleting the definitions of “Fire Brigades Act” and “Fire Brigades Board” and inserting the following definition instead —

“

“**Authority**” means the Fire and Emergency Services
Authority of Western Australia established by section 4
of the *Fire and Emergency Services Authority of
Western Australia Act 1998*;

”.

- (2) The provisions mentioned in the Table to this subclause are amended by deleting “Fire Brigades Board” in each place where it occurs and inserting instead —

“ Authority ”.

Table

section 45(3) (in 2 places)	section 45(10)
section 45(7)	section 45(11)
section 45(9)	

8. *Public Sector Management Act 1994* amended

Schedule 2 is amended as follows:

- (a) by deleting item 3A;
(b) after item 10, by inserting the following item —

“

10A. Fire and Emergency Services Authority of Western Australia established by the *Fire and Emergency Services Authority of Western Australia Act 1998*

”;

- (c) by deleting item 60.

9. *Sentencing Act 1995* amended

Schedule 1 is amended in the item relating to the *Bush Fires Act 1954* by deleting “Bush Fires Board” and inserting instead —

“ Fire and Emergency Services Authority of Western Australia ”.

Schedule 1 Miscellaneous amendments

10. *Water Boards Act 1904* amended

- (1) Section 63(1) is amended by deleting the definition of “Board” and inserting the following definition instead —

“

“**Authority**” means the Fire and Emergency Services Authority of Western Australia established by section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

”.

- (2) The provisions mentioned in the Table to this subclause are amended by deleting “Board” in each place where it occurs (except where it occurs in the expression “Water Board”) and inserting instead —

“ Authority ”.

Table

section 63(3) (in 2 places)	section 63(10)
section 63(7)	section 63(11)
section 63(9)	section 63(15) (in 2 places)

=====