

FIRE BRIGADES.

12° Elizabeth II., No. XXXIV.

No. 34 of 1963.

AN ACT to amend the Fire Brigades Act, 1942-1961.

[Assented to 19th November, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Fire Brigades Act Amendment Act, 1963*.

Reprinted
approved for
reprint
12th July,
1960, further
amended by
Act No. 5 of
1961.

(2) In this Act the Fire Brigades Act, 1942-1961, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fire Brigades Act, 1942-1963.

Commence-
ment.

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

3. Section two of the principal Act is amended by substituting for the passage, "s. 35", in the arrangement of Part VIII, the passage, "ss. 35 to 35A". S. 2 amended.

4. Section four of the principal Act is amended— S. 4 amended.

- (a) by substituting for the interpretation, "Insurance company", the following interpretation—

"Insurance company" means any body corporate, company, partnership, association, underwriter or person—

- (a) issuing, or undertaking liability under a policy of insurance; or
 - (b) receiving premiums in respect of a policy of insurance, on behalf of, or for transmission to, any body corporate, company, partnership, association, underwriter or person outside the State; or
 - (c) deemed to be an insurance company under the provisions of this Act;
- (b) by deleting the passage, "or the road board of a road district," in lines two and three of the interpretation, "local authority";
- (c) by adding, immediately after the interpretation "permanent fire brigade", the following interpretation—

"Policy of insurance" means any policy of insurance or re-insurance indemnifying against loss of, or damage to, any property within the State and that is declared by Order in Council to be a policy of insurance for the purposes of this Act; and includes every certificate or declaration as to the existence of, and any agreement for, any such policy of insurance or re-insurance, and any instrument or

writing whereby any contract for such a policy of insurance or re-insurance is made or agreed to be made or is evidenced;

and

(d) by repealing the interpretation, "Property".

S. 5
amended.

5. Section five of the principal Act is amended by deleting the words, "and road" in each case where appearing in line two of subsection (1) and in line one of subsection (4).

S. 7
amended.

6. Section seven of the principal Act is amended by substituting, respectively for paragraphs (d), (e) and (f) the following paragraphs—

(d) One member shall be elected by the councils of the municipal districts, or portions of municipal districts, from time to time included in Part II of the Second Schedule to this Act.

(e) One member shall be elected by the councils of the municipal districts, or portions of municipal districts, from time to time included in Part III of the Second Schedule to this Act.

(f) One member shall be elected by the councils of the municipal districts, or portions of municipal districts, from time to time included in Part IV of the Second Schedule to this Act.

S. 15
amended.

7. Section fifteen of the principal Act is amended by deleting the words, "or a member of a road board" in each case, where appearing in line two and in lines six and seven of paragraph (b).

S. 35
amended.

8. Section thirty-five of the principal Act is amended by substituting for paragraph (z) the following paragraph—

(z) for any purpose for which regulations are contemplated or required, or may, in his opinion, be necessary or expedient, for giving effect to the provisions of, and for the due administration of, this Act.

9. The principal Act is amended by adding, immediately after section thirty-five, the following section—

S. 35A added.

35A. The Governor may, by Order in Council, declare—

Power to declare policies of insurance, etc. for purposes of this Act.

- (a) any policy of insurance to be a policy of insurance for the purposes of this Act;
- (b) which of the policies of insurance so declared are to apply within fire districts, only, and which are to apply within the whole of the State, generally;
- and
- (c) the percentage of the gross premium, paid or payable in respect of any policy of insurance so declared, that is to be taken in computing a contribution numerator, for the purposes of sections thirty-nine and forty of this Act;

and may, in like manner, cancel or vary any Order so made.

10. Section thirty-seven of the principal Act is amended—

S. 37 amended.

- (a) by substituting for paragraph (c) of subsection (1) the following paragraph—
 - (c) the insurance companies that are insurance companies within the meaning of this Act, jointly ;
- (b) by adding, immediately after the word, “thereof”, in line five of subsection (2), the following passage, “; except that, for the year ending the thirtieth day of September nineteen hundred and sixty-five and for each year thereafter, up to, and including, the year ending the thirtieth day of September nineteen hundred and sixty-seven, the Treasurer shall contribute sixteen pounds per centum, the local authorities

twenty pounds per centum, and the insurance companies sixty-four pounds per centum, of such annual estimated expenditure”.

S. 38
amended.

11. Section thirty-eight of the principal Act is amended—

(a) by substituting for paragraph (b) of subsection (1) the following paragraph—

(b) by increasing the annual general rate under the Local Government Act, 1960, notwithstanding any statutory limit of such rate. ;

and

(b) by deleting the words, “or road”, in line one of subsection (2).

S. 39
repealed and
re-enacted.

12. Section thirty-nine of the principal Act is repealed and re-enacted with amendments as follows—

Returns by
insurance
companies

39. (1) In this section and in section forty of this Act—

“contribution denominator” means the aggregate of all the contribution numerators of the insurance companies, for the same period of twelve months;

“contribution numerator” means the aggregate of all the declared percentages of any one insurance company, (expressed as a sum of money) for a period of twelve months ending on the thirty-first day of December;

“declared percentage” means the percentage of a gross premium that is declared by Order in Council made under this Act as that to be taken in computing a contribution numerator;

“gross premium” means the premium paid or payable in respect of a policy of insurance, without the deduction of any commission, brokerage or discount.

(2) To enable the Board to determine the amounts to be paid by the various insurance companies for the purposes of section thirty-seven of this Act, every insurance company within the meaning of this Act shall, in the month of July, in every year, or at such other time as the Board may direct, furnish a return to the Board, in the prescribed form, setting out the contribution numerator of the company, in respect of the period of twelve months ending the thirty-first day of December immediately preceding the furnishing of the return.

(3) In computing the amount of the contribution numerator, an insurance company may deduct the gross premiums paid by it, during the period to which the contribution numerator relates, for re-insurance of, or part of, a policy of insurance with any other insurance company that is required to furnish a return, under this section, during the same period.

(4) Every return furnished pursuant to this section shall be accompanied by such statutory declaration as may be prescribed by regulations under this Act, verifying the amount of the contribution numerator and an insurance company shall be bound by an amount so verified.

(5) Every person who—

- (a) negotiates a policy of insurance on behalf of an insurance company; or
- (b) being the owner of property, without negotiating with a person in the State, takes out a policy of insurance in respect of that property with an insurance company; or
- (c) not being the owner, has an insurable interest in any property in respect of which a policy of insurance, not negotiated with a person in the State, has been taken out with an insurance company,

shall, if the insurance company is not carrying on business within the State, himself, be deemed to be an insurance company.

(6) Every insurance company, being an insurance company required to furnish a return under this section, that fails to furnish a return and a declaration verifying the return, within the period provided by this section, or that furnishes an incorrect or incomplete return is in default and is liable to a penalty not exceeding five pounds for every day that the default continues.

S. 40
repealed and
re-enacted.

13. Section forty of the principal Act is repealed and re-enacted with amendments, as follows—

Amount of
contribution
by individual
insurance
companies,
how to be
ascertained.

40. (1) The portion of the contribution payable under section thirty-seven of this Act by the insurance companies shall be levied by the Board among them in the proportion that each insurance company's contribution numerator bears to the contribution denominator and, subject to the succeeding provisions of this section, every insurance company shall pay the amount so levied.

(2) In levying the amounts to be paid by insurance companies under subsection (1) of this section, the Board shall compute the amount payable by each insurance company to the nearest shilling.

(3) Notwithstanding the provisions of subsection (1) of this section, the minimum amount to be paid by any insurance company thereunder is ten pounds per annum.

(4) Where an insurance company newly commences to carry on business, it shall, until it has been levied pursuant to a return furnished under the provisions of section thirty-nine of this Act, contribute to the funds of the Board an amount of two pounds ten shillings, quarterly, on the days provided by subsection (3) of section thirty-seven of this Act.

(5) Where any amount, or part of any amount levied on an insurance company under this section is determined by the Board as being irrecoverable, the amount so determined shall be added by the Board to the amount of the contribution payable by the insurance companies for the year next following that determination.

(6) Every amount levied by the Board on insurance companies, for the purposes of this Act, before the coming into operation of the Fire Brigades Act Amendment Act, 1963, is deemed to have been lawfully levied, to all intents and purposes as if the amount had been levied under the provisions of this section.

14. Section forty-one of the principal Act is amended by substituting for the words, "Insurance companies", in line one the passage, "A body corporate, company, partnership, association, underwriter or person". S. 41
amended.

15 Section forty-four of the principal Act is amended by deleting the words, "against fire", in line five of subsection (2). S. 44
amended.

16. Section sixty-two of the principal Act is amended— S. 62
amended.

(a) by substituting for the words, "where a fire occurs", in lines one and two of subsection (1), the words, "or property involved in a fire"; and

(b) by substituting for the passage, "the insurance (if any)", in line five of subsection (1) and again in line six of subsection (2), and for the words, "such insurance", in line four of subsection (3), the words, "any policy of insurance", in each case.

17. Section sixty-four of the principal Act is amended by deleting the words, "against fire", in lines five and six. S. 64
amended.

18. Section sixty-five of the principal Act is amended by substituting for subparagraph (i) of paragraph (b) of subsection (1) the following subparagraph— S. 65
amended.

(i) "uninsured" means not insured under a policy of insurance within the meaning of this Act; .