

SOUTH AUSTRALIA

**SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT 1936**

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 7 October 1999.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT 1936

being

Fire Brigades Act 1936 No. 2272 of 1936  
[Assented to 13 August 1936]<sup>1</sup>

as amended by

Fire Brigades Act Amendment Act 1938 No. 2389 of 1938 [Assented to 8 September 1938]  
Fire Brigades Act Amendment Act 1942 No. 32 of 1942 [Assented to 26 November 1942]  
Fire Brigades Act Amendment Act 1944 No. 25 of 1944 [Assented to 14 December 1944]  
Fire Brigades Act Amendment Act 1958 No. 7 of 1958 [Assented to 16 October 1958]  
Fire Brigades Act Amendment Act 1973 No. 5 of 1973 [Assented to 30 August 1973]  
Fire Brigades Act Amendment Act (No. 2) 1973 No. 86 of 1973 [Assented to 13 December 1973]<sup>2</sup>  
Fire Brigades Act Amendment Act 1974 No. 28 of 1974 [Assented to 11 April 1974]<sup>3</sup>  
Fire Brigades Act Amendment Act (No. 2) 1974 No. 53 of 1974 [Assented to 12 September 1974]  
Fire Brigades Act Amendment Act 1976 No. 5 of 1976 [Assented to 19 February 1976]  
Fire Brigades Act Amendment Act 1981 No. 68 of 1981 [Assented to 22 October 1981]<sup>4</sup>  
South Australian Metropolitan Fire Service Act Amendment Act 1984 No. 98 of 1984 [Assented to 20 December 1984]<sup>5</sup>  
South Australian Metropolitan Fire Service Act Amendment Act 1987 No. 16 of 1987 [Assented to 9 April 1987]<sup>6</sup>  
South Australian Metropolitan Fire Service (Miscellaneous Powers) Amendment Act 1991 No. 32 of 1991 [Assented to 24 April 1991]<sup>7</sup>  
Statutes Amendment (Expiation of Offences) Act 1992 No. 71 of 1992 [Assented to 19 November 1992]<sup>8</sup>  
Statutes Amendment (Administrative and Disciplinary Division of District Court) Act 1996 No. 53 of 1996 [Assented to 1 August 1996]<sup>9</sup>  
Emergency Services Funding Act 1998 No. 63 of 1998 [Assented to 10 September 1998]<sup>10</sup>  
**Statutes Amendment (Local Government and Fire Prevention) Act 1999 No. 12 of 1999 [Assented to 18 March 1999]<sup>11</sup>**

<sup>1</sup> Came into operation 1 May 1937: *Gaz.* 25 March 1937, p. 642.

<sup>2</sup> Came into operation 20 December 1973: *Gaz.* 20 December 1973, p. 3334.

<sup>3</sup> Came into operation 1 July 1974: s. 2.

<sup>4</sup> Came into operation 3 December 1981: *Gaz.* 3 December 1981, p. 2206.

<sup>5</sup> Came into operation 17 January 1985: *Gaz.* 17 January 1985, p. 116.

<sup>6</sup> Came into operation 4 June 1987: *Gaz.* 4 June 1987, p. 1430.

<sup>7</sup> Came into operation 1 June 1991: *Gaz.* 9 May 1991, p. 1484.

<sup>8</sup> Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 600.

<sup>9</sup> Came into operation 24 March 1997: *Gaz.* 20 March 1997, p. 1292.

<sup>10</sup> Schedule 2 (cl. 2) came into operation 30 June 1999: *Gaz.* 13 May 1999, p. 2502.

<sup>11</sup> **Part 4 (s. 7) came into operation 7 October 1999: *Gaz.* 7 October 1999, p. 1416.**

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix 1.

**An Act to provide for the fighting and prevention of fires in fire districts; to provide for the protection of life and property threatened by other emergencies; and for other purposes.**

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *South Australian Metropolitan Fire Service Act 1936*.

**Commencement**

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

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**Act binds Crown**

4. This Act binds the Crown.

**Transitional provision**

4A. (1) All property, rights and liabilities vested in or attached to The Fire Brigades Board immediately before the commencement of the *Fire Brigades Act Amendment Act 1981* shall, upon the commencement of that Act, vest in, or attach to, the Corporation.

(2) A reference in any Act, regulation, rule, by-law or document to The Fire Brigades Board shall, where the context admits, be construed as a reference to the Corporation.

(3) A person who was immediately before the commencement of the *Fire Brigades Act Amendment Act 1981* employed by The Fire Brigades Board shall become, upon the commencement of that amending Act, an officer or employee of the Corporation without loss of salary or status and without prejudice to his existing and accruing rights in relation to his employment.

**Interpretation**

5. In this Act, unless some other meaning is clearly intended—

"books" includes papers, documents, photographs, films and other records;

"the Chief Officer" means the person for the time being holding, or acting in, the office of Chief Officer under this Act;

"commanding officer" means the Chief Officer or any other officer—

- (a) to whom command of a fire brigade has been assigned by the Chief Officer; or
- (b) to whom control of operations at the scene of a fire or other emergency has been assigned by the Chief Officer; or
- (c) to whom responsibility for investigating and reporting on the cause of a fire or other emergency has been assigned by the Chief Officer;

"contributory company" means an insurance company liable to contribute towards the expenditure of the Corporation, as provided by this Act;

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"**the Corporation**" means the body corporate entitled the "South Australian Metropolitan Fire Service" established under this Act;

"**council**" means a municipal council or a district council;

"**the Disciplinary Committee**" or "**the Committee**" means the South Australian Metropolitan Fire Service Disciplinary Committee established under this Act;

"**district**" means a district council district;

"**District Court**" means the Administrative and Disciplinary Division of the District Court;

"**financial year**" means the period of twelve months ending on the thirtieth day of June in any year;

"**fire**" includes a situation that involves imminent danger of fire;

"**fire district**" means a fire district constituted under this Act or any repealed Act;

"**firefighter**" includes a control room operator;

"**insurance company**" means any corporate body, company, partnership, association, or person carrying on business in the State, and insuring against loss or damage by fire property situated within any locality in which for the time being this Act applies, whether the corporate body, company, partnership, or association (or the members thereof or any of them), or person, is incorporated or resident within the State or not; and includes any agent, attorney, or representative of, or person collecting premiums for, any such corporate body, company, partnership, association, or person;

"**Minister**" means the Minister of the Crown to whom, for the time being, the administration of this Act is committed by the Governor;

"**misconduct**" means a contravention of or a failure to comply with the code of conduct set out in schedule 2;

"**officer**" means an officer of the Corporation;

"**owner**" includes the person for the time being in actual receipt of, or entitled to receive, the rents and profits of the particular lands or premises, or who, if such lands or premises were let to a tenant, would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, executor, administrator, committee, mortgagee in possession or otherwise, or as agent or attorney for any other person;

"**repealed Act**" means Act repealed by this Act or Act repealed by any Act repealed by this Act;

"**the Union**" means the United Fire Fighters Union of South Australia Incorporated;

"**this Act**" includes regulations, and also includes proclamations made under this Act or any repealed Act;

"**volunteer fire brigade**" means any fire brigade supported by voluntary contributions; but does not include any fire brigade or corps formed for the purpose of protecting any particular building or buildings or premises, with the consent of the owner or occupier of the building or buildings or premises.

*Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.*

**Establishment, etc., of fire districts**

6. (1) The Governor may, by proclamation—

- (a) constitute a fire district; or
- (b) alter the boundaries of a fire district; or
- (c) abolish a fire district.

(2) A fire district must be constituted of land within the area of a council, or within the areas of a number of councils.

(3) Before a proclamation is made under this section at least one month's notice of the terms of the proposed proclamation must be given to any council affected by the proposal.

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**PART 2  
SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE**

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**Establishment of the Corporation**

**8.** (1) There shall be a corporation entitled the "South Australian Metropolitan Fire Service".

(2) The Corporation shall be constituted of the Minister.

(3) A document purporting to bear the common seal of the Corporation and to be signed by the Minister or a delegate of the Minister shall be presumed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed by the Corporation.

**Functions and powers of the Corporation**

**9.** (1) The functions of the Corporation are as follows:

(a) to provide efficient services in fire districts for the purpose of fighting fires and of dealing with other emergencies; and

(b) to provide services with a view to preventing the outbreak of fire in fire districts.

(2) For the purposes of carrying out those functions, the Corporation may—

(a) establish and maintain fire stations and fire brigades; and

(b) provide and maintain proper appliances and equipment for fire stations and fire brigades; and

(c) acquire, hold, deal with and dispose of real and personal property; and

(d) borrow moneys from the Treasurer, or, with the consent of the Treasurer, from any other person; and

(e) enter into any other kind of contract or arrangement; and

(f) exercise any other powers that are necessary for, or incidental to, the efficient discharge of its functions.

**Delegation**

**10.** (1) The Corporation may delegate to the Chief Officer, or any other person, any of its powers or functions under this Act.

(2) A delegation under this section is revocable at will and does not derogate from the power of the Corporation to act in any matter itself.

\* \* \* \* \*

**Accounts and audit**

**11.** (1) The Corporation shall cause proper accounts to be kept of its financial affairs.

(2) The accounts of the Corporation shall be audited annually by the Auditor-General.

**Annual report**

**12.** (1) On or before the 30th day of September in each year the Corporation shall cause a report on the administration of this Act during the preceding financial year to be prepared.

(2) The Minister shall cause a copy of the report prepared under subsection (1) together with the audited accounts of the Corporation to be laid before each House of Parliament.

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**PART 3  
SALVAGE CORPS**

**Power to establish and maintain salvage corps**

**34.** The Corporation may establish and maintain salvage corps, consisting of efficient firemen and others, and may furnish any such corps with all necessary quarters, appliances, horses, vehicles, engines, hoses, accoutrements, implements, tools, and plant.

**Fire brigade to assist salvage corps**

**35.** (1) In the event of any insurance company or companies establishing any salvage corps, the fire brigades shall, subject to this Act—

- (a) afford all necessary assistance to the members of any such corps in the performance of their duties:
- (b) upon the application of any officer of any such corps, hand over to his custody, or as he may direct, property saved from any fire attended by the corps.

(2) No charge shall be made by the Corporation for the services so rendered by any fire brigade.

(3) Any such salvage corps shall not be entitled to any payment out of the funds of the Corporation.

**Inspection of salvage corps**

**36.** The chief officer may inspect any salvage corps, whether established by the Corporation or by any insurance company or companies, and wherever it is established, and may enforce compliance with any provision of this Act relating to salvage corps.

**PART 4**  
**VOLUNTEER FIRE BRIGADES**

**Registration of volunteer fire brigades**

**37.** (1) The registration under any repealed Act of any volunteer fire brigade existing at the commencement of this Act is hereby continued, and the brigade shall be deemed to be registered under this Act.

(2) Every volunteer fire brigade formed after the commencement of this Act shall be registered in manner prescribed by the regulations, within twenty-eight days from the date of the formation thereof.

**Inspection and control of volunteer fire brigades**

**38.** (1) Every volunteer fire brigade shall be subject to inspection by the chief officer.

(2) Every volunteer fire brigade when present at the scene of any fire or other emergency shall be under the control, and shall obey the orders, of the chief officer.

**Payment for services of volunteer fire brigades**

**39.** The Corporation may, upon the certificate of the chief officer that efficient or valuable services have been rendered by a volunteer fire brigade, or any members thereof, pay to the brigade or members, such moneys as are determined by the Corporation: Provided that the services were rendered within a locality in which this Act applies.

**PART 5  
OFFICERS AND FIREFIGHTERS**

**DIVISION 1—APPOINTMENT AND RESPONSIBILITIES OF OFFICERS  
AND EMPLOYEES**

**Officers and employees of the Corporation**

**40.** (1) The Corporation shall have the following officers—

- (a) the Chief Officer; and
- (b) the Deputy Chief Officer; and
- (c) such other officers as the Corporation thinks fit to appoint.

(2) The Corporation may appoint such employees as it thinks fit.

(3) In the absence of the Chief Officer, or in the event of his being unable to carry out his duties, the Deputy Chief Officer shall act in the office of Chief Officer and shall have all the powers and functions of the Chief Officer.

(4) The Corporation may appoint a suitable person to act in an office or position (other than the office of Chief Officer) in the absence of the person appointed to that office or position, or in the event of his being unable to carry out his duties.

(5) An officer or employee of the Corporation shall carry out the directions—

- (a) of the Corporation; and
- (b) of any officer—
  - (i) to whom he is responsible by virtue of this Act; or
  - (ii) who has been placed in a position of authority over him by the Corporation.

(6) The terms and conditions of employment of an officer or employee of the Corporation shall, subject to the terms of any relevant industrial award or agreement, be determined by the Corporation.

(7) A person shall not be appointed by the Corporation as Chief Officer, or Deputy Chief Officer, without the approval of the Governor.

**Procedures in relation to appointments**

**40A.** (1) Where the Corporation wishes to appoint a person to a position in the fire service (other than the position of Chief Officer or Deputy Chief Officer), it shall first nominate that person for appointment.

(2) The Corporation shall give notice of a nomination under subsection (1) to all officers and firefighters who are of the same rank as, or of a lower rank than, that of the position to which the Corporation wishes to make the appointment.

(3) Where a person is nominated by the Corporation for appointment to a position in the fire service, an officer or firefighter who is entitled to notice of the nomination under subsection (2) may, within fourteen days after notice is given to him, appeal against the nomination to the District Court.

(4) The Corporation shall confirm a nomination only if no appeal against the nomination has been instituted under this section within the period referred to in subsection (3).

(5) The District Court may, on hearing an appeal under this section, confirm the appointment of the person nominated by the Corporation or may direct the Corporation to revoke the nomination and appoint the appellant to that position.

(6) When making a decision under subsection (5), the District Court shall have regard to the criteria (if any) relating to the appointment and promotion of employees that is contained in an award or industrial agreement that applies in relation to the position to which the appointment is to be made but, if no such criteria exists, the Court shall have regard to the qualifications, aptitude and conduct of the person nominated for the position and of the appellant or appellants.

(7) The Corporation shall comply with a direction given by the District Court under this section.

(8) For the purposes of this section, notice of a nomination shall be deemed to have been given to an officer or firefighter if written notice of the nomination has been displayed for not less than seven days in a prominent place in the fire station at which he is stationed.

(9) The Corporation shall be entitled to appear and be heard on an appeal under this section.

(10) There shall be no appeal against the appointment of a person to the office of Chief Officer or Deputy Chief Officer.

#### **Representation of parties and costs**

**40B.** (1) In any proceedings before the District Court on an appeal under this Division—

- (a) an appellant will be entitled to appear personally or to be represented by a member of an industrial association to which the appellant belongs or by a legal practitioner;
- (b) the Corporation will be entitled to be represented by the Chief Officer or by one of its other officers or, if an appellant is represented by a legal practitioner, the Corporation may also be represented by a legal practitioner.

(2) The District Court may, in proceedings before it under this Division, award costs against the Corporation but may not award costs against an appellant.

#### **Participation of assessors in appeals against nominations for appointments**

**40C.** In any proceedings under this Division, the District Court will sit with assessors selected in accordance with schedule 1.

#### **Responsibilities of the Chief Officer**

**41.** (1) The Chief Officer is responsible to the Corporation—

- (a) to carry out the policies and implement the decisions of the Corporation; and
- (b) for the general administration of the business of the Corporation; and
- (c) for the discipline and control of the fire brigades maintained by the Corporation; and
- (d) to carry out responsibilities assigned to him by the Corporation.

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**Command of fire brigades**

**42.** A fire brigade maintained by the Corporation shall be under the command of—

- (a) the Chief Officer; or
- (b) a commanding officer who is responsible to the Chief Officer for the discipline and control of the fire brigade.

\* \* \* \* \*

**Power to inspect any fire brigade**

**44.** The chief officer may inspect any fire brigade.

**DIVISION 2—POWERS AND DUTIES AT SCENE OF FIRE OR  
OTHER EMERGENCY**

**Powers of commanding officer at scene of fire or other emergency**

**45.** (1) This section applies in respect of—

- (a) an emergency constituted of or arising from—
  - (i) a fire; or
  - (ii) the escape of a dangerous substance, or a situation that involves imminent danger of such escape,  
that occurs—
  - (iii) in a fire district; or
  - (iv) on a vessel whether at sea or anywhere not in a C.F.S. region (within the meaning of the *Country Fires Act 1989*); or
  - (v) in a C.F.S. region at which neither the Chief Officer nor a C.F.S. officer has assumed command pursuant to the *Country Fires Act 1989*; and
- (b) any other emergency, wherever occurring, at which a person having legal authority to assume command has not done so.

(2) All fire brigades and all persons present at the scene of a fire or other emergency to which this section applies shall be subject to the control of the most senior commanding officer present at the scene of that fire or emergency.

(3) The most senior commanding officer at the scene of a fire or other emergency to which this section applies may take, or cause to be taken, any action that is, in his opinion, necessary or desirable for the protection of life or property notwithstanding that that action may result in damage to, or destruction of, property or cause pecuniary loss to any person and, in particular, he may—

- (a) enter (using such force as is necessary) any building or other structure or order the destruction of any building or other structure; and
- (b) order that a supply of water, electricity, gas or other fuel be shut off or disconnected; and

- (c) order that a public or private road, right of way or thoroughfare be closed; and
- (d) order that a person who refuses to obey his commands or who obstructs or hinders the operation of a fire brigade be removed from the scene of the fire or other emergency; and
- (e) order the removal of any inflammable or dangerous material.

(4) Where a commanding officer, at the scene of a fire or other emergency, engages a contractor to demolish, contain, neutralise, dispose of or remove a dangerous structure, object or substance, the costs of engaging the contractor are recoverable by the Corporation as a debt from the owner of the dangerous structure, object or substance.

(5) In any proceedings under this section, a certificate apparently signed by the Chief Officer certifying the costs of engaging the contractor is, in the absence of proof to the contrary, to be accepted as proof of the costs of engaging the contractor.

#### **Power to proceed beyond fire district**

**46.** (1) A fire brigade or salvage corps maintained by the Corporation may attend at the scene of a fire or other emergency that occurs outside a fire district.

(2) Whenever a fire brigade or salvage corps attends at the scene of a fire or other emergency pursuant to this section, the costs and expenses incurred by the brigade or salvage corps are recoverable by the Corporation as a debt from the owner of the property on which or in which the fire or other emergency occurred.

(3) Where costs and expenses are recovered under subsection (2), the owner of the property may (in turn) recover as a debt from the occupier of the property a proportion of those costs and expenses being the proportion that the value of the occupier's goods that were in or on the property at the time of the fire or other emergency bears to the total value of the property and all goods in or on the property at the time of the fire or other emergency.

(4) In any proceedings under this section, a certificate apparently signed by the Chief Officer certifying the cost of the attendance is, in the absence of proof to the contrary, to be accepted as proof of the costs and expenses incurred by the fire brigade or salvage corps.

#### **Notice of fire or other emergency in C.F.S. region to be given to Chief Officer of Country Fire Service**

**47.** Where a fire brigade is called to attend at the scene of a fire or other emergency occurring within a C.F.S. region (within the meaning of the *Country Fires Act 1989*), the commanding officer of the fire brigade must immediately inform the Chief Officer of the Country Fire Service—

- (a) of the fact that the fire brigade has been called to the fire or other emergency; and
- (b) of the position of the fire or other emergency; and
- (c) whether or not the fire brigade is proceeding to the fire or other emergency in response to the call.

#### **Police to recognise authority of Chief Officer and commanding officers**

**48.** (1) The authority of the Chief Officer and commanding officers must be recognised by all members of the police force and other persons.



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(2) The officer in charge of the members of the police force at the scene of a fire or other emergency must support and assist the Chief Officer or commanding officer in maintaining his or her authority and in enforcing his or her orders.

(3) A member of the police force may, in his or her discretion, and must, at the request of the Chief Officer or commanding officer, remove to such place as is considered proper in the circumstances any person who is in any way threatening, obstructing or interfering with the operations of a fire brigade.

(4) In this section—

"**emergency**" refers only to an emergency constituted of or arising from the escape of a dangerous substance, or a situation that involves imminent danger of such escape.

**DIVISION 3—FIRE AND EMERGENCY SAFEGUARDS**

**Interpretation and application**

**49.** (1) In this Division—

"**authorised officer**" means an officer authorised by the Chief Officer;

"**emergency**" refers only to an emergency constituted of or arising from the escape of a dangerous substance, or a situation that involves imminent danger of such escape;

"**occupier**" in respect of a public building, includes any person apparently in charge of, or having the control and management of, the building;

"**public building**" includes any structure or place (whether permanent or temporary or fixed or moveable) that is enclosed or partly enclosed—

- (a) to which admission is open to members of the public or restricted to persons who are members of a club or who possess any other qualification or characteristic and whether admission is or is not procured by the payment of money or on any other condition; or
- (b) in which persons work under a contract of service.

(2) This Division applies only to a building, vessel, vehicle or place in a fire district.

**Power to enter and inspect a public building**

**50.** (1) The Chief Officer or an authorised officer may enter and inspect a public building to determine whether there are adequate safeguards against, or in the event of, fire or other emergency.

(2) The Chief Officer or authorised officer—

- (a) may exercise the powers conferred by subsection (1) at any reasonable time including any time when the building is open to the public; and
- (b) may, if there is reason to believe that urgent action is required, use such force as is reasonable in the circumstances to enter and inspect the public building.

**Rectification where safeguards inadequate**

**51.** (1) Where, after having inspected a public building, the Chief Officer or authorised officer is of the opinion that there are not adequate safeguards against, or in the event of, fire or other emergency as a result of—

- (a) obstruction, closing or locking of an aisle, corridor, door, gangway, lobby, passage, exit, escape or any other means of egress from the building; or
- (b) overcrowding of the building; or
- (c) non-compliance with the requirements of this or any other Act,

he or she may do one or more of the following:

- (d) using such force as is reasonably necessary, cause the aisle, corridor, door, gangway, lobby, passage, exit, escape or other means of egress from the building to be cleared, opened or unlocked, as the case requires;
- (e) in the event of overcrowding, cause persons to be removed from the building;
- (f) order the occupier to take specified action to rectify the situation within a specified period.

(2) A rectification order may be given orally or by notice in writing served on the occupier of the building.

(3) Where a rectification order is given orally, the Chief Officer or authorised officer must as soon as practicable cause a written notice containing the order to be served on the occupier of the building.

(4) Where a notice containing a rectification order is served on the occupier of the building, the Chief Officer or authorised officer must as soon as practicable cause a copy of the notice to be served on the Building Fire Safety Committee established under the *Building Act 1971* for the area in which the building is situated.

(5) Where any matter or thing with respect to fire safety is regulated or required to be done under the *Building Act 1971*, a person may not be ordered under this section to do anything in relation to that matter or thing beyond what is necessary to achieve compliance with the requirements under that Act.

**Closure orders**

**51A.** (1) Where, after having inspected a public building, the Chief Officer or authorised officer is satisfied that the safety of persons in the public building cannot reasonably be ensured by other means, the Chief Officer or authorised officer—

- (a) may order the occupier of the building to close the building immediately and for such period as the Chief Officer or authorised officer considers necessary (but not exceeding 48 hours) for the alleviation of the danger; or
- (b) may, if a closure order cannot for any reason be given to the occupier, or if a closure order, having been given to the occupier, is not immediately obeyed, close the building for such period as the Chief Officer or authorised officer considers necessary (but not exceeding 48 hours) for the alleviation of the danger.

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(2) A closure order may be given orally or by notice in writing served on the occupier of the building.

(3) Where a closure order is given orally, the Chief Officer or authorised officer must as soon as practicable cause a written notice containing the order to be served on the occupier of the building.

(4) Where a closure order cannot for any reason be given to the occupier of the building, the Chief Officer or authorised officer must cause a written notice containing the order to be affixed in a prominent place near the main entrance to the building.

(5) The written notice containing a closure order must—

(a) describe the danger that, in the opinion of the Chief Officer or authorised officer, necessitates closure of the building; and

(b) state the period (not exceeding 48 hours) for which the building is to be closed.

(6) Where a notice containing a closure order is served on the occupier of the building, the Chief Officer or authorised officer must as soon as practicable cause a copy of the notice to be served on the Building Fire Safety Committee established under the *Building Act 1971* for the area in which the building is situated.

(7) When the Chief Officer or authorised officer is satisfied that the danger has been alleviated, he or she may rescind the order.

(8) Where the Chief Officer or authorised officer is of the opinion that the danger cannot be, or has not been, alleviated within the period specified in the order, he or she may, after having given prior notice of his or her intention to do so to the occupier of the building, apply to a local court for an order directing the occupier to close or keep closed, as the case requires, the building for such period as the court considers necessary for the alleviation of the danger.

(9) The court may, on an application made under subsection (8)—

(a) grant the order, subject to such conditions as the court sees fit to impose; or

(b) refuse to grant the order,

and make such other orders as it thinks fit.

(10) If an application is made to a court under subsection (8) while a building is closed pursuant to this section, the closure of the building continues until the application is determined or withdrawn.

(11) The Chief Officer or authorised officer or the occupier or owner of a building to which an order under subsection (9) applies, may apply to the court, at any time, for that order to be rescinded.

(12) The court may, on an application made under subsection (11), rescind or refuse to rescind the order to which that application relates and make such other orders as it thinks fit.

**Powers in relation to places at which danger of fire may exist**

**51B.** (1) The Chief Officer or an authorised officer may, at any time and using such force as is reasonably required in the circumstances, enter and inspect any building, vessel, vehicle or place at or in which he or she has reason to believe explosives or any dangerous combustible or inflammable materials or substances are being kept or any conditions exist that are likely to be a source of danger to life or property in the event of fire, or likely to cause an outbreak of fire.

(2) Where the Chief Officer or authorised officer finds explosives or any dangerous combustible or inflammable materials or substances that are being kept in an unsafe manner or finds any conditions that are likely to be a source of danger to life or property in the event of fire, or likely to cause an outbreak of fire, the Chief Officer or authorised officer may—

- (a) take action himself or herself to alleviate the danger;
- (b) order the occupier or person apparently in charge of the building, vessel, vehicle or place to take specified action within a specified period to alleviate the danger.

(3) An order under this section may be given orally or by notice in writing served on the occupier or person apparently in charge of the building, vessel, vehicle or place.

(4) Where an order under this section is given orally, the Chief Officer or authorised officer must as soon as practicable cause a written notice containing the order to be served on the occupier or person apparently in charge of the building, vessel, vehicle or place.

**Chief Officer, etc., may be accompanied by police**

**52.** The Chief Officer or an authorised officer may, when exercising powers conferred by this Division, be accompanied by one or more officers of the Corporation or members of the police force as the Chief Officer or authorised officer thinks fit.

**PART 5A  
DISCIPLINE**

**DIVISION 1—THE DISCIPLINARY COMMITTEE**

**The South Australian Metropolitan Fire Service Disciplinary Committee**

**52A.** (1) There shall be a committee entitled the "South Australian Metropolitan Fire Service Disciplinary Committee".

(2) The Committee will consist of the following members appointed by the Governor:

- (a) a legal practitioner of not less than seven years standing who will be the presiding officer and will be appointed on the nomination of the Minister;
- (b) an officer appointed on the nomination of the Chief Officer;
- (c) an officer appointed on the nomination of the Union;
- (d) a firefighter appointed on the nomination of the Union.

(3) The Minister must consult the Chief Officer and the Union before nominating the presiding officer.

(4) For the purpose of hearing a complaint the Committee will be constituted of—

- (a) the presiding officer; and
- (b) the member nominated by the Chief Officer; and
- (c) (i) where the person whose conduct is the subject of the complaint is an officer—the officer nominated by the Union; or
- (ii) where the person whose conduct is the subject of the complaint is a firefighter—the firefighter nominated by the Union.

(5) A question arising before the Committee shall be determined in accordance with the opinion of a majority of the members constituting the Committee.

(6) A person against whom a complaint has been made by the Chief Officer to the Committee may, if he wishes, be represented before the Committee by a member of the industrial association to which he belongs or, with approval of the Committee, by a legal practitioner.

(7) If the person against whom a complaint has been made by the Chief Officer to the Committee is represented before the Committee by a legal practitioner, the Chief Officer may be represented in those proceedings by a legal practitioner but otherwise the Chief Officer shall be represented by an officer.

(8) The Committee may order the Corporation to pay such allowances and expenses as the Committee thinks fit to a person (other than a person who is a party to proceedings before the Committee) who has attended and given evidence in proceedings before the Committee and the amount ordered to be paid may be recovered from the Corporation as a debt.

(9) A member of the Committee shall be entitled to such remuneration, allowances and expenses as are determined by the Governor.

## DIVISION 2—DISCIPLINARY PROCEEDINGS

### Chief Officer may reprimand

**52B.** If, after making a full inquiry, the Chief Officer is satisfied that an officer or firefighter has been guilty of misconduct, he may reprimand the officer or firefighter.

### Proceedings before Disciplinary Committee

**52C.** (1) The Disciplinary Committee shall, on complaint made by the Chief Officer, investigate any alleged misconduct on the part of an officer or firefighter or, where an officer or firefighter has been convicted of an offence punishable by imprisonment, determine what penalty (if any) should be imposed on the officer or firefighter in relation to the conduct that comprised the offence.

(2) If the Committee finds that an officer or firefighter has been guilty of misconduct or has been convicted of an offence punishable by imprisonment, it may impose one or more of the following penalties:

- (a) it may reprimand him; or
- (b) it may reduce him in rank for a period determined by the Committee; or
- (c) it may suspend him from office with, or without, pay; or
- (d) it may dismiss him.

### Suspension pending hearing of complaint

**52D.** (1) The Chief Officer may suspend from office an officer or firefighter against whom he has made a complaint to the Disciplinary Committee.

(2) A person suspended under subsection (1) shall be suspended on full pay and the suspension shall not operate after the complaint has been finally determined by the Committee or the District Court.

## DIVISION 3—APPEALS

### Appeals

**52E.** (1) An officer or firefighter who is aggrieved by a decision of the Disciplinary Committee, or of the Chief Officer, pursuant to Division 2, may appeal to the District Court.

(2) An appeal must be instituted within fourteen days of the decision appealed against, but the District Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal be instituted within that time.

(3) The District Court may, on hearing an appeal, affirm the penalty imposed by the Committee or the Chief Officer or, if, in its view, the decision appealed against was harsh, unjust or unreasonable, it may vary or quash the penalty imposed by the Committee or the Chief Officer or impose any penalty that should have been imposed in the first instance.

(4) Where a penalty has been imposed by the Committee or the Chief Officer and the Committee or the Chief Officer (as the case may be) or the District Court is satisfied that an appeal against the decision has been instituted, or is intended, it may suspend the operation of the decision until the determination of the appeal.

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(5) Where the operation of a decision has been suspended by the Committee, the Chief Officer or the District Court under subsection (4), that suspension may be terminated by the Committee, the Chief Officer or the District Court (as the case requires).

(6) The Chief Officer shall be entitled to appear and be heard on an appeal under this section.

**Representation of parties and costs**

**52F.** (1) In any proceedings before the District Court on an appeal under this Division—

- (a) the appellant will be entitled to appear personally or to be represented by a member of an industrial association to which the appellant belongs or by a legal practitioner;
- (b) the Chief Officer will be entitled to appear personally or to be represented by an officer of the Corporation or, if the appellant is represented by a legal practitioner, the Chief Officer may also be represented by a legal practitioner.

(2) The District Court may, in proceedings before it under this Division, award costs against the Corporation but may not award costs against the appellant.

**Participation of assessors in appeals**

**52G.** In any proceedings under this Division, the District Court will sit with assessors selected in accordance with schedule 1.

**PART 6**  
**CONTRIBUTIONS TOWARDS THE COST OF ADMINISTRATION**  
**OF THIS ACT**

**Yearly estimate of expenditure**

**53.** (1) In the month of May of each year, the Corporation shall prepare an estimate of the costs to be incurred by it during the next financial year in the administration of this Act.

(2) The estimated amount shall be apportioned as the Corporation thinks just to each fire district, and to each municipality or district, or part of a municipality or district, within each fire district.

(3) A council becomes liable to contribute under this Act towards such proportion of the estimated costs of administering this Act as relates to its area or portion of its area.

(3a) The Corporation shall forward to each council a statement of the amount towards which it becomes liable to contribute under subsection (3).

(4) The estimate prepared under subsection (1) may include a sum to be applied towards the cost of providing life insurance, pensions, annuities, retiring allowances or other financial benefits for all or any of the officers and members of fire brigades or the dependants of such officers and members.

**Contributions to the expenditure of the Corporation**

**54.** (1) The aggregate amount of the estimate made pursuant to section 53 for the financial year ending on the thirtieth day of June, 1975, and for each ensuing financial year shall be contributed and paid to the Corporation in the following proportions:—

- (i) one-eighth thereof by the Treasurer:
- (ii) three-quarters thereof by the insurance companies:
- (iii) one-eighth thereof on behalf of the fire districts, and the municipalities and districts in which, or in parts of which, this Act applies.

\* \* \* \* \*

(3) The portion of the said three-quarters which is to be paid by any one of the insurance companies shall be in the same ratio to the whole of such three-quarters as the premium income derived from insurance business by that company (as shown in its then latest return pursuant to section 58) bears to the aggregate amount of the premium incomes derived from insurance business by all the insurance companies (as shown by their then latest returns pursuant to section 58).

(4) If in any case the amount to be paid by a company, as determined by subsection (3) is less than twenty dollars the company shall, in addition to that amount, pay to the Corporation the difference between that amount and the sum of twenty dollars. Any amounts to be paid to the Corporation under this subsection shall be in addition to the aggregate amount by subsection (1) required to be paid to the Corporation.

(5) The portion of the said one-eighth which is to be paid on behalf of any one of the fire districts, municipalities, or districts shall be in the same ratio to the whole of such one-eighth as the estimate under section 53 for the fire district, municipality, or district, bears to the aggregate amount mentioned in subsection (1).



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(6) Any amount to be paid under this section on behalf of a municipality or district shall be paid by the council thereof.

(7) Any amount to be paid under this section on behalf of a fire district shall be paid by the councils of the various municipalities and districts which, or parts of which, are comprised in the fire district.

The portion of the last-mentioned amount which is to be paid by any one of the last-mentioned councils shall be in the same ratio to the whole of the amount as the sum collected by the council, during its next preceding financial year, as general rates on property situated in the municipality or district of the council (or in the part thereof which is comprised in the fire district) bears to the aggregate amount of the sums collected by all the said councils, during their respective next preceding years, as general rates on properties situated in all the said municipalities and districts (or parts so comprised).

(8) The amounts to be paid by the various insurance companies, and by the various fire districts and councils, and, in the case of a fire district, the amounts to be paid by the various councils whose municipalities and districts, or parts thereof, are comprised in the fire district, shall be determined by the Corporation according to the principles stated in this section. A notice sent to any of such companies or councils stating the amount to be paid, and signed by an officer of the Corporation, shall be *prima facie* evidence of the correctness of the amount.

(9) Any amount to be paid under this section shall be paid by equal quarterly instalments on the first days of July, October, January, and April respectively in the financial year for which the estimates used in determining the amount are made, or by such instalments and on such dates as are determined by the Corporation.

**Application of sections 53 and 54**

**54A.** Sections 53 and 54 do not apply to, or in relation to, the 1999/2000 financial year or any subsequent financial year.

**Contributions by new companies**

**55.** Every insurance company which—

(a) has before the commencement of this Act, but since the time next before such commencement when returns pursuant to section 58 of *The Fire Brigades Act 1913*, became due, commenced to carry on business in the State; or

(b) after such commencement commences to carry on business in the State,

shall, until the amount of its first annual contribution has been determined under section 54 and the first instalment thereof becomes due under section 54, pay to the Corporation, on each day on which instalments by contributory companies fall due pursuant to subsection (9) of section 54, the sum of five dollars.

**Contribution of municipalities and councils may be raised by increased rates**

**56.** Any contribution payable under this Act by the council of any municipality or district may (if necessary) be raised by the council by increasing the rates, for the year following the payment of the contribution, by such a sum in the dollar as will be sufficient to produce the amount of the contribution: Provided that in any case where this Act applies only in part of a municipality or district the increase of rates shall be only in respect of property situated within that part.

**Recovery of contributions**

**57.** Any contribution payable under this Act may be recovered by action or in a summary manner.

**Returns by insurance companies**

**58.** (1) To enable the Corporation to determine the amounts of the contributions to be paid by the various insurance companies, every contributory company shall, in the month of April in every year, or at such other time as the Corporation directs, furnish the Corporation with a return showing the amount of its premium income for the period of twelve months ended on the next preceding thirty-first day of March, from insurance of property situated within the localities in which this Act applies: Provided that the return to be made in April, 1939, shall show the amount of premium income as aforesaid for the period of nine months ended on the preceding thirty-first day of March.

In arriving at the amount of such premium income, a company shall be entitled to deduct—

- (a) premiums paid by it for re-insurance, with contributory companies, of property so situated; and
- (b) discount, brokerage, and commission allowed by it on premiums on insurance of property so situated.

(2) Every such return shall have annexed thereto a statutory declaration by a director, or the manager, secretary, agent, or attorney of the company, stating that, according to the books thereof and to the best of his knowledge, information, and belief, the return contains a true account and statement of the amount of the premium income mentioned in subsection (1).

(3) If a contributory company makes default in any year in furnishing a return or declaration under this section, the Corporation may, until the return and declaration are furnished, treat the then latest return of the company as the company's return and act on that accordingly.

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**Inspection of books**

**59.** (1) The secretary or other officer having the custody of the books and papers of any contributory company shall allow any person authorised by the Corporation to inspect, during business hours, any books and papers of the company, and to make extracts therefrom in order to verify any return or declaration made in pursuance of this Act.

(2) Any such secretary or officer failing to comply with the requirements of this section is guilty of an offence.

Penalty: Division 7 fine.

Expiation fee: Division 6 fee.

**Returns by councils**

**60.** (1) The council of any municipality or district which, or part of which, is comprised in a fire district shall every year, in the month of March or within such other time as is determined by the Corporation, furnish the Corporation with a return showing the sum collected by the council, during its next preceding financial year, as general rates on property situated within its municipality or district, or within the part thereof which is comprised in the fire district.

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**Contributions where insurer is outside the State**

**60A.** (1) Any person who pays or becomes liable to pay to any person (not being an "insurance company" within the meaning of this Act) or to any person on behalf of any such person, any premium in respect of an insurance against loss or damage by fire effected on any property situated within the localities in which this Act applies shall within one calendar month after paying or becoming liable to pay such premium—

- (a) furnish to the Corporation a return showing the amount of the premium and the name of the person to whom he has paid or become liable to pay it; and
- (b) pay to the Corporation a contribution in respect of the premium, of an amount ascertained as prescribed in subsection (3) of this section.

(2) The return shall be verified by a statutory declaration made by the person liable to pay the contribution or by some person on his behalf having knowledge of the facts of the case, and declaring that the return contains a true account and statement of all such premiums as mentioned in subsection (1) of this section which the person by or on whose behalf the return is made has paid or become liable to pay during the period covered by the return.

(3) The contribution in respect of every such premium shall be a sum bearing the same ratio to the whole premium, as the aggregate of the amounts payable to the Corporation pursuant to section 54 of this Act by the insurance companies during the financial year in which the premium is payable, bears to the aggregate of their premium incomes derived from insurance business as shown by the returns on the basis of which the said amounts were computed. A certificate signed by an officer of the Corporation certifying the amount of any contribution shall be *prima facie* evidence of that amount.

(4) All contributions received by the Corporation under this section shall be applied by the Corporation for the purposes of this Act in the same manner as contributions paid to it pursuant to section 54.

(5) Any contribution payable under this section may be recovered by action or in a summary manner.

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**PART 7  
MISCELLANEOUS**

**Fire prevention on private land**

**60B.** (1) In this section—

"**authorised person**" means an authorised person under the *Local Government Act 1934*;

"**District Court**" means the Administrative and Disciplinary Division of the District Court;

"**owner**"—

- (a) in relation to land alienated from the Crown in fee simple—means the owner of an estate in fee simple in the land;
- (b) in relation to land held from the Crown by lease, licence or agreement to purchase—means the lessee, licensee or purchaser,

and includes the occupier;

"**private land**" means—

- (a) land alienated from the Crown in fee simple; or
- (b) land held from the Crown by lease, licence or agreement to purchase,

other than land under the care, control or management of a council or a Minister, agency or instrumentality of the Crown.

(2) If a council believes that conditions on private land in a fire district are such as to cause an unreasonable risk of the outbreak of fire on the land, or the spread of fire through the land, due to the presence of inflammable undergrowth or other inflammable or combustible materials or substances, the council may, by notice in writing that complies with any prescribed requirement, require the owner to take specified action to remedy the situation within such time as may be specified in the notice.

(3) A notice under subsection (2) may include directions concerning the storage of inflammable or combustible materials or substances on the land (or in a building on the land).

(4) A person to whom a notice under subsection (2) is addressed must not, without reasonable excuse, fail to comply with the notice.

Maximum penalty: \$10 000.

(5) The council may, by further notice in writing, vary or revoke a notice under this section.

(6) A notice under subsection (2) or (5) may be given—

- (a) personally; or
- (b) by post; or
- (c) if the council cannot, after making reasonable inquiries, ascertain the name and address of the person to whom the notice is to be given—

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- (i) by publishing the notice in a newspaper circulating in the area of the land; and
- (ii) by leaving a copy of the notice in a conspicuous place on the land.

(7) If a notice under subsection (2) or (5) is directed to the occupier of land, the council must take reasonable steps to serve a copy of the notice on the owner.

(8) Service under subsection (7) may be effected—

- (a) personally; or
- (b) by post.

(9) An authorised person may, for purposes connected with the administration or enforcement of this section, after giving reasonable notice to the occupier of land, enter and inspect the land.

(10) If a person fails to comply with the requirements of a notice under this section, the council will proceed to carry out those requirements and may recover the expenses incurred as a debt due to it from the person to whom the notice was addressed.

(11) Any expenses recoverable under subsection (10) will be a charge against the land to which they relate and may be recovered as if they were rates in arrears.

(12) A person to whom notice is addressed may appeal against a requirement of the notice to the District Court.

(13) An appeal must be instituted within 14 days of the requirement being imposed unless the District Court, in its discretion, allows an extension of time for instituting the appeal.

(14) The appellant must send a copy of the notice of appeal to the council that issued the notice to which the appeal relates.

(15) Subject to a determination of the District Court, if an appeal is instituted, the requirement being appealed against is suspended until the appeal is determined or withdrawn.

(16) The District Court may (but need not), in exercising its jurisdiction under this section, be constituted of a Magistrate.

(17) The District Court may, on hearing an appeal under this section—

- (a) confirm the requirement; or
- (b) vary the requirement in such manner as it thinks fit; or
- (c) cancel the requirement; or
- (d) substitute a new requirement; or
- (e) refer the matter back to the council for further consideration.

(18) If the District Court confirms, varies or substitutes a requirement, the person to whom the requirement is addressed must comply with the requirement within a period specified by the District Court.

Maximum penalty: \$10 000 or imprisonment for 2 years.

**Brigades may be employed on special services**

**61.** The Corporation may permit the whole or any part of any fire brigade to be employed on special service at such remuneration and upon such terms as the Corporation determines.

**Uniforms**

**62.** The Corporation may furnish its officers and employees with such uniform as it thinks suitable.

**Police to attend at fires and other emergencies**

**63.** (1) Police shall attend at the scene of a fire or other emergency to which a fire brigade has been called to preserve order and to assist the fire brigade.

(2) In this section—

"**emergency**" refers only to an emergency constituted of or arising from the escape of a dangerous substance or a situation that involves imminent danger of such an escape.

**Turncocks to attend fires**

**64.** Every turncock employed by the Minister of Works shall forthwith, on any fire occurring within any water district in which he is employed, proceed with all possible speed to the fire, and assist by all means in his power in the ensuring of a copious supply and efficient service of water.

**Disconnection of gas or electricity**

**65.** (1) Every company or person supplying gas or electricity to any premises on fire or in which any other emergency has occurred shall immediately send some competent person to shut off or disconnect the supply of gas or electricity to the premises, or to any building or land adjoining the premises, or adjacent thereto, if and as directed so to do by the commanding officer.

(2) In this section—

"**emergency**" refers only to an emergency constituted of or arising from the escape of a dangerous substance or a situation that involves imminent danger of such an escape.

**Hindering or obstructing officers, etc.**

**66.** A person must not hinder or obstruct—

- (a) an officer or employee of the Corporation acting pursuant to this Act; or
- (b) a person accompanying or assisting an officer or employee of the Corporation pursuant to this Act; or
- (c) any person acting under the authority of, or complying with orders given by, the Corporation or an officer of the Corporation pursuant to this Act.

Penalty: Division 6 fine.

**Failure to comply with orders**

**67.** A person must not fail to comply with—

- (a) a closure order granted by a local court; or
- (b) an order given by an officer,

pursuant to this Act.

Penalty: Division 6 fine.

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**Interference with fire plugs, fire alarms, etc.**

**68.** A person must not without reasonable excuse—

- (a) conceal, remove, interfere with or obstruct access to—
  - (i) a fireplug, hydrant, booster or suction point; or
  - (ii) a mark or sign used for the purpose of indicating the presence of a fireplug, hydrant, booster or suction point; or
  - (iii) a fire alarm or signalling device for giving notice of fire or other emergency; or
- (b) give a false alarm of fire or other emergency.

Penalty: Division 6 fine.

**Continuing offences**

**68A.** (1) Where a person is convicted of an offence against this Act and after that conviction the act or omission of that person that constituted the offence continues, the person is guilty of a further offence, and is liable to an additional penalty for each day on which the act or omission continues of an amount not exceeding one-tenth of the maximum penalty for the offence of which the person was convicted.

(2) For the purposes of subsection (1), an obligation to do something is to be regarded as continuing until the act is done, notwithstanding that any period within which, or time before which, the act is required to be done, has expired or passed.

**False or misleading statements**

**68B.** A person must not, in furnishing information under this Act, make a statement that is false or misleading in a material particular.

Penalty: Division 6 fine.

**Default in furnishing a return or declaration**

**68C.** A person who fails to furnish a return or declaration as required under this Act is guilty of an offence.

Penalty: Division 7 fine.

Expiation fee: Division 7 fee.

**Default in payment of contribution**

**68D.** A person who fails to pay a contribution as required under this Act is guilty of an offence.

Penalty: Division 7 fine.

**Offences by corporate bodies**

**68E.** Where a body corporate is guilty of an offence against this Act, each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved—

- (a) that the member exercised reasonable care in the exercise of his or her responsibilities as a member of the governing body; and

- (b) that the offence is not attributable to any intentional act or omission on his or her part.

**Payment of costs and expenses where vessel or property uninsured**

**69.** (1) Whenever a fire brigade or salvage corps maintained by the Corporation attends at the scene of a fire or other emergency occurring on an uninsured vessel whether at sea or elsewhere, the costs and expenses incurred by the fire brigade or salvage corps are recoverable by the Corporation as a debt from the owner of the vessel and the owner of any uninsured personal property that is in the vessel at the time of the fire or other emergency.

- (2) Where the owners of personal property are liable under subsection (1), the Corporation—

- (a) must apportion the costs and expenses between the owner of the personal property and the owner of the vessel; and
- (b) must cause a written notice indicating the apportionment to be served on the owner of the personal property and the owner of the vessel.

(3) The Corporation's written notice pursuant to subsection (2) is final and binding on all parties.

(4) The Crown is not, under any circumstances, liable to pay the costs and expenses referred to in this section or any part of such costs and expenses.

(5) In any proceedings under this section, a certificate apparently signed by the Chief Officer of the Corporation certifying the cost of the attendance is, in the absence of proof to the contrary, to be accepted as proof of the costs and expenses incurred by the fire brigade or salvage corps.

(6) The Chief Officer or an authorised officer may, with the approval of the Corporation, without any warrant or authority other than this Act, distrain a vessel or the tackle or goods of a vessel in respect of which any costs and expenses are owed to the Corporation pursuant to this section.

(7) Where the costs and expenses owed to the Corporation pursuant to this section are not paid within seven days after the distress, the Corporation may cause the property distrained or any part of the property distrained to be sold, and out of the proceeds of the sale may pay the amount of the costs and expenses and the costs and expenses of the distress, keeping and sale to the Corporation.

(8) If the owner of the vessel or the owner of the personal property evades or attempts to evade the payment of the costs and expenses owed to the Corporation, he or she is guilty of an offence.

Penalty: Division 6 fine.

- (9) In this section—

**"authorised officer"** means an officer authorised by the Chief Officer;

**"uninsured personal property"** means personal property not insured with a contributory company;

**"uninsured vessel"** means a vessel not insured with a contributory company.



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**Duty to give information as to insurance**

**70.** (1) The owner of property that is destroyed or damaged by fire shall, at the request of any officer of the Corporation, inform him whether the property was insured, and if so, the name of the insurer and the amount of the insurance.

(2) A person who fails to comply with a request of an officer of the Corporation made under subsection (1) is guilty of an offence.

Penalty: Division 7 fine.

Expiation fee: Division 7 fee.

**Insurance policies to cover damage by fire brigades etc.**

**71.** All policies of insurance against damage or loss of property caused by fire or occurring during the course of any other emergency shall be deemed to extend to damage or loss arising from measures taken by any person acting in pursuance of an authority conferred by or under this Act at the scene of the fire or other emergency.

**Inquests**

**72.** The Corporation is entitled to be heard at any inquest into the causes of a fire or other emergency and may be represented at the inquest by counsel or by one of its officers.

**Power of Chief Officer, etc., to enter premises and search debris, etc.**

**73.** (1) The Chief Officer or any officer or employee of the Corporation may (with or without assistance)—

- (a) enter and inspect any land, building, structure or object for the purpose of determining the cause of a fire or other emergency; or
- (b) remove any object that may tend to establish the cause of a fire or other emergency; or
- (c) if in his opinion it is necessary to do so, take possession of the land, building or structure for the purpose of an investigation or inquiry into the cause of the fire or other emergency.

\* \* \* \* \*

(3) In this section—

"**emergency**" refers only to an emergency constituted of or arising from the escape of a dangerous substance or a situation that involves imminent danger of such an escape.

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**Power to take property that is unlawfully detained**

**75.** The chief officer or any officer or employee of the Corporation may enter, and, if necessary, break into, any place where any property of the Corporation is unlawfully detained or is detained contrary to the order of the chief officer or of the Corporation, and may take possession of such property and remove it from such place.

**Report of fire**

**76.** (1) The commanding officer in charge of the fire brigade present at a fire shall, as soon as possible, report the fire to the Corporation.

(2) Upon receipt of any such report the Corporation or any other person authorised by the Corporation, shall forward to the contributory companies a notice of the fire.

**Regulations**

77. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(1a) Without limiting the generality of subsection (1), the regulations may—

- (a) provide for the discipline of fire brigades, and of the officers and other members of fire brigades;
- (ab) provide for the practice and procedure of the Disciplinary Committee;
- (b) provide for the registration of voluntary fire brigades;
- (c) provide for payment to any person for voluntary or special services rendered to a fire brigade;
- (d) provide for—
  - (i) the prevention, extinction or containment of fire; or
  - (ii) the prevention of, or the means of dealing with, other emergencies; or
  - (iii) the safety of life or property in the event of fire or other emergency;
- (e) prescribe fines not exceeding a division 6 fine for contravention of, or non-compliance with, a regulation;

\* \* \* \* \*

(3) Any by-laws in force under this Act immediately before the commencement of the *Fire Brigades Act Amendment Act 1981* shall be deemed to be regulations under this section.

**Government Gazette to be evidence**

78. The *Government Gazette* containing any proclamation made by the Governor under this Act, or any repealed Act, shall be conclusive evidence of the fact, tenor, and validity of the proclamation, and shall be evidence of the facts stated, recited, or assumed therein, and no such proclamation shall be invalid by reason of anything required as preliminary thereto not having been duly done.

**Immunity of officers, firefighters and others from liability**

79. (1) No liability shall attach to an officer, firefighter or other person for an act or omission by him in good faith—

- (a) in the exercise, or purported exercise, of his powers or functions or in the discharge, or purported discharge, of his duties pursuant to this Act; or
- (b) in carrying out the orders of the commanding officer at the scene of a fire or other emergency.

(2) Any liability that would, but for this section, attach to an officer, firefighter or other person shall attach to the Crown.

**South Australian Metropolitan Fire Service Act 1936**

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**Summary proceedings**

**82.** All proceedings for offences against this Act shall be disposed of summarily.

**Financial**

**83.** The money required for the purposes of this Act shall be paid by the Corporation out of the moneys received by it under this Act, and the sums to be contributed and paid to the Corporation by the Treasurer shall be paid out of moneys voted by Parliament for that purpose.

**SCHEDULE 1**

*Appointment and Selection of Assessors for District Court Proceedings  
under Part 5 and 5A*

1. The Minister must establish the following panels of persons from which persons are to be selected to sit with the District Court as assessors in proceedings under Part 5 or 5A:

- (a) a panel appointed from persons nominated by the Chief Officer;
- (b) a panel appointed from officers nominated by the Union;
- (c) a panel appointed from firefighters nominated by the Union.

2. A member of a panel is to be appointed by the Minister for a term of office not exceeding three years and on conditions determined by the Minister and specified in the instrument of appointment.

3. A member of a panel is, on the expiration of a term of office, eligible for reappointment.

4. Subject to clause 5, the judicial officer who is to preside at the proceedings must select—

- (a) one member from the panel made up of persons nominated by the Chief Officer; and
- (b) if the appellant is an officer—one member from the panel made up of officers nominated by the Union; or
- (c) if the appellant is a firefighter—one member from the panel made up of firefighters nominated by the Union,

to sit with the District Court in the proceedings.

5. A member of a panel who has a personal or a direct or indirect pecuniary interest in a matter before the District Court is disqualified from participating in the hearing of the matter.

6. If an assessor dies or is for any reason unable to continue with any proceedings, the District Court constituted of the judicial officer who is presiding at the proceedings and the other assessor may, if the judicial officer so determines, continue and complete the proceedings.

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**SCHEDULE 2***Code of Conduct to be observed by Officers and Firefighters*

An officer or a firefighter—

- (a) must not, without proper excuse, be absent from, or late in attending, any place at which he is required to attend in the course of his duty;
- (b) must not, without proper excuse, disobey an order of an officer or firefighter who is of superior rank and must not be guilty of insubordination;
- (c) must not neglect his duty—
  - (i) by failing to carry out his duties promptly and diligently;
  - (ii) by failing to report to the Chief Officer or other proper authority any matter that is relevant to the administration of this Act and of which he has knowledge;
  - (iii) by failing to make written entries in any book or document as required under this Act;
  - (iv) in any other manner;
- (d) must not be negligent in the performance of his duty under this Act;
- (e) must not exercise his authority under this Act in an unnecessarily oppressive manner;
- (f) must not, without proper excuse, damage or destroy, or permit the damage or destruction of, property belonging to the Corporation;
- (g) must not, without proper excuse, fail to report to the Chief Officer or other proper authority any damage to, or loss or destruction of, any property belonging to the Corporation;
- (h) must not, without proper authority, alter or remove an entry in a book, document or other record belonging to the Corporation;
- (i) must not, without proper excuse, use property belonging to the Corporation for an unauthorised purpose;
- (j) must not knowingly make a false or misleading statement in the course of his duty under this Act;
- (k) must not fail to account for money or property of the Corporation that comes into his possession;
- (l) must not use his position as an officer or firefighter to obtain an ulterior pecuniary or material benefit;
- (m) must not, without proper excuse, render himself unfit, by the consumption of alcohol or the use of any other drug, to carry out his duty under this Act;
- (n) must not consume alcohol or use a drug (other than alcohol or a drug prescribed by a medical practitioner) in the course of performing his duty under this Act;
- (o) must not, while on duty, engage in gambling;
- (p) must not, while on duty, act in a disorderly manner or in a manner that is likely to be prejudicial to the maintenance of discipline in the fire service;
- (q) must not, without proper excuse, fail to be of clean and tidy appearance and of courteous demeanour when in uniform in a public place;
- (r) must not divulge to the public confidential information acquired by him in the course of his duty;

- (s) must not, without proper authority, make a public statement purporting to be made on behalf of the Chief Officer or the Corporation.

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## South Australian Metropolitan Fire Service Act 1936

### APPENDIX 1

#### LEGISLATIVE HISTORY

##### Repeals

The *South Australian Metropolitan Fire Service Act 1936* repealed the following Acts:

Reference to Act	Short Title of Act
No. 1130 of 1913	<i>The Fire Brigades Act 1913</i>
No. 1585 of 1923	<i>Fire Brigades Act Amendment Act 1923</i>
No. 1640 of 1924	<i>Fire Brigades Act Amendment Act 1924</i>
No. 1962 of 1930	<i>Fire Brigades Act Amendment Act 1930</i>
No. 2069 of 1932	<i>Fire Brigades Act Amendment Act 1932</i>
No. 2211 of 1935	<i>Fire Brigades Act Amendment Act 1935</i>

##### Transitional Provisions

*(Transitional provision from Emergency Services Funding Act 1998, Sched. 2, cl. 4)*

Reimbursement by insurers to policy holders

4. (1) Subject to subclause (2), any amount that an insurer receives or recovers from a policy holder in respect of the insurer's purported liability under Part 3 of the *Country Fires Act 1989* or Part 6 of the *South Australian Metropolitan Fire Service Act 1936* for a period occurring after 30 June 1999 must be reimbursed by the insurer to the policy holder.

(2) Subclause (1) does not apply to an amount that is less than ten dollars.

(3) The amounts that an insurer does not reimburse to policy holders by reason of subclause (2) must be paid by the insurer into the Community Emergency Services Fund.

(4) A policy holder may recover an amount due by an insurer under this clause as a debt.

(5) In this clause—

"insurer" means—

(a) in relation to the *Country Fires Act 1989*—an insurer for the purposes of Part 3 of that Act;

(b) in relation to the *South Australian Metropolitan Fire Service Act 1936*—an insurance company for the purposes of Part 6 of that Act.

##### Legislative History

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 4 of The Public General Acts of South Australia 1837-1975 at page 185.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Long title:	substituted by 98, 1984, s. 3
Section 1:	substituted by 68, 1981, s. 3
Section 3:	omitted in pursuance of the <i>Acts Republication Act 1967</i>
Section 4:	amended by 68, 1981, s. 4; 98, 1984, s. 4; substituted by 32, 1991, s. 3
Section 4A:	inserted by 68, 1981, s. 5
Section 5:	definition of "board" repealed by 68, 1981, s. 6(a) definition of "by-law" repealed by 68, 1981, s. 6(a) definition of "chairman" repealed by 68, 1981, s. 6(a)

	definition of "books" inserted by 98, 1984, s. 5(a)
	definition of "chief officer" repealed and definition of "the Chief Officer" inserted in its place by 68, 1981, s. 6(b)
	definition of "commanding officer" inserted by 68, 1981, s. 6(b); amended by 98, 1984, s. 5(b), (c)
	definition of "contributory company" amended by 68, 1981, s. 6(c)
	definition of "the Corporation" inserted by 68, 1981, s. 6(d)
	definition of "the Disciplinary Committee" inserted by 98, 1984, s. 5(d)
	definition of "District Court" inserted by 53, 1996, s. 9(a)
	definition of "fire" inserted by 98, 1984, s. 5(e)
	definition of "firefighter" inserted by 98, 1984, s. 5(f)
	definition of "member" repealed by 68, 1981, s. 6(e)
	definition of "misconduct" inserted by 98, 1984, s. 5(g)
	definition of "officer" inserted by 98, 1984, s. 5(g)
	definition of "Senior Judge" inserted by 98, 1984, s. 5(h); repealed by 53, 1996, s. 9(b)
	definition of "the Tribunal" inserted by 98, 1984, s. 5(h); repealed by 53, 1996, s. 9(b)
	definition of "secretary" repealed by 68, 1981, s. 6(f)
	definition of "the Union" inserted by 16, 1987, s. 3
	definition of "this Act" amended by 68, 1981, s. 6(g)
Section 6:	substituted by 68, 1981, s. 7
Section 7:	repealed by 68, 1981, s. 7
Part 2 heading:	substituted by 68, 1981, s. 8; 98, 1984, s. 6; 53, 1996, s. 10
Part 2 Division 1 heading:	inserted by 98, 1984, s. 6; repealed by 53, 1996, s. 10
Sections 8 and 9:	substituted by 68, 1981, s. 9
Section 9(1):	amended by 98, 1984, s. 7
Section 10:	substituted by 68, 1981, s. 9
Section 10A:	repealed by 68, 1981, s. 9
Sections 11 and 12:	substituted by 68, 1981, s. 9
Sections 13 - 25:	repealed by 68, 1981, s. 9
Section 26:	substituted by 5, 1976, s. 2; repealed by 68, 1981, s. 9
	Division 2 of Part 2 comprising ss. 13 - 26 and heading inserted by 98, 1984, s. 8; amended by 16, 1987, ss. 4-6; 32, 1991, s. 4; repealed by 53, 1996, s. 11
Sections 27 and 27A:	repealed by 5, 1976, s. 2
Sections 28 - 33:	repealed by 68, 1981, s. 9
Section 34:	amended by 68, 1981, s. 10
Section 35(1):	amended by 68, 1981, s. 11(a)
Section 35(2) and (3):	amended by 68, 1981, s. 11(b)
Section 36:	amended by 68, 1981, s. 12
Section 37(2):	amended by 68, 1981, s. 13
Section 38(2):	amended by 98, 1984, s. 9
Section 39:	amended by 68, 1981, s. 14
Part 5 heading:	substituted by 98, 1984, s. 10
Part 5 Division 1 heading:	inserted by 32, 1991, s. 5
Section 40:	substituted by 68, 1981, s. 15
Section 40A:	inserted by 98, 1984, s. 11
Section 40A(3):	amended by 53, 1996, s. 12(a)
Section 40A(5):	amended by 53, 1996, s. 12(b)
Section 40A(6):	amended by 53, 1996, s. 12(c)
Section 40A(7):	amended by 53, 1996, s. 12(d)
Sections 40B and 40C:	inserted by 53, 1996, s. 13
Sections 41 and 42:	substituted by 68, 1981, s. 15
Section 43:	repealed by 68, 1981, s. 15
Part 5 Division 2 heading:	inserted by 32, 1991, s. 6
Section 45:	amended by 68, 1981, s. 16; substituted by 98, 1984, s. 12
Section 45(1):	substituted by 32, 1991, s. 7(a)
Section 45(4):	substituted by 32, 1991, s. 7(b)



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Section 45(5):	inserted by 32, 1991, s. 7(b)
Section 46:	amended by 68, 1981, s. 17; repealed by 98, 1984, s. 12; inserted by 32, 1991, s. 8
Section 47:	repealed by 68, 1981, s. 18; inserted by 32, 1991, s. 8
Section 48:	amended by 5, 1976, s. 3; 68, 1981, s. 19; 98, 1984, s. 13; substituted by 32, 1991, s. 8
Part 5 Division 3 heading:	inserted by 32, 1991, s. 8
Section 49:	amended by 68, 1981, s. 20; substituted by 32, 1991, s. 8
Section 50:	substituted by 68, 1981, s. 21; repealed by 98, 1984, s. 14; inserted by 32, 1991, s. 8
Section 51:	amended by 68, 1981, s. 22; 98, 1984, s. 15; substituted by 32, 1991, s. 8
Section 51A:	inserted by 98, 1984, s. 16; substituted by 32, 1991, s. 8
Section 51B:	inserted by 32, 1991, s. 8
Section 52:	amended by 68, 1981, s. 23; 98, 1984, s. 17; substituted by 32, 1991, s. 8
	Part 5A comprising ss. 52A - 52E and headings inserted by 98, 1984, s. 18
Section 52A(2) - (4):	substituted by 16, 1987, s. 7
Section 52D(2):	amended by 53, 1996, s. 14
Section 52E(1) - (5):	amended by 53, 1996, s. 15
Sections 52F and 52G:	inserted by 53, 1996, s. 16
Part 6 heading:	substituted by 68, 1981, s. 24
Section 53(1) - (3):	substituted by 68, 1981, s. 25(a)
Section 53(3a):	inserted by 68, 1981, s. 25(a)
Section 53(4):	amended by 68, 1981, s. 25(b)
Section 54(1):	amended by 68, 1981, s. 26(a)
Section 54(4):	amended by 68, 1981, s. 26(b)
Section 54(8):	amended by 68, 1981, s. 26(c), (d)
Section 54(9):	amended by 68, 1981, s. 26(e)
Section 54A:	inserted by 63, 1998, Sched. 2 (cl. 2)
Section 55:	amended by 68, 1981, s. 27
Section 58(1):	amended by 68, 1981, s. 28
Section 58(3):	amended by 68, 1981, s. 28; substituted by 32, 1991, s. 9
Section 58(4):	repealed by 32, 1991, s. 9
Section 59(1):	amended by 68, 1981, s. 29
Section 59(2):	amended by 32, 1991, s. 10; 71, 1992, s. 3(1) (Sched.)
Section 60(1):	amended by 68, 1981, s. 30
Section 60(2) and (3):	repealed by 32, 1991, s. 11
Section 60A(1):	amended by 68, 1981, s. 31(a)
Section 60A(3):	amended by 68, 1981, s. 31(b), (c)
Section 60A(4):	amended by 68, 1981, s. 31(d)
Section 60A(6):	amended by 68, 1981, s. 31(d); repealed by 32, 1991, s. 12
Section 60A(7):	repealed by 32, 1991, s. 12
<b>Section 60B:</b>	<b>inserted by 12, 1999, s. 7</b>
Section 61:	amended by 68, 1981, s. 32
Section 62:	substituted by 68, 1981, s. 33
Section 63:	substituted by 98, 1984, s. 19
Section 65:	amended by 68, 1981, s. 34; amended and redesignated as s. 65(1) by 98, 1984, s. 20
Section 65(2):	inserted by 98, 1984, s. 20(b)
Section 66:	amended by 68, 1981, s. 35; substituted by 32, 1991, s. 13
Section 67:	substituted by 32, 1991, s. 13
Section 68:	amended by 98, 1984, s. 21; substituted by 32, 1991, s. 13
Sections 68A and 68B:	inserted by 32, 1991, s. 13
Section 68C:	inserted by 32, 1991, s. 13; amended by 71, 1992, s. 3(1) (Sched.)
Sections 68D and 68E:	inserted by 32, 1991, s. 13
Section 69:	amended by 68, 1981, s. 36; substituted by 32, 1991, s. 14
Section 70(1):	substituted by 68, 1981, s. 37

Section 70(2):	substituted by 32, 1991, s. 15; amended by 71, 1992, s. 3(1) (Sched.)
Section 71:	amended by 68, 1981, s. 38; substituted by 98, 1984, s. 22
Section 72:	substituted by 68, 1981, s. 39; amended by 98, 1984, s. 23
Section 73(1):	amended by 68, 1981, s. 40; substituted by 98, 1984, s. 24
Section 73(2):	repealed by 32, 1991, s. 16
Section 74:	repealed by 68, 1981, s. 41
Section 75:	amended by 68, 1981, s. 42
Section 76(1):	amended by 68, 1981, s. 43(a), (b)
Section 76(2):	amended by 68, 1981, s. 43(b), (c)
Section 77(1):	amended by 5, 1976, s. 4(a); substituted by 68, 1981, s. 44(a)
Section 77(1a):	inserted by 68, 1981, s. 44(a); amended by 98, 1984, s. 25; 32, 1991, s. 17(a)
Section 77(2):	amended by 5, 1976, s. 4(b); repealed by 32, 1991, s. 17(b)
Section 77(3):	inserted by 68, 1981, s. 44(b)
Section 79:	repealed by 68, 1981, s. 45; inserted by 98, 1984, s. 26
Section 80:	repealed by 68, 1981, s. 46
Section 81:	repealed by 68, 1981, s. 47
Section 83:	amended by 68, 1981, s. 48
Schedule 1:	omitted in pursuance of the <i>Acts Republication Act 1967</i>
Schedule:	inserted by 53, 1996, s. 17
(renumbered Schedule 1 in pursuance of the <i>Acts Republication Act 1967</i> )	
Schedule 2:	inserted by 98, 1984, s. 27
Schedule 3:	repealed by 68, 1981, s. 49

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**APPENDIX 2****DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*