

Fire and Emergency Services Authority of Western Australia Act 1998

(No. 41 of 1998)

CONTENTS

Part 1 — Preliminary

1 .	Short title	2
2 .	Commencement	2
3 .	Definitions	2

Part 2 — Fire and Emergency Services Authority of Western Australia

4 .	Fire and Emergency Services Authority of Western Australia	4
5 .	Agent of Crown	4
6 .	Board of management	4
7 .	Appointed members	5
8 .	Deputy chairman	5
9 .	Constitution and proceedings of the board — Schedule 1	5
10 .	Remuneration and allowances of members	5

Part 3 — Functions and powers

11 .	Functions of the Authority	6
12 .	Powers of the Authority	6

13 .	Authority may use certain names	7
14 .	Requirement for Ministerial approval	8
15 .	Delegation	8
16 .	Subdelegation	8
17 .	Minister may give directions	9
18 .	Minister to have access to information	9

Part 4 — Staff

19 .	Chief executive officer	11
20 .	Other staff	11
21 .	Use of other government staff, etc.	11

Part 5 — Consultative committees

22 .	Consultative committees	13
23 .	Membership of consultative committees	13
24 .	Chairman and deputy chairman	13
25 .	Constitution and proceedings of consultative committees	14
26 .	Functions and powers of consultative committees	14
27 .	Support services	14
28 .	Allowances	14

Part 6 — Financial provisions

29 .	Funds of the Authority	15
30 .	Fire and Emergency Services Authority Account	15
31 .	Investment	16
32 .	Borrowing from Treasurer	16
33 .	Other borrowing	16
34 .	Guarantee by Treasurer	16
35 .	Effect of guarantee	17
36 .	Application of <i>Financial Administration and Audit Act 1985</i>	17

Part 7 — Miscellaneous

37 .	Protection from liability	18
38 .	Execution of documents by Authority	19
39 .	Confidentiality	20
40 .	Regulations	20
41 .	Review of Act	20
42 .	Savings and transitional provisions — Schedule 2	21

Schedule 1 — Constitution and proceedings of board

Division 1 — General provisions

1 .	Term of office	22
2 .	Resignation, removal, etc.	22
3 .	Leave of absence	23
4 .	Chairman unable to act	23
5 .	Member unable to act	23
6 .	Chief executive officer unable to attend	23
7 .	Saving	24
8 .	Calling of meetings	24
9 .	Presiding officer	24
10 .	Quorum	24
11 .	Voting	24
12 .	Minutes	25
13 .	Resolution without meeting	25
14 .	Telephone or video meetings	25
15 .	Board to determine own procedures	25

Division 2 — Disclosure of interests, etc.

16 .	Disclosure of interests	25
17 .	Voting by interested members	26
18 .	Clause 17 may be declared inapplicable	26
19 .	Quorum where clause 17 applies	26
20 .	Minister may declare clauses 17 and 19 inapplicable	27

Schedule 2 — Savings and transitional provisions

1 .	Definitions	28
2 .	Interpretation Act to apply	29
3 .	Dissolution of Boards	29
4 .	Devolution of assets and liabilities, etc.	29
5 .	Completion of things begun	30
6 .	Continuing effect of things done	30
7 .	Agreements and instruments	30
8 .	Chief executive officer and staff	30
9 .	Financial reporting of Bush Fires Board and Fire Brigades Board and department	32
10 .	Further transitional provisions may be made	32
11 .	Exemption from State tax	33
12 .	Registration of documents	33
13 .	Saving	33



Western Australia

Fire and Emergency Services Authority of Western Australia Act 1998

No. 41 of 1998

An Act to establish an Authority with functions relating to the provision and management of emergency services, and for related purposes.

[Assented to 4 November 1998]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

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

2. Commencement

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

3. Definitions

In this Act, unless the contrary intention appears —

“**Account**” means the account referred to in section 30;

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

“**board**” means the board of management referred to in section 6;

“**chief executive officer**” means the chief executive officer of the Authority appointed in accordance with section 19;

“**consultative committee**” means a committee appointed by the Minister under section 22;

“**emergency services volunteers**” means —

- (a) members and officers of a private fire brigade or volunteer fire brigade, as those terms are defined in the *Fire Brigades Act 1942*;
- (b) volunteer fire fighters, within the meaning of the *Bush Fires Act 1954*; and
- (c) persons who are authorized by the Authority to assist, on a voluntary basis, in the provision of the emergency services provided by the Authority under

the name “the Western Australian State Emergency Service”;

“**member**” means a member of the board other than the chief executive officer;

“**member of staff**” means the chief executive officer or a person referred to in section 20(1) or 21;

“**the emergency services Acts**” means this Act, the *Bush Fires Act 1954* and the *Fire Brigades Act 1942*.

Part 2 — Fire and Emergency Services Authority of Western Australia

4. Fire and Emergency Services Authority of Western Australia

- (1) A body called the Fire and Emergency Services Authority of Western Australia is established.
- (2) The Authority is a body corporate with perpetual succession.
- (3) Proceeding may be taken by or against the Authority in its corporate name.

5. Agent of Crown

The Authority is an agent of the Crown and enjoys the status, immunities and privileges of the Crown.

6. Board of management

- (1) The Authority is to have a board of management that consists of —
 - (a) a chairman;
 - (b) the 3 chairmen of the consultative committees;
 - (c) 3 persons who, in the Minister's opinion, represent emergency services volunteers;
 - (d) one person who, in the Minister's opinion, represents local governments;
 - (e) the chief executive officer; and
 - (f) not more than 1 other member.
- (2) The board is the governing body of the Authority and, in the name of the Authority, is to perform the functions of the Authority under the emergency services Acts.

7. Appointed members

- (1) The Minister is to appoint the members referred to in section 6(1)(a), (c), (d) and (f).
- (2) The Minister is to ensure that each appointed member has expertise or experience that, in the Minister's opinion, is relevant to the functions of the Authority.

8. Deputy chairman

The members are to appoint a member to be the deputy chairman of the board.

9. Constitution and proceedings of the board — Schedule 1

Schedule 1 has effect.

10. Remuneration and allowances of members

A member is to be paid any remuneration and travelling and other allowances that are determined in his or her case by the Minister on the recommendation of the Minister for Public Sector Management.

Part 3 — Functions and powers

11. Functions of the Authority

- (1) The Authority has the functions relating to the provision and management of emergency services that are vested in it by the emergency services Acts.
- (2) Without limiting subsection (1), the Authority has the functions of —
 - (a) advising the Minister on all aspects of policy in relation to emergency services;
 - (b) developing plans for, and providing advice on, the management and use of emergency services;
 - (c) undertaking, coordinating, managing and providing practical and financial assistance to activities and projects relating to emergency services.

12. Powers of the Authority

- (1) The Authority may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1) or any other power conferred on the Authority by the emergency services Acts, the Authority may —
 - (a) subject to section 14, acquire, hold, manage, improve, develop, dispose of, and otherwise deal in, real and personal property;
 - (b) produce and publish information on matters related to its functions;
 - (c) require payment of rent, fees or other charges for the use of any of its facilities or services;

- (d) fix the amount of rent, fees or other charges referred to in paragraph (c) and may reduce or refund the amount payable in particular cases;
 - (e) enter into a contract or arrangement with a person or body (including a local government, or a department of the Public Service or other agency or instrumentality of the State or the Commonwealth) —
 - (i) for the performance by that person or body of any work or the supply of equipment or services; or
 - (ii) to provide consultancy or advisory services to that person or body;
 - and
 - (f) act in conjunction with a person, a firm or a local government, or a department of the Public Service or other agency or instrumentality of the State or the Commonwealth.
- (3) In subsection (2) —
- “**acquire**” includes taking on lease or licence or in any other manner in which property may be acquired;
- “**dispose of**” includes disposing of by way of lease or licence or in any other manner in which property may be disposed of.

13. Authority may use certain names

- (1) In performing any of its functions, the Authority may use, and operate under, a name (an “**operational name**”) —
 - (a) set out in subsection (2); or
 - (b) approved or amended under subsection (3).
- (2) The following names are operational names —
 - (a) Bush Fire Service of Western Australia;

s. 14

- (b) Fire and Rescue Service of Western Australia; and
 - (c) Western Australian State Emergency Service.
- (3) The Minister may by order published in the *Gazette* —
 - (a) approve other operational names; or
 - (b) amend, or cancel the use of, an operational name.

14. Requirement for Ministerial approval

The Authority is to obtain the approval of the Minister before acquiring or disposing of real property under section 12(2)(a).

15. Delegation

- (1) The Authority may, in writing, delegate to the chief executive officer the performance of any of its functions under the emergency services Acts.
- (2) A delegation may be general or as otherwise provided in the instrument of delegation.
- (3) Performance of a function of the Authority by the chief executive officer —
 - (a) is taken to be in accordance with the terms of a delegation under this section, unless the contrary is shown; and
 - (b) is to be treated as performance by the Authority.
- (4) Nothing in this section is to be read as limiting the ability of the Authority to act through the board, members of staff or agents in the normal course of business.

16. Subdelegation

- (1) The Authority may, in an instrument by which a function is delegated to the chief executive officer, authorize the chief executive officer to subdelegate that function —
 - (a) to a member;

- (b) to a member of staff; or
 - (c) to a consultative committee.
- (2) Apart from subsection (1), a delegation under section 15 does not include the power to subdelegate.
- (3) Sections 58 and 59 of the *Interpretation Act 1984* apply to a subdelegation under this section in the same way as they apply to a delegation.

17. Minister may give directions

- (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority is to give effect to any such direction.
- (2) The text of a direction given under subsection (1) is to be included in the annual report submitted by the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

18. Minister to have access to information

- (1) The Minister is entitled —
 - (a) to have information in the possession of the Authority; and
 - (b) if the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1), the Minister may —
 - (a) request the Authority to provide information to the Minister;
 - (b) request the Authority to give the Minister access to information;

s. 18

- (c) for the purposes of paragraph (b), make use of a member of staff to obtain the information and provide it to the Minister.
- (3) The Authority is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —
 - “document”** includes any tape, disc, or other device or medium on which information is recorded or stored;
 - “information”** means information specified, or of a description specified, by the Minister that relates to the functions of the Authority.

Part 4 — Staff

19. Chief executive officer

- (1) A chief executive officer of the Authority is to be appointed under Part 3 of the *Public Sector Management Act 1994*.
- (2) Subject to the control of the board, the chief executive officer is to administer the day to day operations of the Authority.

20. Other staff

- (1) The chief executive officer may appoint persons as officers and engage persons as wages staff as necessary to enable the Authority to perform its functions.
- (2) Persons referred to in subsection (1) are to be employed, subject to any relevant industrial award, order or agreement, on the terms and conditions determined by the chief executive officer.
- (3) Nothing in subsection (2) affects the operation of the *Workplace Agreements Act 1993*.
- (4) Division 3 of Part 3 of the *Public Sector Management Act 1994* does not apply to the Authority, but this section does not affect the power of the chief executive officer to engage a person under a contract for services or appoint a person on a casual employment basis under section 100 of that Act.

21. Use of other government staff, etc.

- (1) The Authority may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
 - (a) in the Public Service;
 - (b) in a State agency or instrumentality; or

s. 21

- (c) otherwise in the service of the Crown in right of the State.
- (2) The Authority may by arrangement with —
 - (a) a department of the Public Service; or
 - (b) a State agency or instrumentality,make use of any facilities of the department, agency or instrumentality.
- (3) An arrangement under subsection (1) or (2) is to be on the terms agreed to by the parties.

Part 5 — Consultative committees

22. Consultative committees

- (1) The Minister is to appoint 3 consultative committees with the names —
 - (a) Bush Fire Service Consultative Committee;
 - (b) Fire and Rescue Service Consultative Committee; and
 - (c) State Emergency Service Consultative Committee.
- (2) Each of the consultative committees is to be appointed in respect of certain emergency services, as determined by the Minister.
- (3) The Minister may, by order published in the *Gazette*, amend the name of a consultative committee.

23. Membership of consultative committees

- (1) Subject to subsection (2), a consultative committee is to consist of the number of persons determined by the Minister.
- (2) A consultative committee is to have at least 8 members.
- (3) A person appointed by the Minister to be a member of a consultative committee is to have the experience, skills, attributes or qualifications that, in the Minister's opinion, are appropriate to the appointment.
- (4) A person who is a member of the board, other than a member referred to in section 6(1)(b), is not eligible to be a member of a consultative committee.

24. Chairman and deputy chairman

- (1) The Minister is to appoint one of the members of a consultative committee to be the chairman of the committee.

s. 25

- (2) The members of a consultative committee are to appoint a member to be the deputy chairman of the committee.

25. Constitution and proceedings of consultative committees

Subject to any direction in writing given to a consultative committee by the Authority, Schedule 1 has effect in respect of the constitution and proceedings of a consultative committee as if —

- (a) a reference in that Schedule to the board was a reference to the consultative committee; and
- (b) a reference in that Schedule to a member was a reference to a member of the consultative committee.

26. Functions and powers of consultative committees

- (1) The function of a consultative committee is to provide advice to the board and the chief executive officer in relation to all matters concerning the operation of the emergency services in respect of which the committee is appointed and otherwise as directed by the board or the chief executive officer.
- (2) A consultative committee may do all things necessary or convenient to be done for or in connection with the performance of its function.

27. Support services

The Authority is to provide a consultative committee with any support services that it may reasonably require.

28. Allowances

A member of a consultative committee is to be paid any travelling and other allowances that are determined in his or her case by the Minister on the recommendation of the Minister for Public Sector Management.

Part 6 — Financial provisions

29. Funds of the Authority

The funds available for the purpose of enabling the Authority to perform its functions consist of —

- (a) moneys from time to time appropriated by Parliament;
- (b) moneys received by the Authority in the performance of its functions;
- (c) moneys borrowed by the Authority under section 32 or 33 or under section 46 of the *Fire Brigades Act 1942*; and
- (d) other moneys lawfully received by, made available to or payable to the Authority.

30. Fire and Emergency Services Authority Account

- (1) The funds referred to in section 29 are to be credited to an account called the Fire and Emergency Services Authority Account —
 - (a) at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*; or
 - (b) with the approval of the Treasurer, at a bank.
- (2) The Account is to be charged with —
 - (a) the remuneration and allowances payable under sections 10 and 28;
 - (b) interest on and repayment of moneys borrowed by the Authority under section 32 or 33 or under section 46 of the *Fire Brigades Act 1942*; and
 - (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

s. 31

31. Investment

Unless section 30(1)(a) applies, any funds of the Authority that are not immediately required for the purposes of the emergency services Acts may, if approved by the Treasurer, be invested in any manner that moneys in the Public Bank Account may be invested under the *Financial Administration and Audit Act 1985*.

32. Borrowing from Treasurer

The Authority may borrow from the Treasurer any amounts approved by the Treasurer on any terms and conditions relating to repayment and payment of interest imposed by the Treasurer.

33. Other borrowing

- (1) In addition to its powers under section 32, and without limiting section 46 of the *Fire Brigades Act 1942*, the Authority may, with the written approval of the Treasurer and on the terms and conditions approved by the Treasurer, borrow moneys for the purpose of performing its functions.
- (2) Any moneys borrowed by the Authority under subsection (1) may be raised —
 - (a) as one loan or as several loans; and
 - (b) in the manner approved by the Treasurer.
- (3) The total amount of the moneys so borrowed in any one financial year is not to exceed the amount approved by the Treasurer.

34. Guarantee by Treasurer

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee the payment of any moneys payable

by the Authority in respect of moneys borrowed by it under section 33.

- (2) A guarantee is to be in the form and contain the conditions determined by the Treasurer.
- (3) Before a guarantee is given, the Authority is to —
 - (a) give to the Treasurer any security required by the Treasurer; and
 - (b) execute all instruments that are necessary for the purpose of giving that security.

35. Effect of guarantee

- (1) The due payment of moneys payable by the Treasurer under a guarantee given under section 34 is guaranteed by the State.
- (2) Any such payment is to be made by the Treasurer and charged to the Consolidated Fund, and this subsection appropriates that Fund accordingly.
- (3) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Authority or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 34.

36. Application of *Financial Administration and Audit Act 1985*

Subject to section 47 of the *Fire Brigades Act 1942*, the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

Part 7 — Miscellaneous

37. Protection from liability

- (1) Subject to subsection (2), a person does not incur civil liability for anything that the person has done, in good faith, in the performance or purported performance of a function under the emergency services Acts.
- (2) Subsection (1) does not affect any right to recover damages in respect of the death of or bodily injury to any person directly caused by, or by the driving of, a motor vehicle.
- (3) The Crown and the Authority, a local government and any other person are also relieved of any civil liability that any of them might otherwise have had for another person having done anything as described in subsection (1).
- (4) The protection given by this section applies even though the thing done in the performance or purported performance of a function under the emergency services Acts may have been capable of being done whether or not those Acts had been enacted.
- (5) Any damage, loss or injury to property that results from anything done, in good faith, in the performance or purported performance of a function under the emergency services Acts is taken to be damage by fire within the meaning of any policy of insurance covering the property damaged, lost or injured, despite any clause or condition to the contrary contained in the policy.
- (6) In this section —
 - (a) a reference to the doing of anything includes a reference to the omission to do anything;

- (b) **“motor vehicle”** has the meaning given in section 3(1) of the *Motor Vehicle (Third Party Insurance) Act 1973*; and
- (c) **“policy of insurance”** has the meaning given in section 4(1) of the *Fire Brigades Act 1942*.

38. Execution of documents by Authority

- (1) The Authority is to have a common seal.
- (2) A document is duly executed by the Authority if —
 - (a) the common seal of the Authority is affixed to it in accordance with subsections (3) and (4); or
 - (b) it is signed on behalf of the Authority by a person or persons authorized to do so under subsection (5).
- (3) The common seal of the Authority is not to be affixed to any document except as authorized by the board.
- (4) The common seal of the Authority is to be affixed to a document in the presence of 2 members, and each of them is to sign the document to attest that the common seal was so affixed.
- (5) The Authority may, by writing under its seal, authorize a member or members or a member or members of staff to sign documents on behalf of the Authority, either generally or subject to the conditions or restrictions specified in the authorization.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Authority, it is to be presumed that the seal is the common seal of the Authority until the contrary is shown.

s. 39

39. Confidentiality

- (1) This section applies to a person who is or has been —
 - (a) a member;
 - (b) a member of a consultative committee; or
 - (c) a member of staff.
- (2) A person to whom this section applies must not, directly or indirectly, record, disclose, or make use of any information obtained in the course of duty except —
 - (a) for the purpose of performing functions under the emergency services Acts;
 - (b) as required or allowed by this Act or under another written law;
 - (c) with the written consent of the person to whom the information relates; or
 - (d) in prescribed circumstances.

Penalty: \$10 000 or imprisonment for 12 months.

40. Regulations

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.

41. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of the emergency services Acts as soon as practicable after the expiry of 5 years from the commencement of this Act.
- (2) In the course of that review the Minister is to consider and have regard to —
 - (a) the effectiveness of the operations of the Authority;

- (b) the need for the continuation of the functions of the Authority; and
 - (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of the emergency services Acts.
- (3) The Minister is to prepare a report based on the review and, as soon as practicable after the report is prepared, is to cause it to be laid before each House of Parliament.

42. Savings and transitional provisions — Schedule 2

Schedule 2 has effect with respect to savings and transitional provisions.

Schedule 1 — Constitution and proceedings of board

[Sections 9 and 25]

Division 1 — General provisions

1. Term of office

- (1) Subject to clause 2, a member holds office for the term, not exceeding 3 years, specified in the instrument of his or her appointment, but may from time to time be re-appointed.
- (2) A member whose term of office expires by the passage of time continues in office until that member is re-appointed or the successor of that member comes into office.

2. Resignation, removal, etc.

- (1) The office of a member becomes vacant if the member —
 - (a) resigns the office by written notice addressed to the Minister;
 - (b) holds office under section 6(1)(b) and ceases to be the chairman of a consultative committee;
 - (c) is an insolvent under administration, as that expression is defined in the Corporations Law;
 - (d) is convicted of an indictable offence; or
 - (e) is removed from office by the Minister under subclause (2).
- (2) The Minister may remove a member from office if the Minister is satisfied that the member —
 - (a) has neglected his or her duty;
 - (b) has misbehaved;
 - (c) is incompetent;
 - (d) is suffering from mental or physical incapacity impairing the performance of his or her functions under this Act; or

- (e) has been absent, without leave or reasonable excuse, from 3 consecutive meetings of the board of which the member has had notice.

3. Leave of absence

The board may grant leave of absence to a member on any terms and conditions that it thinks fit.

4. Chairman unable to act

If the chairman is unable to act because of illness, absence or other cause, or during any vacancy in that office, the deputy chairman is to perform the functions of the chairman.

5. Member unable to act

- (1) If a member other than the chairman is unable to act because of illness, absence or other cause, the Minister may appoint another person to act temporarily in his or her place and, while so acting according to the tenor of his or her appointment, that other person is taken to be a member of the board.
- (2) If the member who is the deputy chairman is performing the functions of the chairman, the Minister may, under subclause (1), appoint another person to act in his or her place as member.
- (3) The Minister may terminate the appointment of a person under subclause (1) at any time.

6. Chief executive officer unable to attend

- (1) The chief executive officer may, in writing delivered to the person presiding at a meeting of the board, nominate a senior officer of the Authority to represent him or her at that meeting if he or she is unable to attend because of illness, absence or other cause.
- (2) Clause 11(2) applies to an officer who attends a meeting of the board under subclause (1) as if the officer were the chief executive officer.

7. Saving

No act or omission of a person acting in place of another under clause 4 or 5 is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.

8. Calling of meetings

- (1) Subject to this clause, meetings are to be held at the times and places that the board determines.
- (2) The chairman may at any time convene a special meeting of the board.
- (3) The first meeting of the board is to be convened by the chairman.

9. Presiding officer

- (1) The chairman is to preside at any meeting of the board at which he or she is present.
- (2) If neither the chairman nor the deputy chairman is present at a meeting, the members present are to elect one of those members to preside at the meeting.

10. Quorum

A quorum for a meeting of the board is 5 members.

11. Voting

- (1) Subject to subclause (2), at any meeting of the board each member present has a deliberative vote.
- (2) The chief executive officer may participate in the discussion of any matter at a meeting of the board but is not entitled to vote.
- (3) Subject to subclause (4), if the votes cast on a question are equally divided, the question remains unresolved until a subsequent meeting of the board.

- (4) If the votes cast on a question at a meeting of the board were equally divided, and the votes cast on the question at a subsequent meeting of the board are again equally divided, the question is taken to have been resolved in the negative.

12. Minutes

The board is to cause accurate minutes to be kept of the proceedings at its meetings.

13. Resolution without meeting

A resolution in writing signed by each member, or assented to by each member by letter or facsimile, is as effectual as if it had been passed at a meeting of the board.

14. Telephone or video meetings

A communication between not less than 5 members by telephone or audio-visual or other electronic means is a valid meeting of the board if each participating member is capable of communicating with every other participating member instantaneously at all times during the proceedings.

15. Board to determine own procedures

Subject to this Act, the board is to determine its own procedures.

Division 2 — Disclosure of interests, etc.

16. Disclosure of interests

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the board must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.

Penalty: \$2 000.

- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

17. Voting by interested members

A member who has a material personal interest in a matter that is being considered by the board —

- (a) must not vote whether at a meeting or otherwise —
 - (i) on the matter; or
 - (ii) on a proposed resolution under clause 18 in respect of the matter, whether relating to that member or a different member;
 - and
 - (b) must not be present while —
 - (i) the matter; or
 - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),
- is being considered at a meeting.

18. Clause 17 may be declared inapplicable

Clause 17 does not apply if the board has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

19. Quorum where clause 17 applies

- (1) Despite clause 10, if a member of the board is disqualified under clause 17 in relation to a matter, a quorum is present during the consideration of the matter if at least 4 members are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

- (2) The Minister may deal with a matter to the extent that the board cannot deal with it because of subclause (1).

20. Minister may declare clauses 17 and 19 inapplicable

- (1) The Minister may by writing declare that clause 17 or 19 does not, or both of those clauses do not, apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister is to cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

Schedule 2 — Savings and transitional provisions

[Section 42]

1. Definitions

In this Schedule —

“assets” means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal and, without limiting this definition, includes —

- (a) choses in action;
- (b) goodwill; and
- (c) rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

“Bush Fires Board” means the Bush Fires Board constituted under section 8(1) of the *Bush Fires Act 1954*, as in force immediately before the commencement day;

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

“Fire Brigades Board” means the Western Australian Fire Brigades Board constituted under section 6 of the *Fire Brigades Act 1942*, as in force immediately before the commencement day;

“liability” means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

“right” means any right, power, privilege or immunity whether actual, contingent or prospective;

“the department” means the department of the Public Service designated as the Department of Fire and Emergency Services (or as it may be re-designated) and includes any department of the Public Service to which the department is a successor.

2. Interpretation Act to apply

This Schedule does not limit the operation of the *Interpretation Act 1984*.

3. Dissolution of Boards

- (1) The Bush Fires Board is dissolved and its members go out of office.
- (2) The Fire Brigades Board is dissolved and its members go out of office.

4. Devolution of assets and liabilities, etc.

On the commencement day —

- (a) the assets and rights of the Fire Brigades Board that were immediately before that day vested in that body vest in the Authority;
- (b) the assets of the Crown that were immediately before that day under the care, control or management of the department or the Bush Fires Board are transferred to the care, control or management of the Authority;
- (c) the liabilities of the Fire Brigades Board immediately before that day become the liabilities of the Authority;
- (d) the liabilities incurred on behalf of the department or the Bush Fires Board become the liabilities of the Authority;
- (e) any proceedings or remedy that, immediately before that day, might have been brought or continued by or available against or to the Fire Brigades Board may be brought or continued and are or is available by or against or to the Authority; and
- (f) all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) relating to the respective operations of the department, the Bush Fires Board and the Fire Brigades Board are to be delivered to the Authority.

5. Completion of things begun

Anything begun before the commencement day by the department, the Bush Fires Board or the Fire Brigades Board may be continued after that day by the Authority so far as the doing of that thing is within the functions of the Authority.

6. Continuing effect of things done

Any act, matter or thing done or omitted to be done before the commencement day by, to or in respect of the department, the Bush Fires Board or the Fire Brigades Board, to the extent that that act, matter or thing has any force or effect after that day, is taken to have been done or omitted to be done by, to or in respect of the Authority.

7. Agreements and instruments

Any agreement or instrument subsisting immediately before the commencement day —

- (a) to which the Fire Brigades Board was a party, or to which a person was a party on behalf of or for the purposes of the department or the Bush Fires Board; or
- (b) that contains a reference to the department, the Bush Fires Board or the Fire Brigades Board,

has effect on and after that day as if —

- (c) the Authority were substituted for the Fire Brigades Board or that person as a party to the agreement or instrument; or
- (d) any reference in the agreement or instrument to the department, the Bush Fires Board or the Fire Brigades Board were (unless the context otherwise requires) amended to be or include a reference to the Authority.

8. Chief executive officer and staff

- (1) The person who immediately before the commencement day was appointed and holding office as the chief executive officer of the department continues to hold office, on and after that day, as if the

person had been appointed as the chief executive officer of the Authority in accordance with section 19.

- (2) An agreement made at any time and in effect immediately before the commencement day between the Fire Brigades Board and a person for the employment of that person on the staff of the Fire Brigades Board has effect on and after that day as if the person had been appointed or engaged, as the case requires, under section 20(1).
- (3) An agreement made at any time and in effect immediately before the commencement day between the employing authority of the department and a person for the employment of that person on the staff of the department has effect on and after that day as if the person had been appointed or engaged, as the case requires, under section 20(1).
- (4) A person who immediately before the commencement day was appointed and holding office —
 - (a) under section 12 of the *Bush Fires Act 1954*; or
 - (b) in accordance with section 15 of that Act,continues to hold office, on and after that day, as if the person had been appointed under section 20(1).
- (5) Except as otherwise agreed by a person to whom this clause applies, the operation of this clause does not —
 - (a) affect the person's pay, as that term is defined in regulation 3 of the *Public Sector Management (Redeployment and Redundancy) Regulations 1994*;
 - (b) prejudice the person's existing or accruing rights in respect of annual leave, long service leave, sick leave, parental leave or any other kind of leave;
 - (c) affect any rights under a superannuation scheme; or
 - (d) interrupt continuity of service.

9. Financial reporting of Bush Fires Board and Fire Brigades Board and department

- (1) Despite section 54 of the *Financial Administration and Audit Act 1985*, the accountable authority of the Authority is to be the accountable authority of the Bush Fires Board and Fire Brigades Board for the purposes of the reports required by section 66 of that Act with respect to the period from 1 July in a financial year to a day that —

- (a) occurs in the same financial year; and
- (b) immediately precedes the commencement day,

and Division 14 of Part II of that Act applies to that person as the accountable authority of the Bush Fires Board and Fire Brigades Board as if that period were a full financial year.

- (2) Despite section 52 of the *Financial Administration and Audit Act 1985*, the accountable authority of the Authority is to be the accountable officer of the department for the purposes of the report required by section 62 of that Act with respect to the period from 1 July in a financial year to a day that —

- (a) occurs in the same financial year; and
- (b) immediately precedes the commencement day,

and Division 13 of Part II of that Act applies to that person as the accountable officer of the department as if that period were a full financial year.

10. Further transitional provisions 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 transition from the Bush Fires Board, the Fire Brigades Board or the department to the Authority, that provision may be made by regulations under section 40.
- (2) Any such regulation may be made so as to have effect from the commencement day.

- (3) 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.

11. Exemption from State tax

- (1) In this clause —

“**State tax**” includes stamp duty chargeable under the *Stamp Act 1921* and any other tax, duty, fee, levy or charge under a written law.
- (2) State tax is not payable in relation to —
 - (a) anything that occurs by the operation of this Schedule; or
 - (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Schedule, or to give effect to this Schedule, or for a purpose connected with or arising out of giving effect to this Schedule.
- (3) Nothing in this clause affects any liability of the Authority to pay pay-roll tax.

12. Registration of documents

The Registrar of Titles is to take notice of the provisions of this Schedule and is empowered to record and register in the appropriate manner the necessary documents, and otherwise to give effect to this Schedule.

13. Saving

The operation of this Schedule is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong;

Schedule 2 Savings and transitional provisions

- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information;
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability;
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

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