

WESTERN AUSTRALIA

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**FIRE BRIGADES AMENDMENT  
ACT 1994**

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**No. 52 of 1994**

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**AN ACT to amend the *Fire Brigades Act 1942* and to make a consequential amendment to the *Bush Fires Act 1954*.**

[Assented to 2 November 1994.]

The Parliament of Western Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Fire Brigades Amendment Act 1994*.

**Commencement**

2. This Act comes into operation on such day as is fixed by proclamation.

**Principal Act**

3. In this Act the *Fire Brigades Act 1942\** is referred to as the principal Act.

[\* *Reprinted as at 18 September 1986.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 77-8.]*

**Long title amended**

4. The long title to the principal Act is amended by deleting “**and the protection of life and property from fire.**” and substituting the following —

“

**, the confining and ending of hazardous material incidents and the protection of life and property from fire, hazardous material incidents and accidents.**

”.

**Section 4 amended**

5. Section 4 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting the definition of “Executive Chairman”; and

- (ii) by inserting, in the appropriate alphabetical positions, the following definitions —

“

**“Chairman”** means the person appointed to be the Chairman of the Board under section 7 (a);

**“Chief Executive Officer”** means the person appointed to be the Chief Executive Officer under section 8A;

**“hazardous material”** means anything that, if it escapes while being produced, stored, moved, used or otherwise dealt with, may cause personal injury or death, or damage to property or the environment;

**“hazardous material incident”** means an actual or impending spillage or other escape of hazardous material that causes or threatens to cause injury or death, or damage to property or the environment;

**“rescue operation”** means the rescue and extrication of any person or property endangered as a result of an accident, explosion or other incident;

”;

and

- (b) in subsection (2), by deleting “Executive Chairman” and substituting the following —

“ Chief Executive Officer ”.

**Section 5A inserted**

**6.** Part II of the principal Act is amended by inserting after section 5 the following section —

“

**Application of Act**

**5A.** (1) Except as otherwise provided in this Act, this Act applies to all fire districts.

(2) Subject to section 6 (4), this Act applies to —

- (a) hazardous material incidents that occur anywhere in the State; and
- (b) rescue operations that occur anywhere in the State.

”.

**Section 7 amended**

**7.** Section 7 of the principal Act is amended —

(a) by deleting “12” and substituting the following —

“ 13 ”;

(b) by deleting paragraph (a) and substituting the following paragraph —

“

- (a) One shall be a person appointed by the Governor as a member and Chairman of the Board.

”;

and

(c) by inserting after paragraph (g) the following paragraph —

“

(ga) One member shall be the Chief Executive Officer *ex officio*.

”.

### **Section 8A repealed and sections 8A and 8B substituted**

8. Section 8A of the principal Act is repealed and the following sections are substituted —

“

#### **Chief Executive Officer**

**8A.** (1) The Governor shall appoint a Chief Executive Officer.

(2) Subject to this section and section 8B, the Chief Executive Officer holds office for such term, not longer than 5 years, as is specified in the instrument of appointment and, upon expiration of the term, is eligible for reappointment.

(3) The Chief Executive Officer may resign his or her office by writing signed and delivered to the Governor.

(4) The function of the Chief Executive Officer is, subject to Part VII, to be responsible to the Board for the administration of this Act.

#### **Terms and conditions of service of Chief Executive Officer**

**8B.** (1) Subject to the *Salaries and Allowances Act 1975*, the Minister, after consultation with the

Minister to whom the administration of the *Public Service Act 1978* is committed, shall determine the remuneration and other terms and conditions of service of the Chief Executive Officer.

(2) The Chief Executive Officer is not to engage in paid employment outside the duties of the office without the approval of the Minister.

(3) The Chief Executive Officer does not hold office under the *Public Service Act 1978*.

(4) Where the Chief Executive Officer, immediately before being appointed as such, occupied an office in the Public Service, the Chief Executive Officer shall —

(a) if the Chief Executive Officer resigns his or her office or if the term of the appointment expires and there is no re-appointment, be entitled to be appointed to an office in the Public Service not lower in status than the office which he or she occupied immediately prior to appointment as Chief Executive Officer;

(b) continue to retain any existing and accruing rights, including any rights under the *Superannuation and Family Benefits Act 1938*, as if the service as Chief Executive Officer were a continuation of service in the office in the Public Service.

(5) The Governor may remove the Chief Executive Officer from office —

(a) for —

(i) misbehaviour or incompetence; or

(ii) physical or mental incapacity, other than temporary illness, impairing the performance of the Chief Executive Officer's functions;

(b) if the Chief Executive Officer becomes a bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of salary for their benefit.

(6) In subsection (5) (a) (i) "**misbehaviour**" includes conduct that renders the Chief Executive Officer unfit to hold office as Chief Executive Officer even if the conduct does not relate to any function of the office.

”.

### **Section 9 amended**

9. Section 9 (1) of the principal Act is amended by deleting “the member” and substituting the following —

“ each of the members ”.

### **Section 15 amended**

10. Section 15 (1) (d) of the principal Act is amended by deleting “Executive”.

### **Section 18 amended**

11. Section 18 of the principal Act is amended —

(a) in subsection (2), by deleting “Executive”;

- (b) in subsection (3a), by deleting paragraph (b) and substituting the following paragraph —

“

- (b) has, while the office of Chairman is vacant or the Chairman is absent from duty or for any reason unable to perform the duties of the office, all the powers, duties and functions of the Chairman.

”;

and

- (c) in subsection (4), by deleting “Executive”.

### **Section 19 amended**

- 12.** Section 19 (1) of the principal Act is amended by deleting “Executive”.

### **Section 20 amended**

- 13.** Section 20 of the principal Act is amended —

- (a) in subsection (1), by deleting “Six” and substituting the following —

“ Seven ”; and

- (b) in subsection (2), by deleting “Executive Chairman or chairman” and substituting the following —

“

Chairman or the person presiding at that meeting

”.



**Section 22 amended**

14. Section 22 (1) and (2) of the principal Act is amended by deleting “Executive” in the 4 places where it occurs.

**Section 25 repealed and a section substituted**

15. Section 25 of the principal Act is repealed and the following section is substituted —

“

**Functions of the Board**

25. (1) Subject to this Act, the functions of the Board are —

- (a) to take, superintend and enforce all necessary steps for preventing and extinguishing fires and protecting and saving life and property from fire;
- (b) to take all practicable measures —
  - (i) for protecting and saving life and property endangered by hazardous material incidents;
  - (ii) for confining and ending such an incident; and
  - (iii) for rendering the site of such an incident safe;
- (c) to take and superintend all necessary steps in rescue operations;
- (d) to have the general control of all fire brigade premises and fire brigades; and

- (e) to perform such other duties as are entrusted to it by the Minister.

(2) The Board has power to do all things necessary or convenient for or in connection with the performance of its functions.

(3) The Board may, in performing its functions, act alone or in conjunction with any person, firm, body corporate, department of the Government or State instrumentality.

”.

### **Section 26A amended**

**16.** Section 26A of the principal Act is amended —

(a) in paragraph (a) —

(i) by inserting after “from fire” the following —

“

, hazardous material incidents or incidents requiring rescue operations

”;

(ii) by deleting subparagraph (iii) and substituting the following subparagraph —

“

(iii) utilize the apparatus, plant and other property of the Board and use the employees of the Board to promote public awareness of the functions of the Board or to enhance its public image;

”;

- (iii) in subparagraph (iv), by deleting “fire detection and protection systems and equipment, and deal in fire-fighting” and substituting the following —

“

fire and hazardous material detection and protection systems and equipment and rescue equipment, and deal in fire-fighting, hazardous material control and rescue

”;

and

- (iv) in subparagraph (v), by inserting after “paragraph” the following —

“ or paragraph (ca) ”;

- (b) by deleting paragraph (c) and substituting the following paragraph —

“

(c) charge and receive the prescribed fees for —

- (i) the examination of plans and specifications of buildings, and for advisory and inspection services rendered in connection therewith, where the examination is made for the purpose of ensuring the safety of life and property from fire or hazardous materials;
- (ii) the confining or ending of a hazardous material incident and rendering the site of the incident safe; and

(iii) the carrying out of rescue operations.

”;

and

(c) by inserting after paragraph (c) the following paragraph —

“

(ca) establish facilities or courses of instruction to provide training to any person not employed by the Board in the skills required to perform a function of the Board referred to in section 25 (1) (a), (b) or (c);

”.

### **Section 27 amended**

17. Section 27 (1) and (2) of the principal Act is amended by deleting “and method of fire protection” in the 3 places where it occurs and substituting in each place the following —

“

, the method of fire protection and hazardous material incident control, and the rescue service

”.

### **Section 29 amended**

18. Section 29 (1a) of the principal Act is amended —

(a) by deleting “Executive Chairman” in the 3 places where it occurs and substituting in each place the following —

“ Chief Executive Officer ”; and

(b) by deleting “in his capacity as the chief executive officer of the Board only”.

**Section 31 amended**

19. Section 31 (2) of the principal Act is amended by deleting from “Executive Chairman” to the end of the subsection and substituting the following —

“ Chief Executive Officer. ”;

**Section 33 amended**

20. Section 33 of the principal Act is amended —

(a) in paragraph (e) (i), by inserting after “fire” the following —

“ or hazardous materials ”; and

(b) in paragraph (f), by inserting after “fire” the following —

“ or hazardous material incidents ”.

**Section 33A amended**

21. Section 33A of the principal Act is amended —

(a) in subsection (1), by inserting after “fire” the following —

“ or a hazardous material incident ”;

(b) by repealing subsection (13) and substituting the following subsection —

“

(13) The occupier of a public building who fails to fulfil a contractual obligation is

not liable for any consequences of that failure if —

(a) the failure resulted from the occupier complying with a requirement of this section or an order given or granted under this section; and

(b) the occupier could not have fulfilled the contractual obligation as well as complying with the requirement.

”;

(c) in subsection (14), by deleting “Subsections (12) and (13) apply” and substituting the following —

“ Subsection (12) applies ”; and

(d) in subsection (15), in the definition of “alleviation”, by inserting after “fire” in the 2 places where it occurs the following —

“ or hazardous material incidents ”.

### **Section 34 amended**

**22.** Section 34 of the principal Act is amended —

(a) by deleting “For the purpose of extinguishing any fire,” and substituting the following —

“ For the purpose of extinguishing or controlling a fire, confining or ending a hazardous material incident or rendering the site of the incident safe, or carrying out a rescue operation,

”;

(b) in paragraph (a) —

(i) by deleting “where the fire is,” and substituting the following —

“  
    where the fire or hazardous material  
    incident is or is reported to be or  
    where the rescue operation is to be  
    carried out,  
”;

and

(ii) by inserting after “extinguish the fire” the following —

“  
    , confine or end the hazardous  
    material incident or carry out the  
    rescue operation  
”;

(c) in paragraph (b), by inserting after “fire” the following —

“  
    , hazardous material incident or rescue  
    operation  
”;

(d) in paragraph (c) —

(i) by inserting after “extinguishing of fire,” the following —

“  
    the confining or ending of a  
    hazardous material incident or the  
    carrying out of a rescue operation,  
”;

and

- (ii) by deleting “or for preventing the spread of fire;” and substituting the following —

“

or a hazardous material incident or for preventing the spread of fire or confining or ending a hazardous material incident;

”;

- (e) in paragraph (d), by inserting after “fire” the following —

“

or confining or ending a hazardous material incident

”;

- (f) in paragraph (f), by inserting after “fire” in the 2 places where it occurs the following —

“

, hazardous material incident or rescue operation

”;

- (g) in paragraph (h) —

- (i) by inserting after “a fire” in the 2 places where it occurs the following —

“

, hazardous material incident or rescue operation

”;

and

- (ii) by inserting after “by fire” the following —

“

, hazardous materials or the carrying out of the rescue operation

”;



(h) in paragraph (i) —

(i) by inserting after “any fire” the following —

“

, hazardous material incident or  
rescue operation

”;

and

(ii) by inserting after “such fire” the following —

“

or hazardous material incident or the  
cause of the accident or incident  
which required the rescue operation

”;

and

(i) in paragraph (j), by inserting after “fire” the  
following —

“

, the confining or ending of a hazardous  
material incident or the carrying out of a  
rescue operation

”.

### **Section 35 amended**

**23.** Section 35 of the principal Act is amended —

(a) in paragraph (b), by deleting “Executive Chairman,”  
and substituting the following —

“

Chief Executive Officer, the Chairman of  
the Board

”;

- (b) by inserting after paragraph (m) the following paragraphs —

“

(n) for regulating and controlling the management of hazardous material incidents;

(na) for regulating and controlling rescue operations;

”;

- (c) in paragraph (q), by inserting after “fires” the following —

“

, hazardous material incidents and rescue operations

”;

and

- (d) in paragraph (s), by inserting after “inflammable matter” the following —

“ and hazardous materials ”.

### **Section 47A amended**

**24.** Section 47A (a) of the principal Act is amended by deleting from “Executive Chairman” to the end of the paragraph and substituting the following —

“ Chief Executive Officer; ”.

### **Section 56 amended**

**25.** Section 56 of the principal Act is amended —

- (a) by deleting “shall forthwith, on any fire occurring in a fire district within the area or part of the State

allotted to him, proceed” and substituting the following —

“

shall forthwith —

- (a) on any fire occurring in a fire district within the area or part of the State allotted to him; or
- (b) when so requested by the Board, on any hazardous material incident occurring within the area or part of the State allotted to him,

proceed

”;

and

(b) by inserting after “the fire,” the following —

“ or hazardous material incident ”.

### **Section 57 amended**

**26.** Section 57 of the principal Act is amended by deleting “shall forthwith” and substituting the following —

“

or to any premises where a hazardous material incident is occurring or a rescue is being carried out shall forthwith, when so requested by the Board,

”.



- (c) any premises at which a rescue operation is being carried out,

and thereupon that person shall withdraw from the premises.

”.

### **Section 61 amended**

**29.** Section 61 of the principal Act is amended by inserting after “any fire” the following —

“ or confining or ending a hazardous material incident ”.

### **Section 62 amended**

**30.** Section 62 (1) and (2) of the principal Act is amended by inserting after “fire” in the 3 places where it occurs the following —

“ or a hazardous material incident ”.

### **Section 64 repealed and a section substituted**

**31.** Section 64 of the principal Act is repealed and the following section is substituted —

“

#### **Protection from liability**

**64.** (1) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

(2) An action in tort does not lie against a person for anything that either that person or any other person has, in good faith, done in the performance or purported performance of a function or duty or the exercise or purported exercise of a power under this Act.

(3) The protection given by this section applies even though the thing done in the performance or purported performance of a function or duty or the exercise or purported exercise of a power under this Act may have been capable of being done whether or not this Act had been enacted.

(4) Any damage, loss or injury to property that results from a tort referred to in subsection (2) is deemed to be damage by fire within the meaning of any policy of insurance covering the property damaged, lost or injured, notwithstanding any clause or condition to the contrary contained in the policy.

”.

### **Section 71 amended**

**32.** Section 71 of the principal Act is amended by deleting “Executive Chairman” and substituting the following —

“ Chief Executive Officer ”.

**Third Schedule repealed and a Schedule substituted**

**33.** The Third Schedule to the principal Act is repealed and the following Schedule is substituted —

“

**THE THIRD SCHEDULE** [Section 65]

**Maximum Scale of Fees and Charges Allowed for Attendance at any Fire**

	For the first hour or part thereof and thereafter per hour or part thereof
	\$
<i>Appliances:</i>	
Turntable Ladder or Snorkel . . . . .	300.00
Pumps. Capacity Exceeding 3.4 kl/min . . . . .	275.00
Pumps. Capacity 2.2 kl/min to 3.4 kl/min . . . . .	250.00
Pumps. Capacity less than 2.2 kl/min . . . . .	210.00
Other Vehicles . . . . .	102.00
<i>Equipment:</i>	
Each 30 metres of Hose . . . . .	20.00
Fire Extinguishers . . . . .	20.00 each plus cost of recharge
Knapsack Spray . . . . .	20.00
<i>Breathing Apparatus:</i>	
Oxygen (per 2 hour set) . . . . .	80.00
C.A.B.A. (per 1 hour set) . . . . .	60.00

*Manpower:*

Officer-in-Charge .....	50.00	
Other Officer .....	27.50	
Firemen .....	27.50	”.

**Penalties amended**

**34.** The sections of the principal Act referred to in Column 1 of the Table to this section are amended in the manner set out opposite them in Column 2 of that Table.

TABLE

Column 1	Column 2
Section 33 (e)(ii)	Delete “\$100” and substitute the following —  “ \$2 500 ”.  Delete “\$4” and substitute the following —  “ \$100 ”.
Section 33A (12)	Delete “\$3 000” and substitute the following —  “ \$50 000 ”.  Delete “\$200” and substitute the following —  “ \$1 000 ”.



Section 35 (y) Delete “\$100” and substitute the following —

“ \$2 500 ”.

Section 39 (6) Delete “\$10” and substitute the following —

“ \$250 ”.

Section 40 (3) Delete “\$20” and substitute the following —

“ \$500 ”.

Section 40 (4) Delete “\$5” and substitute the following —

“ \$125 ”.

Section 42 (3) Delete “\$40” and substitute the following —

“ \$1 000 ”.

Delete “\$100” and substitute the following —

“ \$2 500 ”.

Section 43 (1) Delete “\$10” and substitute the following —

“ \$250 ”.

Delete “\$100” and substitute the following —

“ \$2 500 ”.

Delete "\$4" and substitute the following —

" \$100 ".

Section 59 Delete "\$100" and substitute the following —

" \$2 500 ".

Section 62 (3) Delete "\$40" and substitute the following —

" \$1 000 ".

Section 72 Delete "\$40" and substitute the following —

" \$1 000 ".

Delete "\$4" and substitute the following —

" \$100 ".

### **Validity of past acts**

**35.** (1) Anything done under the principal Act before the commencement of this Act that would have been lawful had the relevant provisions been in force when that thing was done is declared to be and to have always been as valid and effective as it would have been if, at the time when it was done, the relevant provisions had been in operation.

(2) In this section, "**the relevant provisions**" means the provisions inserted into the principal Act by this Act expanding the functions of the Board to include confining and ending hazardous material incidents and carrying out rescue operations.

**Consequential amendment to the *Bush Fires Act 1954***

**36.** Section 8 (3) (d) of the *Bush Fires Act 1954*\* is amended by deleting “Executive Chairman” and substituting the following —

“ Chief Executive Officer ”.

[\* *Reprinted as at 27 February 1992.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 24-5.]*