

# FIRE SERVICE ACT

No. 10 of 1990

## ANALYSIS OF CONTENTS

### PART I—PRELIMINARY

1. Short title
2. Commencement
3. Repeals
4. Amendments of Acts
5. Savings and transitional
6. Interpretation
7. Extent to which Act binds the Crown
8. Administration of Act

### PART II—COMMISSIONER OF FIRE SERVICE

9. Appointment of Commissioner
10. Salary and conditions
11. Retirement
12. Resignation
13. Dismissal and suspension
14. Acting as Commissioner of Fire Service
15. Constitution of Commissioner of Fire Service as corporation sole
16. Commissioner responsible for Queensland Fire Service
17. Other functions of Commissioner
18. Codes of practice
19. Delegation of Commissioner's responsibilities

### PART III—FINANCIAL PROVISIONS

20. General fund
21. Other funds
22. Budget of Commissioner
23. Observance of budget
24. Treatment of surplus and deficit

### PART IV—PROVISIONS AFFECTING PERSONNEL

#### *Division 1—Appointments and Conditions*

25. Personnel of Queensland Fire Service
26. Conditions of employment
27. Additional remuneration

#### *Division 2—Termination of Office*

28. Retirement
29. Retrenchment

*Division 3—Discipline and Appeals*

30. Discipline
31. Implementation of order
32. Suspension
33. Mode of dismissal or suspension
34. Commissioner of Appeals
35. Fire Service Appeal Board
36. Appeals against disciplinary action or suspension
37. Appeals against promotional appointments
38. Matters concerning appeals
39. Determination of appeal
40. Reinstatement following dismissal

*Division 4—Superannuation*

41. Superannuation scheme
42. Trustees of Superannuation scheme
43. Term of office of trustees
44. Powers and functions of trustees
45. Operation of trustees
46. Employees of trustees may be contributors to scheme

## PART V—THE RURAL FIRE COUNCIL

47. The Rural Fires Board continued in existence
48. Term of office
49. Functions of Council
50. Quorum
51. Operation of Council

## PART VI—POWERS OF AUTHORIZED FIRE OFFICERS

52. Authorized fire officer
53. Powers of authorized officer in dangerous situations
54. Disposal of property
55. Powers of authorized officer for preventative or investigative purposes
56. Extent of power of entry
57. Power to require name and address
58. Use of answer given under compulsion
59. Person acting at direction of authorized fire officer
60. Directions concerning exercise of powers

## PART VII—CONTROL AND PREVENTION OF FIRES

*Division 1—Powers of Commissioner relating to fires*

61. Interpretation and application of Division
62. Offence to light unauthorized fire
63. Commissioner may authorize certain fires
64. Commissioner may prohibit lighting of fires
65. Granting of permits
66. Fires in State Forests, etc.
67. Occupier to extinguish fire
68. Powers of occupier of entry, etc.
69. Requisition by Commissioner to reduce fire risk
70. Restriction on sale of notified articles
71. Notifications, notices and permits
72. Offences re lighting fires
73. Liability of person for fire lit by agent or employee
74. Liability for damage caused by certain fires

*Division 2—Fire Wardens*

75. Chief fire wardens and fire wardens
76. Powers and functions
77. Expenses
78. Appeals from decisions of fire wardens

*Division 3—Rural Fire Brigades*

79. Formation of rural fire brigade
80. Rural fire brigade may make rules
81. Officers of rural fire brigade
82. Functions of a rural fire brigade
83. Powers of first officer
84. Equipment for rural fire brigade
85. Commissioner responsible for efficiency of rural fire brigades
86. Powers of officers of other States to fight fires in Queensland

## PART VIII—FIRE EMERGENCY

87. Declaration of state of fire emergency
88. Publication of declaration
89. Period of state of fire emergency
90. Effect of emergency on existing authorities to light fires
91. Power of Commissioner during fire emergency
92. Failure to comply with declaration
93. Certificate re declaration

## PART IX—OFF-SITE PLANS FOR DANGEROUS GOODS

94. Interpretation of Part
95. Application of Part
96. Occupier to provide information concerning dangerous goods
97. Commissioner may require off-site emergency plan
98. Commissioner to assist with plans
99. Approval of plans
100. Amendment of plan
101. Duty to implement plan
102. Notice of changed circumstances
103. Commissioner to keep copies of plans
104. Punishment for certain offences against this Part

## PART X—FUNDING

105. Interpretation of Part
106. Constitution of urban districts
107. Liability to contribute
108. Annual contributions of owners of prescribed properties
109. Annual returns by component Local Authorities
110. Discount for pensioners
111. Duties of owner of prescribed property and component Local Authority
112. Determinations and notifications of contributions
113. Appeal against Local Authority's determination
114. Manner of giving notification
115. Annual contribution, etc., deemed to be rates
116. Contributions to be paid into fund of component Local Authority
117. Collection fee
118. Payments by component Local Authorities to Commissioner
119. Failure by component Local Authority to make payment

## PART X—FUNDING

- 120. Payments and interest to be debt
- 121. Payment of arrears
- 122. Commissioner may issue levy notice or amended levy notice
- 123. Recovery of arrears
- 124. Commissioner may remit contributions
- 125. Proof of amounts owing re contributions
- 126. Where services of commercial agent engaged
- 127. Application of Crown Proceedings Act
- 128. Fire levies not revenue in determining remuneration of employees of Local Authority

## PART XI—GENERAL

- 129. Protection for acts done pursuant to Act
  - 130. Inquiries into fires
  - 131. Representation of Commissioner at inquiries
  - 132. Construction of policies of fire insurance
  - 133. Report of fire
  - 134. Right of way to fire officers
  - 135. Exemption from tolls
  - 136. Duty of police to assist Commissioner
  - 137. Inspection of records of Local Authorities
  - 138. Use of brigade equipment on roads while unregistered
  - 139. Interstate assistance at fire
  - 140. Commissioner taken to be the owner of property
  - 141. Surrender of equipment
  - 142. Vacating premises
  - 143. Protection of name
  - 144. Charges for services
  - 145. Service of documents
  - 146. When unauthorized grass fire a crime
  - 147. Offences
  - 148. Prosecutions
  - 149. General penalty
  - 150. Continuing offences
  - 151. Offence by body corporate
  - 152. Power of police to arrest without warrant
  - 153. Evidentiary
  - 154. Regulations
- SCHEDULES

**Queensland****ANNO TRICESIMO NONO****ELIZABETHAE SECUNDAE REGINAE****No. 10 of 1990**

**An Act to provide for the constitution, functions and powers of The Commissioner of Fire Service and the Queensland Fire Service and to provide for the prevention of and response to fires and certain other incidents endangering persons, property or the environment and for related purposes**

[ASSENTED TO 25TH MAY, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

### PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Fire Service Act 1990*.
2. **Commencement.** (1) Section 1 and this section commence on the date of assent.  
(2) The other provisions commence on a day or days appointed by Proclamation.
3. **Repeals.** The Acts specified in the first column of Schedule 1 are repealed to the extent specified in the second column.
4. **Amendments of Acts.** The Acts specified in the first column of Schedule 2 are amended to the extent specified in the second column and, as amended, may be cited as specified in the third column.
5. **Savings and transitional.** (1) In this section—  
 “Board” means The Rural Fires Board constituted under the *Rural Fires Act 1946-1984* or a Fire Brigade Board constituted under the *Fire Brigades Act 1964-1988*;  
 “repealed Act” means the *Fire Brigades Act 1964-1988* or the *Rural Fires Act 1946-1984*.  
 (2) On and from the appointed day, any fund maintained under a repealed Act immediately before that day is taken to be maintained by the Commissioner and, subject to any direction of the Minister, moneys in any such fund must as soon as is practicable after the appointed day be transferred to a fund established by the Commissioner and may be used for any purpose for which moneys in that fund may be used.  
 (3) All moneys and liquidated or unliquidated claims that immediately before the appointed day are payable to or recoverable by a Board, the Minister or the Crown pursuant to a repealed Act shall, on and from the appointed day, be payable to and recoverable by the Commissioner in the same way as those moneys or claims were recoverable under that repealed Act.  
 (4) Any moneys in respect of contributions payable by owners of prescribed properties under the *Fire Brigades Act 1964-1985* for any period preceding the commencement of the *Fire Brigades Act Amendment Act 1985* and paid after that commencement must, on the appointed day, be paid into the general fund maintained by the Commissioner under this Act and may be used for any purpose for which moneys in that fund may be used.  
 (5) All agreements and undertakings entered into with and all securities given to or by a Board pursuant to a repealed Act and in force immediately before the appointed day shall, on and from that

day, be taken to be agreements or undertakings entered into with or securities given to or by the Commissioner and may be enforced or realized accordingly.

(6) All actions, suits and proceedings, taken under a repealed Act, that are pending immediately before the appointed day at the suit of a Board, the Minister or the Crown may, on and from that day, be continued, completed and enforced by the Commissioner.

(7) All debts owing and moneys payable by, and all claims liquidated or unliquidated recoverable against, a Board and subsisting immediately before the appointed day shall, on and from that day, be taken to be debts owing by and claims recoverable against the Commissioner.

(8) On and from the appointed day a reference in any document or writing to a Board shall be read as a reference to the Commissioner.

(9) All property, real and personal, (including any interest in property) that, immediately before the appointed day, vested in or belonged to a Board shall, on and from that day and by virtue of this subsection, be divested from or cease to belong to that Board and vest in or belong to the Commissioner.

(10) All personal property that, immediately before the appointed day was the property of the Crown in right of the State as mentioned in section 38 of the *Rural Fires Act 1946-1984* shall, on that day, vest in the Commissioner.

(11) The Registrar of Titles, the Registrar of Dealings and all other persons charged with keeping registers with respect to dealings with property must make in the registers all recordings necessary to record any change in the ownership of property that occurs by virtue of subsection (9) or (10).

Stamp duty and other fees and charges are not payable in respect of the recording of those changes.

(12) On the appointed day each Fire Brigade Board constituted under the *Fire Brigades Act 1964-1988* ceases to exist.

(13) The transitional provisions set out in Schedule 3 have effect for the purpose of the transition to the provisions of this Act from the provisions of the *Fire Brigades Act 1964-1988* and the *Rural Fires Act 1946-1984* in relation to the classes of persons dealt with in that Schedule.

**6. Interpretation.** In this Act, unless a contrary intention appears—

“appointed day” means the day of commencement of the provision in which the expression occurs;

“authorized fire officer” means a fire officer authorized under section 52;

“building” includes any wall, fence, bridge, dam, reservoir, wharf, jetty or other structure whether temporary or permanent;

“chemical incident” means a fire or other incident involving dangerous goods (within the meaning of section 94) whereby

- any person or property or the environment may be endangered;
- “code of practice” means a code of practice issued under section 18;
- “Commissioner” means the corporation sole constituted under this Act by the name “The Commissioner of Fire Service”;
- “fire officer” means a person employed in the Queensland Fire Service who has the functions of fire prevention and fire control; the term includes a person employed in the Service who is undergoing training as a fire officer;
- “flammable material” means any material or substance capable of ignition or combustion by the application of heat or fire or by spontaneous causes;
- “land” means any land, whether improved or not;
- “Local Authority” means a Local Authority constituted under the *Local Government Act 1936-1989* and includes Brisbane City Council;
- “Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes any other Minister of the Crown for the time being performing the duties of the Minister;
- “occupier”, used with reference to any premises, means the person in actual occupation or, if there is no such person, the owner;
- “officer of the Queensland Fire Service” means a person appointed to or employed in the Queensland Fire Service; the term does not include the person holding office as Commissioner;
- “owner”, used with reference to any premises, means the person who for the time being is entitled to receive the rent of the premises or would be so entitled if the premises were let;
- “premises” means any land or building;
- “Queensland Fire Service” means the Queensland Fire Service within the meaning of section 25;
- “urban district” means a part of the State constituted as an urban district under section 106;
- “vegetation” includes trees, plants, grass and any other vegetable growth, whether alive or dead, standing or not standing, or cultivated or not cultivated;
- “vehicle” means a vehicle within the meaning of the *Traffic Act 1949-1988* but also includes a tram or train;
- “vessel” means a vessel within the meaning of the *Traffic Act 1949-1988*.

**7. Extent to which Act binds the Crown.** This Act binds the Crown not only in right of Queensland but also, so far as the legislative power of Parliament extends, the Crown in all its other capacities.



**8. Administration of Act.** This Act is administered by the Commissioner, subject to any direction given by the Minister.

**PART II—COMMISSIONER OF FIRE SERVICE**

**9. Appointment of Commissioner.** (1) The Governor in Council, acting on the recommendation of the Minister, shall appoint a Commissioner of Fire Service.

(2) A person who does not have professional experience in fire prevention and firefighting is not eligible for appointment as Commissioner.

(3) An appointment must be upon a tenure that is not limited by time.

(4) The *Public Service Management and Employment Act 1988-1989* does not apply to a person holding office as Commissioner of Fire Service.

**10. Salary and conditions.** The Governor in Council shall from time to time approve the salary, allowances, and conditions of employment of a person holding office as Commissioner of Fire Service.

**11. Retirement.** A person holding office as Commissioner of Fire Service—

- (a) must retire from that office upon attaining the age of 65 years;
- (b) may elect to retire from that office upon or at any time after attaining the age of 55 years.

**12. Resignation.** A person holding office as Commissioner of Fire Service may resign by giving notice of resignation to the Minister.

**13. Dismissal and suspension.** A person holding office as Commissioner of Fire Service may be dismissed or suspended from office by the Governor in Council for misconduct, incapacity (from mental or physical infirmity) to efficiently discharge the duties of office, incompetence or negligence in the discharge of those duties, or bankruptcy.

“Misconduct” means—

- (a) disgraceful or improper conduct showing unfitness to be or continue as the holder of that office;
- or
- (b) behaviour that does not satisfy a standard of behaviour generally expected of the holder of that office.

**14. Acting as Commissioner of Fire Service.** (1) If at any time the person holding office as Commissioner of Fire Service is unable to discharge the responsibilities of the office because of absence or incapacity or if at any time there is a vacancy in the office and the Minister thinks it expedient that someone assume those responsibilities, the Minister

may, by instrument, authorize an officer of the Queensland Fire Service to discharge those responsibilities.

- (2) Where authorization is given under subsection (1) to an officer—
- (a) it shall be given for a period not exceeding 6 months; and
  - (b) the Minister shall determine the remuneration payable to the officer for discharging the responsibilities, but in no case exceeding that payable for the time being to the person holding office as Commissioner of Fire Service or, in the case of a vacancy in office, to the last holder of the office; and
  - (c) while the authorization continues, the officer has the same functions and powers as if appointed under section 9, subject to any limitation in the instrument of authorization.

**15. Constitution of Commissioner of Fire Service as corporation sole.** (1) The Commissioner of Fire Service is constituted a corporation sole under the name “The Commissioner of Fire Service” and under that name has perpetual succession and an official seal.

(2) The Commissioner—

- (a) is capable in law of suing and being sued and of acquiring, holding and disposing of land and other property and any interest in land and other property and of doing and suffering all acts and things that bodies corporate may in law do and suffer; and
- (b) is capable of compounding or proving in any court of competent jurisdiction all debts and sums of money due to the Commissioner.

(3) An officer of the Queensland Fire Service, if authorized in writing to do so by the Commissioner, may execute documents on behalf of the Commissioner and affix the seal of the Commissioner to documents.

(4) All courts, judges, justices and persons acting judicially must take judicial notice of the seal of the Commissioner affixed to any document and, until the contrary is proved, must presume that it was duly affixed.

**16. Commissioner responsible for Queensland Fire Service.** The Commissioner is responsible for the efficient and proper management and functioning of the Queensland Fire Service.

**17. Other functions of Commissioner.** The functions of the Commissioner are—

- (a) to protect persons, property and the environment from fire and from chemical incidents;
- (b) to protect persons trapped in any vehicle or building or otherwise endangered, to the extent that the personnel and

equipment under the control of the Commissioner can reasonably be deployed or used for that purpose;

- (c) to provide an advisory service and undertake other measures to promote—
  - (i) fire prevention and fire control;  
and
  - (ii) safety and other procedures in the event of a fire or chemical incident;
- (d) to co-operate with any organization that provides an emergency service;
- (e) such other functions as the Minister may from time to time direct.

**18. Codes of practice.** (1) The Commissioner may from time to time issue codes of practice relating to—

- (a) the functions, powers, conduct and appearance of officers of the Queensland Fire Service;  
or
- (b) any functions imposed or powers conferred by or under this Act on any other person other than the Minister.

(2) The Commissioner may at any time amend or revoke a code of practice.

(3) A provision of a code of practice is of no effect if inconsistent with a provision of this Act.

(4) Provisions of a code of practice may differ according to differences in time, place or circumstance or according to the officers or classes of officers to whom they are expressed to apply.

(5) Evidence of any provision of a code of practice may be given by the production of a document purporting to be certified by the Commissioner as being a true copy of the provision.

**19. Delegation of Commissioner's responsibilities.** (1) The Commissioner may by instrument delegate to any person or to persons of any specified class all or any of the powers and functions of Commissioner, except this power of delegation.

(2) A delegation of a power or function—

- (a) may be made either generally or otherwise as provided by the instrument of delegation;
- (b) may be made absolutely or subject to conditions and limitations and does not prejudice the making by the Commissioner of other delegations of that power or function.

(3) A delegate may do and suffer such acts and things in accordance with the terms of the delegation as the delegate thinks necessary or

expedient for the proper exercise or discharge of the delegated power or function.

(4) An act done or thing suffered by a delegate acting in accordance with the terms of the delegation has the same force and effect as if done or suffered by the Commissioner.

(5) A delegation of a power or function does not—

(a) affect the exercise or discharge of the power or function by the Commissioner;

(b) relieve the Commissioner of the obligation to ensure that the responsibilities of Commissioner are properly discharged.

### PART III—FINANCIAL PROVISIONS

**20. General fund.** (1) The Commissioner must establish and keep a fund to be called the Queensland Fire Service General Fund.

(2) The Commissioner must pay into the general fund all amounts received from Consolidated Revenue or from the owners of prescribed properties in respect of contributions and, unless the Minister otherwise directs, amounts received from any other source.

(3) The Commissioner may make payments from the general fund for any of the purposes of this Act.

**21. Other funds.** (1) The Commissioner may establish and keep such other funds as the Minister may authorize.

(2) Moneys for the time being forming a fund authorized to be kept pursuant to subsection (1) must be applied by the Commissioner for purposes authorized by the Minister in respect of that fund.

**22. Budget of Commissioner.** (1) As soon as is practicable after the appointed day, the Commissioner must adopt and present to the Minister a budget showing the estimates of receipts and disbursements in respect of the balance of the financial year in which the budget is presented.

(2) Subject to subsection (1), the Commissioner must, before the commencement of each financial year, adopt and present to the Minister a budget showing the estimates of receipts and disbursements in respect of that financial year.

(3) A budget is of no effect until it is approved by the Minister.

(4) The Minister may amend a budget submitted for approval.

**23. Observance of budget.** (1) Subject to subsection (2), the Commissioner must confine disbursements throughout the period to which a budget relates within the items and amounts contained in the budget.

(2) If during the period to which a budget relates, the Commissioner believes that an extraordinary circumstance has arisen requiring a disbursement not provided for in the budget or exceeding the amount

estimated in the budget in respect of that item, the Commissioner may approve that the disbursement be made and, subject to subsection (3), may make the disbursement.

(3) If the making of a disbursement referred to in subsection (2) would result in the total amount for all items of expenditure included in the budget being exceeded, the Commissioner must not make the disbursement unless authorized to do so by the Minister.

**24. Treatment of surplus and deficit.** (1) If there is or is likely to be a surplus or deficit in the funds of the Commissioner at the end of the period to which a budget relates, the Commissioner must take that surplus or deficit into account in preparing the next budget.

(2) At the end of the period to which a budget relates all authorizations of expenditure for any item included in the budget lapse but such expenditure may be re-authorized.

#### PART IV—PROVISIONS AFFECTING PERSONNEL

##### *Division 1—Appointments and Conditions*

**25. Personnel of Queensland Fire Service.** (1) The Commissioner shall appoint and employ such persons as are necessary or convenient for giving effect to this Act.

(2) An appointment may be made on the basis of full-time or part-time employment.

(3) The body of persons consisting of the person holding office as Commissioner and the persons appointed and employed under subsection (1) shall be known as the Queensland Fire Service.

(4) The *Public Service Management and Employment Act 1988-1989* does not apply to persons appointed to or employed in the Queensland Fire Service.

**26. Conditions of employment.** Subject to any applicable industrial award or industrial agreement, persons appointed or employed by the Commissioner shall be paid salary, wages and allowances at such rates and shall be employed under such conditions of employment as the Commissioner determines.

**27. Additional remuneration.** An officer of the Queensland Fire Service must not seek or accept on account of anything done in the course of employment in that Service any fee or reward not authorized by the Commissioner.

##### *Division 2—Termination of Office*

**28. Retirement.** (1) An officer of the Queensland Fire Service—

- (a) must retire from employment with the Service upon attaining the age of 65 years;
- (b) may elect to retire from employment with the Service upon or at any time after attaining the age of 55 years.

(2) If the Commissioner suspects on reasonable grounds that an officer, by reason of mental or physical infirmity, has not the capacity or is unfit—

(a) to discharge efficiently the duties of office;  
and

(b) to discharge efficiently any other duties that the Commissioner might reasonably direct the officer to discharge;

the Commissioner must obtain medical opinion on the officer's condition.

(3) The Commissioner may appoint any medical practitioner or medical practitioners to examine the officer and report upon the officer's mental or physical condition or both and may direct the officer to submit to the examination.

(4) If the Commissioner believes on reasonable grounds that an officer, by reason of mental or physical infirmity, has not the capacity or is unfit as prescribed by subsection (2), the Commissioner may call upon the officer to retire within the time specified by the Commissioner.

(5) If the officer does not retire within the time specified, the Commissioner may dismiss the officer.

**29. Retrenchment.** Where the Commissioner is satisfied that—

(a) the services of an officer of the Queensland Fire Service can no longer be gainfully utilized in the office held by the officer because the office has become redundant;  
and

(b) it is not practicable to retrain or redeploy the officer;  
and

(c) the redundancy arrangements approved by the Governor in Council have been complied with in relation to the officer;

the Commissioner may terminate the services of the officer by way of retrenchment in accordance with those redundancy arrangements.

*Division 3—Discipline and Appeals*

**30. Discipline.** (1) An officer of the Queensland Fire Service is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the Commissioner to exist:—

(a) incompetence or inefficiency in the discharge of duties;

(b) negligence, carelessness or indolence in the discharge of duties;

(c) wilful failure to comply with a provision of a code of practice approved by the Commissioner for officers of the Queensland Fire Service;

(d) absence from duty except—

(i) upon leave duly granted;

or

(ii) with reasonable cause;

(e) wilful failure to comply with a lawful direction of the

---

Commissioner or another person having authority over the officer;

(f) misconduct.

(2) In subsection (1)(f) “misconduct” means—

- (a) disgraceful or improper conduct that shows unfitness to be or continue as an officer of the Queensland Fire Service;
- or
- (b) behaviour that does not satisfy a standard of behaviour generally expected of officers of the Queensland Fire Service.

(3) Where action against an officer is contemplated on the ground of absence from duty, the Commissioner may appoint any medical practitioner or medical practitioners to examine the officer and to report upon the officer’s mental or physical condition or both, and may direct the officer to submit to the examination.

(4) An officer may be disciplined in any manner the Commissioner believes to be warranted.

Without limiting the range of disciplines that may be imposed, the disciplines may consist of any of the following:—

- (a) dismissal;
- (b) reprimand;
- (c) forfeiture or deferment of a salary increment or increase;
- (d) reduction in the officer’s level of salary;
- (e) a deduction from the officer’s salary of an amount not exceeding 2 penalty units.

(5) Every order made pursuant to subsection (4) shall take effect in law and shall be given effect.

**31. Implementation of order.** An order relating to disciplinary action must not be implemented—

- (a) where an appeal is instituted pursuant to this Act in respect of the disciplinary action—until after the determination of the appeal or the withdrawal of the appeal, whichever event sooner occurs;
- (b) where an appeal is not instituted—until the time in which an appeal may be instituted has expired.

**32. Suspension.** (1) Where—

- (a) it appears on reasonable grounds to the Commissioner that an officer of the Queensland Fire Service is liable to disciplinary action or is suspected of involvement in circumstances such that the proper and efficient discharge of the functions of the Commissioner might be prejudiced if the officer’s services are continued;

or

- (b) an officer is charged in Queensland with having committed an indictable offence or is charged elsewhere with having committed an offence which if it had been committed in Queensland would be an indictable offence;

the officer may be suspended from duty by the Commissioner.

(2) A suspension may be lifted at any time by the Commissioner.

(3) An officer suspended from duty is not entitled to receive salary for any period during which the officer does not perform that duty, unless the Commissioner otherwise determines.

(4) An officer suspended from duty, who is not entitled to salary for the period of suspension and who resumes duty upon the lifting of the suspension, is entitled to receive a sum equivalent to the amount of salary payable had the officer not been suspended diminished by the amount of salary or fees (if any) to which the officer became entitled from any other source during the period of suspension, unless the Commissioner otherwise determines.

**33. Mode of dismissal or suspension.** (1) Dismissal or suspension must be effected in accordance with this Act and the principles of natural justice.

(2) Dismissal or suspension is effected by giving the officer concerned a notice under the seal of the Commissioner.

**34. Commissioner of Appeals.** (1) The Governor in Council shall by notification published in the Gazette appoint a person as Commissioner of Appeals.

(2) A person appointed as Commissioner of Appeals holds office for such period (not exceeding 3 years) as is specified in the notification of appointment.

(3) A person appointed as Commissioner of Appeals—

- (a) may resign by giving notice of resignation to the Minister;
- (b) may be removed from office at any time by the Governor in Council upon notice to that effect being given to the person by the Minister;
- (c) is entitled to such fees, allowances and expenses as are approved by the Governor in Council but in no case is an officer of the public service or the Queensland Fire Service entitled to fees and allowances for discharging the functions of Commissioner of Appeals during the ordinary hours of duty as an officer;
- (d) may hold that office in conjunction with any office held in the public service or the Queensland Fire Service.

**35. Fire Service Appeal Board.** (1) There shall be constituted from time to time as the occasion requires a tribunal to be known as the



Fire Service Appeal Board consisting of 3 members appointed by the Minister, of whom—

- (a) one shall be the Commissioner of Appeals who shall be a member *ex officio* and the presiding officer;
- (b) one shall be a person nominated by the Commissioner;
- (c) one shall be a person nominated by the industrial union of employees of which the appellant is a member or, if the appellant is not a member of a union, by an industrial union of employees of which the appellant is, in the opinion of the Minister, entitled to be a member by virtue of employment.

(2) If—

- (a) an industrial union fails to make a nomination in accordance with subsection (1)(c) within the time specified in a written request made by the Minister;
- or
- (b) in the case of an appellant who is not a member of a union, the appellant is not entitled in the opinion of the Minister to be a member of any industrial union by virtue of employment;

the Minister shall appoint as member a person the Minister considers suitable.

(3) A determination made by an Appeal Board must be by majority vote.

(4) A member of an Appeal Board, other than the Commissioner of Appeals, is entitled to such fees, allowances and expenses as are approved by the Governor in Council but in no case is an officer of the public service or the Queensland Fire Service entitled to fees and allowances for discharging the functions of member during the ordinary hours of duty as an officer.

**36. Appeals against disciplinary action or suspension.** (1) An officer—

- (a) against whom disciplinary action has been taken;
- or
- (b) suspended from duty without salary for the period of suspension;

may appeal against the decision in accordance with this section, and not otherwise.

(2) If disciplinary action taken against an officer consists of dismissal or reduction in level of salary, any appeal against that action must be to a Fire Service Appeal Board.

(3) In any other case, an appeal must be to the Commissioner of Appeals.

(4) An appeal in respect of disciplinary action may relate to the decision that resulted in the taking of the action or to the nature of the action or to both.

**37. Appeals against promotional appointments.** (1) Subject to subsection (3), an officer may appeal against any appointment to an office in the Queensland Fire Service that results in the appointee's promotion unless—

- (a) the appointment is made to an office involving part-time duties only;  
or
- (b) the appointment is declared, or is one of a class of appointment declared, by the Governor in Council as an appointment or class of appointment against which no appeal lies.

(2) Any appeal against a promotional appointment must be to the Commissioner of Appeals and must be determined in accordance with the relative merits of the parties to the appeal.

(3) An officer has no right of appeal against an appointment unless the officer satisfies such requirements as are prescribed by regulation in respect of appeals of the class of appeal in question.

**38. Matters concerning appeals.** (1) In the following provisions of this Division, "appeal tribunal" means—

- (a) in the case of an appeal against a dismissal or reduction in level of salary, a Fire Service Appeal Board;
- (b) in the case of any other appeal, the Commissioner of Appeals.

(2) Jurisdiction is hereby conferred on an appeal tribunal to hear and determine all matters relevant to an appeal.

(3) The institution and conduct of an appeal shall be as prescribed by regulation and, to the extent to which those matters are not prescribed, as an appeal tribunal determines having regard to the principle that proceedings upon an appeal shall be informal and simple.

(4) A party to an appeal—

- (a) to the Commissioner of Appeals is not permitted legal or other representation;
- (b) to a Fire Service Appeal Board is not permitted legal representation but may be otherwise represented.

(5) A determination made by an appeal tribunal must be made known at the hearing of the appeal.

(6) No appeal lies from a finding or determination made by an appeal tribunal.

(7) The Commissioner must appoint an officer of the Queensland Fire Service to act as secretary to an appeal tribunal.

**39. Determination of appeal.** An appeal tribunal may in respect of an appeal confirm or set aside the decision in issue and may make any determination and order that the Commissioner could have made under this Act in the first instance in respect of the matter in question.

**40. Reinstatement following dismissal.** A person who, having been dismissed from office, is reinstated in an office within the Queensland Fire Service consequent upon a determination of a Fire Service Appeal Board shall not suffer loss of salary or other entitlements in respect of the period between dismissal and reinstatement, unless the Appeal Board directs to the contrary.

*Division 4—Superannuation*

**41. Superannuation scheme.** (1) On the appointed day—

- (a) the superannuation scheme approved under section 12 of the *Fire Brigades Act 1964-1988* (referred to in this Division as the “superannuation scheme”) is continued in existence;
- (b) the Fire Brigade Boards (constituted under the *Fire Brigades Act 1964-1988*) and the Minister cease to have the responsibilities of subsidizing, contributing to and making payment to the funds held in connexion with the superannuation scheme;
- (c) the Commissioner assumes the responsibilities described in paragraph (b);
- (d) a reference in the deed of trust, dated 13 April 1964, establishing the superannuation scheme, to a Fire Brigade Board shall be read as a reference to the Commissioner.

(2) The trustees, with the approval of the Governor in Council, may amend the superannuation scheme.

An amendment must not be made if it prejudices any right accrued or accruing under the scheme to any person unless the person has consented in writing to the amendment.

(3) Every person holding office as Commissioner and every person employed full-time in the Queensland Fire Service must become a contributor to the superannuation scheme (if otherwise eligible under the terms of the scheme) and while so employed, continue to contribute to the scheme in accordance with its terms.

**42. Trustees of superannuation scheme.** (1) The Governor in Council shall from time to time appoint persons to be trustees of the superannuation scheme by notification published in the Gazette.

(2) The appointment of a trustee must be made on the recommendation of the Minister.

- (3) There shall be 5 trustees, being—
- (a) a person the Minister considers suitable for appointment (who must not be an officer of the Queensland Fire Service), who shall be the presiding officer at meetings of the trustees;
  - (b) 2 persons nominated by the Commissioner;
  - (c) subject to subsection (5), a person nominated by the United Firefighters Union Queensland Branch Union of Employees;
  - (d) subject to subsection (5), a person nominated by any other union of employees of which officers of the Queensland Fire Service are members.

(4) Only persons who are contributors to the superannuation scheme are eligible for nomination under subsection (3)(c) or (d).

(5) If a nomination is not made in accordance with subsection (3)(c) or (d) within the time specified in a written request made by the Minister, the Minister may recommend for appointment as trustee a person who, in the opinion of the Minister, will competently represent the interests of contributors to the superannuation scheme.

**43. Term of office of trustees.** (1) A trustee must be appointed for a term of 3 years but if, by the expiration of the term, a successor has not been duly appointed the trustee may, subject to this Act, continue in office until a successor is duly appointed.

(2) The term of office of a trustee commences on the date notification of appointment appears in the Gazette unless otherwise specified in the notification.

**44. Powers and functions of trustees.** Subject to this Act, the trustees may exercise the powers conferred and shall discharge the functions imposed upon trustees by the superannuation scheme.

**45. Operation of trustees.** The provisions of Schedule 4 govern the operation of the trustees.

**46. Employees of trustees may be contributors to scheme.** For the purpose of securing to persons employed full-time by the trustees in connexion with the administration of the superannuation scheme the benefits of the scheme, those employees are taken to be employed full-time in the Queensland Fire Service and the provisions of this Act relating to the scheme and the provisions of the deed of trust establishing the scheme shall be construed accordingly.

#### PART V—THE RURAL FIRE COUNCIL

**47. The Rural Fires Board continued in existence.** (1) The Rural Fires Board constituted under the *Rural Fires Act 1946-1984* is hereby continued in existence under the name The Rural Fire Council.

(2) The Council shall consist of not more than 7 members appointed by the Governor in Council on the nomination of the Minister.

(3) Nominees shall be persons who, in the opinion of the Minister, will competently represent interests affected by rural fires.

(4) The Governor in Council shall appoint one of the members as presiding officer.

(5) The Governor in Council may appoint one of the members as deputy presiding officer to act as presiding officer during any absence of the presiding officer.

(6) Appointments must be made by notification published in the Gazette and commence on the date of publication unless otherwise specified in the notification.

**48. Term of office.** The term of office of a member must not exceed 3 years.

**49. Functions of Council.** The functions of the Council are—

- (a) to provide advice to the Minister and the Commissioner in respect of fires in rural areas and the operation of rural fire brigades;
- (b) to promote fire safety, fire prevention and the reduction of fire danger within rural areas;
- (c) such other functions as the Commissioner may direct.

**50. Quorum.** A quorum of the Council consists of 4 members.

**51. Operation of Council.** The provisions of Schedule 4 govern the operation of the Council and its members.

#### PART VI—POWERS OF AUTHORIZED FIRE OFFICERS

**52. Authorized fire officer.** In this Part “authorized fire officer” means a fire officer authorized by the Commissioner for the purposes of this Part or belonging to a class of fire officer so authorized.

**53. Powers of authorized officer in dangerous situations.** (1) An authorized fire officer may take any reasonable measure—

- (a) to protect persons, property or the environment from danger or potential danger caused by a fire or a chemical incident;
- or
- (b) to protect persons trapped in any vehicle or building or otherwise endangered.

(2) Without limiting the measures that may be taken for a purpose described in subsection (1), an authorized fire officer may for that purpose do any of the following:—

- (a) enter any premises, vehicle or vessel;
- (b) open any receptacle, using such force as is reasonably necessary;
- (c) bring any apparatus or equipment onto premises;
- (d) destroy, damage, remove or otherwise deal with any

- vegetation or any other material or substance, flammable or not flammable;
- (e) destroy (wholly or in part) or damage any premises, vehicle or receptacle;
  - (f) shore up any building;
  - (g) close any road or access, whether public or private;
  - (h) shut off the supply of water from any main, pipe or other source to obtain a greater pressure or supply or take water from any source whether natural or man-made;
  - (i) cause to be shut off or disconnected the supply of gas, electricity or any other source of energy to any premises or area;
  - (j) require any person who, in the opinion of the authorized fire officer, is—
    - (i) the occupier of premises, being the site of or near to the site of the danger;
    - or
    - (ii) in charge of anything that is the source of the danger or likely (in the opinion of the officer) to increase the danger; to take any reasonable measure for the purpose of assisting the officer to deal with the danger or answer any question or provide any information for that purpose;
  - (k) require any person not to enter or remain within a specified area around the site of the danger;
  - (l) remove from any place a person who fails to comply with an order given pursuant to paragraph (k) and use such force as is reasonably necessary for that purpose;
  - (m) if unable to identify the person entitled to possession of property found at or near the site of the danger, take possession of the property and retain it for safe custody.

(3) The owner of any building shored up pursuant to an exercise of the power conferred by subsection (2)(f) must pay to the Commissioner upon demand all reasonable expenses thereby incurred by the Commissioner and those expenses may be recovered in a court of competent jurisdiction as a debt due to the Commissioner.

(4) A Local Authority, other authority or a person supplying water or any source of energy is not liable for any interruption of supply caused by the exercise of the power conferred by subsection (2)(h) or (i).

**54. Disposal of property.** (1) Any property retained for safe custody pursuant to section 53(2)(m) must, as soon as is practicable, be delivered into the possession of a person authorized by, or a person belonging to a class of person authorized by, the Commissioner for the purposes of this section.

(2) The authorized person—

- (a) must cause the property to be returned to the person the authorized person believes is entitled to possession of it;  
or
- (b) if unable to form such a belief, must dispose of or otherwise deal with the property in accordance with any code of practice or any direction given by the Commissioner.

(3) Subject to subsection (4), any dealing with property pursuant to subsection (2) does not affect the right of any person to recover the property by action from any person who has possession of it as a result of that dealing.

(4) An action referred to in subsection (3) must be commenced within 6 months of the date on which the property was dealt with pursuant to subsection (2).

**55. Powers of authorized officer for preventative or investigative purposes.** (1) At any time an authorized fire officer may enter any premises, vehicle or vessel or open (using such force as is reasonably necessary) any receptacle for any of the following purposes:—

- (a) to prevent, or reduce the likelihood of, the occurrence of a fire or a chemical incident;
- (b) to investigate whether or not fire safety measures and fire prevention measures have been taken or are being maintained;
- (c) to ascertain the cause of a fire or chemical incident;
- (d) to ascertain whether any provision of this Act or any notice, notification, order (written or verbal) or permit given under this Act has been or is being complied with.

(2) The power of entry conferred by subsection (1) must not be exercised in respect of—

- (a) a building that is a dwelling or such part of a building as is a dwelling;  
or
- (b) a vehicle or vessel used as a dwelling;  
or
- (c) a tent or other structure used as a dwelling;

unless the occupier has given approval to enter.

(3) An authorized fire officer who enters premises for the purpose referred to in subsection (1)(a) may, for that purpose—

- (a) bring any apparatus or equipment onto the premises;  
and
- (b) burn, remove or otherwise deal with any vegetation or other material or substance, flammable or not flammable.

**56. Extent of power of entry.** The right of entry conferred by section 53(2)(a) or 55—

- (a) includes the right to enter all parts of the premises, vehicle or vessel in respect of which the right is exercised;  
and
- (b) authorizes the person exercising the right to use a reasonable degree of force to ensure the proper exercise of the right.

**57. Power to require name and address.** (1) An authorized fire officer may require a person—

- (a) to provide name and address if the authorized fire officer believes that the person may have committed an offence against this Act;  
and
- (b) to provide proof of any name or address given upon requisition made under paragraph (a) if the authorized fire officer believes that the name or address is false.

(2) A person who fails to comply with a requisition made under subsection (1) commits an offence against this Act.

**58. Use of answer given under compulsion.** Where pursuant to this Part a person is required to answer a question or give information, it is not lawful excuse to fail to comply with the requisition on the ground that to do so may tend to incriminate the person but any answer given or information provided after objection on that ground is not admissible against the person in proceedings other than proceedings taken for giving an answer or providing information knowing it to be false or misleading.

**59. Person acting at direction of authorized fire officer.** Any power conferred upon an authorized fire officer may be exercised by any person acting at the direction of an authorized fire officer and any power so exercised is taken to have been exercised by an authorized fire officer.

**60. Directions concerning exercise of powers.** The exercise of a power conferred by or under this Part on an authorized fire officer or any other person must be in accordance with any direction given by the Commissioner and with any code of practice.

## PART VII—CONTROL AND PREVENTION OF FIRES

### *Division 1—Powers of Commissioner relating to Fires*

**61. Interpretation and application of Division.** (1) For the purposes of this Division a person is taken to light a fire if the person—

- (a) lights, maintains or uses the fire;  
or
- (b) aids, procures or counsels another to light, maintain or use the fire;



or

- (c) being the owner or occupier of the land on which the fire is lit, permits another to light, maintain or use the fire.

(2) This Division does not apply in respect of the lighting of a fire inside any building in circumstances that prevent the escape from the building of fire or any material or substance that is likely to cause fire.

(3) In this Division, “occupier of land” includes, where there is no person in actual occupation of the land, the person charged by the owner or by law with the management of the land.

**62. Offence to light unauthorized fire.** A person who lights a fire that is not authorized by this Division or by any notification, notice or permit given under this Division commits an offence against this Act.

**63. Commissioner may authorize certain fires.** The Commissioner may, by notification published in the Gazette, authorize the lighting of fires for purposes and in circumstances specified in the notification.

**64. Commissioner may prohibit lighting of fires.** (1) Notwithstanding any notification under section 63 authorizing the lighting of fires the Commissioner may, by giving a notice to the occupier of land, prohibit the lighting on the land of all fires or all fires other than those lit for a purpose or in circumstances specified in the notice.

(2) The Commissioner must consider any request made by an occupier of land that a notice be issued prohibiting the lighting of fires on any adjoining land unless the Commissioner believes the request is frivolous or vexatious.

“Occupier of adjoining land” means the occupier of land that—

- (a) touches some part of the land in question;

or

- (b) would touch some part of that land but for the existence of a watercourse, road or firebreak, that is 10 metres or less in width or, although wider than 10 metres, is not clear of vegetation or other flammable material for at least 10 metres in every direction.

**65. Granting of permits.** (1) A person may apply to the Commissioner (orally or in writing) for a permit to light a fire on any land.

(2) The Commissioner may grant or refuse to grant an application.

(3) Subject to subsection (4), the Commissioner must refuse to grant a permit to light a fire on any land unless satisfied—

- (a) that reasonable steps have been taken to notify every occupier of adjoining land (within the meaning of section 64) of the making of the application;

and

- (b) that a reasonable opportunity has been given to every occupier so notified to object (orally or in writing) to the granting of the permit.

(4) The Commissioner may grant a permit without complying with subsection (3) if satisfied that extraordinary circumstances exist for so doing.

**66. Fires in State Forests, etc.** (1) The provisions of this Division do not apply to the lighting of a fire—

- (a) in a National Park or Environmental Park by an officer or employee of the Director of National Parks and Wildlife acting in the performance of duties under the *National Parks and Wildlife Act 1975-1989*;
- (b) in a State Forest, Timber Reserve or Forest Entitlement Area by an officer or employee of the Conservator of Forests acting in the performance of duties under the *Forestry Act 1959-1989*;
- (c) in a reserve or refuge within the meaning of the *Fauna Conservation Act 1974-1989* by an officer acting in the performance of duties under that Act.

(2) The Commissioner must not authorize the lighting of fires—

- (a) in a National Park or Environmental Park, or in a reserve or refuge, without the approval of the Director of National Parks and Wildlife or a person authorized by the Director in that behalf;
- (b) in a State Forest, Timber Reserve or Forest Entitlement Area without the approval of the Conservator of Forests or a person authorized by the Conservator in that behalf.

**67. Occupier to extinguish fire.** Where a fire is burning on any land and the lighting of the fire is not authorized by or under this or any other Act, the occupier of the land, immediately upon becoming aware of the fire (regardless of who lit it)—

- (a) must take all reasonable steps to extinguish or control the fire;
- and
- (b) must, as soon as is practicable, report the existence and location of the fire to a fire officer, an officer of a bush fire brigade, a chief fire warden or fire warden, a forest officer (within the meaning of the *Forestry Act 1959-1989*), a field officer (within the meaning of the *National Parks and Wildlife Act 1975-1989*) or a member of the Police Force.

**68. Powers of occupier of entry, etc.** (1) Subject to subsections (2) and (3), an occupier of land, who believes on reasonable grounds that a grass fire (that is, a fire that predominantly consumes vegetation)

burning within 1.6 kilometres of that land constitutes a fire risk to that land may, together with persons acting at the direction of the occupier—

- (a) enter the land on which the fire is burning and any other land in order to gain access to the land on which the fire is burning;
- and
- (b) take on to that land equipment for extinguishing or controlling the fire;
- and
- (c) take all reasonable measures to extinguish or control the fire.

(2) An occupier of land must not do or direct the doing of any act referred to in subsection (1) if prior notice (oral or written) of the intention to light the fire has been given to the occupier by the person lighting it or by a prescribed person unless the occupier believes on reasonable grounds that the fire has been unlawfully lit or is out of control.

(3) If it is practicable to contact a prescribed person, an occupier of land—

- (a) must not do or direct the doing of any act referred to in subsection (1) unless the prescribed person has been notified of the situation;
- and
- (b) must comply with any direction given by the prescribed person in respect of the doing of any act.

(4) In this section “prescribed person” means a fire officer, an officer of a bush fire brigade, a chief fire warden or fire warden, a forest officer (within the meaning of the *Forestry Act 1959-1989*), a field officer (within the meaning of the *National Parks and Wildlife Act 1975-1989*) or a member of the Police Force.

**69. Requisition by Commissioner to reduce fire risk.** (1) The Commissioner may require any occupier of premises to take measures for the purpose of reducing the risk of a fire occurring on the premises or reducing potential danger to persons, property or the environment in the event of a fire occurring on the premises.

(2) A requisition may be given—

- (a) in a particular case, by giving a notice to the occupier concerned;
- or
- (b) by notification published in the Gazette in which case each occupier of land to whom the notification applies must comply with the requisition.

(3) Without limiting the measures that may be required to be taken, an occupier may be required to do any of the following:—

- (a) make and maintain firebreaks in accordance with any directions contained in the notification or notice;
- (b) remove, dispose of or otherwise deal with any vegetation or other flammable material in accordance with any directions contained in the notification or notice;
- (c) obtain equipment and keep it available for use for fire fighting purposes;
- (d) take measures to ensure an adequate supply of water or any other substance for fire fighting purposes;
- (e) ensure that the means of escape from the premises in the event of fire can be safely and effectively used at all material times;
- (f) suspend such operations as may be specified for the period specified.

(4) Where an occupier of premises fails to comply with a notification or notice an authorized fire officer and any assistant may enter the premises and take any of the measures directed by the notification or notice to be taken and any expenses incurred by the Commissioner in taking those measures may be recovered in a court of competent jurisdiction from the occupier.

(5) An authorized fire officer or an assistant who takes the measure of removing vegetation or other flammable material from premises, may take possession of and retain the material until it is disposed of pursuant to subsection (6) or until the person entitled to possession of it is determined.

(6) Where the Commissioner is satisfied that anything retained pursuant to subsection (5) is the property of the occupier who failed to comply with the notification or notice the Commissioner may sell or otherwise dispose of the material and the proceeds of the disposal may be applied by the Commissioner in payment of expenses incurred in consequence of the failure to comply.

(7) Where the proceeds of the disposal of any material—

- (a) are insufficient to cover the expenses of the Commissioner, the amount of the expenses that may be recovered under subsection (5) must be reduced by the amount of those proceeds;
- (b) exceed the expenses of the Commissioner, the balance must be paid to the person whose property the Commissioner believes the material to have been.

**70. Restriction on sale of notified articles.** The Commissioner may, by notification published in the Gazette, prohibit or regulate the sale, use or possession of any article or substance that the Commissioner believes may constitute a fire risk.

**71. Notifications, notices and permits.** (1) Any notification published in the Gazette pursuant to this Division—

- (a) may be expressed so as to have effect either generally throughout the State or in part of the State only;
- (b) may be expressed so as to apply differently in different circumstances;
- (c) may, where it authorizes or requires the doing of any act, specify conditions to be observed in respect of the doing of the act;
- (d) may be expressed so as to be of unlimited duration or so as to have effect for a specified period or until the occurrence of a specified event;
- (e) may be amended or revoked at any time by the Commissioner by notification published in the Gazette.

(2) Any permit granted or notice given pursuant to this Division to a person—

- (a) may, where it authorizes or requires the doing of any act, specify conditions to be observed in respect of the doing of the act;
- (b) may be expressed so as to be of unlimited duration or so as to have effect for a specified period or until the occurrence of a specified event;
- (c) may be amended or revoked at any time by the Commissioner by giving a notice to that effect to that person.

**72. Offences re lighting fires.** (1) A person commits an offence against this Act if the person does or, as the case may be, fails to do any of the following acts:—

- (a) fails to comply with any condition or direction contained in a notification, notice or permit given under this Division in respect of the lighting of any fire;
- (b) leaves unattended or fails to take reasonable measures to extinguish a fire in such circumstances as to cause or be likely to cause danger from fire to any person or property or to the environment;
- (c) not acting in accordance with a notification, notice or permit given under this Division, discards, propels or places any burning article or substance (or anything otherwise capable of causing fire)—
  - (i) thereby causing a fire that endangers or is likely to endanger any person or property or the environment;
  - or
  - (ii) in such circumstances as to be likely to cause a fire that would be likely to endanger any person or property or the environment;
- (d) wilfully and unlawfully destroys, damages, removes, covers or otherwise interferes with a notice relating to the lighting

of fires displayed by the Commissioner or by a rural fire brigade for the purposes of this Act;

- (e) knowingly provides any false or misleading information in respect of an application for a permit under section 65;
- (f) without the consent of the Commissioner, alters any particular shown in a permit granted under section 65.

(2) In subsection (1), “property” does not include property of the person alleged to have committed the offence in question.

**73. Liability of person for fire lit by agent or employee.** (1) Notwithstanding sections 7 and 23 of The Criminal Code, where any person commits an offence against this Division in respect of the lighting of a fire as an agent or employee, the principal or employer of that person is taken to have committed the offence and may be prosecuted and punished for the offence unless it is proved that the agent or employee was acting contrary to instructions and that the principal or employer could not have prevented the commission of the offence by exercising reasonable supervision.

(2) Subsection (1) applies without prejudicing any liability imposed under this Division upon the person by whom an offence is actually committed.

**74. Liability for damage caused by certain fires.** (1) A person who lights a fire—

- (a) authorized to be lit by notification given under section 63 or by a permit granted under section 65;

or

- (b) in order to comply with a notification or notice given under section 69;

and who, in lighting the fire, complies with any condition or direction contained in the notification, notice or permit and does not contravene any provision of this Act does not incur any liability at common law for any loss, injury or damage caused by the fire unless it is shown that the person acted recklessly or maliciously caused the loss, injury or damage.

(2) Subsection (1) applies only in respect of a fire lit for the purpose of or likely to have the effect of burning off vegetation.

#### *Division 2—Fire Wardens*

**75. Chief fire wardens and fire wardens.** (1) Such number of chief fire wardens and fire wardens may be appointed as the Commissioner thinks necessary or expedient for the purposes of this Act.

(2) Subject to subsection (3), appointments must be made in writing by the Commissioner.

(3) Where the appointee is an officer of the public service or a member of the Police Force, the appointment must be made by the Governor in Council by notification published in the Gazette—

(a) specifying the name of the appointee;

or

(b) specifying that the appointment is made to the holder of a specified office in which case each person who, for any period, holds or performs the duties of that office is, for that period, a chief fire warden or, as the case may be, a fire warden.

(4) A person may hold an office under this section in conjunction with any office held with the Queensland Fire Service, the public service or the Police Force.

(5) The Commissioner may, by giving a notice to an appointee, cancel the appointment, whether the appointment was made by the Commissioner or the Governor in Council.

(6) The Governor in Council may, by notification published in the Gazette, amend or rescind any notification made under subsection (3)(b).

**76. Powers and functions.** (1) The powers of a chief fire warden or fire warden are the same as those of an authorized fire officer subject to any limitation imposed by the Commissioner.

(2) The Commissioner may direct a chief fire warden or a fire warden to discharge functions in addition to those imposed by this Act.

(3) In exercising a power or discharging a function a chief fire warden or fire warden must comply with any code of practice and with any direction of the Commissioner.

**77. Expenses.** A chief fire warden or a fire warden may be paid such expenses as are approved by the Governor in Council.

**78. Appeals from decisions of fire wardens.** (1) Where pursuant to a delegation of the Commissioner's powers a chief fire warden or a fire warden is empowered to issue notices under section 64 or 69 or to determine applications for permits under section 65, any person aggrieved by a decision made by the chief fire warden or fire warden in the exercise of the power may appeal against the decision by notice in writing given to the Commissioner.

(2) The Commissioner may allow or dismiss an appeal and may, where an appeal is allowed, make any order that appears just.

*Division 3—Rural Fire Brigades*

**79. Formation of rural fire brigade.** (1) Any group of persons may apply to the Commissioner for registration as a rural fire brigade.

(2) The Commissioner may grant or refuse an application and, in the case of the granting of an application, must assign a registration number to the rural fire brigade.

(3) The Commissioner may at any time cancel the registration of a rural fire brigade.

**80. Rural fire brigade may make rules.** (1) A rural fire brigade may make rules, not inconsistent with this Act, for the purpose of regulating its proceedings and the conduct of its operations including the acquisition, vesting and disposal of its property and funds.

(2) A rule has no effect unless approved by the Commissioner.

(3) The Commissioner may at any time direct a rural fire brigade to amend, revoke or make rules in the manner and for the purpose specified in the direction.

**81. Officers of rural fire brigade.** (1) A rural fire brigade must elect a first officer to be in charge of the brigade.

(2) A rural fire brigade may also elect such other officers as it considers necessary.

(3) Any election must be conducted in accordance with the Commissioner's directions and has no effect unless approved by the Commissioner.

(4) A person holds office for the period specified by the Commissioner.

(5) The Commissioner may dismiss a person from any office held with a rural fire brigade or may disqualify a person from holding any office.

**82. Functions of a rural fire brigade.** (1) The functions of a rural fire brigade are fire fighting and fire prevention and such other functions as the Commissioner may direct.

(2) The Commissioner must notify a rural fire brigade of the area for which and the circumstances in which the brigade is in charge of fire fighting and fire prevention.

(3) In this section, "fire prevention" includes taking measures in readiness for fire so as to reduce potential danger to persons, property or the environment.

**83. Powers of first officer.** (1) Where, pursuant to notification given under section 82(2), a rural fire brigade is in charge of operations for controlling and extinguishing a fire, the first officer of the brigade has, for that purpose—

(a) the powers of an authorized fire officer, subject to any limitation imposed by the Commissioner;  
and

(b) the control and direction of any person (including any fire officer) whose services are available at the fire.

(2) Any power exercisable by the first officer of a rural fire brigade may be exercised by any person acting at the direction of the first officer.



(3) Any person exercising a power or discharging a function under this section must comply with any code of practice and with any direction of the Commissioner.

(4) In this section, “first officer” includes, where the first officer of a rural fire brigade is unavailable to act, the next senior officer of the brigade who is available.

(5) Where a rural fire brigade is assisting in operations for controlling or extinguishing a fire, the person who pursuant to this Act or any direction given by the Commissioner is in charge of those operations has the control and direction of the members of the rural fire brigade.

**84. Equipment for rural fire brigade.** (1) The Commissioner may provide any rural fire brigade with equipment for carrying out its responsibilities or may, for that purpose, subsidize the purchase of equipment by a rural fire brigade.

(2) All equipment provided by, or the purchase of which is subsidized by, the Commissioner is and remains the property of the Commissioner and may at any time be repossessed by the Commissioner.

(3) A justice, acting upon the complaint of the Commissioner, may issue a warrant authorizing any person named in it or belonging to a class of person specified in it to search for and seize any equipment that pursuant to subsection (2) is the property of the Commissioner.

(4) A person authorized to execute a warrant may, for that purpose—

(a) enter any premises in which the person believes the equipment may be located;

(b) break open anything the person believes may contain the equipment.

(5) In this section “equipment”, without limiting the meaning of the term, includes plant and any liquid or gaseous substance.

**85. Commissioner responsible for efficiency of rural fire brigades.** The Commissioner is responsible for the efficiency of rural fire brigades and may provide training and other assistance to them.

**86. Powers of officers of other States to fight fires in Queensland.**

(1) In this section—

“officer of another State” means an officer of any body or organisation that, pursuant to any law of another State, is responsible for extinguishing fires in rural areas in that State;

“State” means the State of New South Wales or the State of South Australia or the Northern Territory.

(2) Where an officer of another State determines in good faith—

(a) that a fire burning in Queensland may continue burning into the other State;

or

- (b) that a fire burning in the other State may continue burning into Queensland;

the officer may take measures in Queensland for extinguishing or controlling the fire.

(3) If an officer of another State, in Queensland for the purpose of taking measures authorized by subsection (2) to be taken, is the senior officer present of the relevant body or organisation, the officer may exercise, subject to subsection (4), any of the powers of a first officer of a rural fire brigade.

(4) Where, pursuant to this Act or any direction given by the Commissioner, any person has control of operations at a fire in Queensland at which an officer of another State is present, that officer must obey any direction given by the person having control of operations.

#### PART VIII—FIRE EMERGENCY

**87. Declaration of state of fire emergency.** (1) The Commissioner may, with the approval of the Minister, declare that a state of fire emergency exists within Queensland.

(2) A declaration of a state of fire emergency—

- (a) may have effect throughout the State or in part of the State, as specified in the declaration;
- (b) may apply differently according to factors specified in the declaration;
- (c) may, if it does not prohibit the lighting of all types of fires, prescribe conditions to be observed in lighting fires of any type not prohibited;
- (d) may order that the lighting of any fire of a type not prohibited be subject to the granting of a permit under section 65 by the Commissioner or by a person belonging to a class of person specified in the declaration;
- (e) may order that any person finding a fire burning in the open air take all possible steps to extinguish it and, as soon as is practicable, report the existence and locality of the fire to any person belonging to a class of person specified in the declaration;
- (f) may prohibit the use of any appliance, material or substance specified in the declaration that, in the opinion of the Commissioner, is or is likely to cause a fire risk;
- (g) may order the suspension of such operations as may be specified for the period specified;
- (h) may, with the approval of the Minister, be amended or revoked at any time.

**88. Publication of declaration.** (1) Every declaration of a fire emergency or amendment or revocation of a declaration must be notified in the Gazette.

(2) A declaration of a fire emergency or an amendment or revocation of a declaration takes effect from—

- (a) the date on which it is notified in the Gazette;
- or
- (b) where it is notified throughout the area to which it applies by newspaper, radio or television, the date on which it is so notified;

whichever date occurs sooner.

(3) For the purpose of ensuring public knowledge of the declaration of a state of fire emergency in the area to which it applies, the Commissioner must take measures to give widespread publicity to the declaration but any alleged failure to do so is not an excuse for failure to comply with the declaration.

**89. Period of state of fire emergency.** A state of fire emergency declared by the Commissioner remains in force—

- (a) where a period for which it is to remain in force is specified in the declaration, until that period expires unless the declaration is sooner amended by extending that period or revoked;
- or
- (b) where no period is specified, until the declaration is revoked.

**90. Effect of emergency on existing authorities to light fires.** (1) Upon the declaration of a state of fire emergency, any authority given under this or any other Act to light a fire, whether given before or during the state of emergency, ceases to have effect while the state of emergency remains in force.

(2) Subsection (1) applies subject to any authority to light a fire specified in the declaration or any permit granted after the commencement of the state of emergency in accordance with the declaration.

**91. Power of Commissioner during fire emergency.** (1) While a state of fire emergency remains in force, the Commissioner may take any reasonable measure to abate the fire emergency.

(2) Without limiting those measures, they include requisitioning any premises, plant, equipment, materials or substance for fire fighting or fire prevention.

**92. Failure to comply with declaration.** Any person who fails to comply with a declaration of a state of fire emergency or with any requisition made pursuant to section 91(2) commits an offence against this Act and is liable—

- if a body corporate, to a penalty of 1000 penalty units;
- if a natural person, to a penalty of 250 penalty units or 2 years imprisonment or both of those punishments.

**93. Certificate re declaration.** In any proceeding for—

- (a) an offence defined in section 92;
- or
- (b) any other offence against this Act where it is alleged as a circumstance of aggravation that the offence was committed during a state of fire emergency at a place to which the declaration of the emergency applied;

any certificate under the seal of the Commissioner stating that a state of fire emergency declared under section 87 existed at a specified place and during a specified period and specifying any of the provisions of the declaration is evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters contained in the certificate.

#### PART IX—OFF-SITE PLANS FOR DANGEROUS GOODS

**94. Interpretation of Part.** In this Part unless a contrary intention appears—

“ADG Code” means the Australian Code for the Transport of Dangerous Goods by Road and Rail, published in the Commonwealth of Australia Gazette No. P15 on 7 April 1987, as amended from time to time by amendments published in the Commonwealth of Australia Gazette; the expression includes any Code (as so amended from time to time) published in the Commonwealth of Australia Gazette in substitution for that Code;

“dangerous goods” means—

- (a) any substance listed in the ADG Code as dangerous goods other than any substance declared by Order in Council not to be dangerous goods for the purposes of this Part;
- (b) any substance declared by Order in Council to be dangerous goods for the purposes of this Part.

**95. Application of Part.** (1) This Part does not apply in respect of—

- (a) persons or substances in or about a mine to which the *Mines Regulation Act 1964-1989* applies;
- (b) persons or substances in or about a mine to which the *Coal Mining Act 1925-1989* applies;
- (c) persons or substances in or about a well to which the *Petroleum Act 1923-1988* applies.

(2) This Part does not derogate from the provisions of the *Radioactive Substances Act 1958-1978*, the *Queensland Marine Act 1958-1985* or the *Workplace Health and Safety Act 1989* and where there is any conflict between the provisions of this and the provisions of those Acts, the provisions of those Acts prevail, to the extent of the inconsistency.

**96. Occupier to provide information concerning dangerous goods.**

(1) Where a person—

(a) is an occupier of premises in or on which any dangerous goods are stored;

or

(b) is to be the occupier of premises presently under construction, in or on which any dangerous goods are to be stored;

the Commissioner may give a notice requiring the person to provide such information concerning the dangerous goods as is specified in the notice.

(2) A person to whom a notice is given must provide the information sought within the time specified in the notice.

**97. Commissioner may require off-site emergency plan.** (1) In any case in which the Commissioner has power to give a person a notice requiring information concerning any dangerous goods, the Commissioner may by notice in writing require the person, within the time specified in the notice, to prepare and lodge with the Commissioner a plan relating to those dangerous goods (referred to in this Part as an “off-site emergency plan”).

(2) A notice may be given to a person under subsection (1) whether or not a notice has been given under section 96 or, where a notice has been given under that section, whether or not the person has complied with the notice.

(3) A person required by notice given under subsection (1) to prepare and lodge an off-site emergency plan is referred to in this Part as the “person responsible for the plan”.

(4) An off-site emergency plan must provide for measures to be taken in preparation for a chemical incident or upon a chemical incident occurring so that danger that may thereby arise to any person who or property that is outside the premises to which the plan relates or to the environment is avoided or limited.

**98. Commissioner to assist with plans.** (1) The Commissioner must provide an advisory service and, to the extent practicable, assist in the preparation and implementation of off-site emergency plans.

(2) A person responsible for a plan is liable to pay to the Commissioner charges for any advice or other assistance provided.

**99. Approval of plans.** Where an emergency plan is lodged, the Commissioner—

(a) may approve or refuse to approve the plan;

(b) may, if approving the plan, subject approval to conditions;

(c) must, if rejecting the plan, give the person responsible for the plan notice in writing specifying the manner in which the plan is deficient and requiring that a new or amended plan be lodged within the time specified in the notice.

**100. Amendment of plan.** (1) An off-site emergency plan may be amended with the approval of the Commissioner.

(2) The Commissioner may give a notice to a person responsible for an off-site emergency plan requiring that the plan be amended and lodged with the Commissioner for approval.

**101. Duty to implement plan.** (1) Where an off-site emergency plan has been approved by the Commissioner, the person responsible for the plan must ensure that all measures provided for in the plan (and in any amendment approved to the plan) are taken.

(2) A person who fails to discharge that duty commits an offence against this Act.

(3) If the Commissioner believes that any measure provided for in a plan has not been taken, the Commissioner may give a notice to the person responsible for the plan requiring that the measure be taken within the time specified in the notice.

**102. Notice of changed circumstances.** (1) Where any change of circumstances occurs that substantially reduces the effectiveness of an off-site emergency plan or that renders the plan unnecessary, the person responsible for the plan must immediately give notice in writing of that fact to the Commissioner.

(2) The Commissioner, if aware that an off-site emergency plan is no longer necessary because of any change of circumstances, must give approval to the person responsible for the plan to discontinue giving effect to the plan.

**103. Commissioner to keep copies of plans.** The Commissioner must keep a copy of every off-site emergency plan lodged for approval and of every amendment to a plan.

**104. Punishment for certain offences against this Part.** A person convicted of—

(a) an offence defined in section 101(2);

or

(b) an offence consisting in a failure to notify a change of circumstances, as required by section 102 (1), that substantially reduces the effectiveness of a plan;

or

(c) an offence consisting in a failure to comply with a notice given under this Part;

is liable—

if a body corporate, to a penalty of 1000 penalty units;

if a natural person, to a penalty of 250 penalty units or 12 months imprisonment or both of those punishments.

## PART X—FUNDING

**105. Interpretation of Part.** In this Part, unless a contrary intention appears—

“component Local Authority” means a Local Authority whose Area or part of whose Area comprises an urban district or part of an urban district;

“owner”, used with reference to real property, means the person (other than the Crown) who is entitled to receive the rent of property or who, if the property were let, would be entitled to receive the rent; the term includes—

(a) any lessee or licensee from the Crown;

and

(b) a purchaser (including a purchaser from the Crown) under any agreement giving possession of the property;

and

(c) a statutory corporation (whether or not representing the Crown);

“prescribed property” means real property, whether or not occupied by any person, that is within an urban district and that is—

(a) a parcel of land separately held by an owner except either a parcel to which paragraph (b) applies or a parcel on which is situated a building containing lots (within the meaning of the *Building Units and Group Titles Act 1980-1988*);

or

(b) a portion of a parcel of land separately held by an owner, where the Local Authority for the Local Authority Area in which the portion is situated determines that the portion should be classed as a separate parcel for the purposes of this Part;

or

(c) a lot within the meaning of the *Building Units and Group Titles Act 1980-1988*;

the term does not include—

(d) property vested in The Corporation of the Under Secretary for Community Services;

or

(e) property belonging to any class of property prescribed by Order in Council not to be prescribed property.

**106. Constitution of urban districts.** (1) The Governor in Council may, by Order in Council—

- (a) constitute any portion of the State an urban district for the purposes of this Act;
- (b) assign a name to or alter the name of an urban district;
- (c) abolish an urban district;
- (d) alter the boundaries of an urban district;
- (e) amalgamate 2 or more urban districts;
- (f) divide an urban district into 2 or more urban districts.

(2) In any proceeding the production of any map purporting to be certified by the Commissioner as showing the boundary of any urban district or alteration of the boundary of any urban district is evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters shown or stated.

(3) Each district constituted under the *Fire Brigades Act 1964-1988* and in existence immediately before the appointed day shall, on that day, be taken to be an urban district constituted under subsection (1).

**107. Liability to contribute.** (1) For each financial year the owners of prescribed properties must contribute in accordance with this Part to the cost of administering and giving effect to this Act.

An owner of prescribed property is not liable to contribute unless a fire brigade operated by fire officers provides services to prescribed properties in the urban district in which that prescribed property is situated or provided those services at the time when the liability to contribute arose.

(2) For each financial year there must be paid from Consolidated Revenue to the Commissioner—

- (a) an amount representing  $\frac{1}{7}$  of the estimates for the financial year in question (as established by the budget of the Commissioner approved for that year) of the amount to be received from the owners of prescribed properties other than prescribed properties owned by a Commonwealth public trading enterprise;  
and
- (b) such further amount as the Treasurer may authorize.

(3) If, for any financial year, the Treasurer believes that any anticipated reduction by the Commonwealth in financial assistance payments to the State (not including any grant related to the provision of fire services to properties owned by the Commonwealth) will be attributable to the amount payable under this Part by Commonwealth public trading enterprises as owners of prescribed properties, the Treasurer may make a corresponding reduction in the amount payable under subsection (2)(a).



(4) “Commonwealth public trading enterprises” means instrumentalities of the Commonwealth liable to pay the taxes and other charges of the State.

**108. Annual contributions of owners of prescribed properties.** (1) The amounts of the contributions to be paid by owners of prescribed properties in respect of any financial year shall be prescribed by the Governor in Council by Order in Council made during the month of May preceding the financial year or as soon after May as is practicable.

(2) The Governor in Council shall prescribe the amounts of the contributions by categorizing prescribed properties and prescribing differing amounts of contributions in accordance with those categories.

(3) Categorization of prescribed properties may be on such bases as the Governor in Council considers appropriate.

(4) As soon as is practicable after an Order in Council is made under this section, the Commissioner must give notice in writing to each component Local Authority of the amounts of contributions payable by owners of prescribed properties in respect of the financial year to which the Order in Council relates.

**109. Annual returns by component Local Authorities.** (1) To enable the amounts of contributions payable by owners of prescribed properties to be assessed in respect of each financial year, each component Local Authority must furnish to the Commissioner a return disclosing the prescribed particulars relating to properties that—

(a) are within its Area and within an urban district;  
and

(b) are or will be prescribed properties during the financial year to which the return relates.

(2) A return must be furnished—

(a) before the last day of April immediately preceding the financial year to which it relates;

or

(b) before such other date as the Commissioner appoints, by notification published in the Gazette.

**110. Discount for pensioners.** (1) In this section “pensioner” means a person in receipt of a pension under any law of the Commonwealth or of the State declared, or belonging to a class of pension declared, by Order in Council for the purposes of this section.

(2) The Governor in Council may from time to time by Order in Council declare that each pensioner, who is the owner of a prescribed property that is the principal place of residence of that pensioner, be granted a discount on the contributions payable pursuant to this Part in respect of that property at such rate as is specified in the Order in Council.

(3) If a pensioner entitled to a discount in respect of prescribed property is not the sole owner, the discount is an amount that bears to the amount of the discount to which the pensioner would have been entitled as the sole owner, the same proportion as the pensioner's interest in the property bears to the total of the interests of all owners of the property.

(4) For the purposes of subsection (3)—

(a) owners who hold interests in a property as joint tenants are taken to hold interests in the property as tenants in common in equal shares;

and

(b) a pensioner who holds an interest in a property is taken to also hold any interest in the property held by the spouse of the pensioner.

**111. Duties of owner of prescribed property and component Local Authority.** (1) An owner of prescribed property must, in accordance with this Part, pay to the component Local Authority in whose Area the property is situated the annual contributions in respect of the property and any other amounts the Local Authority is authorized to impose pursuant to this Part.

(2) Subject to this Part a component Local Authority must collect those annual contributions and other amounts.

**112. Determinations and notifications of contributions.** (1) In respect of each financial year, a component Local Authority—

(a) must determine the prescribed properties within its Area;

and

(b) must determine the annual contributions payable in respect of prescribed properties by reference to the categories prescribed by the relevant Order in Council made under section 108.

(2) After a Local Authority makes its determinations for any financial year, it must give the owner of each prescribed property within its Area a fire levy notice stating—

(a) the annual contribution in respect of the property;

and

(b) the amount of any arrears (including interest and other charges) of annual contribution in respect of the property.

**113. Appeal against Local Authority's determination.** (1) An owner of property to whom a fire levy notice is given may appeal to the Commissioner on any of the following grounds and on no other grounds:—

(a) that the property is not prescribed property;

(b) that an amount shown in the notice is incorrect because of

typographical or similar error, mathematical error or because the Local Authority wrongly categorized the property in terms of the relevant Order in Council made under section 108;

- (c) that, for the purpose of determining the contributions payable, the prescribed property should in the circumstances be taken to be within a category (prescribed by Order in Council made under section 108) other than that on which the Local Authority based its determination.

(2) A person wishing to appeal must lodge a notice to that effect with the Commissioner setting out the grounds of the appeal within 30 days after the fire levy notice is given.

(3) The Commissioner may require an appellant or the Local Authority concerned to provide information relevant to the determination of the appeal.

(4) The Commissioner may allow or reject an appeal.

(5) If the Commissioner allows an appeal, the relevant Local Authority must—

- (a) amend the levy notice;

or

- (b) revoke the levy notice;

or

- (c) revoke the levy notice and give a new levy notice;

in accordance with the determination of the Commissioner.

(6) If the Commissioner allows an appeal, the relevant Local Authority must refund to the appellant any amount paid in respect of contributions, for the financial year to which the notice relates and for any previous financial year, in excess of the amount calculated in accordance with the Commissioner's determination.

If the Local Authority has already made payments to the Commissioner in respect of those contributions, the amount refundable must be paid to the appellant by the Commissioner.

(7) The determination of the Commissioner in respect of an appeal is final.

**114. Manner of giving notification.** (1) A fire levy notice may be given to the owner of prescribed property—

- (a) as an item on a rate notice given to the owner in respect of that property;

or

- (b) as a separate notice given before 1 January of the financial year to which the notice relates.

(2) Where for any financial year a component Local Authority gives to the owner of prescribed property in respect of that property 2 or

more rate notices, each relating to part of that financial year, a fire levy notice is taken to be given to the owner in accordance with subsection (1)(a) if each rate notice contains an item for the payment in respect of that property of—

- (a) such amount as bears to the total of the annual contribution for the financial year the same proportion as the period (in months) for which the rate notice is given bears to 12; and
- (b) the amount of any arrears of annual contribution.

(3) Where notification is given as a separate notice, that notice is taken to be a rate notice for general rates given under the *Local Government Act 1936-1989* or, in the case of Brisbane City Council, the *City of Brisbane Act 1924-1987*.

(4) A notification must not be given as an item on a rate notice unless—

- (a) where only one rate notice is given for a financial year, that rate notice is given before 1 January of that financial year;
- (b) where 2 or more rate notices are given for a financial year, the first of those notices is given before 1 January of that financial year.

**115. Annual contribution, etc., deemed to be rates.** (1) An amount shown in a fire levy notice, whether given by way of a separate notice or an item on a rate notice, is taken to be a general rate levied by the Local Authority and the relevant provisions relating to general rates apply with all necessary modifications.

(2) In subsection (1), “relevant provisions” means—

- (a) Part X of the *Local Government Act 1936-1989* other than subsections (1)(i)(a), (1)(i)(b), (1)(v), (2), (3A), (4), (5), (7A), (8)(i), (11)(vii) of section 27; and
- (b) in addition, in the case of Brisbane City Council, section 44 of the *City of Brisbane Act 1924-1989* and the provisions of any Ordinances made under that section other than those provisions relating to discounts for ratepayers.

(3) Notwithstanding subsections (1) and (2), rates made and levied under either Act mentioned in subsection (2) are in priority to amounts that, pursuant to subsection (1), are taken to be general rates.

**116. Contributions to be paid into fund of component Local Authority.** Moneys received or recovered by a component Local Authority under this Part must be paid into and form part of—

- (a) in the case of Brisbane City Council, the City Fund established under the *City of Brisbane Act 1924-1989*;
- (b) in any other case, the general fund of the Local Authority established under the *Local Government Act 1936-1989*;

and the provisions of those Acts relating to those funds apply subject to this Part.

**117. Collection fee.** Where a component Local Authority gives an owner of prescribed property a fire levy notice in the form of—

- (a) a separate notice or an annual rate notice for the financial year;
- or
- (b) a rate notice that is the last of the rate notices to be given in respect of that property for the financial year;

it may retain from moneys received in respect of the property for that financial year a prescribed amount by way of a collection fee.

**118. Payments by component Local Authorities to Commissioner.**

(1) A component Local Authority must from time to time make payments to the Commissioner out of its general fund (or, in the case of Brisbane City Council, out of the City Fund) from moneys received or recovered by the Local Authority pursuant to this Part.

(2) The amount of a payment shall be the total of the moneys received or recovered by the Local Authority during the relevant financial year or declared period less the total of all amounts retained by the Local Authority pursuant to section 117.

(3) An amount payable under this section must be paid within 30 days after the expiration of the financial year or declared period to which the amount relates or within such further time as the Commissioner may allow.

(4) Every payment must be accompanied by the prescribed return.

(5) In this section “declared period” means a period declared by Order in Council but not more than 4 periods may be declared for any financial year.

**119. Failure by component Local Authority to make payment.** (1)

Where a component Local Authority fails to pay to the Commissioner any amount payable pursuant to section 118 within the required period, the Local Authority, from the day on which the period expires, is liable to pay to the Commissioner interest on the amount at a rate declared by Order in Council, but not exceeding in any case the maximum rate of interest for the time being prescribed under the *Local Government Act 1936-1989* in respect of unpaid rates.

(2) Any interest not paid by a component Local Authority to the Commissioner within the time specified in a written demand for payment given by the Commissioner is recoverable, together with expenses of recovery, in a court of competent jurisdiction.

**120. Payments and interest to be debt.** All payments required to be paid to the Commissioner pursuant to section 118 and all interest payable by a Local Authority pursuant to section 119 constitute a debt

due to the Commissioner and may be sued for and recovered by the Commissioner in any court of competent jurisdiction.

**121. Payment of arrears.** (1) Where any amount relating to contributions payable in respect of prescribed property is in arrears, the owner may apply in writing to the component Local Authority in whose Area the property is situated for approval to pay the outstanding amount in instalments.

(2) The Local Authority may refuse the application or may grant it subject to any conditions it thinks fit.

**122. Commissioner may issue levy notice or amended levy notice.**

(1) Where a component Local Authority—

(a) fails to notify the owner of prescribed property of any amount relating to contributions payable in respect of that property;

or

(b) in the opinion of the Commissioner has underestimated any amount so payable;

the Commissioner may give a notice to the owner requiring payment of the amount specified in the notice within such time and in such instalments (if any) as are specified.

(2) In a case referred to in subsection (1)(b), a notice may be given by the Commissioner whether or not the amount as calculated by the Local Authority has been paid.

**123. Recovery of arrears.** (1) Where any amount relating to contributions remains unpaid at the expiration of the period specified for payment in a fire levy notice or a notice given pursuant to section 122 and proceedings for recovery of the amount have not been instituted or have not been completed by the component Local Authority in whose Area the relevant prescribed property is situated, the Commissioner may take action in a court of competent jurisdiction to recover that amount and interest on that amount at the prescribed rate.

(2) In subsection (1) “prescribed rate” means the rate declared by Order in Council, but not exceeding in any case the maximum rate of interest for the time being prescribed under the *Local Government Act 1936-1989* in respect of unpaid rates.

(3) For the purpose of subsection (1), the Commissioner may take any action (including the selling of land) that a Local Authority may take to recover unpaid rates and for that purpose—

(a) the amount outstanding is taken to be rates unpaid to a Local Authority and, notwithstanding section 115(3), to be in priority to any rates made and levied in respect of the prescribed property by the component Local Authority in whose Area the property is situated;

and

(b) the Commissioner is taken to be the Chairman or Mayor of that Local Authority;

and

(c) any document under the seal of the Commissioner is taken to be under the common seal of that Local Authority.

(4) Where a court makes an order against the owner of prescribed property for the recovery of any amount in an action referred to in subsection (1), it may also make an order for the recovery of any other outstanding amount relating to contributions payable in respect of that property that has not been paid in accordance with notification given under this Part.

**124. Commissioner may remit contributions.** If the Commissioner believes that it is not practicable to pursue the recovery of an amount relating to contributions, the Commissioner may—

(a) remit and wholly discharge the amount or any part of it;

or

(b) enter into an agreement with the person concerned for the payment of a composition in respect of the amount.

**125. Proof of amounts owing re contributions.** In any proceeding for the recovery of any amount relating to contributions, a certificate under the seal of the Commissioner stating in respect of property identified in the certificate—

(a) that the property was, during a specified period, prescribed property;

and

(b) that during that period the property was within a specified urban district and within the Area of a specified component Local Authority;

and

(c) that during that period a person was the owner of the property;

and

(d) that the person owes any specified amount in respect of contributions;

is evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters stated.

**126. Where services of commercial agent engaged.** Where the Commissioner or a component Local Authority engages the services of a commercial agent (licensed as such under the *Auctioneers and Agents Act 1971-1988*) for the purpose of collecting any arrears of annual contribution payable by an owner of prescribed property, then, notwithstanding section 52 of that Act, the owner may be required by the Commissioner or the Local Authority by notice in writing to pay

an amount, not exceeding an amount representing the prescribed per centum of the amount of arrears, by way of a collection fee.

The amount, if not paid as required, is recoverable by the Commissioner or the Local Authority, together with any expenses of recovery, in a court of competent jurisdiction.

**127. Application of Crown Proceedings Act.** Any proceeding for the recovery of any amount (including costs) taken under this Act by a Local Authority is taken to be a proceeding in respect of a claim by the Crown within the meaning of the *Crown Proceedings Act 1980* and the provisions of that Act apply accordingly.

**128. Fire levies not revenue in determining remuneration of employees of Local Authority.** Notwithstanding any industrial award providing for the classification or remuneration of any employee of a Local Authority according to revenue received by it, in calculating revenue for that purpose—

- (a) money retained as a collection fee under section 117 is included;
- (b) all other money received or recovered under this Part is excluded.

#### PART XI—GENERAL

**129. Protection for acts done pursuant to Act.** (1) No matter or thing done or omitted to be done by any person pursuant to this Act or bona fide and without negligence for the purposes of this Act subjects that person to any liability.

(2) A person (and any assistant) who discharges a function or exercises a power under this Act in order to avert or reduce actual danger to any person or property or to the environment may use force to a person that is reasonable in the circumstances and that does not cause and is not likely to cause death or grievous bodily harm and is not liable to be charged with any offence in respect of the use of that force.

(3) Where any question arises as to whether a person's liability for any act or omission, the subject of any proceedings, is negatived under subsection (1) and the person claims to have acted pursuant to or for the purposes of this Act, the burden of proof of negligence and the absence of good faith lies upon the person alleging to the contrary.

(4) If a person against whom proceedings are taken in any court for an act or omission alleges that the act was done or omission made for the purposes of this Act, the court may, on application, order a stay of proceedings if satisfied—

- (a) that there is no reasonable ground for alleging either negligence or want of good faith;



or

(b) that the proceedings are frivolous or vexatious.

(5) This section does not take away any defence a person has independently of this section.

**130. Inquiries into fires.** (1) The Minister may order an inquiry into the origin, causes and circumstances of any fire.

(2) An inquiry into a fire must be held by a coroner within the meaning of the *Coroners Act 1958-1988* and the provisions of that Act apply with all necessary modifications and, for the purpose of applying those provisions, the term "Minister" in section 8 of that Act is taken to mean the Minister within the meaning of this Act.

**131. Representation of Commissioner at inquiries.** At an inquiry concerning any fire, whether an inquiry referred to in section 130 or not, an authorized representative of the Commissioner may appear and adduce evidence, cross-examine any witness and address the tribunal conducting the inquiry.

**132. Construction of policies of fire insurance.** Where a person has insured an interest in property against loss by fire—

(a) any loss incurred by the person arising from damage to the property;

or

(b) any charge or expense (other than one incurred as a punishment) incurred by the person;

by reason of the doing of an act in relation to a fire or suspected fire by a person in the exercise of a power or the performance of a function under this Act is taken to be loss or damage by fire within the meaning of the relevant policy of fire insurance which shall, notwithstanding its provisions, be construed accordingly.

**133. Report of fire.** The Commissioner may, upon a request by or on behalf of an insurance company, furnish to the company details of any report in the possession of the Commissioner relating to the attendance at a fire or other incident of an officer of the Queensland Fire Service or any other person who is subject to the direction of the Commissioner.

**134. Right of way to fire officers.** (1) A driver of a vehicle (other than a train) must, to the extent practicable, give clear and uninterrupted passage to any fire officer or any person acting under the direction of a fire officer who appears to be doing any act for the purpose of controlling or extinguishing a fire or dealing with any other emergency.

(2) A person who fails to comply with subsection (1) commits an offence against this Act.

**135. Exemption from tolls.** A fire officer driving a fire engine or similar vehicle, and that vehicle, are exempt from payment of any toll

in passing any toll-gate or in respect of the use of any road, bridge or vehicular ferry.

**136. Duty of police to assist Commissioner.** (1) Upon receiving information of the occurrence of a fire or chemical incident requiring the attendance of officers of the Queensland Fire Service, the Commissioner of Police or the member of the Police Force in charge, at the time, of the police station nearest to the location of the fire or chemical incident must immediately send members of the Police Force in sufficient number to preserve order and to assist at the fire or chemical incident.

(2) It is the duty of every member of the Police Force present at a fire or chemical incident to assist any officer of the Queensland Fire Service who is discharging functions and exercising powers under this Act.

**137. Inspection of records of Local Authorities.** (1) A person authorized by the Commissioner for the purpose of this section (referred to in this section as an "authorized officer") may—

- (a) enter any premises in which a Local Authority carries on business, during the ordinary hours of business;
- (b) examine, make copies of or take extracts from any document or record (in whatever form it is kept) relating to a function of the Local Authority under this Act or a function of the Commissioner;
- (c) make inquiries for the purposes of this Act.

(2) A person who has custody of or control over documents or records of the type described in subsection (1) (b) must, when required to do so by an authorized officer—

- (a) produce any of those documents or records to the officer;
- (b) furnish information to the officer concerning any of those documents or records and otherwise assist the officer.

(3) A person who fails to comply with any requirement made by an authorized officer pursuant to subsection (2) commits an offence against this Act.

**138. Use of brigade equipment on roads while unregistered.** (1) The provisions of the *Main Roads Act 1920-1985* that prohibit the use on a road of an unregistered vehicle unless the use is authorized by a permit under that Act do not apply in respect of a vehicle used on a road where—

- (a) it is being used by a rural fire brigade to carry persons or equipment for the purpose of preventing, controlling or extinguishing a fire or for training purposes or is being used for any other purpose authorized in writing by the Commissioner;

and

- (b) it bears a clear identification as a vehicle of a rural fire brigade;

and

- (c) there is in force a contract of insurance providing an indemnity, such as is prescribed by section 3 of the *Motor Vehicles Insurance Act 1936-1988*, in respect of injury caused by, through or in connexion with the vehicle.

**139. Interstate assistance at fire.** (1) In this section, “officer in charge”, used with reference to a fire, means the person who pursuant to this Act or any direction of the Commissioner or any code of practice is in charge at that fire.

(2) Every member of a fire brigade (or similar body having the function of extinguishing fire) from outside Queensland who is present at a fire in Queensland to assist at the fire and any plant and equipment in the member’s charge is at the disposal of the person in charge at the fire and is taken to be under the control and direction of that person.

(3) If there is no person in charge at a fire, the member of the brigade or similar body from outside Queensland who is in charge of other members of that brigade or body in attendance, has the control and direction of all persons assisting at the fire and has all the powers conferred by or pursuant to this Act on an authorized fire officer.

**140. Commissioner taken to be the owner of property.** For the purpose of this Act and any proceeding (whether under this Act or not), the Commissioner is taken to be the owner of—

- (a) any premises occupied in an official capacity by the Commissioner or by any officer of the Queensland Fire Service;
- (b) anything (whether animate or inanimate) appropriated to the use of the Commissioner or anything, not being the private property of any person, used by the Commissioner or an officer of the Queensland Fire Service in performing duties.

**141. Surrender of equipment.** (1) A person, upon ceasing to be an officer of the Queensland Fire Service, must surrender to the Commissioner—

- (a) any form of identification;
- and

- (b) anything issued to the person for official use;

unless otherwise ordered by the Commissioner.

(2) A justice, acting upon the complaint of the Commissioner, may issue a warrant authorizing any person named in it or belonging to a class of person specified in it to search for and seize anything not surrendered in accordance with subsection (1).

- (3) A person authorized to execute a warrant may, for that purpose—
- (a) enter any premises in which the person believes the thing sought may be located;
  - (b) break open anything the person believes may contain the thing sought.

**142. Vacating premises.** (1) A person, upon ceasing to be an officer of the Queensland Fire Service, must immediately vacate any premises the property of the Commissioner or to the possession of which the Commissioner is entitled, unless the Commissioner otherwise orders.

(2) If the premises are not vacated immediately or, as the case may be, within any period ordered by the Commissioner, the Commissioner may give the person a notice to quit.

(3) If the premises are not vacated within 14 days after the notice to quit is given, a stipendiary magistrate, acting upon the complaint of the Commissioner, may issue a warrant authorizing all members of the Police Force to enter the premises and remove all persons and property not authorized by the Commissioner to be on the premises and to deliver possession of the premises to the Commissioner.

**143. Protection of name.** (1) A person must not—

- (a) have the expression “Queensland Fire Service” or “Queensland Fire Services” or an expression containing either of those expressions as the name under which the person carries on any business;
- or
- (b) use such an expression in any advertisement, sign or document relating to a business, whether carried on by that person or another;

unless authorized to do so by the Commissioner.

(2) If, on the appointed day, a business is carried on under a name that is registered under any Act and is a name to which subsection (1) (a) refers, no offence is committed against subsection (1) in respect of the use of the name within the period of 12 months commencing on the appointed day.

(3) Where a person carrying on business under a name registered under any Act requests any person charged with keeping the register to cancel or alter the registration of the name for the purpose of complying with subsection (1), no fees or charges are payable in respect of the making of the request or compliance with it.

**144. Charges for services.** (1) Charges for any service provided by the Commissioner may be prescribed by Order in Council.

(2) If no charge is prescribed for a service, the Commissioner may fix a charge.

(3) The person for whose benefit a service is provided is liable for any charge for the service.

(4) If a service involves attending to any incident that endangers or may endanger any person or property or the environment—

(a) the person who caused the incident is liable for any charge for the service;

and

(b) if that person caused the incident while acting in the course of employment or as an agent, the employer or principal is also liable for any charge.

(5) If a service involves attending to a fire or chemical incident occurring in or on any property (real or personal) or endangering the property, each of the following persons is liable for any charge for the service:—

(a) the owner of the property;

(b) in the case of a sea-going ship, the owner and the master.

(6) If a service involves attending to a fire lit under the authority of this or any other Act, no charge is payable by any person except in the following circumstances:—

(a) the person who lit the fire is liable for any charge if that person acted recklessly or negligently in lighting the fire or in failing to control it;

(b) if that person lit the fire while acting in the course of employment or as an agent, the employer or principal is also liable for any charge.

(7) The owner of prescribed property is not liable for any charge for a service of attending to a fire in or on that property or endangering that property.

(8) The owner of property other than prescribed property is not liable for any charge for a service of attending to a grass fire (that is, a fire that predominantly consumes vegetation) if it is shown that the fire was not lit by the owner nor by an employee or agent of the owner acting in the course of that employment or agency.

(9) If a service involves attending to an incident caused by a person while acting in the course of employment or as an agent, the employer or principal is not liable for any charge for the service if it is proved that—

(a) the person who caused the incident was acting contrary to instructions;

and

(b) the employer or principal could not have prevented the incident by exercising reasonable supervision.

(10) If 2 or more persons are liable under this section for any charge, liability is joint and several.

(11) The liability of a person to pay any charge for a service of attending to an unauthorized fire does not affect the person's liability to be proceeded against and punished for lighting the fire.

“Unauthorized” means not authorized by or under this or any other Act.

(12) In this section “attending to”, used with reference to a fire or other incident, means taking all reasonable measures to deal with danger that is or may be caused by the incident to any person or property or the environment; the expression includes being in attendance at an incident in readiness to act.

(13) In any proceeding to recover charges payable under this section, a certificate under the seal of the Commissioner stating—

- (a) that an amount is owing to the Commissioner on that account;
- or
- (b) that any person is or was the owner of the property concerned or, in the case of a sea-going ship, the master;
- or
- (c) that any person is the person for whose benefit a service was rendered;

is evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters stated.

**145. Service of documents.** (1) Where, by or under any Act, any notice or other document is required or authorized to be served on the Commissioner, the notice or other document is taken to be properly served if served on a person authorized by the Commissioner in that behalf, either generally or in a particular case.

(2) Any notice or other document required or authorized by or under this Act to be served may be served in the same manner as a summons may be served under the *Justices Act 1886-1989*.

**146. When unauthorized grass fire a crime.** A person who wilfully and unlawfully lights or attempts to light a grass fire (that is, a fire that predominantly consumes vegetation) with intent to injure any person or property is guilty of a crime and is liable on conviction on indictment to imprisonment for 5 years or a penalty of 500 penalty units or both of those punishments.

**147. Offences.** (1) A person commits an offence against this Act if the person does or, as the case may be, fails to do any of the following acts:—

- (a) abuses or threatens or wilfully obstructs a person in the exercise of a power or the discharge of a function under this Act;
- (b) fails to comply with any requisition made or any notification or notice given pursuant to this Act;
- (c) when required pursuant to this Act to answer any question or provide any information, fails to give an answer or

provide information or gives an answer or provides information knowing it to be false or misleading;

- (d) wilfully and unlawfully destroys, damages, removes, covers or otherwise interferes with an alarm or other apparatus for the warning of fire or any apparatus for the prevention of fire or for use in the event of fire;
- (e) wilfully and unlawfully encloses any fire-plug thereby rendering difficult the locating or use of the fire-plug or wilfully and unlawfully obliterates or covers any mark or sign used for locating a fire-plug;
- (f) wilfully gives a false alarm of fire;
- (g) impersonates a fire officer for the purpose of that person or another obtaining either access to premises or any benefit.

(2) A person who fails to comply with any provision of this Act commits an offence against this Act.

**148. Prosecutions.** (1) A prosecution for an offence against this Act is by way of summary proceedings under the *Justices Act 1886-1989* on complaint of a person authorized by the Commissioner in that behalf, either generally or in the particular case.

(2) The authority of a person to make a complaint must be presumed until the contrary is proved.

(3) Proceedings for an offence against this Act may be instituted within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

**149. General penalty.** (1) Subject to any other provision of this Act, a person who is convicted of an offence against this Act is liable—  
if a body corporate, to a penalty of 200 penalty units;  
if a natural person, to a penalty of 50 penalty units or 6 months imprisonment or both of those punishments.

(2) However, if an offence defined in section 72 or 147(1)(d), (e), (f) or (g) is committed during a state of fire emergency at a place to which the declaration of the emergency applies, the offender is liable—  
if a body corporate, to a penalty of 1000 penalty units;  
if a natural person, to a penalty of 250 penalty units or 12 months imprisonment or both of those punishments.

**150. Continuing offences.** (1) Where a person is convicted of an offence against this Act (whether an offence to which section 149 applies or an offence for which a specific penalty is provided) of such a nature that the act or omission by which it is constituted continues from day to day, the person is liable, in addition to any other punishment to which the person is liable under this Act, to a penalty of 5 penalty units for each day the act or omission continues, from (but excluding)

the day it first occurs to (but excluding) the day on which the person is convicted of the offence.

(2) A person who, having been convicted of an offence of the kind described in subsection (1), continues to do the act or make the omission by which that offence was constituted may from time to time be prosecuted for the same offence and is liable to a penalty of 10 penalty units for each day the act or omission continues, from (and including) the day on which the person was last convicted of the offence to (but excluding) the day on which the person is again convicted of the offence pursuant to this subsection.

**151. Offence by body corporate.** (1) Where an offence against this Act is committed by a body corporate, every person who is an executive officer of the body corporate is taken to have committed the offence and may be prosecuted and punished for the offence unless it is proved that the offence was committed without the person's knowledge and that the person could not have prevented its commission by exercising a reasonable degree of diligence.

(2) In subsection (1) "executive officer of the body corporate" means any person, by whatever name called and whether or not a director of the body corporate, who is concerned or takes part in the management of the body corporate.

(3) The provisions of subsection (1) do not affect the liability of a body corporate to be prosecuted and punished for any offence.

**152. Power of police to arrest without warrant.** Where a member of the Police Force believes on reasonable grounds that a person—

(a) has failed to comply with a requisition made pursuant to paragraph (j) or (k) of section 53(2);

or

(b) has failed to comply with a requisition made pursuant to section 57(1) in respect of name or address;

or

(c) has committed an offence defined in section 92 or 147(1)(a); the member may arrest the person without warrant and take the person before a justice to be dealt with according to law.

**153. Evidentiary.** In any proceeding, whether under this Act or not—

(a) it is not necessary to prove the appointment of the Commissioner or of any officer of the Queensland Fire Service or of any chief fire warden, fire warden, forest officer or field officer but this does not prejudice the right of any person to prove an appointment has not been properly made;

(b) it is not necessary to prove the authority of a person referred to in paragraph (a) to do any act or take any proceeding



for the purposes of this Act but this does not prejudice the right of any person to prove the absence of authority;

- (c) a signature purporting to be that of a person referred to in paragraph (a) is presumed to be genuine unless the contrary is proved;
- (d) a person who purports to do or to have done anything for the purposes of this Act pursuant to the authority of an instrument of delegation made under this Act shall, if the person purported to have made the delegation could have done that thing pursuant to this Act, be presumed to act or to have acted in accordance with a valid instrument of delegation unless the contrary is proved;
- (e) a notice, permit or other document purporting to have been made under this Act is taken to have been validly made unless the contrary is proved;
- (f) a certificate under the seal of the Commissioner and purporting to set out any determination of the Commissioner is evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters stated;
- (g) a certificate under the seal of the Commissioner stating—
  - (i) that the Commissioner is or was at any specified time or during any specified period the owner of property described in the certificate;  
and
  - (ii) that no consent has been given to the act or breach of duty specified in the certificate alleged to have been committed in respect of the property;  
is evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters stated.

**154. Regulations.** (1) The Governor in Council may make regulations, not inconsistent with this Act, prescribing any matter that this Act requires or permits to be prescribed (other than any matter required or permitted to be prescribed otherwise than by regulation) or any matter that it is necessary or convenient to prescribe to give effect to this Act.

(2) Without limiting the generality of subsection (1), regulations may be made prescribing for or with respect to—

- (a) the forms to be used for the purposes of this Act and particulars to be furnished in those forms;
- (b) the records required for the purposes of this Act;
- (c) all matters relating to the entitlements, authorities, responsibilities and liabilities of officers of the Queensland Fire Service;
- (d) the institution and conduct of appeals under Division 3 of Part IV;
- (e) offences against the regulations and the amount of any penalty for an offence, not exceeding 30 penalty units in any case.

(3) Regulations may be of general or limited application and may differ according to differences in time, place or circumstance or according to the person or classes of persons to whom they are expressed to apply.

## SCHEDULE 1

[s. 3]

Act	Extent of repeal
<i>The Fire Brigades Act of 1964</i>	the whole Act
<i>The Fire Brigades Act Amendment Act of 1965</i>	the whole Act
<i>The Fire Brigades Acts Amendment Act of 1966</i>	the whole Act
<i>Fire Brigades Acts Amendment Act 1971</i>	the whole Act
<i>Fire Brigades Act Amendment Act 1973</i>	the whole Act
<i>Fire Brigades Act Amendment Act 1973 (No. 2)</i>	the whole Act
<i>Fire Brigades Act and Another Act Amendment Act 1976</i>	Part II of the Act
<i>Fire Brigades Act Amendment Act 1977</i>	the whole Act
<i>Fire Brigades Act and Another Act Amendment Act 1979</i>	Part II of the Act
<i>Fire Brigades and Fire Safety Acts Amendment Act 1982</i>	Part II of the Act
<i>Fire Brigades Act Amendment Act 1983</i>	the whole Act
<i>Fire Brigades Act and Other Acts Amendment Act 1984</i>	Part II of the Act
<i>Fire Brigades Act and Another Act Amendment Act 1984</i>	Part II of the Act
<i>Fire Brigades Act and Fire Safety Act Amendment Act 1985</i>	Part II of the Act
<i>Fire Brigades Act Amendment Act 1985</i>	the whole Act
<i>The Rural Fires Act of 1946</i>	the whole Act
<i>The Rural Fires Act Amendment Act of 1951</i>	the whole Act
<i>The Rural Fires Acts Amendment Act of 1955</i>	the whole Act
<i>The Rural Fires Acts Amendment Act of 1964</i>	the whole Act
<i>Rural Fires Act Amendment Act 1968</i>	the whole Act
<i>Rural Fires Act Amendment Act 1970</i>	the whole Act
<i>Rural Fires Act Amendment Act 1973</i>	the whole Act
<i>Rural Fires Act Amendment Act 1975</i>	the whole Act
<i>Rural Fires Act Amendment Act 1977</i>	the whole Act
<i>Rural Fires Act Amendment Act 1982</i>	the whole Act
<i>Fire Brigades Act and Other Acts Amendment Act 1984</i>	Part III of the Act
<i>Rural Fires Act Amendment Act 1984</i>	the whole Act
<i>Fire Service Act 1989</i>	the whole Act

## SCHEDULE 2

[s. 4]

Act amended	Amendment	New citation
<i>Industrial Conciliation and Arbitration Act 1961-1989</i>	omit subparagraph (ii) and substitute the following subparagraph:— “(ii) officers of Queensland Fire Service;”	<i>Industrial Conciliation and Arbitration Act 1961-1990</i>
<i>Forestry Act 1959-1989</i>	<p>s. 58 (1) omit from paragraph (a) the words “<i>The Rural Fires Acts, 1946 to 1958,</i>” and substitute the words “Part VII of the <i>Fire Service Act 1990</i>”</p> <p>s. 62 omit the words “from the Fire Warden under “<i>The Rural Fires Acts, 1946 to 1958,</i>” and substitute the words “under Part VII of the <i>Fire Service Act 1990</i>”</p> <p>s. 63 (1) omit from paragraph (b) the words “<i>The Rural Fires Acts, 1946 to 1958</i>” and substitute the words “Part VII of the <i>Fire Service Act 1990</i>”</p> <p>s. 64 (1) omit from the first paragraph the words “<i>The Rural Fires Acts, 1946 to 1958,</i>” and substitute the words “Part VII of the <i>Fire Service Act 1990</i>”</p> <p>s. 65 (1) omit the expression “1.6” and substitute the expression “3”</p> <p>s. 65 (2) omit all words from and including “a permit for the lighting” to and including “provisions of those Acts” and substitute the words “its lighting was not authorized under Part VII of the <i>Fire Service Act 1990</i>”</p>	

## SCHEDULE 2—continued

[s. 4]

Act amended	Amendment	New citation	
<i>Forestry Act 1959-1989—continued</i>	s. 65 (3)	omit all words from and including “a permit for the lighting” to and including “provision of those Acts” and substitute the words “its lighting was not authorized under Part VII of the <i>Fire Service Act 1990</i> ”	
	s. 65 (4)	omit the words “ <i>The Rural Fires Acts, 1946 to 1958,</i> ” and substitute the words “the <i>Fire Service Act 1990</i> ”	
	s. 68	omit the final word “Acts” and substitute the word “Act” omit the expression “1.6” and substitute the expression “3”	
	s. 69 (1)	omit the words “ <i>The Rural Fires Acts, 1946 to 1958,</i> ” and substitute the words “Part VII of the <i>Fire Service Act 1990.</i> ”	
	s. 69 (3)	omit the words “the <i>Rural Fires Act 1946-1973</i> ” and substitute the words “Part VII of the <i>Fire Service Act 1990</i> ”	
	s. 102	omit provision (ii) and substitute the following provision:— “(ii) the <i>Fire Service Act 1990</i> ;”	<i>Forestry Act 1959-1990</i>
	<i>National Parks and Wildlife Act 1975-1989</i>	s. 41	

## SCHEDULE 2—continued

[s. 4]

Act amended	Amendment	New citation
<i>National Parks and Wildlife Act 1975-1989—continued</i>	s. 42 (1)	omit from paragraph (b) the words “the <i>Rural Fires Act 1946-1977</i> ” and substitute the words “Part VII of the <i>Fire Service Act 1990</i> ”
	s. 44 (1)	omit the expression “1.6” and substitute the expression “3”
	s. 44 (2)	omit all words from and including “a permit for the lighting” to and including “provisions of that Act” and substitute the words “its lighting was not authorized under Part VII of the <i>Fire Service Act 1990</i> ”
	s. 44 (3)	omit all words from and including “a permit for the lighting” to and including “provisions of that Act” and substitute the words “its lighting was not authorized under Part VII of the <i>Fire Service Act 1990</i> ”
	s. 44 (4)	omit the words “ <i>Rural Fires Act 1946-1977</i> ” and substitute the words “ <i>Fire Service Act 1990</i> ”
	s. 47	omit the expression “1.6” and substitute the expression “3”
	s. 48	omit the words “the <i>Rural Fires Act 1946-1977</i> ” and substitute the words “Part VII of the <i>Fire Service Act 1990</i> ”
	s. 76	omit paragraph (b) and substitute the following paragraph:—
		“(b) the <i>Fire Service Act 1990</i> ,”

SCHEDULE 2—continued

[s. 4]

Act amended	Amendment	New citation
<i>Fire Safety Act</i> 1974-1985	<p>s. 5 omit the definition “Board” and substitute the following definition:—</p> <p>“ “Commissioner” means The Commissioner of Fire Service within the meaning of the <i>Fire Service Act 1990</i>;</p> <p>in the definition “fire authority”, omit the word “Minister” and substitute the word “Commissioner”</p> <p>in the definition “fire safety officer”, omit the words “and section 24 of the <i>Fire Brigades Act 1964-1985</i>”</p> <p>in the definition “Minister” omit the words “Minister for Development and Industrial Affairs or other”</p>	
s. 38	omit the word “Minister” wherever it occurs and substitute the word “Commissioner” in each case	
s. 39	<p>repeal the section and substitute the following section:—</p> <p><b>“39. Appointment of persons to enforce Act.</b> The power conferred by the <i>Fire Service Act 1990</i> on the Commissioner to appoint officers of the Queensland Fire Service includes power to appoint such fire safety officers and other officers as the Commissioner considers necessary or expedient to give effect to this Act.”</p>	
		<i>Fire Safety Act</i> 1974-1990

## SCHEDULE 3

[s. 5(13)]

## TRANSITIONAL PROVISIONS

**1. Certain officers of public service to become officers of the Queensland Fire Service.** (1) On the appointed day a person who, immediately before that day, was an officer of the public service—

(a) appointed, employed or continued in office pursuant to section 24 of the *Fire Brigades Act 1964-1988*;

or

(b) appointed or employed pursuant to section 9 of the *Rural Fires Act 1946-1984*;

ceases to be an officer of the public service and becomes an officer of the Queensland Fire Service.

(2) On the appointed day a person who, immediately before that day, was an officer employed by the Minister pursuant to section 24 of the *Fire Brigades Act 1964-1988* and was not an officer of the public service ceases to be employed by the Minister and becomes an officer of the Queensland Fire Service.

(3) A person who, pursuant to subclause (1) or (2), becomes an officer of the Queensland Fire Service must be paid salary at a rate not less than that appropriate to the salary classification applicable to the person immediately before the appointed day and, to the extent practicable, must be employed subject to the same conditions of employment as were applicable immediately before that day until any alteration of the salary or the conditions by the Commissioner or by an applicable industrial award or industrial agreement.

(4) A person who, pursuant to subclause (1) or (2), becomes an officer of the Queensland Fire Service shall, while employed full-time in the Service, retain all leave entitlements accrued or accruing immediately before the appointed day and—

(a) may claim against the Commissioner in respect of those entitlements;

and

(b) for the purpose of the accrual of long service leave, service with the Queensland Fire Service and as an officer of the public service or, as the case may be, as an officer employed by the Minister, is taken to be continuous service as an officer of the Queensland Fire Service.

(5) A person who, pursuant to subclause (1), becomes an officer of the Queensland Fire Service and who continues in the full-time employment of the Service shall, for a period of 5 years commencing



on the appointed day, be taken to continue to be an officer of the public service for the purposes of—

- (a) any appointment to a position in the public service;  
and
- (b) any provision of the *Public Service Management and Employment Act 1988-1989* relating to a right of appeal against promotion;

and shall for that period be taken to be employed in the Department of Police or in such other department as the Governor in Council may declare by notification published in the Gazette.

**2. Employees of Fire Brigade Boards to become officers of Queensland Fire Service.** (1) On the appointed day a person who, immediately before that day, was employed full-time by a Fire Brigade Board ceases to be an employee of that Board and becomes an officer of the Queensland Fire Service.

(2) A person who, pursuant to subclause (1), becomes an officer of the Queensland Fire Service must be paid salary at a rate not less than that appropriate to the salary classification applicable to the person immediately before the appointed day and, to the extent practicable, must be employed subject to the same conditions of employment as were applicable immediately before that day until any alteration of the salary or the conditions by the Commissioner or by an applicable industrial award or industrial agreement.

(3) A person who, pursuant to subclause (1), becomes an officer of the Queensland Fire Service shall, while employed full-time in the Service, retain all leave entitlements accrued or accruing immediately before the appointed day and—

- (a) may claim against the Commissioner in respect of those entitlements;  
and
- (b) for the purpose of the accrual of long service leave, service with the Queensland Fire Service and with the Fire Brigade Board is taken to be continuous service as an officer of the Queensland Fire Service.

**3. Discipline and appeals.** (1) Every appeal against promotion duly instituted under the *Fire Brigades Act 1964-1988* before the appointed day and not determined as at that day or duly instituted after that day pursuant to subclause (2) must be heard and determined under that Act as if this Act had not been enacted.

(2) Where—

- (a) before the appointed day a right of appeal exists against an appointment made under the *Fire Brigades Act 1964-1988* to any position;

and

- (b) the time within which the right of appeal may be exercised has not expired as at that day;

the provisions of that Act continue to apply in respect of that right of appeal.

(3) Where a person, who on the appointed day becomes an officer of the Queensland Fire Service pursuant to clause 1(1), was before that day liable to disciplinary action on any ground under the *Public Service Management and Employment Act 1988-1989*, the officer may be proceeded against and punished in accordance with that Act as if this Act had not been enacted.

(4) Where a person, who on the appointed day becomes an officer of the Queensland Fire Service pursuant to clause 2(1), was before that day liable to disciplinary action on any ground under the *Fire Brigades Act 1964-1988*, the officer may be proceeded against and punished in accordance with that Act as if this Act had not been enacted.

(5) Where—

- (a) before the appointed day a decision has been made that an officer of the public service suffer disciplinary punishment in accordance with the *Public Service Management and Employment Act 1988-1989* and the person becomes an officer of the Queensland Fire Service pursuant to clause 1(1);

or

- (b) before the appointed day a decision has been made that an employee of a Fire Brigade Board suffer disciplinary punishment under the *Fire Brigades Act 1964-1988* and the person becomes an officer of the Queensland Fire Service pursuant to clause 2(1);

or

- (c) after the appointed day, a decision is made pursuant to subclause (3) or (4) that a person suffer disciplinary punishment under the *Public Service Management and Employment Act 1988-1989* or the *Fire Brigades Act 1964-1988*;

and in respect of the decision the person has, immediately before the appointed day a right of appeal under the relevant Act, or would have had such a right had the decision been made before the appointed day, the person may institute and pursue any appeal (or pursue any appeal instituted before the appointed day) in accordance with the relevant Act as if this Act had not been enacted.

**4. Superannuation.** (1) In this clause and clause 5, “superannuation scheme” means the superannuation scheme referred to in section 41.

(2) Every person—

- (a) who pursuant to clause 1(2) or 2 becomes an officer of the Queensland Fire Service on the appointed day;

and

- (b) who, immediately before the appointed day, was a contributor to the superannuation scheme;

shall, while employed full-time in the Service, continue to contribute to the scheme in accordance with its terms.

(3) Subject to this Act, the obligations and rights, vested or contingent, had by persons before the appointed day under the *Fire Brigades Act 1964-1988* in respect of the superannuation scheme are not affected by the repeal of that Act or the commencement of this Act.

**5. Trustees of superannuation scheme.** The persons who, immediately before the appointed day, held office under the *Fire Brigades Act 1964-1988* as trustees of the superannuation scheme shall, on and from that day, continue to hold office until trustees are appointed pursuant to this Act at which time, whether or not the terms of their appointments under that Act have expired, they shall cease to be trustees but without affecting any liability incurred by them in the course of acting as trustees before or after the appointed day.

**6. Superannuation rights of officers previously officers of public service.** (1) A person who, on the appointed day, becomes an officer of the Queensland Fire Service pursuant to clause 1(1) and who, immediately before that day was an officer within the meaning of a State superannuation Act shall, while employed full-time in the Queensland Fire Service—

- (a) retain all entitlements that, immediately before the appointed day, had accrued or were accruing in respect of that person under that Act;

and

- (b) be taken to continue to be an officer within the meaning of that State superannuation Act and the provisions of that Act apply accordingly.

(2) In this clause “State superannuation Act” means the *Public Service Superannuation Act 1958-1989* or the *State Service Superannuation Act 1972-1989*.

(3) Nothing in this clause shall be construed so as to prevent a person to whom subclause (1) applies from participating in any superannuation scheme in respect of which an officer of the public service may be a contributor.

(4) On and after the appointed day, the responsibilities of subsidizing, contributing to and making payment to the funds held in connexion with a superannuation scheme concerning which an officer of the Queensland Fire Service referred to in subclause (1) has or obtains entitlements must be discharged by the Commissioner, to the extent that those responsibilities relate to that officer’s entitlements.

**7. Members of The Rural Fires Board.** (1) Each member of The Rural Fires Board holding office immediately before the appointed day

shall, on that day, continue in office as a member of The Rural Fire Council for the balance of the term of appointment under the *Rural Fires Act 1946-1984* as if appointed for that period under this Act, unless the member sooner vacates office or is removed from office.

(2) The member who was chairman of the Board immediately before the appointed day becomes the presiding officer of the Council on that day and shall continue in that office as provided in subsection (1).

**8. Chief fire wardens and fire wardens.** (1) On the appointed day, a person who, immediately before that day, was a chief fire warden or fire warden within the meaning of the *Rural Fires Act 1946-1984* is taken to be appointed under this Act as a chief fire warden or, as the case may be, fire warden.

(2) Where a person would, but for the commencement of this Act, have become a chief fire warden or fire warden pursuant to a notification made by the Governor in Council under section 9(3) of the *Rural Fires Act 1946-1984* by virtue of holding a particular office, any person who, after the appointed day, becomes the holder of or performs the duties of that office for any period shall for that period be a chief fire warden or, as the case may be, fire warden.

(3) The Governor in Council may amend or rescind any notification made under section 9(3) of the *Rural Fires Act 1946-1984*.

**9. Rural Fire Brigades.** On the appointed day, the persons who immediately before that day constituted a bush fire brigade under the *Rural Fires Act 1946-1984*, are taken to constitute a rural fire brigade under this Act and the Commissioner must assign a registration number to that brigade.

#### SCHEDULE 4

[ss. 45 and 51]

#### MATTERS CONCERNING OPERATION OF THE RURAL FIRE COUNCIL AND THE TRUSTEES OF THE SUPERANNUATION SCHEME

**1. Interpretation.** In this Schedule—

“board” means The Rural Fire Council or the body constituted by the trustees of the superannuation scheme mentioned in section 41;

“member” means a member of The Rural Fire Council or a trustee of the superannuation scheme.

**2. Re-appointment.** A member, if otherwise qualified, is eligible for re-appointment.

**3. Removal from office.** The Governor in Council may at any time remove a member from office and the removal takes effect upon notice of the decision being given to the member by the Minister.

**4. Vacancy in office.** (1) A casual vacancy is taken to arise in the membership of a board if a member—

- (a) dies;
- (b) resigns office by giving notice to the Minister;
- (c) is absent without prior leave granted by the board from 3 consecutive ordinary meetings of the board of which due notice has been given;
- (d) ceases to be qualified for appointment;
- (e) is removed from office.

(2) Attendance of a member of a board at the time and place appointed for a meeting of the board is taken to constitute presence at a meeting notwithstanding that, because a quorum is not present, the meeting scheduled is not held and the secretary to the board must enter in the minutes the name of any member in attendance.

**5. Filling casual vacancy.** (1) Where a casual vacancy arises in the office of member, the Governor in Council, acting on the recommendation of the Minister, may, by notification published in the Gazette, appoint a person to fill the vacancy.

(2) A person appointed to fill a casual vacancy, unless sooner resigning office or removed from office, holds office for the balance of his or her predecessor's term of office and, if otherwise qualified, is eligible for re-appointment.

**6. Meetings and procedure.** A board shall meet at such times and conduct its meetings and business in such manner as may be prescribed and, to the extent to which those matters are not prescribed, at such times and in such manner as it determines.

**7. When presiding officer absent.** In the absence of the presiding officer (and, where a deputy has been appointed, if that person is also absent) the members present at a meeting of a board must elect one of their number as presiding officer for the day.

**8. Validation of proceedings.** Subject to there being the quorum prescribed for meetings, no proceedings of a board are invalidated by reason of any defect in the appointment of any person as member or by reason of any vacancy existing in the membership of the board.

**9. Disclosure of interest.** (1) If any member of a board present at a meeting of the board has any pecuniary interest, direct or indirect, in any matter to be considered at that meeting the person must, as soon as is practicable after the meeting commences, disclose the fact of that interest and must not participate in consideration of or vote concerning the matter.

(2) For the purpose of this section, a person is taken to have an indirect pecuniary interest in a matter if that person—

(a) is, personally or through a nominee, a member of a company or other body that has a direct pecuniary interest in the matter;

or

(b) is the partner of a person who has a direct pecuniary interest in the matter;

or

(c) is employed by a person who has a direct pecuniary interest in the matter unless the employer is a statutory body established for a public purpose;

or

(d) has a spouse, or lives in a de facto relationship with a person, who has a direct pecuniary interest in the matter or an indirect pecuniary interest of the kind described in paragraph (a), (b) or (c);

or

(e) is lineally related to a person, or has a brother or sister, who has a direct pecuniary interest in the matter or an indirect pecuniary interest of the kind described in paragraph (a), (b) or (c).

(3) A person who, in respect of a matter before a board for consideration, fails to comply with subsection (1) commits an offence against this Act unless it is proved that the person did not know of the pecuniary interest in the matter.

(4) Any disclosure by a member of a board of a pecuniary interest in a matter before the board must be recorded by the secretary to the board.

(5) A board may by resolution exclude from its meeting a member who has a pecuniary interest in a matter while the matter is being considered by the board.

**10. Fees, allowances and expenses.** A member is entitled to such fees, allowances and expenses as are approved by the Governor in Council but in no case is an officer of the public service, the Queensland Fire Service or the Police Force entitled to fees and allowances for discharging functions as member during ordinary hours of duty as an officer.