



Western Australia

Fire Brigades Act 1942

Compare between:

[11 Sep 2010, 07-f0-02] and [29 Aug 2012, 07-g0-02]

Western Australia

Fire Brigades Act 1942

An Act to consolidate and amend the law relating to the prevention and extinguishing of fires, the confining and ending of hazardous material incidents and the protection of life and property from fire, hazardous material incidents and accidents.

[Long title amended by No. 52 of 1994 s. 4.]

Part I — Preliminary

[Heading inserted by No. 19 of 2010 s. 43(3)(a).]

1. Short title and commencement

This Act may be cited as the *Fire Brigades Act 1942* and shall come into operation on a day to be fixed by Proclamation¹.

[2. Deleted by No. 10 of 1998 s. 76.]

[Heading deleted by No. 19 of 2010 s. 43(3)(b).]

[3. Deleted by No. 38 of 2002 s. 43.]

4. Interpretation

- (1) In this Act, unless inconsistent with the subject-matter or context, the following words shall have the meanings respectively assigned to them (that is to say) —

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

brigade includes all fire brigades, whether permanent or volunteer, or private;

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

Director means the Director of Operations referred to in section 31;

district means a fire district constituted by or under this Act;

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;

inflammable matter includes all substances capable of ignition or combustion by the application of heat or by means of sparks or flame or by spontaneous causes;

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

owner means and includes any person, whether as beneficial owner, trustee, or executor, mortgagee in possession, or as agent or attorney for any person or otherwise for the time being in actual receipt of, or entitled to receive, the rents and profits of the lands or buildings in connection with which the word is used, or who, if such land or buildings were let to a tenant, would be entitled to receive the rents and profits thereof;

permanent fire brigade means a fire brigade established and maintained by the Authority, the services of whose members are wholly at the disposal of the Authority;

premises includes any building, structure, erection, vessel, wharf, jetty, land or other premises;

private fire brigade means any association of persons authorised by the Authority and formed for the purpose of the prevention and extinguishing of fires and the protection of life and property from fire within the boundaries of property owned or used by any person, if the carrying out of the purpose of such association is not the sole or principal calling or means of livelihood of such persons or of a majority of them;

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

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

vessel means any ship, steamship, barge, punt, boat, or other floating vessel used for storing or carrying goods or for carrying passengers;

volunteer fire brigade means any association of persons authorised by the Authority and formed for the purpose of the

s. 4

prevention and extinguishing of fires and the protection of life and property from fire, if the carrying out of the purpose of such association is not the sole or principal calling or means of livelihood of such persons or of a majority of them.

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

[Section 4 amended by No. 34 of 1963 s. 4; No. 3 of 1964 s. 2; No. 42 of 1966 s. 3; No. 27 of 1971 s. 2; No. 28 of 1982 s. 3; No. 51 of 1985 s. 3; No. 51 of 1986 s. 46(2); No. 49 of 1992 s. 29; No. 52 of 1994 s. 5; No. 14 of 1996 s. 4; No. 42 of 1998 s. 18; No. 38 of 2002 s. 44; No. 42 of 2002 s. 19.]

Part II — Fire districts

5. Fire districts

- (1) Subject to the provisions of subsection (2), the local government districts and parts thereof constituted as fire districts prior to the coming into operation of the *Fire Brigades Act Amendment Act 1971*¹, as set out in the Second Schedule, are for the purposes of this Act fire districts under the respective names as set out in the Schedule.
- (2) For the purposes of this Act the Minister may, by notice published in the *Gazette* —
 - (a) constitute as a fire district all or part of a district under the *Local Government Act 1995* which is not a fire district under subsection (1);
 - [(b) deleted]*
 - (c) subject to subsection (5) unite any 2 or more fire districts the areas of which are contiguous, into one fire district;
 - (d) adjust the boundaries of a fire district;
 - (e) abolish a fire district;
 - (f) assign a name to, or alter the name of a fire district;
 - (g) include or remove, as the case may be, the name of a fire district or local government district in or from Part II, III, or IV of the Second Schedule;
 - (h) transfer the name of a fire district from one Part to another Part of the Second Schedule; and
 - (i) vary or revoke a notice under this subsection.
- [(3) deleted]*
- (4) The local government districts and parts thereof mentioned in Parts I and II of the Second Schedule are united into one fire district under the name of the Metropolitan Fire District.

s. 5A

- (5) Before a notice is made under the provisions of subsection (2)(c), the Minister shall give to the local governments whose districts or portion thereof are to be the subject of the notice, at least 30 days' notice of intention to make the notice.
- (6) Any vessel lying in any river, harbour, or other water within or adjacent to any district shall be subject to this Act in the same manner as if it were premises within a district. But this subsection shall not apply to any of Her Majesty's vessels of war or to any vessel which belongs to the Government of any foreign State (not being an enemy).

[Section 5 amended by No. 41 of 1951 s. 3(3); No. 34 of 1959 s. 2; No. 34 of 1963 s. 5; No. 27 of 1971 s. 3; No. 14 of 1996 s. 4; No. 38 of 2002 s. 45(1)-(3).]

5A. Application of Act

- (1) Except as otherwise provided in this Act, this Act applies to all fire districts.
- (2) 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 5A inserted by No. 52 of 1994 s. 6; amended by No. 38 of 2002 s. 46.]

[Parts III (s. 6), IV (s. 7-17) and V (s. 18-22) deleted by No. 42 of 1998 s. 19.]

Part VI — General powers and duties of Authority

[Heading amended by No. 42 of 1998 s. 20.]

[23. Deleted by No. 42 of 1998 s. 21.]

24. Power to purchase property for stations, etc.

- (1) The Authority may purchase, take on lease, or otherwise acquire buildings or land, and all such apparatus and plant and other property as the Authority may think requisite for carrying into effect the purposes of this Act, and may from time to time sell or exchange or let any property acquired by or vested in the Authority for the purposes of this Act.
- (2) All moneys resulting from the sale, exchange, or letting of any property by the Authority shall be applied in the purchase of property for the Authority or the improvement of the property of the Authority.
- (3) Despite subsections (1) and (2), any real property acquired by the Authority, or a body corporate to which the Authority is a successor, from a local government without pecuniary consideration, if no longer required for the purposes of this Act, shall revert in the local government, subject to the payment by the local government to the Authority of the value of the improvements (if any) effected thereon after such acquisition.

[Section 24 amended by No. 14 of 1996 s. 4; No. 42 of 1998 s. 22 and 37; No. 19 of 2010 s. 51.]

25. Functions of the Authority

Subject to this Act, the functions of the Authority under this Act are —

- (a) to take, superintend and enforce all necessary steps for preventing and extinguishing fires and protecting and saving life and property from fire;

s. 25A

- (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;
- (ca) to promote the safety of life and property from fire, hazardous material incidents, accidents, explosions or other incidents requiring 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.

[Section 25 inserted by No. 52 of 1994 s. 15; amended by No. 42 of 1998 s. 23; No. 38 of 2002 s. 47.]

25A. Authority may require certain fire fighting appliances

- (1) The Authority may by notice in writing addressed to the owner or occupier of any premises direct him to install and provide within the time specified in the notice, such —
 - (a) water taps, water pipes, connections, fittings and equipment in respect thereof; and
 - (b) equipment, apparatus or appliances for the purpose of —
 - (i) preventing the outbreak of or extinguishing fire; or
 - (ii) preventing injury or damage to persons or property by fire;

in or upon the premises and in such positions as the Authority directs in the notice.

- (2) In this section the expression, *premises* does not include premises which consist of a private dwelling house designed for the use and occupation of one family.
- (3) The occupier of the premises shall keep and maintain in good working order and fit for immediate use any equipment, apparatus, appliances, taps, pipes or connections installed on the premises under the provisions of this section.
- (4) A person who is aggrieved by a direction of the Authority may apply to the State Administrative Tribunal for a review of the direction on the ground that the things directed to be installed and provided in or upon the premises are not reasonably required by the Authority for any of the purposes referred to in subsection (1)(b).

[Section 25A inserted by No. 34 of 1959 s. 5; amended by No. 42 of 1998 s. 37; No. 55 of 2004 s. 366.]

26. Formation of brigades, etc.

The Authority may —

- (a) take measures for the formation of permanent or volunteer or private fire brigades;
- (b) amalgamate, or disband, or cancel the registration of, any fire brigade;
- (c) determine the number of permanent and volunteer and private fire brigades necessary for the protection of any district, and also the apparatus and plant to be used by each brigade;
- (d) establish and support schools of instruction, and issue certificates of qualification in fire-extinction to members of fire brigades;
- (e) provide and maintain fire-alarms and apparatus and plant for the prevention and extinguishing of fires;

s. 26A

- (f) provide and maintain telephonic or other communication between fire brigade premises and between any such premises and any other places.

[Section 26 amended by No. 42 of 1998 s. 37.]

26A. Further powers of the Authority

- (1) Without limiting sections 25 and 26, for the purpose of carrying out its functions under this Act the Authority may, anywhere in the State, do any of the things it is authorised to do under subsection (2).
- (2) Under this subsection the Authority may —
 - (a) establish and operate premises or mobile facilities for the dissemination of information, and sell or grant to any person the right to sell educational materials, souvenirs and refreshments on such premises or from such mobile facilities;
 - (b) create and distribute educational materials in any medium;
 - (c) utilise the apparatus, plant and other property of the Authority and use the employees of the Authority to promote public awareness of the functions of the Authority under this Act or to enhance its public image;
 - (d) provide a maintenance and inspection service for fire and hazardous material detection and protection systems and equipment and rescue equipment, and deal in fire-fighting, hazardous material control and rescue equipment to which such service relates;
 - [(e) deleted]*
 - (f) provide any service for which the equipment or skills under the control of the Authority are especially suited, and supply any specialist equipment under the control of the Authority to any person or body;

- (g) enter into financial arrangements with any other party, and receive payment under such arrangements, in relation to the exercise of any power conferred by this paragraph;
- (h) establish facilities or courses of instruction to provide training to any person not employed by the Authority in the skills required to perform a function of the Authority;
- (i) receive gifts of money, by way of sponsorship or otherwise, towards the cost of, and accept by way of gift equipment and other property for use in, the performance of its functions;
- (j) charge and receive the prescribed fees for —
 - (i) the examination of plans and specifications of buildings, and for related advisory and inspection services, where the examination is made for the purpose of ensuring the safety of life and property from fire or hazardous materials; and
 - (ii) the carrying out of rescue operations;and
- (k) do anything that is incidental to, or is necessary or convenient to be done for, the exercise of any power conferred on it by this section.

[Section 26A inserted by No. 38 of 2002 s. 48; amended by No. 42 of 2002 s. 20.]

27. Board's proposals to be submitted to local government

- (1) The Authority shall submit its proposals in respect of the class of brigade, the method of fire protection and hazardous material incident control, and the rescue service to be established in each district to the local government before putting such proposals into operation, and shall advise the local government of any intended change in the class of brigade, the method of fire protection and hazardous material incident control, and the

s. 27

rescue service, and any difference between the Authority and the local government on such matters shall be referred to the Minister for his decision.

- (1A) Subsection (1) shall not apply when the districts of 2 or more local governments have been united into one fire district as provided for in section 5.
- (2) Any local government may make representations to the Authority in regard to the class of brigade, the method of fire protection and hazardous material incident control, and the rescue service in its district, and may appeal to the Minister if dissatisfied with the action of the Authority, and the Minister may decide all matters in dispute between the local government and the Authority.

[Section 27 amended by No. 52 of 1994 s. 17; No. 14 of 1996 s. 4; No. 42 of 1998 s. 37; No. 19 of 2010 s. 51.]

[28.] *Deleted by No. 98 of 1985 s. 3.]*

Part VII — Officers and members of brigades and other employees

[Heading amended by No. 42 of 1966 s. 8.]

29. Appointment, etc., of officers and members of permanent brigades

For the purposes of this Act, the Chief Executive Officer shall from time to time appoint under section 20 of the FESA Act such officers and members of every permanent fire brigade and such other employees, and by such designations as shall be deemed necessary, and, subject to the provisions of any relevant award or industrial agreement under the *Industrial Relations Act 1979* and to the regulations, the Chief Executive Officer has the power of suspension and removal of all such officers and members and employees.

[Section 29 amended by No. 42 of 1966 s. 9; No. 28 of 1982 s. 18(1); No. 52 of 1994 s. 18; No. 73 of 1994 s. 4; No. 42 of 1998 s. 25.]

30. Approval of members of volunteer brigade

No election or appointment of the officers and members of any volunteer or private brigade shall have any force or effect until approved by the Authority.

[Section 30 amended by No. 42 of 1998 s. 37.]

31. Chief Officer

- (1) The Chief Executive Officer shall appoint in accordance with section 29 an officer to be designated as the Director of Operations.
- (2) Subject to the general powers and authority of the Authority, every brigade and all officers and members thereof in a fire district shall be under the immediate order and control of

s. 33

the Director, but the Director does not have the powers, duties and functions of the Chief Executive Officer.

[Section 31 amended by No. 28 of 1982 s. 19(1); No. 52 of 1994 s. 19; No. 42 of 1998 s. 37; No. 38 of 2002 s. 49(1) and (2).]

[32. Deleted by No. 107 of 1972 s. 3.]

33. General duties and powers of Director

- (1) The Director or any officer of the Authority authorised in that behalf by the Authority shall, in addition to such other duties as the Authority may prescribe, exercise the general duties and powers following, that is to say —
 - (a) he shall cause a book to be kept containing the names, ages, occupations, and places of abode of all officers and members of every fire brigade;
 - (b) he shall summon once a month at the least all or as many of the officers and members of brigades as may be required for practice in order to render them fit and efficient for service;
 - (c) he shall from time to time inspect all fire brigades and report to the Authority on their state of efficiency and make such recommendations as to him may seem fit;
 - (d) he shall have the immediate charge and control of all apparatus and plant, and other property of the Authority, and shall keep the same in a fit state for efficient service;
 - (e) he shall at all reasonable times have free access to any premises, and if in his opinion there exists in or on any premises any potential danger to life or property from fire or hazardous materials, he may direct or order the owner or occupier of such premises to abate such danger within reasonable time, as named in the requisition;
 - (f) he shall at all reasonable times have free access to all premises used or intended for purposes of public entertainment or of public concourse, for the purpose of

ascertaining whether the laws and regulations pertaining to the prevention of and escape from fire or hazardous material incidents are being observed;

- (g) he shall attend the Authority at all times, when required to do so, and shall make all such inquiries and reports as the Authority may direct.
- (2) Any person who fails to comply with the requirements of a requisition served under subsection (1)(e) shall be liable on conviction to a penalty not exceeding \$2 500, and also to a further penalty not exceeding \$100 for every day during which the offence continues after that conviction.
- (3) Any person aggrieved by a requisition served under subsection (1)(e) may apply to the State Administrative Tribunal for a review of the requisition and no proceedings shall be instituted against such person pending the hearing of the application or an appeal under the *State Administrative Tribunal Act 2004* section 105.

[Section 33 amended by No. 42 of 1966 s. 10; No. 52 of 1994 s. 20 and 34; No. 42 of 1998 s. 37; No. 38 of 2002 s. 49(3) and 50; No. 55 of 2004 s. 367; No. 46 of 2009 s. 9.]

33A. Powers and duties of Director and others in relation to public buildings

- (1) If, after having inspected a public building, the Director or an officer of the Authority authorised by the Authority in that behalf considers that the safety of persons in the public building may be endangered in the event of fire or a hazardous material incident therein, he may —
- (a) using such force as is reasonably necessary for the purpose, cause any aisle, corridor, door, gangway, lobby or passage connected with any exit or escape from the public building or any such exit or escape itself, the obstruction, closing or locking of which aisle, corridor, door, gangway, lobby, passage, exit or escape is or

s. 33A

reasonably appears to be in breach of any requirement of any Act, or of any proclamation, regulation, rule, local law, by-law, order, notice, resolution or other instrument —

- (i) made under an Act or under any other such proclamation, regulation, rule, local law, by-law, order, notice, resolution or instrument; and
 - (ii) having legislative effect,
- to be cleared, opened or unlocked, as the case requires;
- (b) being satisfied that the safety of persons in the public building cannot reasonably be ensured by other means, order the occupier or presumed occupier of the public building forthwith to close the public building for such period not exceeding 48 hours as is specified in that order and as the Director or officer so authorised considers necessary for the alleviation of the danger in question; or
 - (c) if an order referred to in paragraph (b) cannot for any reason be given to the occupier or presumed occupier of the public building or if such an order, having been given to that occupier or presumed occupier, is not forthwith obeyed, himself, being satisfied that the safety of persons in the public building cannot reasonably be ensured by other means, close the public building for such period not exceeding 48 hours as he considers necessary for the alleviation of the danger in question, using such force as is reasonably necessary for the removal from the public building of persons therein without doing them bodily harm.

- (2) The occupier or presumed occupier of a public building may in complying with an order given to him under subsection (1) use such force as is reasonably necessary for the removal from the public building of persons therein without doing them bodily harm.

- (3) The Director or authorised officer giving an order under subsection (1) shall do so —
- (a) in writing served on the occupier or presumed occupier of the public building in question; or
 - (b) orally, in which case he shall as soon as is practicable thereafter serve on the occupier or presumed occupier of the public building in question confirmation in writing of the contents of that order and of the time and place at which that order was so given,
- and shall cause a copy of that order or confirmation, as the case requires, to be affixed to that public building in a conspicuous position.
- (4) The Director or an authorised officer may, if he considers that the danger to which an order given under subsection (1) relates has been alleviated, rescind that order.
- (5) The Commissioner of Police may, if requested by the Director or an authorised officer to do so, assist the Director or authorised officer in the exercise of any power conferred on the Director or authorised officer by subsection (1).
- (6) If the Director or an authorised officer considers that a danger in relation to which he has exercised the power conferred on him by subsection (1)(b) or (c) cannot be, or has not been, alleviated within the period of 48 hours referred to in that paragraph, he shall, having given such prior notice of his intention to do so to the occupier of the public building in question as is practicable in the circumstances, apply to the Magistrates Court for an order directing that occupier to close or keep closed, as the case requires, that public building for such period as the Court considers necessary for the alleviation of that danger.
- (7) On an application made under subsection (6), the Magistrates Court shall be constituted by a magistrate and may grant, subject to any conditions the Court thinks fit to impose, or refuse to grant, the order sought by the application.

s. 33A

- (8) If an application is made under subsection (6) while —
- (a) an order given under subsection (1) in relation to the public building in question is in force, that order continues in force; or
 - (b) the public building in question is closed under subsection (1)(c), that closure continues,
- until the application is finally determined or is withdrawn.
- (9) The Director or an authorised officer or the owner or occupier of a public building to which an order granted under subsection (7) relates may apply to the Magistrates Court for that order to be rescinded.
- (10) On an application made under subsection (9) the Magistrates Court shall be constituted by a magistrate and may rescind or refuse to rescind the order to which the application relates.
- (11) The Director shall exercise general supervision over the exercise or performance by an authorised officer of any power or duty conferred or imposed by this section on the authorised officer.
- (12) A person shall —
- (a) not hinder or obstruct a person to whom this subsection applies in the exercise of any power or the performance of any duty conferred or imposed on him by this section or by an order given or granted thereunder; or
 - (b) if he is the occupier of the public building in question, comply with an order given or granted under this section in respect of that public building.
- Penalty: \$50 000.
Daily penalty: \$1 000.
- (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.
- (14) Subsection (12) applies to —
- (a) the Director;
 - (b) an authorised officer;
 - (c) a member of the Police Force assisting the Director or an authorised officer as a result of compliance by the Commissioner of Police with a request made under subsection (5); and
 - (d) the occupier or presumed occupier of a public building complying with an order given or granted under this section in respect of the public building.
- (15) In this section —
- alleviation** means alleviation by compliance with the relevant requirements of any provision of an Act, or of a proclamation, regulation, rule, local law, by-law, order, notice, resolution or other instrument —
- (a) made under an Act or under any other such proclamation, regulation, rule, local law, by-law, order, notice, resolution or instrument; and
 - (b) having legislative effect,
- which provision relates to the prevention of fire or hazardous material incidents in public buildings or to ensuring the safety of persons in public buildings in the event of fire or hazardous material incidents therein, and cognate words shall be construed accordingly;
- authorised officer** means an officer of the Authority authorised by the Authority within the meaning of subsection (1);

s. 34

occupier, in relation to a public building, means person in charge of, or having the control and management of, the public building;

presumed occupier, in relation to a public building, means person who appears to the Director or to an authorised officer, as the case requires, to be the occupier of the public building;

public building has the meaning given by section 173 of the *Health Act 1911*.

[Section 33A inserted by No. 28 of 1982 s. 20; amended by No. 52 of 1994 s. 21 and 34; No. 14 of 1996 s. 4; No. 42 of 1998 s. 37; No. 38 of 2002 s. 49(3) and 51; No. 50 of 2003 s. 61(2); No. 59 of 2004 s. 141.]

34. Duties and powers of Director and others at fires

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, the Director or, in his absence the officer or any member of the brigade who for the time being is in charge, or an officer of the Authority authorised by the Authority in that behalf, shall perform the following duties and may exercise the following powers (that is to say): —

- (a) he shall, with all possible speed, proceed upon the first alarm to the place where the fire or hazardous material incident is or is reported to be or where the rescue operation is to be carried out, and shall endeavour by all practicable means to extinguish the fire, confine or end the hazardous material incident or carry out the rescue operation and save all property in jeopardy;
- (b) he shall have the control and direction of any brigade or brigades present at any fire, hazardous material incident or rescue operation and of any persons who voluntarily place their services at his disposal;

- (c) he may take and direct any measures which appear to him to be necessary or expedient for the protection of life and property, or for the control and extinguishing of fire, the confining or ending of a hazardous material incident or the carrying out of a rescue operation, and may cause any premises to be entered, taken possession of, pulled down wholly or partially, or otherwise destroyed for such purpose, or for preventing fire or a hazardous material incident or for preventing the spread of fire or confining or ending a hazardous material incident;
- (d) he may cause water to be shut off from any main or pipe to obtain a greater pressure and supply of water for the purpose of extinguishing any fire or confining or ending a hazardous material incident; and no water supply authority shall be liable to any penalty or claim by reason of any interruption in the supply of water occasioned by compliance with the provisions of this section;
- (e) he may cause gas, electricity, or other illuminant to be shut off or disconnected to or at any premises; and no person supplying gas, electricity, or other illuminant shall be liable to any penalty or claim by reason of any interruption in the supply occasioned by compliance with the provisions of this section;
- (f) he may cause any street, private road, right-of-way, or thoroughfare in the vicinity of any fire, hazardous material incident or rescue operation to be closed against traffic during the continuance of any fire, hazardous material incident or rescue operation;
- (g) he may remove or order any member of any fire brigade or any member of the police force to remove any person who or anything which interferes with the operations of the brigade;

s. 34A

- (h) he may, at the time of a fire, hazardous material incident or rescue operation or thereafter, pull down or shore up any wall or building which may be damaged, or which in his opinion may be likely to be damaged, by fire, hazardous materials or the carrying out of the rescue operation, or which may be in the vicinity of any place where a fire, hazardous material incident or rescue operation has occurred, and which may in his opinion be, or may be likely to become, dangerous to life or property; and the expense of such pulling down and shoring up, as the case may be, shall be borne by the owner of such wall or building, and shall be paid by him to the Authority;
- (i) he may cause the debris and also any premises where any fire, hazardous material incident or rescue operation has occurred, and every part of such premises, to be searched, and may remove and keep possession of any materials which may tend to prove the origin of such fire or hazardous material incident or the cause of the accident or incident which required the rescue operation;
- (j) he may take such measures as he thinks proper for the protection and saving of life or property and for the control and extinguishing of a fire, the confining or ending of a hazardous material incident or the carrying out of a rescue operation.

[Section 34 amended by No. 52 of 1994 s. 22; No. 42 of 1998 s. 37; No. 38 of 2002 s. 49(3) and 52.]

34A. Powers concerning persons exposed to hazardous material

- (1) Without limiting section 34, for a purpose mentioned in subsection (2), in a hazardous material incident an authorised officer may direct a person who has been exposed to hazardous material to do all or any of the following —
 - (a) to remain in an area specified by the authorised officer for such period as is specified by the authorised officer;

- (b) to remain quarantined from other persons for such period, and in such reasonable manner, as is specified by the authorised officer;
 - (c) to submit to decontamination procedures within such reasonable period, and in such reasonable manner, as is specified by the authorised officer.
- (2) A direction may be given under subsection (1) for the purpose of —
 - (a) ensuring that the hazardous material is contained; or
 - (b) ensuring that the person to whom the direction is given does not pose a serious risk to the life or health of others because of the hazardous material involved.
- (3) The Director or, in his absence, the officer or any member of the brigade who for the time being is in charge must not specify a period of more than 3 hours under subsection (1)(a) or (b) unless the chief executive officer of the Authority has given written authorisation for a longer period to be specified in relation to the person exposed to the hazardous material.
- (4) If a person does not comply with a direction under this section, an authorised officer may do all such things as are reasonably necessary to ensure compliance with the direction, using such force as is reasonable in the circumstances.
- (5) An authorised officer may exercise a power under this section with the help, and using the force, that is reasonable in the circumstances.
- (6) An authorised officer may revoke a direction given under this section at any time.
- (7) A person shall not obstruct or hinder an authorised officer in the exercise of a power under this section.
Penalty: a fine of \$50 000.
- (8) A person given a direction under this section shall comply with the direction.

s. 34A

Penalty: a fine of \$50 000.

- (9) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.
- (10) In this section —
- authorised officer***, in relation to a hazardous material incident, means —
- (a) the Director or, in his absence, the officer or any member of the brigade who for the time being is in charge; and
 - (b) the chief executive officer of the Authority.

[Section 34A inserted by No. 15 of 2005 s. 104.]

Part VIII — Regulations

35. Power to make regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made for all or any of the following purposes —

[(a)-(c) deleted]

- (d) for the examination, appointment, suspension, and removal of officers and members of brigades and other employees, and for regulating the duties and conduct of such officers and members and other employees;
- (e) for the establishment and maintenance of brigades and for the payment of salaries or wages to officers and members of permanent brigades and other employees;
- (f) for the training of officers and members of brigades;
- (g) for the payment of compensation in cases of accidents to officers and members of brigades and other employees of the Authority or where death ensues therefrom to their dependants;

[(h) deleted]

- (i) for paying gratuities in respect of voluntary or special services rendered;
- (j) for permitting, when occasion requires any, portion of a brigade or its apparatus and plant to proceed or be taken beyond the limits of any district for the purpose of attending fires, hazardous material incidents or rescue operations, and for regulating the charges for such service;
- (k) for dividing any district into subdistricts;

s. 35

- (l) for ensuring discipline and good conduct amongst officers and members of brigades, and generally for the maintenance of brigades in a due state of efficiency;
- (m) for the registration of all brigades;
- (n) for regulating and controlling the management of hazardous material incidents;
- (na) for regulating and controlling rescue operations;
- (o) for regulating and controlling demonstrations and competitions;
- (p) for establishing and maintaining a salvage force, and for prescribing the charges to be levied for the services of such force;
- (pa) for prescribing the fees to be charged pursuant to section 26A(2)(j), and the persons liable to pay such fees;
- [(q) deleted]*
- (r) for prescribing the uniforms to be worn by officers and members of brigades when on duty;
- (s) for regulating the storage and deposit of inflammable matter and hazardous materials;
- [(t), (u) deleted]*
- (v) for the control and attendance of officers and members of brigades on duty in public buildings and premises, and prescribing fees and charges to be paid by the owner or occupier of any such building and premises for such service, and for the recovery thereof;
- (w) for managing and regulating the distributing of all revenue received under the provisions of this Act;
- (x) for altering the date prescribed by this Act for the doing or performance of any duty to any other date; and

- (y) for imposing penalties for breaches of regulations, the maximum penalty in any case not to be fixed at a greater sum than \$2 500.

[Section 35 amended by No. 34 of 1959 s. 6; No. 34 of 1963 s. 8; No. 42 of 1966 s. 12; No. 28 of 1982 s. 21; No. 51 of 1985 s. 10; No. 87 of 1985 s. 34; No. 52 of 1994 s. 23 and 34; No. 14 of 1996 s. 4; No. 42 of 1998 s. 26 and 37; No. 38 of 2002 s. 53; No. 42 of 2002 s. 21.]

35A. Minister may declare permanent brigade districts

The Minister may, by notice published in the *Gazette* —

- (a) declare any district to be a district served by a permanent fire brigade; and
- (b) vary or revoke a notice published under paragraph (a).

[Section 35A inserted by No. 42 of 2002 s. 22.]

[Part IX (s. 36-47)² deleted by No. 42 of 2002 s. 23.]

Part X — Miscellaneous

47A. *Public Sector Management Act 1994 to prevail if Chief Executive Officer or other appointee a member of Senior Executive Service*

Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed —

- (a) to be the Chief Executive Officer; or
- (b) in accordance with section 29 to be an officer or member of a permanent fire brigade or other employee,

and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994* an inconsistency between this Act and that Act that Act shall prevail.

[Section 47A inserted by No. 113 of 1987 s. 32; amended by No. 52 of 1994 s. 24; No. 10 of 1998 s. 35; No. 42 of 1998 s. 32; No. 38 of 2002 s. 58.]

48. *Authority to furnish information to Commissioner of Public Health*

The Authority shall from time to time furnish the Commissioner of Public Health with information and recommendations as to the requirements for the prevention of and escape from fire in premises used or intended for purposes of public entertainment or of public concourse.

[Section 48 amended by No. 42 of 1998 s. 37.]

49. *Brigades to be registered, etc.*

Volunteer and private brigades already established or hereafter to be established shall conform to the regulations affecting such brigades, and shall be registered in such manner and subject to such conditions as may be prescribed by the regulations, and shall be subject to inspection by any member or officer of the Authority.

[Section 49 amended by No. 42 of 1998 s. 37.]

50. Restriction as to establishment of salvage corps

It shall not be lawful for any person to constitute or maintain within any fire district to which this Act applies any salvage corps or fire brigade for the purpose of salvage of property at fires or of extinguishing fire outside of the premises or land owned or used by such person, or at or on which such person is employed, unless such corps or brigade is constituted by the Authority or is authorised by the Authority to act as a salvage corps or fire brigade.

[Section 50 amended by No. 42 of 1998 s. 37.]

51. Rewards to brigades

Upon the Director certifying that efficient and valuable service has been rendered by any brigade or by any member thereof the Authority may, in its discretion, pay to such brigade by way of bonus or by way of subsidy for such time as the Authority thinks desirable such sum as the Authority may by resolution determine, and may likewise reward any individual member of any brigade.

[Section 51 amended by No. 42 of 1998 s. 37; No. 38 of 2002 s. 49(3).]

52. Penalty for soliciting contributions for brigades without authority

- (1) Subject to regulations, the Authority may grant an authority in writing or in print to any person to collect contributions or subscriptions for the purposes of any brigade, and may at any time call in or cancel such authority.
- (2) Any person not duly authorised in that behalf by the Authority who solicits contributions or subscriptions for the purpose of any brigade shall on conviction thereof be guilty of an offence against this Act.

s. 54

[Section 52 amended by No. 42 of 1998 s. 37.]

[53. Deleted by No. 42 of 1966 s. 21.]

54. Provision of fire hydrants

- (1) In this section, unless the context requires otherwise —
fire hydrant means a fire plug or fixed pillar fire hydrant;
proclaimed day means the day fixed by Proclamation for the coming into operation of the *Acts Amendment (Fire Brigades Board and Fire Hydrants) Act 1951*¹;
re-instatement means the filling in of ground opened up and the re-instating and making good of the paving of any street broken up in the course of installing or abolishing a fire hydrant or keeping a fire hydrant in effective order.

[(2) omitted under the Reprints Act 1984 s. 7(4)(e).]

[(3)(a) omitted under the Reprints Act 1984 s. 7(4)(e).]

- (4) On and after the proclaimed day, the Authority may, subject to this section, provide and abolish fire hydrants at such locations in fire districts as the Authority thinks fit.
- (5) Where the location at which the Authority intends to provide or abolish a fire hydrant is in an area mentioned in Column 1 of the Table set out hereunder, the Authority shall request the appropriate water supply authority mentioned in Column 2 of the Table to install or abolish the fire hydrant at the specified location.

Table

Item	Column 1.	Column 2.	Column 3.
	Area	Authority	Act

Item	Column 1.	Column 2.	Column 3.
	Area	Authority	Act
1.	The Metropolitan Water Sewerage, and Drainage Area	The Water Corporation established by the <i>Water Corporation Act 1995</i>	The <i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i> (See especially s. 5, 44, 45 and 46.)
2.	Water Area	The Water Board constituted for the water area, or the Minister for Water Supply, Sewerage and Drainage ³ in his corporate capacity as constituted by the <i>Water Supply, Sewerage, and Drainage Act 1912</i> , as the case may be	The <i>Water Boards Act 1904</i> (See especially s. 5, 63 and 64.)
3.	Country Water Area	The Water Corporation established by the <i>Water Corporation Act 1995</i>	The <i>Country Areas Water Supply Act 1947</i> (See especially s. 5, 13, 36 and 37.)

- (6) Such a request may only be made to a water supply authority in respect of a particular location if that location is within a controlled area for which that authority holds an operating

s. 54

licence (water supply services) under the *Water Services Licensing Act 1995*.

- (7) So soon after receiving the request as is reasonably practicable, the water supply authority shall, in accordance with the powers conferred upon it by the relevant Act mentioned in Column 3 of the Table, install or abolish the fire hydrant as requested.
- (8) The water supply authority shall keep all fire hydrants in fire districts except those which are abolished, whether installed before, on or after the proclaimed day, in effective order.
- (9) When the water supply authority has, in pursuance of the provisions of this section, installed, abolished, or kept in effective order a fire hydrant, it shall render to the Authority a statement of account showing the cost to the water supply authority of the labour and materials incurred in doing so, except the cost of re-instatement, and shall render to the local government in whose district the work is done a statement of account showing the cost to the water supply authority of the labour and materials incurred in re-instatement, and the amounts of the respective accounts shall, in the event of non-payment, be recoverable at the suit of the water supply authority in a court of competent jurisdiction from the Authority or the local government respectively as a debt due.
- (10) By virtue of this section, the property in the fire hydrants referred to in the respective items of Column 1 of the Table set out hereunder shall vest in the Authority as owner at the times set out opposite those respective items in Column 2 of the Table.

Table

Item.	Column 1.	Column 2.
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Item.	Column 1.	Column 2.
1.	Fire hydrants installed before, on, or after the proclaimed day at the cost of a local government in a fire district constituted before and subsisting at the proclaimed day	The proclaimed day.
2.	Fire hydrants installed before, on, or after the proclaimed day at the cost of a local government in an area constituted as a fire district or part of a fire district on or after the proclaimed day	The day when the area is constituted as a fire district or part of a fire district.
3.	Fire hydrants installed on or after the proclaimed day at the cost of the Authority	The day of installation.

- (11) Compensation shall not be payable to a local government in respect of fire hydrants mentioned in items 1 and 2 of the Table to subsection (10).

[Section 54 amended by No. 41 of 1951 s. 3(5); No. 73 of 1994 s. 4; No. 73 of 1995 s. 188; No. 14 of 1996 s. 4; No. 42 of 1998 s. 33 and 37; No. 67 of 2003 s. 62; No. 19 of 2010 s. 51.]

55. Use of pillar-hydrants instead of fireplugs

No fire hydrant shall be placed on or under the surface of any street, path, or roadway, except by or with the sanction of the Authority, but instead thereof proper standpost or pillar-hydrants shall be fixed in conspicuous places on or near the kerbing of the street or roadway.

[Section 55 amended by No. 42 of 1998 s. 37.]

56. Turncocks to attend fires

Every turncock employed by a water supply authority shall forthwith —

s. 57

- (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 Authority, on any hazardous material incident occurring within the area or part of the State allotted to him,

proceed with all possible speed to the fire, or hazardous material incident and assist by all means in his power the ensuring of a copious supply and service of water.

[Section 56 amended by No. 52 of 1994 s. 25; No. 42 of 1998 s. 37.]

57. Disconnection of gas or artificial light

Every company or person supplying gas or electricity or other illuminant to any premises on fire in a fire district 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 Authority, send some competent person to shut off or disconnect the supply to such premises or any adjoining premises.

[Section 57 amended by No. 52 of 1994 s. 26; No. 42 of 1998 s. 37.]

58. Police and others to aid Director

The authority of the Director shall be recognized by all officers and members of the police force and other persons. It shall be the duty of officers and members of the police force to support the authority of the Director and assist him in enforcing obedience to any orders given in pursuance of this Act or the regulations.

[Section 58 amended by No. 38 of 2002 s. 49(3).]

59. Penalties for interference, damage, etc.

Any person who —

- (a) wilfully interferes with any officer or member of any brigade in the discharge of his duty;
- (b) wilfully damages or interferes with any water plug, fire hydrant, fire alarm, or other property of the Authority;
- (c) wilfully gives a false alarm of fire, a hazardous material incident or an accident or incident requiring a rescue operation;
- (d) drives a vehicle over a fire hose;
- (e) drives a vehicle within such proximity to the scene of a fire, hazardous material incident or rescue operation as to occasion interference,

shall be liable to a penalty not exceeding \$2 500 and shall also be liable for and may be ordered to pay the estimated damage.

[Section 59 amended by No. 42 of 1966 s. 22; No. 51 of 1992 s. 16(1); No. 52 of 1994 s. 27 and 34; No. 42 of 1998 s. 37; No. 50 of 2003 s. 61(3); No. 19 of 2010 s. 51.]

60. Removal of persons not members of recognized fire brigades from burning premises

- (1) Any person who is not a member of a fire brigade, or who is not acting under the control or direction of any officer or member of a brigade, may be ordered by any officer or member of a brigade or by any member of the police force to withdraw from —
 - (a) any premises then burning or which are threatened by fire;
 - (b) any premises at which there is a hazardous material incident or the threat of such an incident; or
 - (c) any premises at which a rescue operation is being carried out,

and thereupon that person shall withdraw from the premises.

- (2) If such person neglects or refuses to so withdraw, he may be forcibly removed.

s. 61

[Section 60 amended by No. 42 of 1966 s. 23; No. 52 of 1994 s. 28.]

61. Rights to water for extinguishing fires and for practice, etc.

The Authority, the officers and members of brigades and any brigade registered under this Act shall have the use of all water mains, fire hydrants, water plugs, valves, and pipes vested in or belonging to any water supply authority and of all water therein or in any well or tank, free of charge, for the purpose of extinguishing any fire or confining or ending a hazardous material incident, or for the purpose of drills, competitions, and practice conducted under the authority of the Authority.

[Section 61 amended by No. 52 of 1994 s. 29; No. 42 of 1998 s. 37.]

[62. Deleted by No. 42 of 2002 s. 24.]

[63. Deleted by No. 2 of 1996 s. 61.]

[64. Deleted by No. 42 of 1998 s. 34.]

[65. Deleted by No. 42 of 2002 s. 25.]

66. Failure to deliver up any premises in occupation by officer or fireman

Where any officer or member of a brigade, or other person who has been employed by the Authority in any capacity, and has resigned or been discharged continues to occupy any premises belonging to the Authority, or to the possession whereof the Authority may be entitled, after notice in writing from the Authority to deliver up possession thereof, it shall be lawful for any Justice of the Peace, on the oath of one witness stating such notice to have been given, by warrant under his hand, to order any police constable to enter into such premises, and to remove such officer or member of a brigade, or person, and his family and servants therefrom, and afterwards to deliver the possession thereof to the Authority as effectually to all intents and purposes as the

sheriff having jurisdiction within the place where such premises are situate might lawfully do by virtue of a writ of possession.

[Section 66 amended by No. 42 of 1998 s. 37.]

67. Detention of Board's property

- (1) The Director or any officer, or other employee, or agent of the Authority, if authorised in writing by the Authority, may enter, and, if necessary, break into any place where any property of the Authority is detained contrary to the order of the Director or of the Authority, and may remove the same.
- (2) Any person hindering or obstructing the Director or any such officer, employee, or agent in so entering or breaking into any such place shall be guilty of an offence against this Act.

[Section 67 amended by No. 42 of 1998 s. 37; No. 38 of 2002 s. 49(3).]

[68. Deleted by No. 42 of 2002 s. 26.]

[69. Deleted by No. 42 of 2002 s. 27.]

[70. Deleted by No. 42 of 2002 s. 28.]

[71. Deleted by No. 42 of 1998 s. 35.]

72. Penalty for offences

Any person disobeying or failing to comply with any provisions of this Act or the regulations or failing to do that which by or under this Act he is required or directed to do shall be guilty of an offence, and, if no penalty be specially provided therefor, shall be liable to a penalty not exceeding \$1 000 and to a further penalty of not more than \$100 for each day such offence is continued after any conviction therefor.

[Section 72 amended by No. 5 of 1961 s. 2; No. 42 of 1966 s. 25; No. 52 of 1994 s. 34.]

s. 73

73. Recovery of penalties

Any penalty incurred or made payable under or pursuant to this Act or under any regulation made under this Act may be recovered by any person authorised in that behalf by the Authority.

[Section 73 amended by No. 42 of 1998 s. 37.]

[The First Schedule deleted by No. 38 of 2002 s. 60.]

Second Schedule — Fire districts

[s. 5]

[Heading amended by No. 19 of 2010 s. 4.]

Fire District	Local Government District or part thereof constituting Fire District
	Part I
Metropolitan Fire District	Perth
	Part II
Metropolitan Fire District	Armadale
	Fremantle
	Melville
	Nedlands
	South Perth
	Stirling
	Subiaco
	Wanneroo
	Joondalup
	Cambridge
	Canning
	Claremont
	Cockburn
	Cottesloe
	East Fremantle
	Mosman Park
	Victoria Park
	Vincent
	Bassendean
	Bayswater
	Belmont
	Gosnells
	Kalamunda
	Mundaring
	Peppermint Grove
	Swan

Fire District	Local Government District or part thereof constituting Fire District
	Rockingham
	Kwinana
	Part III
Coolgardie Fire District	Coolgardie
Cue Fire District	Cue
Kalgoorlie-Boulder Fire District	Kalgoorlie-Boulder
Kambalda Fire District	Coolgardie
Laverton Fire District	Laverton
Leonora Fire District	Leonora
Meekatharra Fire District	Meekatharra
Mount Magnet Fire District	Mount Magnet
Norseman Fire District	Dundas
Southern Cross Fire District	Yilgarn
	Part IV
Albany Fire District	Albany (Town)
Augusta Fire District	Augusta-Margaret River
Ballidu Fire District	Wongan-Ballidu
Beverley Fire District	Beverley
Boyup Brook Fire District	Boyup Brook
Bridgetown Fire District	Bridgetown-Greenbushes
Brookton Fire District	Brookton
Broome Fire District	Broome
Brunswick Junction Fire District	Harvey
Bunbury Fire District	Bunbury
Busselton Fire District	Busselton
Carnarvon Fire District	Carnarvon
Collie Fire District	Collie
Corrigin Fire District	Corrigin
Cunderdin Fire District	Cunderdin
Dalwallinu Fire District	Dalwallinu
Denham Fire District	Shark Bay
Denmark Fire District	Denmark
Derby Fire District	West Kimberley

Fire District	Local Government District or part thereof constituting Fire District
Dongara-Port Denison Fire District	Irwin
Donnybrook Fire District	Donnybrook-Balingup
Dumbleyung Fire District	Dumbleyung
Dunsborough Fire District	Busselton
Dwellingup Fire District	Murray
Eaton-Australind Fire District	Dardanup
	Harvey
Esperance Fire District	Esperance
Exmouth Fire District	Exmouth
Falcon Fire District	Mandurah
Geraldton-Greenough Fire District	Geraldton
	Greenough
Gingin Fire District	Gingin
Goomalling Fire District	Goomalling
Harvey Fire District	Harvey
Jurien Fire District	Dandaragan
Kalamunda Fire District	Kalamunda
Kalbarri Fire District	Northampton
Karratha Fire District	Roebourne
Katanning Fire District	Katanning
Kellerberrin Fire District	Kellerberrin
Kojonup Fire District	Kojonup
Kulin Fire District	Kulin
Kununurra Fire District	Wyndham
Lake Grace Fire District	Lake Grace
Lancelin Fire District	Gingin
Mandurah Fire District	Mandurah
Manjimup Fire District	Manjimup
Margaret River Fire District	Augusta-Margaret River
Merredin Fire District	Merredin

Fire District	Local Government District or part thereof constituting Fire District
Moora Fire District	Moora
Mount Barker Fire District	Plantagenet
Mullewa Fire District	Mullewa
Mundaring Fire District	Mundaring
Nannup Fire District	Nannup
Narrogin Fire District	Narrogin (Town)
Newman Fire District	East Pilbara
Northam Fire District	Northam (Town)
Northcliffe Fire District	Manjimup
Onslow Fire District	Ashburton
Pemberton Fire District	Manjimup
Pingelly Fire District	Pingelly
Pinjarra Fire District	Murray
Port Hedland Fire District	Port Hedland
Quairading Fire District	Quairading
Ravensthorpe Fire District	Ravensthorpe
Roebourne Fire District	Roebourne
Roleystone Fire District	Armadale
Secret Harbour Fire District	Rockingham
Tammin Fire District	Tammin
Toodyay Fire District	Toodyay
Wagin Fire District	Wagin
Walpole Fire District	Manjimup
Waroona Fire District	Waroona
Wickham Fire District	Roebourne
Williams Fire District	Williams
Wongan Hills Fire District	Wongan-Ballidu
Wundowie Fire District	Northam (Shire)
Wyalkatchem Fire District	Wyalkatchem
Wyndham Fire District	Wyndham
Yanchep Fire District	Wanneroo
York Fire District	York

[The Second Schedule inserted by No. 27 of 1971 s. 4; amended by No. 38 of 1993 s. 34; No. 14 of 1996 s. 4; No. 57 of 1997 s. 60; amended in Gazette 21 Jan 1972 p. 74; 4 Feb 1972 p. 213-14; 23 Jun 1972 p. 2029-30; 4 Aug 1972 p. 2923; 20 Oct 1972 p. 4152; 27 Oct 1972 p. 4208; 25 May 1973 p. 1617; 26 Oct 1973 p. 4050; 28 Jun 1974 p. 2233-4; 30 Aug 1974 p. 3236; 28 Feb 1975 p. 721-2; 7 Dec 1979 p. 3772; 27 Mar 1981 p. 1039-40; 20 May 1983 p. 1523-4; 16 Mar 1984 p. 701; 14 Aug 1987 p. 3163-6; 3 Mar 1989 p. 675; 29 Jun 1990 p. 3147; 16 Jul 1993 p. 3889; 19 Dec 1995 p. 6145; 17 Jan 1997 p. 407; 24 Apr 1997 p. 2068; 27 Jun 1997 p. 3094; 2 Oct 1998 p. 5513; 29 Jun 1999 p. 2832; 1 Jul 1999 p. 2911; 1 Aug 2000 p. 4133; 28 Mar 2002 p. 1762; 6 Sep 2002 p. 4488; 28 Jun 2005 p. 2919; 29 Nov 2005 p. 5782-3.]

[The Third Schedule deleted by No. 38 of 2002 s. 61.]

[The Fourth Schedule deleted by No. 42 of 2002 s. 29.]

Notes

¹ This is a compilation of the *Fire Brigades Act 1942* and includes the amendments made by the other written laws referred to in the following table [1a](#),^{4,5,6}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Fire Brigades Act 1942</i>	35 of 1942	23 Dec 1942	17 May 1943 (see s. 1 and <i>Gazette</i> 14 May 1943 p. 463) Proc. published 9 Apr 1943 p. 345 revoked (see <i>Gazette</i> 14 May 1943 p. 463)
<i>Fire Brigades Act Amendment Act 1949</i>	31 of 1949	25 Oct 1949	25 Oct 1949
<i>Acts Amendment (Fire Brigades Board and Fire Hydrants) Act 1951 s. 3</i>	41 of 1951	20 Dec 1951	4 Apr 1952 (see s. 2 and <i>Gazette</i> 4 Apr 1952 p. 799-800)
<i>Fire Brigades Act Amendment Act 1959</i>	34 of 1959	30 Oct 1959	30 Oct 1959
Reprint of the <i>Fire Brigades Act 1942</i> approved 12 Jul 1960 (not in a Vol.) (includes amendments listed above)			
<i>Fire Brigades Act Amendment Act 1961</i>	5 of 1961	10 Oct 1961	10 Oct 1961
<i>Fire Brigades Act Amendment Act 1963</i>	34 of 1963	19 Nov 1963	14 Feb 1964 (see s. 2 and <i>Gazette</i> 14 Feb 1964 p. 643)
<i>Fire Brigades Act Amendment Act 1964</i>	3 of 1964	2 Oct 1964	2 Oct 1964
<i>Fire Brigades Act Amendment Act 1966</i>	42 of 1966	4 Nov 1966	4 Nov 1966
<i>Fire Brigades Act Amendment Act 1971</i>	27 of 1971	1 Dec 1971	1 Dec 1971
Untitled Order (see <i>Gazette</i> 21 Jan 1972 p. 74)			21 Jan 1972
Untitled Order (see <i>Gazette</i> 4 Feb 1972 p. 213-14)			4 Feb 1972
Reprint of the <i>Fire Brigades Act 1942</i> approved 16 Feb 1972 (includes amendments listed above)			
Untitled Order published in <i>Gazette</i> 23 Jun 1972 p. 2029-30			23 Jun 1972
Untitled Order published in <i>Gazette</i> 4 Aug 1972 p. 2923			4 Aug 1972

Short title	Number and year	Assent	Commencement
Untitled Order published in <i>Gazette</i> 20 Oct 1972 p. 4152			20 Oct 1972
Untitled Order published in <i>Gazette</i> 27 Oct 1972 p. 4208			27 Oct 1972
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 19 and 83 of 1973, 42 of 1975)	4 Dec 1972	Relevant amendments (see Fourth Sch. ⁷) took effect on 19 Dec 1975 (see s. 4(2) and <i>Gazette</i> 19 Dec 1975 p. 4577)
<i>Fire Brigades Act Amendment Act 1972</i>	107 of 1972	6 Dec 1972	23 Dec 1972 (see s. 2 and <i>Gazette</i> 22 Dec 1972 p. 4755)
Untitled Order published in <i>Gazette</i> 25 May 1973 p. 1617			25 May 1973
Untitled Order published in <i>Gazette</i> 26 Oct 1973 p. 4050			26 Oct 1973
Untitled Order published in <i>Gazette</i> 28 Jun 1974 p. 2233-4			28 Jun 1974
Untitled Order published in <i>Gazette</i> 30 Aug 1974 p. 3236			30 Aug 1974
Untitled Order published in <i>Gazette</i> 28 Feb 1975 p. 721-2			28 Feb 1975
<i>Acts Amendment and Repeal (Valuation of Land) Act 1978 Pt. VI</i>	76 of 1978	20 Oct 1978	1 Jul 1979 (see s. 2 and <i>Gazette</i> 11 May 1979 p. 1211)
<i>Fire Brigades Act Amendment Act 1978</i>	85 of 1978	27 Oct 1978	27 Oct 1978
<i>Fire Brigades Act Amendment Act 1979</i>	63 of 1979	12 Nov 1979	7 Dec 1979 (see s. 2 and <i>Gazette</i> 7 Dec 1979 p. 3769)
Untitled Order published in <i>Gazette</i> 7 Dec 1979 p. 3772			7 Dec 1979
<i>Fire Brigades Act Order (No. 2) 1981</i> published in <i>Gazette</i> 27 Mar 1981 p. 1039-40			27 Mar 1981 (see cl. 2)
<i>Fire Brigades Amendment Act 1982</i> ⁸	28 of 1982	27 May 1982	30 Jun 1982 (see s. 2 and <i>Gazette</i> 30 Jun 1982 p. 2261)
<i>Fire Brigades Act Order 1983</i> published in <i>Gazette</i> 20 May 1983 p. 1523-4			20 May 1983 (see cl. 2)
<i>Fire Brigades Act Order 1984</i> published in <i>Gazette</i> 16 Mar 1984 p. 701			16 Mar 1984 (see cl. 2)

Fire Brigades Act 1942

Short title	Number and year	Assent	Commencement
<i>Fire Brigades Amendment Act 1985</i> ⁹	51 of 1985	23 Oct 1985	s. 11: 3 Jan 1986 (see s. 2 and <i>Gazette</i> 3 Jan 1986 p. 9); s. 1-8: 8 Aug 1986 (see s. 2 and <i>Gazette</i> 8 Aug 1986 p. 2815); s. 9 and 10: 5 Aug 1988 (see s. 2 and <i>Gazette</i> 5 Aug 1988 p. 2583)
<i>Fire Brigades Superannuation Act 1985</i> s. 34 ¹⁰	87 of 1985	4 Dec 1985	3 Nov 1986 (see s. 2 and <i>Gazette</i> 24 Oct 1986 p. 3938)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3 ¹¹	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>State Government Insurance Commission Act 1986</i> s. 46(2) ¹²	51 of 1986	5 Aug 1986	1 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4859)
Reprint of the <i>Fire Brigades Act 1942</i> as at 18 Sep 1986 (includes amendments listed above except those in the <i>Fire Brigades Amendment Act 1985</i> s. 9-10, <i>Fire Brigades Superannuation Act 1985</i> and the <i>State Government Insurance Commission Act 1986</i>)			
<i>Fire Brigades (Dongara-Port Denison Fire District) Order 1987</i> published in <i>Gazette</i> 14 Aug 1987 p. 3163-4			14 Aug 1987
<i>Fire Brigades (Denham Fire District) Order 1987</i> published in <i>Gazette</i> 14 Aug 1987 p. 3164			14 Aug 1987
<i>Fire Brigades (Falcon Fire District) Order 1987</i> published in <i>Gazette</i> 14 Aug 1987 p. 3164-5			14 Aug 1987
<i>Fire Brigades (Yanchep Fire District) Order 1987</i> published in <i>Gazette</i> 14 Aug 1987 p. 3165-6			14 Aug 1987
<i>Acts Amendment (Public Service) Act 1987</i> s. 32 ¹³	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Fire Brigades (Jurien Fire District) Order 1989</i> published in <i>Gazette</i> 3 Mar 1989 p. 675			3 Mar 1989
<i>Fire Brigades (Kalgoorlie-Boulder) Amendment Order 1990</i> published in <i>Gazette</i> 29 Jun 1990 p. 3147			29 Jun 1990
<i>SGIO Privatisation Act 1992</i> s. 29	49 of 1992	9 Dec 1992	7 Jan 1993 (see s. 2(3) and 4(2) and <i>Gazette</i> 7 Jan 1993 p. 15)
<i>Criminal Law Amendment Act (No. 2) 1992</i> s. 16(1)	51 of 1992	9 Dec 1992	6 Jan 1993

Short title	Number and year	Assent	Commencement
<i>Fire Brigades (Kambalda Fire District) Order 1993</i> published in <i>Gazette</i> 16 Jul 1993 p. 3889			16 Jul 1993
<i>Financial Administration Legislation Amendment Act 1993</i> s. 12	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>City of Perth Restructuring Act 1993</i> s. 34	38 of 1993	20 Dec 1993	1 Jul 1994 (see s. 3(1) and 34(2))
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Fire Brigades Amendment Act 1994</i> ¹⁴	52 of 1994	2 Nov 1994	10 Dec 1994 (see s. 2 and <i>Gazette</i> 9 Dec 1994 p. 6647)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Fire Brigades (Mundaring Fire District) Order 1995</i> published in <i>Gazette</i> 19 Dec 1995 p. 6145-6			19 Dec 1995
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995</i> s. 188 ¹⁵	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291)
<i>Sentencing (Consequential Provisions) Act 1995</i> s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Coroners Act 1996</i> s. 61	2 of 1996	24 May 1996	7 Apr 1997 (see s. 2 and <i>Gazette</i> 18 Mar 1997 p. 1529)
Reprint of the <i>Fire Brigades Act 1942</i> as at 17 Jun 1996 (includes amendments listed above except those in the <i>Sentencing (Consequential Provisions) Act 1995</i> and the <i>Coroners Act 1996</i>)			
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Fire Brigades (Gingin Fire District) Order 1996</i> published in <i>Gazette</i> 17 Jan 1997 p. 406-7			17 Jan 1997
<i>Fire Brigades (Lancelin Fire District) Order 1997</i> published in <i>Gazette</i> 24 Apr 1997 p. 2068-9			24 Apr 1997

Fire Brigades Act 1942

Short title	Number and year	Assent	Commencement
<i>Fire Brigades (Secret Harbour Fire District) Order 1997</i> published in <i>Gazette</i> 27 Jun 1997 p. 3094-5			27 Jun 1997
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 60	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 35 and 76	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Fire Brigades (Onslow Fire District) Order 1998</i> published in <i>Gazette</i> 2 Oct 1998 p. 5513			2 Oct 1998
<i>Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998</i> Pt. 3	42 of 1998	4 Nov 1998	1 Jan 1999 (see s. 2 and <i>Gazette</i> 22 Dec 1998 p. 6833)
<i>Fire Brigades (Roleystone Fire District) Order 1999</i> published in <i>Gazette</i> 29 Jun 1999 p. 2832-3			29 Jun 1999
<i>Fire Districts (Adjustment of Boundaries) Order 1999</i> published in <i>Gazette</i> 1 Jul 1999 p. 2911-13			1 Jul 1999
Reprint of the <i>Fire Brigades Act 1942</i> as at 18 Feb 2000 (includes amendments listed above)			
<i>Fire Brigades (Dunsborough Fire District) Order 2000</i> published in <i>Gazette</i> 1 Aug 2000 p. 4133-4			1 Aug 2000
<i>Fire Brigades (Kalbarri Fire District) Order 2001</i> published in <i>Gazette</i> 28 Mar 2002 p. 1761-2			28 Mar 2002
<i>Fire Brigades (Dwellingup Fire District) Order 2002</i> published in <i>Gazette</i> 6 Sep 2002 p. 4487-8			6 Sep 2002
<i>Fire and Emergency Services Legislation Amendment Act 2002</i> Pt. 4 ¹⁶	38 of 2002	20 Nov 2002	30 Nov 2002 (see s. 2 and <i>Gazette</i> 29 Nov 2002 p. 5651-2)
<i>Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Act 2002</i> Pt. 3 ²	42 of 2002	11 Dec 2002	1 Jan 2003 (see s. 2 and <i>Gazette</i> 30 Dec 2002 p. 6635)
Reprint 6: The <i>Fire Brigades Act 1942</i> as at 7 Mar 2003 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
<i>Sentencing Legislation Amendment and Repeal Act 2003 s. 61</i>	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Economic Regulation Authority Act 2003 s. 62</i>	67 of 2003	5 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5723)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> ¹⁸	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 48</i> ¹⁷	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Fire Brigades (Fire Districts) Notice 2005</i> published in <i>Gazette</i> 28 Jun 2005 p. 2918-19			28 Jun 2005
<i>Emergency Management Act 2005 s. 104</i>	15 of 2005	27 Sep 2005	24 Dec 2005 (see s. 2 and <i>Gazette</i> 23 Dec 2005 p. 6244)
<i>Fire Brigades (Fire Districts) Notice (No. 2) 2005</i> published in <i>Gazette</i> 29 Nov 2005 p. 5782-3			29 Nov 2005
Reprint 7: The Fire Brigades Act 1942 as at 2 Jun 2006 (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act 2009 s. 9</i>	46 of 2009	3 Dec 2009	4 Dec 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010 s. 4, 43(3) and 51</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

^{1a} [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

Provisions that have not come into operation

<u>Short title</u>	<u>Number and year</u>	<u>Assent</u>	<u>Commencement</u>
<i>Fire and Emergency Services</i>	22 of 2012	29 Aug 2012	To be proclaimed (see s. 2(b))

[Legislation Amendment
Act 2012 Pt. 4](#)¹⁹

² The *Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Act 2002* s. 36, which gives effect to Sch. 1, reads as follows:

“

36. Transitional provisions

Schedule 1 has effect.

”.

Schedule 1 reads as follows:

“

Schedule 1 — Transitional provisions

[s. 36]

Division 1 — Definitions

1. Definitions

In this Division —

“**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*;

“**commencement day**” means the day on which this Schedule comes into operation;

“**FESA Account**” means the Fire and Emergency Services Authority Account established under section 30 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

“**insurance company**” has the same meaning as it has in the FB Act;

“**levy**” means the emergency services levy determined under Part 6A of the FESA Act and imposed under the *Emergency Services Levy Act 2002*;

“**Minister**” has the same meaning as it has in the FESA Act;

“**the FB Act**” means the *Fire Brigades Act 1942*, as in force immediately before the commencement day;

“**the FESA Act**” means the *Fire and Emergency Services Authority of Western Australia Act 1998*, as amended by this Act;

“**the ICA**” means the Insurance Council of Australia Limited;

“**the 2003 period**” means the period that begins on the commencement day and ends on 30 June 2003;

“the 2004 year” means the year that ends on 30 June 2004.

Division 2 — Savings and transitional provisions relating to Part IX of the *Fire Brigades Act 1942*

2. Application

This Division has effect despite the repeal by section 23 of Part IX of the *Fire Brigades Act 1942*.

3. Section 36

Section 36 of the FB Act continues to have effect for the 2003 period.

4. Section 37

(1) Section 37 of the FB Act continues to have effect for the 2003 period.

(2) Section 37 of the FB Act also continues to have effect for the 2004 year as if —

(a) after “in respect of each district” in subsection (1) were inserted —

“ served by a permanent fire brigade ”;

(b) subsection (1)(a) and (b) of that section were deleted;

(c) subsection (2) of that section were repealed and the following subsections inserted instead —

“

(2) For the purposes of subsection (1), the insurance companies shall contribute the specified percentage of the amount of the estimated expenditure for the year ending 30 June 2004.

(2aa) In subsection (2) —

“the specified percentage” means the percentage specified by the Minister by notice published in the *Gazette*.

”;

(d) subsections (4) and (5) of that section were repealed.

(3) Despite subsection (3) of section 37 of the FB Act, the contributions in relation to the year that ends on 30 June 2004 required from insurance companies under that section, as continued by this clause, are to be paid at the times, and in the instalments, specified by the Minister by notice published in the *Gazette*.

5. Section 38

Section 38 of the FB Act continues to have effect for the 2003 period.

6. Section 39

Section 39 of the FB Act continues to have effect for the 2003 period for the purposes of requiring insurance companies to give to the Authority not later than 31 March 2003 a return and a declaration, within the meaning of that section, in respect of the year that ends on 31 December 2002.

7. Section 40

Section 40 of the FB Act continues to have effect for the period that begins on the commencement day and ends on 30 June 2004.

8. Section 42

Section 42 of the FB Act continues to have effect for the 2003 period for the purposes of the return and the declaration referred to in clause 6.

9. Section 43

- (1) Section 43 of the FB Act continues to have effect for the 2003 period.
- (2) Section 43 of the FB Act also continues to have effect for the 2004 year as if that section were amended —
 - (a) by deleting each reference to “local government”;
 - (b) by making any other modification necessary for the purposes of paragraph (a).

10. Section 44

Section 44 of the FB Act continues to have effect for the 2003 period.

11. Section 45

- (1) Subject to subclause (2), section 45 of the FB Act continues to have effect for the purposes of the amount of the contributions, within the meaning of that section, received by the Authority for the year that ends on 30 June 2003.
- (2) If, for that year, there is a deficit or excess, within the meaning of that section, in respect of the contributions of a local government or the Treasurer —
 - (a) an amount equal to the deficit is to be paid to the Authority by the local government or the Treasurer, as the case requires, not later than 31 December 2003; or
 - (b) an amount equal to the excess is to be paid by the Authority to the local government or the Treasurer, as the case requires, not later than 31 December 2003.
- (3) Subject to subclause (4), section 45 of the FB Act also continues to have effect for the purposes of the amount of the contributions, within

the meaning of that section, received by the Authority for the 2004 year from insurance companies.

- (4) If, for that year, there is a deficit or excess, within the meaning of that section, in respect of the contributions of an insurance company —
- (a) an amount equal to the deficit is to be paid to the Authority by the insurance company not later than 31 December 2004; or
 - (b) an amount equal to the excess is to be paid by the Authority to the insurance company not later than 31 December 2004.

12. Section 46

Moneys borrowed by the Authority under section 46 of the FB Act and not repaid before the commencement day are taken to have been borrowed under Part 6 of the FESA Act.

13. Section 46A

Amounts that, immediately before the commencement day, are standing to the credit of a replacement fund established under section 46A of the FB Act are taken to be amounts standing to the credit of a reserve fund established under section 35A of the FESA Act.

Division 3 — Arrangements with insurance companies

14. Arrangements with insurance companies

- (1) The Minister, after consultation with the ICA, is to take all reasonable steps to enter into arrangements with insurance companies that provide for the Minister to be given sufficient information by the companies to satisfy the Minister that, as a result of the introduction of the levy, the companies have appropriately reduced, or have given appropriate refunds in relation to, the premiums payable for policies of insurance.
- (2) In subclause (1) —
- “**policies of insurance**” means policies of insurance within the meaning of the FB Act.

15. Report by Minister

- (1) Within 18 months after the commencement day, the Minister is to prepare a report on the arrangements referred to in clause 14 and the information given to the Minister in accordance with those arrangements.
- (2) The Minister may omit from the report any matter that the Minister considers to be of a commercially sensitive nature.
- (3) As soon as practicable after the report is prepared the Minister is to cause it to be laid before each House of Parliament.

Division 4 — Regulations

16. Further transitional regulations may be made

- (1) If there is no sufficient provision in this Schedule for any matter or thing necessary or convenient to give effect to the purposes of this Schedule, that provision may be made by regulations under section 40 of the FESA Act.
- (2) Without limiting subclause (1), regulations referred to in that subclause may provide for any matter or thing necessary or convenient —
 - (a) to assist the Minister to enter into the arrangements referred to in clause 14; or
 - (b) to give effect to the purposes of entering into those arrangements.
- (3) Any such regulation may be made so as to have effect on or after the day on which this clause comes into operation.
- (4) To the extent that any such regulation has effect on a day that is earlier than the day of its publication in the *Gazette*, the regulation does not operate so as —
 - (a) to affect, in a manner prejudicial to any person (other than the State or the Authority), the rights of that person existing before the day of its publication; or
 - (b) to impose liabilities on any person (other than the State or the Authority), in respect of anything done or omitted to be done before the day of its publication.

³ The designation of Ministers can be altered by the Governor under the *Alteration of Statutory Designations Act 1974*. At the time of this compilation the former Minister for Water Supply, Sewerage and Drainage is known as the Minister for Water Resources.

⁴ Marginal notes in the *Fire Brigades Act 1942* referring to legislation of other jurisdictions have been omitted from this compilation.

⁵ Marginal notes in the *Fire Brigades Act 1942* referring to sections of the *Fire Brigades Act 1916* have been omitted from this compilation.

⁶ The amendments in the *Fire Brigades Amendment Act (No. 2) 1982* are not included in this compilation because, before it came into operation, that Act was repealed by the *Fire and Emergency Services Legislation Amendment Act 2002*.

⁷ The Fourth Schedule was inserted by the *Metric Conversion Act Amendment Act 1975*.

⁸ The *Fire Brigades Amendment Act 1982* s. 18(2) is a savings provision that is of no further effect.

⁹ The *Fire Brigades Amendment Act 1985* s. 11(2) reads as follows:

“

- (2) Section 38 of the principal Act as amended by subsection (1) shall have effect on and after 1 July 1985.

”

¹⁰ The *Fire Brigades Superannuation Act 1985* s. 36 is a transitional provision that is of no further effect.

¹¹ The *Acts Amendment (Financial Administration and Audit) Act 1985* s. 4 is a savings and transitional provision that is of no further effect.

¹² The *State Government Insurance Commission Act 1986* s. 47 is a savings, validation and transitional provision that is of no further effect.

¹³ The *Acts Amendment (Public Service) Act 1987* s. 6(2) and (3), 19(2) and (3), 20(2) and (3), 25(2), 26(2) and 28(2) are transitional, validation and savings provisions that are of no further effect.

¹⁴ The *Fire Brigades Amendment Act 1994* s. 35 is a validation provision that is of no further effect.

¹⁵ The *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* Pt. 14 are transitional provisions that are of no further effect.

¹⁶ The *Fire and Emergency Services Legislation Amendment Act 2002* s. 45(4) and 54(3) read as follows:

“

45. Section 5 amended, and transitional

- (4) An order made by the Governor under section 5 of the *Fire Brigades Act 1942* that is in force immediately before the day on which this section comes into operation, continues in force on and after that day, subject to the *Fire Brigades Act 1942* (as amended by this Act), as if it were a notice made by the Minister under that section as amended by this Act.

54. Section 35A amended and transitional

- (3) An order made by the Governor under section 35A of the *Fire Brigades Act 1942* that is in force immediately before the day on which this section comes into operation, continues in force on and after that day, subject to the *Fire Brigades Act 1942* (as amended by this Act), as if it were a notice made by the Minister under that section as amended by this Act.

”

¹⁷ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

¹⁸ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 18 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

¹⁹ On the date as at which this compilation was prepared, the *Fire and Emergency Services Legislation Amendment Act 2012* Pt. 4 had not come into operation. It reads as follows:

Part 4 — Fire Brigades Act 1942 amended

70. Act amended

This Part amends the *Fire Brigades Act 1942*.

71. Section 4 amended

(1) In section 4(1) delete the definitions of:

Authority

Chief Executive Officer

Director

member of the Authority

the FESA Act

(2) In section 4(1) insert in alphabetical order:

Department has the meaning given in the FES Act section 3;

employed in the Department means employed or engaged in the Department in accordance with the FES Act section 20(1);

FES Act means the *Fire and Emergency Services Act 1998*;

FES Commissioner has the meaning given in the FES Act section 3;

property of the Department means property vested in the Minister that is under the control of the FES Commissioner;

(3) Delete section 4(2).

72. Part VI heading amended

In the heading to Part VI delete “**Authority**” and insert:

Minister and FES Commissioner

73. Section 24 amended

(1) In section 24(1):

(a) delete "Authority may purchase," and insert:

Minister may, under the FES Act section 8, purchase,

(b) delete "Authority may think" and insert:

Minister may think

(c) delete "to time" insert:

to time, under that section,

(d) delete "in the Authority" and insert:

in the Minister

(2) In section 24(2):

(a) delete "Authority" (first occurrence) and insert:

Minister

(b) delete "Authority" (second occurrence) and insert:

Department

(c) delete "Authority." and insert:

Department.

(3) In section 24(3):

(a) delete “Authority, or a body corporate to which the Authority is” and insert:

Minister or the former Authority, or a body corporate to which the former Authority was

(b) delete “Authority” (last occurrence) and insert:

Minister

(4) After section 24(3) insert:

(4) In subsection (3)—

former Authority means the Fire and Emergency Services Authority of Western Australia established by the FES Act section 4, as in force immediately before the commencement of the *Fire and Emergency Services Legislation Amendment Act 2012* section 7.

74. Section 25 amended

In section 25(e) delete “it” and insert:

the FES Commissioner

75. Section 26A amended

(1) In section 26A(1) delete “its functions under this Act the Authority” and insert:

the FES Commissioner’s functions under this Act the FES Commissioner

(2) In section 26A(2):

(a) delete “Authority” (first occurrence) and insert:

FES Commissioner

(b) delete paragraph (c) and insert:

(c) utilise the apparatus, plant and other property of the Department and use the persons employed in the Department to promote public awareness of the functions of the FES Commissioner under this Act or to enhance the Department's public image; and

(c) in paragraph (f) delete "Authority" (each occurrence) and insert:

FES Commissioner

(d) in paragraph (h) delete "by the Authority" and insert:

in the Department

(e) in paragraph (h) delete "Authority;" and insert:

FES Commissioner; and

(f) in paragraph (i) delete "its functions;" and insert:

the FES Commissioner's functions; and

(g) in paragraph (k) delete "on it" and insert:

on the FES Commissioner

(3) In section 26A(2) after each of paragraphs (a), (b), (d), (f) and (g) insert:

and

Note: The heading to amended section 26A is to read:
Further powers of FES Commissioner

76. Part VII heading amended

In the heading to Part VII delete "other employees" and insert:

others

77. Section 29 deleted

Delete section 29.

78. Section 31 replaced

Delete section 31 and insert:

31. Brigades are under control of FES Commissioner

Every brigade and all the officers and members of a brigade are under the immediate order and control of the FES Commissioner.

79. Section 33 amended

In section 33(1):

- (a) delete the passage that begins with “The Director” and ends with “to say —” and insert:

The FES Commissioner, or a person employed in the Department who is authorised by the FES Commissioner for the purposes of this section, is to perform or exercise, in addition to any other duties, the following general duties and powers —

- (b) in paragraph (c) delete “and report to the Authority” and insert:

and, in the case of a person other than the FES Commissioner, report to the FES Commissioner

- (c) in paragraph (d) delete “Authority” and insert:

Department

- (d) delete paragraph (g) and insert:

- (g) in the case of a person other than the FES Commissioner, the person is to make any inquiries and reports as directed by the FES Commissioner.

Note: The heading to amended section 33 is to read:

General duties and powers of FES Commissioner and authorised persons

80. Section 33A amended

- (1) In section 33A(1):

- (a) delete “Director or an officer of the Authority authorised by the Authority in that behalf” and insert:

FES Commissioner, or a person employed in the Department who is authorised by the FES Commissioner for the purposes of this section.

- (b) in paragraph (b) delete “Director or officer” and insert:

FES Commissioner or person

- (2) In section 33A(3), (4), (5), (6), (9), (11) and (14)(a) and (c) delete “Director” (each occurrence) and insert:

FES Commissioner

- (3) In section 33A(15) in the definition of *authorised officer* delete “an officer of the Authority authorised by the Authority” and insert:

a person employed in the Department who is authorised by the FES Commissioner

- (4) In section 33A(15) in the definition of *presumed occupier* delete “Director” and insert:

FES Commissioner

Note: The heading to amended section 33A is to read:

Duties and powers of FES Commissioner and authorised officers in relation to public buildings

81. Section 34 amended

In section 34:

(a) delete “Director or, in his absence” and insert:

FES Commissioner or

(b) delete “an officer of the Authority authorised by the Authority in that behalf,” and insert:

a person employed in the Department who is authorised by the FES Commissioner for the purposes of this section.

Note: The heading to amended section 34 is to read:

Duties and powers of FES Commissioner and others at fires

82. Section 34A amended

(1) Delete section 34A(3) and insert:

(3) An authorised officer other than the FES Commissioner must not specify a period of more than 3 hours under subsection (1)(a) or (b) unless the FES Commissioner has given written authorisation for a longer period to be specified in relation to the person exposed to the hazardous material.

(2) Delete section 34A(10) and insert:

(10) In this section —

authorised officer, in relation to a hazardous material incident, means the FES Commissioner or the officer or any member of the brigade who for the time being is in charge.

83. Section 35 amended

In section 35(2):

(a) in paragraph (d) delete “employees.” and insert:

persons employed or engaged for the purposes of this Act in accordance with the FES Act section 20(1)(b) or (c).

(b) in paragraph (d) delete “employees:” and insert:

persons:

(c) in paragraph (e) delete “employees:” and insert:

persons employed or engaged for the purposes of this Act in accordance with the FES Act section 20(1)(b) or (c);

(d) in paragraph (g) delete “employees of the Authority” and insert:

persons employed or engaged for the purposes of this Act in accordance with the FES Act section 20(1)(b) or (c)

(e) after paragraph (x) delete “and”.

84. Section 47A deleted

Delete section 47A.

85. Section 49 amended

In section 49 delete “member or officer of the Authority.” and insert:

person employed in the Department who is authorised by the FES Commissioner for the purposes of this section.

86. Section 51 amended

In section 51:

(a) delete “Director certifying” and insert:

FES Commissioner being satisfied

(b) delete “Authority may, in its discretion,” and insert:

FES Commissioner may, in his or her discretion,

(c) delete “Authority thinks” and insert:

FES Commissioner thinks

(d) delete “Authority may by resolution” and insert:

FES Commissioner may

87. Section 52 amended

(1) In section 52(1) delete “regulations, the Authority” and insert:

the regulations, the FES Commissioner

(2) In section 52(2) delete “in that behalf by the Authority” and insert:

under subsection (1) by the FES Commissioner

88. Section 54 amended

(1) In section 54(4):

(a) delete “On and after the proclaimed day, the Authority”
and insert:

The FES Commissioner

(b) delete “Authority” (second occurrence) and insert:

FES Commissioner

(2) In section 54(5) delete “Authority” (first and second occurrences)
and insert:

FES Commissioner

(3) In section 54(9):

(a) delete "Authority" (first occurrence) and insert:

FES Commissioner

(b) delete "Authority" (second occurrence) and insert:

State

(4) In section 54(10):

(a) delete "shall vest in the Authority" and insert:

vests, or is to be taken to have vested, in the Minister

(b) in the Table item 3 Column 1 delete "Authority." and insert:

FES Commissioner.

89. Section 58 amended

In section 58 delete "Director" (each occurrence) and insert:

FES Commissioner

Note: The heading to amended section 58 is to read:
Police and others to aid FES Commissioner

90. Section 59 amended

In section 59(b) delete "Authority;" and insert:

Department;

91. Section 66 amended

In section 66:

(a) delete "by the Authority" and insert:

in the Department for the purposes of this Act

(b) delete “belonging to the Authority,” and insert:

of the Department.

(c) delete “Authority” (third, fourth and fifth occurrences) and insert:

FES Commissioner

92. Section 67 amended

(1) Delete section 67(1) and insert:

(1A) In this section —

authorised officer means —

(a) the FES Commissioner; or

(b) a person employed in the Department, or an agent of the FES Commissioner, who is authorised in writing by the FES Commissioner for the purposes of this section.

(1) An authorised officer may enter, and, if necessary, break into any place where any property of the Department is detained contrary to the order of the FES Commissioner, and may remove that property.

(2) In section 67(2) delete “the Director or any such officer, employee, or agent” and insert:

an authorised officer

Note: The heading to amended section 67 is to read:
Detention of property of the Department

93. Section 73 deleted

Delete section 73.

94. Various references to “Authority” amended

In the provisions listed in the Table delete “Authority” (each occurrence) and insert:

FES Commissioner

Table

<u>s. 4(1) def. of <i>permanent fire brigade</i>, <i>private fire brigade</i> and <i>volunteer fire brigade</i></u>	<u>s. 25</u>
<u>s. 25A(1) and (4)</u>	<u>s. 26</u>
<u>s. 27(1) and (2)</u>	<u>s. 30</u>
<u>s. 34(h)</u>	<u>s. 48</u>
<u>s. 50</u>	<u>s. 55</u>
<u>s. 56(b)</u>	<u>s. 57</u>
<u>s. 61</u>	

Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

Table

<u>Amended section</u>	<u>Section heading</u>
<u>s. 25</u>	<u>Functions of FES Commissioner</u>
<u>s. 25A</u>	<u>FES Commissioner may require certain fire fighting appliances</u>
<u>s. 27</u>	<u>FES Commissioner's proposals to be submitted to local government</u>
<u>s. 48</u>	<u>FES Commissioner to furnish information to Commissioner of Public Health</u>