

Queensland



**FIRE SERVICE ACT
AMENDMENT AND FIRE
SAFETY ACT REPEAL ACT
1991**

Act No. 51 of 1991



FIRE SERVICE ACT AMENDMENT AND FIRE SAFETY ACT REPEAL ACT 1991

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Queensland



Fire Service Act Amendment and Fire Safety Act Repeal Act 1991

Act No. 51 of 1991

An Act to repeal the Fire Safety Act 1974-1990, to validate certain regulations made under that Act, to amend the Fire Service Act 1990 and for related matters

[Assented to 10th September, 1991]

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 1—PRELIMINARY

Short title and citation

1.1. This Act may be cited as the *Fire Service Act Amendment and Fire Safety Act Repeal Act 1991*.

Commencement

1.2.(1) Section 1.1 and this section commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act, or such of them as are specified in the Proclamation, commence on the day or days appointed by Proclamation for commencement of those provisions.

PART 2—REPEAL OF FIRE SAFETY ACT 1974-1990 AND VALIDATION OF CERTAIN REGULATIONS MADE UNDER THAT ACT

Repeals

2.1.(1) The Acts set forth in the following Table are repealed as and to the extent specified therein:—

TABLE

Year and Number of Act	Title	Extent of Repeal
No. 43 of 1974	<i>Fire Safety Act 1974</i>	the whole of the Act
No. 34 of 1976	<i>Fire Brigades Act and Another Act Amendment Act 1976</i>	the balance of the Act remaining unrepealed

Fire Service Act Amendment and Fire Safety Act Repeal Act 1991

TABLE—continued

Year and Number of Act	Title	Extent of Repeal
No. 60 of 1976	<i>Fire Safety Act Amendment Act 1976 (No. 2)</i>	the whole of the Act
No. 67 of 1979	<i>Fire Brigades Act and Another Act Amendment Act 1979</i>	the balance of the Act remaining unrepealed
No. 3 of 1982	<i>Fire Brigades and Fire Safety Acts Amendment Act 1982</i>	the balance of the Act remaining unrepealed
No. 34 of 1984	<i>Fire Brigades Act and Other Acts Amendment Act 1984</i>	the balance of the Act remaining unrepealed
No. 29 of 1985	<i>Fire Brigades Act and Fire Safety Act Amendment Act 1985</i>	the balance of the Act remaining unrepealed

(2) In this Act, the *Fire Safety Act 1974* and that Act as amended from time to time by the other Acts specified in the Table to subsection (1) and by the *Fire Service Act 1990* is referred to as the repealed Fire Safety Act.

Validation of regulations

2.2. It is hereby declared that the regulations made under the repealed Fire Safety Act published in the *Government Gazette* on 18 April 1987 at page 1957 were on and from 1st May 1987 as valid and effectual as they would have been had they been laid before the Legislative Assembly in accordance with paragraph (d) of section 28A(1) of the *Acts Interpretation Act 1954-1985* and this section is taken to have retrospective effect accordingly.

PART 3—AMENDMENT OF THE FIRE SERVICE ACT 1990

Citation

3.1.(1) In this Part, the *Fire Service Act 1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Fire Service Act 1990-1991*.

Amendment of s. 6. Interpretation

3.2. Section 6 of the Principal Act is amended by omitting the definition “authorized fire officer”.

New s. 6A

3.3.(1) The Principal Act is amended by inserting after section 6 the following section:—

“Authorized fire officers

6A.(1) The Commissioner may authorize a fire officer or fire officers belonging to a class of fire officer specified by the Commissioner to exercise—

(a) all the powers conferred by this Act on an authorized fire officer;
or

(b) any power or class of power conferred by this Act on an authorized fire officer.

(2) A reference in this Act to an authorized fire officer is a reference to—

(a) the Commissioner;
and

(b) a fire officer authorized by the Commissioner pursuant to this section.

(3) A fire officer authorized by the Commissioner immediately before

the commencement of this section to exercise any power under this Act as an authorized fire officer is taken, on and from the commencement, to be authorized pursuant to this section.”.

Amendment of s. 41. Superannuation scheme

3.4. Section 41 of the Principal Act is amended by adding at the end of the section the following subsections:—

“(4) A contributor referred to in subsection (3) who ceases to hold office as Commissioner or ceases to be employed in the Queensland Fire Service upon being appointed as an officer of the public service under the *Public Service Management and Employment Act 1988-1990* may continue to contribute to the superannuation scheme in accordance with its terms.

If the contributor does so, the superannuation scheme continues to apply to the contributor as if the contributor were employed full-time in the Queensland Fire Service.

(5) In respect of each contributor referred to in subsection (4) who continues to contribute to the superannuation scheme upon being appointed as an officer of the public service, the Crown is to pay to the superannuation scheme such sums (if any) as would have been payable by the Commissioner as employer by way of contribution to the superannuation scheme had the contributor been a full-time employee in the Queensland Fire Service and been paid salary at the rate paid to the contributor at the material time by the Crown.”.

Repeal of s. 52. Authorized fire officer

3.5. The Principal Act is amended by repealing section 52.

Amendment of s. 55. Powers of authorized officer for preventative or investigative purposes

3.6. Section 55 of the Principal Act is amended—

- (a) in subsection (1), by—
 - (i) omitting the expression “.” where it occurs at the end of paragraph (d) and substituting the expression “;”;
 - (ii) inserting after paragraph (d) the following paragraph:—

“(e) to ascertain whether a power conferred by this Act upon an authorized officer should be exercised, or to exercise a power under this Act.”.

(b) in subsection (2), by inserting after the words “approval to enter” the words “or unless entry is made during or in the aftermath of a fire or chemical incident occurring at the dwelling, for the purpose of ascertaining its cause”.

New s. 58A

3.7. The Principal Act is amended by inserting after section 58 the following section:—

“Reasonable assistance to be provided

58A.(1) An authorized fire officer who enters any premises under this Part may require any person having responsibilities in relation to the premises (whether as owner or occupier of the premises or as a person employed to work thereon or otherwise) to provide the officer with such facilities and assistance with respect to matters or things to which the person's responsibilities extend as are reasonably necessary to enable the officer to exercise the powers conferred upon the authorized officer by this Act.

(2) A person who is required to provide facilities and assistance to an authorized fire officer under subsection (1) must comply with the requisition.”.

Amendment of s. 67. Occupier to extinguish fire

3.8. Section 67 of the Principal Act is amended by omitting from paragraph (b) the word “bush” and substituting the word “rural”.

Amendment of s. 68. Powers of occupier of entry, etc.

3.9. Section 68 of the Principal Act is amended, in subsection (4), by omitting the word “bush” and substituting the word “rural”.

New heading and s. 104A

3.10. The Principal Act is amended by inserting after section 104 the following headings and sections:—

‘PART IXA—BUILDING FIRE SAFETY*Division 1—Interpretation***Interpretation**

104A. Unless the contrary intention appears, in this Part and in Schedule 5—

“building” means a fixed structure that is wholly or partly enclosed by walls and is roofed and includes a floating building and any part of a building but does not include—

- (a) a single dwelling house, being either a detached dwelling house or a town, terrace, row, villa or like house attached to another such house or other such houses only by a wall on one or more of its sides;
- (b) a building treated as part of a coal mine for the purposes of the *Coal Mining Act 1925-1989* or as part of a mine for the purposes of the *Mines Regulation Act 1964-1989*; or
- (c) a building in which no prescribed fire installation is required to be maintained pursuant to section 104D;

“Building Advisory Committee” means the Building Advisory Committee established under the *Building Act 1975-1991*;

“Building Code of Australia” means the Building Code of Australia within the meaning of the Standard Building By-laws;

“building surveyor” means a person appointed by a Local Authority to be a principal building surveyor, a deputy principal building surveyor or a building surveyor for the purposes of the Standard Building By-laws;

“fire safety installation” means a fire safety installation within the meaning of the Standard Building By-laws;

“ground level” has the same meaning for the purposes of this Part as the term has as defined in the Queensland Appendix to the Building Code of Australia for the purposes specified therein;

“maintain” includes install or establish and maintain;

“prescribed fire safety installation” means a prescribed fire safety installation within the meaning of section 104D;

“Standard Building By-laws” means the Standard Building By-laws 1991 contained in the Schedule to the *Building Act 1975-1991*.

Application to prisons

104B. This Part applies in relation to a building that is, or that is treated as part of, a prison for the purposes of the *Corrective Services Act 1988-1990*, but an authorized fire officer is not competent to exercise a power conferred by sections 55 to 57(both inclusive) in relation to such a building without the consent of the general manager of the prison within the meaning of the *Corrective Services Act 1988-1990*.”.

New heading and ss. 104C to 104E

3.11. The Principal Act is amended by inserting after section 104B inserted by this Act the following heading and sections:—

‘Division 2—Duties of occupiers

Occupier of building to maintain means of escape from building

104C. The occupier of a building must maintain at all times free from obstruction adequate means of escape in the event of fire threatening any part of the building.

Occupier of building to maintain prescribed fire safety installations

104D.(1) The occupier of a building must maintain at all times every prescribed fire safety installation to a standard of safety and reliability in the

event of fire.

(2) It is a defence to a charge made under this Act that an occupier of a building, in contravention of subsection (1), has failed to maintain in the building a prescribed fire safety installation for the defendant to prove—

(a) that the prescribed fire safety installation would not be required to be maintained in the building if the building were constructed at the time of the alleged offence and was unnecessary for the purposes of fire safety;

or

(b) that in lieu of the prescribed fire safety installation there is maintained a fire safety installation of equivalent or greater effectiveness.

(3) For the purposes of this section—

“**Act**” includes any Act and any Proclamation, Order in Council, regulation, rule, by-law, ordinance or other instrument of subordinate legislation made under any Act, whenever passed or made whether or not it has ceased to exist;

“**prescribed fire safety installation**” means a fire safety installation—

(a) that was at any time required to be maintained in the building in question by or under any Act, including as a prerequisite to the granting of any approval or the issue of any notice, certificate or instrument; and

(b) that was not at any time authorized by or under any Act to be no longer maintained.

Fire and evacuation plan

104E. The occupier of a building must—

(a) maintain at all times a plan of the action to be taken by persons within the building in the event of fire threatening the building adequate to ensure their own and other persons safety;

and

(b) provide adequate instructions to persons working or residing in the building concerning the action to be taken by them in the event

of fire threatening the building in order to ensure their own and other persons safety.”.

New ss. 104F to 104G

3.12. The Principal Act is amended by inserting after section 104E inserted by this Act the following sections:—

‘Commissioner may assist with plan

104F.(1) The Commissioner may provide assistance to the occupier of a building in the preparation and implementation of the plan required to be maintained by the occupier pursuant to paragraph (a) of section 104E and any regulations made under this Part in relation to such a plan.

(2) An occupier to whom assistance is provided is liable to pay the Commissioner's charges for the assistance.

Commissioner's notice to comply

104G.(1) The Commissioner may give to the occupier of a building a notice in writing requiring the occupier to take steps as directed by or in accordance with the notice, within such time as is specified therein, in order to remedy any matter in respect of which the Commissioner is of the opinion that the occupier has failed to comply with this Division or with regulations made under this Part.

(2) A notice under subsection (1) to the extent that it specifies that an alteration is to be made to the structure of a building is not valid unless the Commissioner first consults the Local Authority in whose area the building is situated.

(3) A person who is given a notice pursuant to subsection (1) must comply with the notice.

In a case where such a person fails to comply with the notice within a time specified therein then—

- (a) notwithstanding that the time has passed, the person's obligation to comply continues until the person complies with the notice;

and

(b) section 150 applies.

(4) The giving of a notice under this section does not prejudice any other proceedings under this Act in respect of the non-compliance to which the notice relates, with the exception that the person to whom the notice is given is not liable, during the period afforded by the notice to comply and any further period during which that person is relieved by this Part from any penalty for failure to comply with the notice, to any penalty prescribed by section 150 for continuing offences.”.

New heading and ss. 104H to 104I

3.13. The Principal Act is amended by inserting after section 104G inserted by this Act the following heading and sections:—

‘Division 3—Prohibition on prescribed use without certificate of compliance

Prohibition on prescribed use without certificate of compliance

104H.(1) The Governor in Council, on the recommendation of the Minister, may make an Order in Council prohibiting the use of a building as prescribed in the order on and from a date prescribed in the order unless there is in existence a certificate of compliance issued under section 104I in relation to that building use.

(2) An Order in Council made under subsection (1)—

(a) must be expressed to apply in relation to a building use prescribed by Schedule 5 unless the Governor in Council, upon the recommendation of the Minister, is satisfied that urgent action is required to reduce the risk of fire in relation to a building use not so prescribed;

and

(b) may be expressed to apply in relation to all buildings or any building of a description defined in the order.

(3) An Order in Council made under subsection (1) may on and from a date specified in the order revoke a certificate of compliance or class thereof issued before the order is made that authorized a building use to which the

order applies.

(4) An occupier of a building who uses the building in contravention of an Order in Council made under subsection (1) commits an offence against this Act.

(5) An occupier of a building is not liable to any penalty prescribed by this Act by reason of the building being used in contravention of subsection (4) on and from the date the occupier makes application for a certificate of compliance under section 104I to and including the date the occupier is issued a certificate of compliance or given a notice refusing the application pursuant to section 104I.

This subsection does not apply in relation to an application made after a previous application has been refused.

Certificate of compliance

104I.(1) An occupier of a building to which an Order in Council made under section 104H(1) applies may apply to the Commissioner to be issued a certificate of compliance under this section in relation to a building use to which the order applies.

(2) An application must—

- (a) be in the form and be accompanied by the fee prescribed by the regulations;
- (b) provide the information prescribed by the regulations;
and
- (c) specify the building and the building use to which the certificate of compliance is to apply.

(3) An application must be referred to an authorized fire officer for consideration and determination.

(4) The authorized fire officer must then inspect the building.

(5) An applicant is to provide to the Commissioner or the authorized officer such information in relation to the application as either may require.

(6) If the authorized fire officer who inspects the building, having regard to the building use specified in the application, is satisfied—

- (a) that sections 104C, 104D and 104E of this Part are being

complied with;

- (b) that the regulations made pursuant to this Part that apply in relation to building use are being complied with;

and

- (c) that adequate fire safety measures and fire prevention measures generally have been taken or are being maintained;

the authorized fire officer must issue a certificate of compliance in relation to the building authorizing the building use specified in the application.

(7) If the authorised officer who inspects the building is not satisfied of any matter prescribed by paragraphs (a) to (c) (both inclusive) of subsection (6), the authorized officer must give notice to the applicant—

- (a) specifying the steps required to be taken before the application will be granted;

and

- (b) allowing a reasonable period within which those steps may be taken before the application is refused.

The authorised officer may at any time extend the period so allowed.

(8) If—

- (a) the applicant declines to take the steps referred to in paragraph (a) of subsection (7);

or

- (b) upon inspection of the building at the expiration of the period allowed to the applicant to take the steps referred to in paragraph (a) of subsection (7), the authorized officer is not satisfied that those steps have been taken;

the authorized officer must refuse the application by notice given to the applicant.

The notice must state the grounds of the refusal and any steps required to be taken by the applicant before any further application will be granted.

(9) A notice under subsection (7) or (8) to the extent that it specifies that an alteration is to be made to the structure of a building before an application will be granted is not valid unless the authorized fire officer who issues the notice first consults the Local Authority in whose area the building is

situated.

(10) If an authorized officer—

(a) fails to issue a certificate of compliance or any notice under this section before a date 30 days after the receipt by the Commissioner of an application;

or

(b) in a case where a notice under subsection (7) has been given to the applicant—fails to issue a certificate of compliance or a notice of refusal before a date 30 days after the expiration of the time allowed by the notice to take steps specified in the notice;

the provisions of Division 4 apply as if the authorized officer had given to the applicant on that date a notice of refusal.”.

New ss. 104J and 104K

3.14. The Principal Act is amended by inserting after section 104I inserted by this Act the following sections:—

‘Form of Certificate of compliance

104J. A certificate of compliance—

(a) subject to this Act, may be issued in any convenient form and if convenient be in respect of more than one building or building use;

(b) must state specifically or by reference the fire safety installations the maintenance of which were required for the issue of the certificate.

Certificate of compliance: limitations on requirements

104K. An authorized fire officer who inspects a building for the purposes of section 104I must not impose—

(a) more onerous requirements for the maintenance of fire safety installations than the occupier was required to maintain pursuant to section 104D immediately before the inspection;

or

- (b) in relation to any particular matter provided for by the regulations, more onerous requirements than those imposed in relation to the matter by the regulations;

as a prerequisite to the officer being satisfied that adequate fire safety measures and fire prevention measures generally have been taken or are being maintained by the occupier.”.

New heading and ss. 104L to 104N

3.15. The Principal Act is amended by inserting after section 104K inserted by this Act the following heading and sections:—

‘Division 4—Objection to notices

Persons aggrieved by notice may object

104L. A person who is aggrieved because the person has been given a notice under this Part or by the terms of such a notice within 21 days may object in writing to the Regional Commander.

An objection is not valid unless it is in or to the effect of the prescribed form and accompanied by the prescribed fee.

For the purposes of this section the Regional Commander is the person who, pursuant to this Act, holds that office for the region in which is situated the building to which the notice in question relates or a person who is performing the duties of the office for the time being.

Panel of referees to be convened

104M. Upon receipt by a Regional Commander of an objection under this Division, the Commissioner or a person nominated by the Commissioner must convene within 30 days a panel of referees to determine the objection.

Membership of panel of referees

104N. (1) A panel of referees is to consist of—

- (a) a chair referee who is to be a person nominated by the convenor

of the panel;

(b) one person nominated by the Local Authority in whose area is situated the building to which the notice objected to relates;

and

(c) one person nominated by the chairperson of the Building Advisory Committee.

(2) No objection is to be taken or allowed to the nomination of a chair referee on the ground that the person nominated is an officer of the Queensland Fire Service unless the person was involved in the decision to issue the notice in question.

(3) The referee nominated pursuant to paragraph (b) of subsection (1)—

(a) if the Local Authority is not the person objecting is to be a person appointed to be a building surveyor by the Local Authority;

and

(b) if the Local Authority is the person objecting is to be a person appointed to be a building surveyor by a Local Authority other than the objector.

(4) For the purposes of the nomination referred to in paragraph (c) of subsection (1), the chairperson of the Building Advisory Committee must request one or more of the bodies represented on the committee to nominate a person for appointment.

The person nominated by the chairperson for the appointment must be a person nominated by one of the bodies represented on the committee.

(5) In the event of a failure of a Local Authority or the chairperson of the Building Advisory Committee for any reason to nominate a person to be a referee for the purposes of paragraph (b) or (c) of subsection (1), in the stead of that person the convenor of the panel may appoint any person to be a referee.

(6) Referees are entitled to such fees and expenses for attendance at meetings of a panel as may be approved by the Governor in Council, with the exception that an officer of the Public Service of the State is not to receive fees for attendance as a referee during ordinary hours of duty.”

New ss. 104O and 104P

3.16. The Principal Act is amended by inserting after section 104N inserted by this Act the following sections:—

‘Determination of objection

104O.(1) A person who convenes a panel of referees pursuant to section 104M, as soon as practicable thereafter and upon consultation with the chair referee, must give a notice in writing to each referee and the objector appointing a time and place when and where the panel is to consider the objection and any further representations.

(2) At the time and place so appointed, or at any time and place to which the matter is adjourned from time to time, the panel must consider and determine the objection.

(3) A panel is not bound by the rules or the practice of any court or tribunal as to evidence or procedure in the consideration and determination of an objection, but, subject to this Act, may inform itself on any matter and conduct its proceedings in such manner as it thinks proper.

(4) A panel may authorize a person to be represented before it by an agent with the exception that a person is not to be represented by counsel or solicitor.

(5) A determination of the panel is to be decided by majority vote of its members.

(6) In determining the objection, a panel may—

(a) confirm, cancel or vary the notice to which objection is made in such a manner and to such an extent as it thinks fit;

and

(b) give such directions as are necessary to give effect to its determination.

(7) If the panel confirms or varies a notice it may extend any period for compliance with the notice.

(8) The convenor of the panel must give written notification of the determination of the panel to the objector within 7 days of the determination being made.

Relief from penalty pending determination of objection

104P. If an objection is validly made pursuant to section 104L to a notice given under this Part, the objector is not liable to a penalty under this Act—

- (a) in the case of a notice given under section 104G—for any failure on the objector's part to comply with the notice on and before the date on which the objector is given notice of the determination of the objection;
and
- (b) in the case of a notice given under section 104I(8)— for any use of a building, being a building use to which the notice relates, on and from the date the objector is given the notice to and including the date the objector is given notice of the determination of the objection.

Appeal from panel of referees

104Q.(1) A person aggrieved by a determination of a panel of referees notified to the person pursuant to section 104O, may appeal against the determination within 7 days of being so notified to a Stipendiary Magistrate sitting as a Magistrates Court in the district appointed for such courts under the *Justices Act 1886-1990* within which is situated the building to which the determination relates.

(2) In order to institute an appeal, an aggrieved person must file a notice of appeal specifying the grounds of appeal in the office of the registrar of the Magistrates Court and give a copy of the notice to the convenor of the panel of referees.

(3) An appeal is to be limited to one or both of the grounds of—

- (a) denial of natural justice;

or

- (b) error of law.

(4) The Stipendiary Magistrate has jurisdiction—

- (a) to hear and determine the appeal, to dismiss or allow it, or to strike it out for want of prosecution;
- (b) upon allowing the appeal—

- (i) to remit the matter to the panel of referees, or to the convenor of the panel of referees for rehearing by another panel, in either case with such directions as the magistrate thinks fit;
- and
- (ii) to make such other orders, including relating to costs, as are necessary to dispose of the appeal.

(5) The power of the Governor in Council to make Rules of Court under section 14(1) of the *Magistrates Courts Act 1921-1989* includes the power to make rules for or in respect of appeals under this section.

To the extent that those rules do not provide sufficiently for appeals under this section, a Stipendiary Magistrate may give such directions as are necessary.”.

New heading and s. 104R

3.17. The Principal Act is amended by inserting after section 104Q inserted by this Act the following heading and section:—

‘Division 5—Injunctions relating to high risk buildings

Injunctions

104R.(1) Where the Commissioner is satisfied in relation to any building that the risk to persons in the event of fire or the risk of spread of fire is so serious that the use of the building should be prohibited or restricted until steps have been taken to reduce the risk to a reasonable level, the Commissioner, by action in the Supreme Court, may claim against the occupier of the building an injunction prohibiting or restricting the use of the building.

(2) Jurisdiction is hereby conferred upon the Supreme Court and a Judge thereof to hear and determine any such action and to grant an injunction to prohibit or restrict the use of the building.

(3) An injunction may be—

- (a) for a limited period of time specified in the order or for an indefinite period of time;

- (b) in respect of every use of a building or for a use or uses specified in the order.

(4) Unless the contrary intention appears in the terms of the injunction, an injunction against any occupier of a building is taken to be made against all the occupiers from time to time of the building.”.

New heading and s. 104S

3.18. The Principal Act is amended by inserting after section 104R inserted by this Act the following heading and section:—

‘Division 6—Regulations

Regulations relating to this Part

104S. The power of the Governor in Council to make regulations under section 154 includes the power to make regulations for or with respect to—

- (a) the maintenance free from obstruction of adequate means of escape in the event of fire threatening any part of a building;
- (b) the maintenance of fire safety installations in buildings including authorization of the removal, replacement or substitution of any fire safety installation;
- (c) regulating the presence or use within buildings of furniture, furnishings, fittings, equipment, paints or finishes of any description in order to reduce the risk of fire;
- (d) requiring the maintenance of fire and evacuation plans in a specified form—
 - (i) setting forth the action to be taken in the event of fire threatening a building;
 - (ii) imposing obligations to provide instructions in preparation for the event of fire or to take specified action in the event of fire threatening a building;
- (e) requiring a fire and evacuation plan or class of such a plan to be approved by the Commissioner;
- (f) requiring instruction or training of persons visiting, working in or

- inhabiting a building in relation to fire prevention and fire safety generally;
- (g) imposing obligations to take specified action in the event of fire threatening a building;
 - (h) regulating the numbers of persons using a building at any one time;
 - (i) requiring the stationing of persons at places within a building under specified circumstances;
 - (j) the prevention, control or extinguishing of fires in buildings generally;
 - (k) the institution and determination of objections under Division 4 and appeals from determinations;
 - (l) applying the provisions of this Part, with adaptations or modifications, to any premises or class of premises other than buildings;
 - (m) imposing obligations for the purpose of the regulations not only upon occupiers of buildings but also other persons where necessary or convenient.”.

Amendment of s. 112. Determinations and notifications of contributions

3.19. Section 112 of the Principal Act is amended, in subsection (1), by inserting after the words “Local Authority” the words “as at the first day of the financial year”.

New s. 142A

3.20. The Principal Act is amended by inserting after section 142 the following words:—

‘Confidentiality

142A.(1) A person who discloses information that has come to the person's knowledge because the person is concerned in the administration of this Act commits an offence against this Act unless—

- (a) the information is not of a confidential or privileged nature or would normally be available to any member of the public on request;
or
- (b) the disclosure is made in the course of the administration of this Act;
or
- (c) the disclosure occurs in accordance with a requirement imposed or authorization granted by or under a law of the State or the Commonwealth.

(2) For the purposes of this section—

- (a) a person is concerned in the administration of this Act if the person holds office, is appointed or employed, exercises a power or discharges a function pursuant to this Act;
- (b) the circumstances under which information is taken to come to a person's knowledge because the person is concerned in the administration of this Act includes where—
 - (i) information known to the person is confirmed;
or
 - (ii) information comes to the knowledge of the person because of an opportunity provided;
because the person is concerned in the administration of this Act.”.

Amendment of s. 147. Offences.

3.21. Section 147 of the Principal Act is amended, in subsection (1), by inserting after the words “fire officer” in paragraph (g) the words “or any person having authority under this Act”.

Amendment of s. 154. Regulations

3.22. Section 154 of the Principal Act is amended by—

- (a) in subsection (3), omitting the words “to whom” and substituting

the words “or premises or class of premises to whom or to which”;

(b) adding at the end of subsection (3) the following words:—

“(4) The power to regulate includes the power to prohibit.

(5) Regulations under this Act may adopt wholly or partly and specifically or by reference, a code of practice issued by the Commissioner and any of the standard rules, codes, specifications or methods of Standards Australia, the British Standards Institute or any other body identified by the regulations.”.

New Schedule

3.23. The Principal Act is amended by inserting after Schedule 4 the following Schedule:—

‘SCHEDULE 5

[s. 104H]

Prescribed uses of buildings

1. A building in which there is a room at a level other than ground level used for the purpose of the sale of food or drink to the public or the provision of cabaret entertainment or dance facilities to the public.

2. A building used to provide residential accommodation at a floor level other than ground level.

3. A building used to provide residential accommodation within an educational institution, a children's hostel or children's welfare institution.

4. A building used to provide residential accommodation for medical, psychiatric or geriatric care.

5. A building used to sell goods or services to the public in which there is a sales area—

(a) below ground level;

(b) at a floor level more than one floor above ground level;

or

(c) exceeding 1000 square metres at any floor level.

6. A building used to accommodate a shop or shops selling goods or services to the public from which the only means of escape is through an enclosed arcade, mall or like structure.

7. A building other than a drive-in picture theatre used to accommodate more than 200 persons attending for a public meeting or for recreational, cultural or conference purposes.

8. A building used as a workplace within the meaning of the Workplace Health and Safety Act 1989 in which persons are employed to work in a room or rooms—

(a) below ground level;

or

(b) at a floor level more than one floor level above ground level.

9. A building used to provide office accommodation at a floor level more than six floor levels above ground level.

10. A building used for educational or research purposes and containing—

(a) a laboratory or machinery or trade equipment operated for training or research purposes;

or

(b) a classroom, canteen or recreational facilities on a floor level below ground level or a floor level more than two floors above ground level.”.

PART 4—TRANSITIONAL PROVISIONS

Application of repealed Fire Safety Act in relation to transitional building applications

4.1.(1) The repealed Fire Safety Act, notwithstanding its repeal by this Act, continues to apply in relation to premises the subject of a transitional

building application or approval as if this Act had not been passed for the purposes of the application or approval.

When such an application or approval ceases to be effective or a certificate of approval is issued under section 10 of the repealed Fire Safety Act in relation to the premises in question, that Act ceases to apply and the *Fire Service Act 1990* as amended by this Act thereafter applies in relation to those premises.

(2) For the purposes of this section, a reference to premises the subject of a transitional building application or approval is a reference to—

- (a) new premises;
- (b) additions to existing premises;
- or
- (c) a part of any existing premises affected by alterations;

the construction of which is sought to be approved or is approved by a Local Authority upon an application made under the provisions of the *Building Act 1975* as amended from time to time before its amendment by the *Building Act Amendment Act 1991* including those provisions as continued in existence for transitional purposes in relation to such an application or approval consequent upon the provisions of the lastmentioned Act.

Transition of certificates of approval.

4.2.(1) For the purposes of Part IXA of the *Fire Service Act 1990-1991*, a certificate of approval issued under section 10 or 16 of the repealed Fire Safety Act is taken to be a certificate of compliance issued under the Part—

- (a) if issued before the repeal of the repealed Fire Safety Act — on and from the repeal;
- (b) if issued after the repeal of the repealed Fire Safety Act by virtue of a continuation of its provisions deemed by law for the purposes of the issue — on and from the issue.

(2) A building use covered by such a certificate of approval is taken to be a building use authorized under a certificate of compliance under Part IXA of the *Fire Service Act 1990-1991*.

(3) A requirement imposed by such a certificate of approval to maintain

an installation that is a fire safety installation within the meaning of Part IXA of the *Fire Service Act 1990-1991* is taken to be a prerequisite to the issue of the certificate.

The installation is taken to be a prescribed fire safety installation within the meaning of that Part.

Transition of various applications and notices

4.3. Notwithstanding the repeal of the repealed Fire Safety Act, the provisions of the Act relating to—

- (a) applications made under section 15 or any notice given under section 24(1) or 25(1) to the fire authority within the meaning of the Act;
- and
- (b) notices given under section 17(1), 26(1) or 46(2) by a fire safety officer within the meaning of the Act,

continue to apply to such an application or notice made or given before the repeal until those provisions cease to have effect in accordance with their tenor.

Cessation of effect of interim certificate of approval

4.4. It is hereby declared—

- (a) that upon the issue of a certificate of approval under section 10 of the repealed Fire Safety Act (whether before its repeal or thereafter by virtue of a continuation of its provisions deemed by law for the purposes of the issue), the interim certificate of approval issued under section 7 of that Act pending the issue of that final certificate is taken to have ceased or, as the case may be, ceases to have effect;
- and
- (b) that where a building application or approval made or granted pursuant to the *Building Act 1975* or that Act as amended ceased to be of effect before the repeal of the repealed Fire Safety Act, any interim certificate of approval issued pursuant to section 7 of that Act before its repeal in relation to the building application

ceases to be of effect upon that repeal;

and

- (c) that where a building application or approval made or granted pursuant to the *Building Act 1975* or that Act as amended ceases to be of effect after the repeal of the repealed Fire Safety Act, any interim certificate of approval issued under section 7 of that Act (whether before its repeal or thereafter by virtue of a continuation of its provisions deemed by law for the purposes of the issue) in relation to the building application also ceases to be of effect.

Transitional regulations

4.5. The power to make regulations conferred by section 154 of the *Fire Service Act 1990-1991* includes power to make regulations prescribing with respect to any matter for which—

- (a) it becomes necessary or convenient to prescribe to facilitate the transition from the operation of the *Fire Safety Act 1974-1990* to the operation of Part IXA of the *Fire Service Act 1990-1991*;
and
- (b) this Part does not make any or sufficient provision.

Acts Interpretation Act preserved

4.6. This Part does not limit the generality of section 20 of the *Acts Interpretation Act 1954-1989*.