



Australian Capital Territory

# **Fire Brigade (Administration) Act 1974**

**A1974-52**

**Republication No 6**

**Effective: 13 April 2004 – 30 June 2004**

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Last amendment made by A2004-9

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Fire Brigade (Administration) Act 1974* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 13 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 13 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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# Fire Brigade (Administration) Act 1974

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Australian Capital Territory

# Fire Brigade (Administration) Act 1974

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An Act to establish an Australian Capital Territory Fire Brigade

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Fire Brigade (Administration) Act 1974*.

### 3 Definitions for Act

In this Act:

***board*** means the Fire Brigade Appeal Board established by this Act.

***brigade*** means the Australian Capital Territory Fire Brigade established by this Act.

***commissioner*** means the Fire Commissioner appointed under section 4.

***deputy commissioner*** means the Deputy Fire Commissioner appointed under section 4A.

***designated group*** means any of the following classes of persons:

- (a) women;
- (b) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (c) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (d) persons with physical or mental disabilities;
- (e) any other class of persons declared by the regulations to be a designated group for this definition.

***employment matter***, in relation to the brigade, means—

- (a) the appointment of persons as members of the brigade; or
- (b) the promotion of members of the brigade; or
- (c) the appointment of members to act temporarily in higher ranks for 3 months or longer; or
- (d) training and staff development for members of the brigade; or
- (e) the conditions of service of members of the brigade; or
- (f) any other matter related to the employment of members of the brigade.

***equal employment opportunity program***, in relation to the brigade, means a program designed to ensure that—

- (a) appropriate action is taken to eliminate unjustified discrimination against persons in designated groups in relation to employment matters; and
- (b) measures are taken to enable members who are in designated groups to pursue careers in the brigade as effectively as other persons and to have equal opportunities with others in relation to other employment matters.

***member*** means a member of the brigade.

***Merit Protection Act*** means the *Merit Protection (Australian Government Employees) Act 1984* (Cwlth).

***promotion appeal committee*** means a promotion appeal committee established, under section 34, in accordance with the Merit Protection Act part 2, division 2, subdivision B, to hear appeals by members against provisional promotions under section 29 (1).

**staff organisation** means the organisation, within the meaning of the *Workplace Relations Act 1996* (Cwlth)—

- (a) in which members of the brigade are eligible for membership; and
- (b) that is a party to the industrial award that applies in relation to the salaries payable to members.

**unjustified discrimination** includes—

- (a) discrimination that is unlawful under the *Discrimination Act 1991*; and
- (b) unjustified discrimination on the ground of age or social origin; but does not include—
- (c) discrimination that is essential for the effective performance of the relevant duties, is not unlawful under the *Discrimination Act 1991* and is prescribed; or
- (d) discrimination that is not unlawful under the *Discrimination Act 1991* and is in accordance with the equal employment opportunity program for the brigade or a prescribed program.

## **Part 2**

# **Fire commissioner and deputy fire commissioner**

### **4 Fire commissioner**

There shall be a Fire Commissioner, who shall be appointed by the Minister.

### **4A Deputy fire commissioner**

There shall be a Deputy Fire Commissioner, who shall be appointed by the Minister.

### **5 Tenure of office**

- (1) Subject to this Act, the commissioner and the deputy commissioner each holds office for such period, not exceeding 7 years, as is specified in the instrument of his or her appointment and on such terms and conditions as the Minister determines, but is eligible for reappointment.
- (2) Nothing in subsection (1) authorises the Minister to determine conditions relating to superannuation.
- (3) A person who has attained the age of 65 years shall not be appointed or reappointed as the commissioner or the deputy commissioner, and a person shall not be appointed or reappointed as the commissioner or the deputy commissioner for a period that extends beyond the date on which he or she will attain the age of 65 years.

### **7 Leave of absence**

The Minister may grant leave of absence to the commissioner or the deputy commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

## **8 Resignation**

The commissioner or the deputy commissioner may resign his or her office by writing under his or her hand delivered to the Minister but the resignation does not have effect until it is accepted by the Minister.

## **9 Commissioner and deputy commissioner not to undertake other work**

- (1) The commissioner and the deputy commissioner shall not engage in paid employment outside the duties of his or her office except with the approval of the Minister.
- (2) The Minister shall not give an approval for subsection (1) unless he or she is satisfied that the paid employment will not interfere with the performance of the duties of the commissioner or the deputy commissioner, as the case may be, under this Act.
- (3) For the *Superannuation Act 1922* (Cwlth), section 4 (3A) and (4), the commissioner and the deputy commissioner shall each be deemed to be required, by the terms of his or her appointment, to give the whole of his or her time to the duties of his or her office.

## **10 Termination of employment**

- (1) The Minister may retire the commissioner or the deputy commissioner on the ground of invalidity.
- (2) The Minister shall terminate the appointment of the commissioner or the deputy commissioner if the commissioner or deputy commissioner, as the case may be—
  - (a) absents himself or herself from duty for 14 consecutive days, or for 28 days in any 12 months, except on leave granted by the Minister; or
  - (b) is guilty of misbehaviour; or

- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

## **12 Functions, duties and powers of commissioner**

Subject to this Act, the commissioner shall, under the direction of the Minister, be charged with the general control and management of the fire brigade.

## **12A Functions and powers of deputy commissioner**

- (1) The deputy commissioner shall have and may exercise, subject to the control of the commissioner, all the powers and functions of the commissioner under this Act, except the power of delegation under section 15.
- (2) Where, under this Act, the exercise of a power or function by the commissioner is dependent upon the opinion, belief or state of mind of the commissioner in relation to a matter, that power or function may be exercised by the deputy commissioner upon the opinion, belief or state of mind of the deputy commissioner in relation to that matter.

## **13 General orders and instructions**

The commissioner may, from time to time, in writing, issue such general orders and instructions as are necessary to secure the good government and efficient working of the brigade.

## **14 Commissioner to provide information**

The commissioner shall, from time to time, furnish to the Minister such information as the Minister requires concerning the activities of the brigade.

**15 Delegation**

- (1) The commissioner may, by instrument in writing under his or her hand, delegate to a member of the brigade, either generally or otherwise as provided by the instrument of delegation, all or any of his or her powers under this Act except this power of delegation.
- (2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and this Act has effect in relation to the exercise of the power by the delegate as if a reference in this Act to the commissioner were a reference to the delegate.
- (3) A delegation under this section is revocable in writing at will and does not prevent the exercise of a power by the commissioner.



## **Part 3                      Australian Capital Territory fire brigade**

### **Division 3.1              Establishment of brigade**

#### **16                      Establishment of fire brigade**

- (1) There is hereby established an Australian Capital Territory Fire Brigade.
- (2) The brigade shall consist of—
  - (a) the commissioner; and
  - (b) the deputy commissioner; and
  - (c) the members of the brigade.
- (3) The members of the brigade are the officers and firefighters appointed by the commissioner.
- (4) Subject to this Act, the members of the brigade are to be employed on such terms, and subject to such conditions, as are prescribed.
- (5) Nothing in subsection (4) authorises the making of regulations relating to superannuation.

#### **17                      Officers**

The ranks of officers of the brigade shall be—

- (a) superintendent; and
- (b) district officer; and
- (c) station officer.

#### **18                      Firefighters**

The ranks of firefighters shall be—

- (a) senior firefighter; and
- (b) first class firefighter, grade A; and
- (c) first class firefighter, grade B; and
- (d) second class firefighter; and
- (e) third class firefighter; and
- (f) fourth class firefighter.

**19 Alterations of ranks**

The Minister may create new ranks of officers or firefighters in addition to those specified in sections 17 and 18 or in substitution for any of the ranks so specified.

**Division 3.1A Personnel management**

**19A Merit and equal opportunity principles to apply**

- (1) The commissioner's powers in relation to employment matters shall be exercised—
  - (a) without patronage, favouritism or unjustified discrimination; and
  - (b) with regard to the equal employment opportunity program for the brigade.
- (2) Without limiting subsection (1) (a), and subject to subsection (1) (b), the commissioner's powers in relation to the appointment of persons as members, or the appointment of members to act temporarily in higher ranks for 3 months or longer, shall be exercised in accordance with procedures that ensure that—
  - (a) all persons who are eligible for such appointment have, so far as practicable, a reasonable opportunity to apply for it; and

- (b) the appointment is made on the basis of an assessment of the relative suitability of the applicants having regard to—
  - (i) the nature of the duties to be performed; and
  - (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the performance of the duties.
- (3) A reference in this section to the exercise of a power includes a reference to the making of a report or recommendation in relation to the exercise of that power.

## **19B Equal employment opportunity program**

- (1) For section 19A (1) (b), the commissioner must—
  - (a) develop an equal employment opportunity program for the brigade; and
  - (b) review the program.
- (2) The commissioner must consult with the staff organisation, and other people the commissioner considers appropriate, before developing or reviewing the equal employment opportunity program.
- (3) As soon as practicable after the development or review of the equal employment opportunity program, the commissioner must give the commissioner for public administration written particulars of the program.
- (4) The commissioner for public administration may give written guidelines to the commissioner about—
  - (a) the matters to be included in the equal employment opportunity program; and
  - (b) the development, implementation or review of the program.

- (5) The commissioner must take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines given under subsection (4).
- (6) A report prepared by the commissioner under the *Annual Reports (Government Agencies) Act 2004* must include details of the operation of this section for the financial year to which the report relates.

*Note* **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

### **19C Notices relating to appointments, promotions etc**

- (1) The commissioner may, in writing, declare —
  - (a) the manner of determining the order in which successful applicants will be appointed as members of the brigade; or
  - (b) the academic or other qualifications that are relevant for appointment as a member of the brigade; or
  - (c) the academic or other qualifications that are relevant for promotion or acting appointment to a specified rank; or
  - (d) such other matters with respect to appointments or promotions as the commissioner considers desirable.
- (2) The declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

### **19D Tests, examinations etc**

The commissioner may, for this part, arrange for the taking of tests or examinations in connection with—

- (a) the selection of applicants for appointment as members of the brigade; or

- (b) the selection of members for the performance of particular duties (including the temporary performance of duties in higher ranks) or for promotion.

## **Division 3.2                      Appointment of members**

### **20                      Appointments**

- (1) The commissioner shall, in writing, appoint such officers and firefighters as the commissioner thinks necessary for the efficient operation of the brigade.

### **22                      Appointment on probation**

- (1) Subject to the regulations, the appointment of a person as a fourth class firefighter shall be on probation for a period of 6 months commencing on the date on which the person commences duties in pursuance of the appointment.
- (2) As soon as practicable after the expiration of the period of 6 months, the commissioner shall, by instrument in writing under his or her hand—
  - (a) where the person's conduct and service have been satisfactory—confirm the appointment; or
  - (b) in any other case—terminate the appointment, or direct that the probationer continue on probation for such further period (not being a period exceeding 6 months) as the commissioner thinks fit.
- (3) Where the commissioner directs that a probationer continue on probation for a further period, he or she may confirm or terminate the appointment of the probationer at any time during that further period and, if he or she has not confirmed or terminated the appointment before the expiration of that period, he or she shall do so as soon as practicable after the expiration of that period.

- (4) Where the appointment of a probationer is terminated, the commissioner shall cause notice in writing of the reasons for the termination to be given to the probationer.

## **24 Retirement**

- (1) An officer or firefighter who attains the age of 60 years ceases to be a member of the brigade.
- (2) A member of the brigade appointed by the commissioner under section 82 (3) may retire from the brigade—
- (a) upon attaining the age of 55 years; or
  - (b) at any time after attaining the age of 55 years but before attaining the age of 60 years.

## **24A Retirement benefit**

- (1) Where a person—
- (a) ceases to be a member of the brigade under section 24 (1); and
  - (b) immediately before so ceasing was a contributor to the Superannuation Fund established under the Superannuation Act;

that person is entitled to a benefit of an amount ascertained in accordance with the formula—

$$A \times B \times 0.017$$

where—

*A* means the final annual rate of salary of the person.

*B* means the number of completed years of continuous service with the brigade.

- (2) Where, prior to the person becoming a member of the brigade, the person had—

- (a) a relevant period of service that was continuous with his or her service with the brigade; or
- (b) 2 or more relevant periods of service that were continuous with each other and with his or her service with the brigade;

that relevant period of service or those relevant periods of service shall, for subsection (1) (d), be taken to be a continuous period of service with the brigade.

- (3) In this section:

*final annual rate of salary* has the same meaning as in the Superannuation Act.

*relevant period of service* means—

- (a) a period of service with a body that performs, in a State or another Territory, functions similar to those of the brigade; or
- (b) a period of service with the brigade or with a body that performed similar functions in the Territory before the establishment of the brigade.

*Superannuation Act* means the *Superannuation Act 1976* (Cwlth).

## **25 Resignation**

A member may resign from the brigade by writing signed by the member and delivered to the commissioner.

## **26 Reappointment of election candidates**

- (1) Where the commissioner is satisfied that—
  - (a) a person who was a member of the brigade—
    - (i) resigned from the brigade in order to become a candidate for election as a member of a House of Parliament of Australia or of a State or of a Legislative Assembly of a Territory; and

- (ii) was a candidate at the election; and
    - (iii) failed to be elected; and
  - (b) the resignation took effect not earlier than 1 month before the date on which nominations for the election closed;
- the commissioner shall, upon application by the person within 2 months after the declaration of the result of the election, reappoint him or her to the brigade to a position not lower in rank, and at a remuneration and under terms and conditions not less favourable, than that applicable to him or her at the date of his or her resignation.
- (3) A person shall be reappointed under this section without probation.
  - (4) The reference in subsection (1) to the declaration of the result of the election is, in relation to an election the result of which is challenged, a reference to the determination of the challenge by a court of disputed returns or the lapsing of the challenge, whichever happens first.
  - (5) Where—
    - (a) a person who resigned from the brigade as mentioned in subsection (1) (a) (i) was appointed to the brigade on probation and, at the time of the resignation, the person's appointment had not been confirmed; and
    - (b) the person is reappointed to the brigade under this section;section 22 applies in relation to the person as if the person had not resigned but, for the purpose of calculating periods for that section, the period between the person's resignation and the reappointment under this section shall be disregarded.
  - (6) A person reappointed under this section shall be deemed to have continued as a member of the brigade as if he or she had been on leave of absence without pay during the period from and including the day on which his or her resignation became effective to and



including the day immediately preceding the day on which he or she was reappointed.

- (7) The period referred to in subsection (6) shall, for all purposes, be deemed to form part of the member's period of service.

## **27 Leave for service with other fire authorities**

- (1) The commissioner may make an officer or firefighter available to an authority of a State or the Northern Territory.
- (2) Where, under subsection (1), the commissioner makes an officer or firefighter available, the commissioner may grant him or her leave of absence for the period for which he or she is so made available on such terms and conditions as the Minister approves.
- (3) An officer or firefighter shall not be made available under subsection (1) for a continuous period exceeding 3 years.
- (4) A period during which an officer or firefighter is absent on leave granted under subsection (2) forms part of his or her period of service as an officer or firefighter, as the case may be.

## **28 Service by members of other fire authorities with brigade**

Where a person is made available to the commissioner by an authority of a State or the Northern Territory, the provisions of this Act apply to and in relation to the person as if he or she were appointed a member of the brigade under section 20.

# **Division 3.3 Promotions and acting appointments**

## **29 Promotions—general**

- (1) The commissioner may, in writing—
- (a) promote an officer to a higher rank; or
- (b) promote a firefighter to a higher rank of firefighter or to a rank of officer.

- (2) The commissioner shall not promote a member under subsection (1) to a particular rank unless—
  - (a) the commissioner has published in the *Gazette* an invitation for members to apply for promotion to that rank; and
  - (b) the promotion is made within 6 months after the date of publication of the invitation in the *Gazette*.
- (3) A promotion under subsection (1)—
  - (a) is provisional and without increased salary pending confirmation of the promotion;
  - (b) shall be notified in the *Gazette* by the commissioner; and
  - (c) is subject to appeal under section 33.

**29A Selection of members for promotion**

- (1) For section 29 (1), the commissioner shall rank the applicants considered suitable for promotion according to their relative efficiency (with the most efficient being ranked first) and—
  - (a) select the most efficient applicant; or
  - (b) if more than 1 promotion is to be made—select the applicants concerned in the order in which they were so ranked.
- (2) In determining the relative efficiency of the applicants, the commissioner shall have regard to their abilities, qualifications, experience, personal qualities and potential for development that are relevant to the performance of the duties.

**29B Promotion in accordance with joint selection committee advice**

- (1) The commissioner may, in writing, promote a member under this section instead of under section 29 (1).

- (2) A promotion under this section shall be in accordance with the recommendation of a joint selection committee.
- (3) Where the commissioner proposes to make a promotion under this section to a particular rank, the commissioner shall—
  - (a) by written notice given to the staff organisation, invite the organisation to lodge any objection, in writing, to the proposal with the commissioner within 7 days after the date of the notice; and
  - (b) subject to subsections (4) and (5), arrange for the establishment of a joint selection committee to advise the commissioner in relation to the promotion.
- (4) The commissioner shall not make a promotion under this section if the staff organisation objects in accordance with subsection (3) (a).
- (5) The commissioner shall not promote a member under this section to a particular rank unless—
  - (a) the commissioner has published in the *Gazette* an invitation for members to apply for promotion under this section to that rank; and
  - (b) the promotion is made within 6 months after the date of publication of the invitation in the *Gazette*.
- (6) A joint selection committee shall be constituted by—
  - (a) a convenor nominated by the Minister; and
  - (b) a nominee of the commissioner; and
  - (c) a nominee of the staff organisation.
- (7) A promotion under this section—
  - (a) shall be notified in the *Gazette* by the commissioner; and
  - (b) is not subject to appeal; and
  - (c) takes effect on the date of its notification in the *Gazette*.

- (8) Nothing in this section shall be taken to prevent the commissioner from promoting a member under section 29 (1).
- (9) A promotion under this section is not invalid merely because of a defect or irregularity in connection with the nomination of a member of the committee.

### **29C Procedure of joint selection committee**

- (1) A joint selection committee referred to in section 29B shall—
  - (a) assess the claims of the applicants for promotion in such manner as the committee considers necessary to establish their relative efficiency; and
  - (b) rank the applicants whom it considers suitable for promotion according to their relative efficiency, with the most efficient being ranked first.
- (2) The committee shall conduct its proceedings with as little formality and technicality, and as quickly, as a proper consideration of the applications permits.
- (3) Where, before a committee completes its deliberations, a member ceases to be available for the purpose of those deliberations, the committee shall be reconstituted by the remaining members and another member nominated in accordance with section 29B (6).
- (4) If the members of a committee are divided in opinion about the advice to be given to the commissioner in respect of a promotion—
  - (a) if the majority of members concur in the advice—the advice of the majority is to be taken to be the advice of the committee; and
  - (b) in any other case—the advice of the convenor is to be taken to be the advice of the committee.
- (5) Where a committee is reconstituted under subsection (3), the committee may have regard to the evidence given, the arguments

adduced and the reasons for any decision given during proceedings before the committee as previously constituted.

- (6) A member of a committee, while acting as such, is not subject to direction by any other person or body other than a court.

**30      Acting appointments**

The commissioner may appoint a member to act temporarily in a higher rank.

**Division 3.4      Retirement**

**31      Retirement on ground of invalidity**

The commissioner may retire a member on the ground of invalidity.

**32      Excess members**

- (1) The commissioner may, by notice in writing given to a member, retire the member from the brigade.
- (2) The commissioner shall not retire a member under subsection (1) unless—
- (a) the commissioner is satisfied that the member is an excess member; and
  - (b) the member has consented to the exercise of the power.
- (3) A member is an excess member for subsection (2) (a) if—
- (a) the member is included in a class of members employed in the brigade, being a class comprising a greater number of members than is necessary for the efficient and economical working of the brigade; or
  - (b) the services of the member can not be effectively used because of technological or other changes in work methods of the brigade or changes in the nature, extent or organisation of the functions of the brigade.

## Division 3.5 Appeals against promotions

### 33 Appeals against provisional promotions

- (1) Subject to subsection (2), a member may appeal to a promotion appeal committee against the provisional promotion of another member under section 29 (1) on the ground of greater efficiency.
- (2) An appeal shall be made by giving written notice of the appeal to the Merit Protection Review Agency of the Commonwealth, in Canberra, within 14 days after the day on which the provisional promotion is notified in the *Gazette* in accordance with section 29 (3) (b).
- (3) Where an appeal is allowed, the commissioner shall cancel the provisional promotion and promote the appellant to the rank concerned.
- (4) Where the commissioner promotes a member under subsection (3), the promotion shall be deemed to date from the date on which the promotion of the member against whom the appellant successfully appealed was notified in accordance with section 29 (3) (b).
- (5) Where, in respect of a provisional promotion, no appeal is duly made, or all appeals that have been made are disallowed or have become inoperative, the commissioner shall confirm the provisional promotion.
- (6) For this section, an appeal is inoperative if—
  - (a) the appeal is withdrawn; or
  - (b) the appellant ceases to be a member.

### 34 Promotion appeal committees established under Merit Protection Act

- (1) The Merit Protection Act, section 15 applies as if—
  - (a) the Territory were a Commonwealth authority; and

- (b) members of the brigade were Commonwealth employees.
- (2) The Merit Protection Act, section 10, in its application to an appeal against the provisional promotion of a member under section 29 (1), is modified by omitting subsection (1) (b) and (c) and substituting the following paragraphs:
- ‘(b) a nominee of the commissioner of the Australian Capital Territory Fire Brigade; and
- (c) a nominee of the staff organisation representing the members of the Australian Capital Territory Fire Brigade.’.
- (3) The Merit Protection Act, section 11, in its application to an appeal against the provisional promotion of a member under section 29 (1), is modified by omitting ‘officer’ and substituting ‘member of the Australian Capital Territory Fire Brigade’.
- (4) The Merit Protection Act, section 12, in its application to an appeal against the provisional promotion of a member under section 29 (1), is modified by omitting from subsection (4) ‘officer’ and substituting ‘member of the Australian Capital Territory Fire Brigade’.
- (5) The Merit Protection Act applies under this Act as if a reference in that Act to the Merit Protection and Review Agency were a reference to the Merit Protection Commissioner under the *Public Service Act 1999* (Cwlth).
- (6) The Merit Protection Act applies under this Act subject to any modifications prescribed under the regulations.
- (7) This Act applies as if—
- (a) a reference to the Merit Protection Review Agency of the Commonwealth were a reference to the Merit Protection Commissioner under the *Public Service Act 1999* (Cwlth); and

- (b) a reference to the Merit Protection Act were a reference to that Act as in force on 1 July 1999.



## **Part 4                      Discipline**

### **Division 4.1              Duties and obligations of members**

#### **35              Performance of duties**

A member of the brigade—

- (a) shall, during his or her hours of duty, devote himself or herself exclusively and zealously to the discharge of his or her duties; and
- (b) shall give prompt attention to all matters that come within the scope of his or her duties; and
- (c) shall comply with, and give effect to, such of the provisions of the laws in force in the Territory, and of the general orders and instructions issued by the commissioner, as are applicable to him or her in the performance of his or her duties.

#### **36              Obedience to lawful instructions**

A member of the brigade shall promptly obey all lawful instructions given to him or her by the member of the brigade under whose control, direction or supervision he or she performs his or her duties.

#### **37              Influence not to be sought**

A member shall not seek the influence or interest of any person for the purpose of obtaining promotion, transfer or any other benefit or advantage.

#### **38              Solicitation of gifts**

A member of the brigade shall not, either directly or indirectly, solicit or accept a gift or a present from any person concerned directly or indirectly with any matter in which the member in the performance of his or her duties is interested or concerned.

**39 Performance of work outside the brigade**

- (1) Except with the express permission in writing of the commissioner, a member of the brigade shall not, whether within or outside the Territory—
  - (a) accept, or continue to hold or discharge the duties of, a paid office in connection with any business, whether carried on by a body corporate or partnership or an individual; or
  - (b) engage in business, whether as a principal or agent; or
  - (c) engage, or continue in the private practice of, a profession, occupation or trade or enter into employment, whether remunerative or not, in a profession, occupation or trade with a body corporate, partnership or individual; or
  - (d) accept or engage in any remunerative employment otherwise than in connection with his or her duties as a member of the brigade.
- (2) Subsection (1) does not prevent a member of the brigade from becoming a member or shareholder of an incorporated company or of a company or society of persons registered under the law of a State or Territory but, except as provided by subsection (3), a member of the brigade shall not take any part in the conduct of the business of the company or society otherwise than in the exercise of his or her rights as a member or shareholder of the company or society.
- (3) A member of the brigade may, with the written approval of the commissioner, act as a director of a cooperative society that is registered under the law of a State or Territory and does not enter into contracts for the supply of goods or services to Australia.
- (4) The commissioner may, at any time, withdraw a permission or approval granted under this section.

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**40 False, misleading or inaccurate statement**

A member of the brigade shall not, in connection with a matter arising in the course of his or her duty, wilfully make a false, misleading or inaccurate statement.

**41 Improper use of position**

A member of the brigade shall not use the fact that he or she is such a member for the purpose of obtaining a personal advantage.

**42 Public comment by members**

- (1) A member shall not use for any purpose, other than the discharge of his or her duty as a member, information gained through his or her connection with the brigade.
- (2) A member shall not, other than in the discharge of his or her duty as a member, disclose, directly or indirectly, any information obtained by him or her by virtue of his or her being a member.

**Division 4.2 Disciplinary offences**

**43 Disciplinary offences**

A member of the brigade is guilty of a disciplinary offence if—

- (a) he or she contravenes or fails to comply with any of sections 35 to 42; or
- (b) he or she is guilty of disgraceful or improper conduct, either in his or her official capacity or otherwise; or
- (c) he or she is negligent or careless in the discharge of his or her duties; or
- (d) he or she acts in a disorderly manner or in a manner unbecoming a member of the brigade; or
- (e) he or she acts in a manner that is prejudicial to the good order and discipline of the brigade; or

- (f) he or she acts in a manner that brings discredit to the reputation of the brigade; or
- (g) he or she is, while on duty, under the influence of intoxicating liquor or a drug.

## **Division 4.3 Disciplinary powers of commissioner**

### **44 Commissioner may call on member to show cause**

Where it appears to the commissioner that a member of the brigade may have committed a disciplinary offence, the commissioner may cause to be served personally on that member a written notice—

- (a) stating particulars of the disciplinary offence; and
- (b) stating that the member may, within 7 days after the date of service of the notice, deliver to the commissioner a written statement in connection with the alleged disciplinary offence; and
- (c) stating the time and place at which the commissioner will hear and determine the matter; and
- (d) stating that the member is entitled to appear before the commissioner at the hearing of the matter.

### **45 Commissioner to determine charge**

- (1) After the expiration of the time specified in a notice given under section 44, the commissioner shall determine whether the member of the brigade to whom the notice was given has committed the disciplinary offence specified in the notice.
- (2) For the purpose of determining whether a member of the brigade has committed a disciplinary offence, the commissioner shall take into account the contents of any written statement delivered to him or her by the member, and, if the member appears before the commissioner at the hearing, any oral statements made before him or her by the

member, in relation to the question whether the member has committed that disciplinary offence.

- (3) A member who appears before the commissioner at the hearing may be represented by another member of the brigade.

## **46 Penalties**

- (1) Where the commissioner has determined, under section 45, that a member of the brigade has committed a disciplinary offence, the commissioner shall record his or her determination in writing and may—
- (a) reprimand the member; or
  - (b) impose on the member a fine not exceeding \$40; or
  - (c) reduce the member to a lower rank; or
  - (d) reduce the rate of salary of the member to a rate of salary within the limits of salary fixed for the rank held by the member; or
  - (e) dismiss the member.
- (2) The commissioner shall cause to be served personally on the member notice of the determination and of the punishment imposed under subsection (1).
- (3) Where the commissioner has determined that a member of the brigade has not committed a disciplinary offence with which he or she was charged, the commissioner shall notify the member in writing accordingly.
- (4) Unless an appeal is instituted in accordance with section 65, a punishment imposed under this section takes effect at the expiration of the period of 14 days after the date on which the punishment was imposed.

**47 Commissioner may suspend in certain circumstances**

- (1) Where it appears to the commissioner that a member may have committed a disciplinary offence and—
  - (a) the nature of the offence is such that, in the interests of the safety of the brigade, the member should be suspended from duty; or
  - (b) the commissioner considers that the offence is of such a serious nature that the member should not continue to perform his or her duties until the question whether the member has committed the offence has been determined;the commissioner may suspend the member from duty.
- (2) A suspension under this section ceases to have effect unless, within 24 hours of the suspension, the commissioner causes a notice to be served on the member under section 44.
- (3) The commissioner may, at any time, cancel a suspension under this section.
- (4) Where the commissioner or the board determines that the member has not committed a disciplinary offence, the commissioner shall cancel the suspension.

**48 Suspension of member charged with criminal offence**

- (1) Where a member of the brigade is charged with an offence against a law of the Commonwealth or of a State or Territory, whether the offence is punishable on indictment or on summary conviction, the commissioner may suspend the member from duty.
- (2) If, upon the hearing of the charge by a court, the member of the brigade is found guilty of the offence, the commissioner may—
  - (a) dismiss the member; or
  - (b) reduce the member to a lower rank; or

- (c) reduce the salary of the member.
- (3) Where the commissioner has dismissed the member, reduced the member to a lower rank or reduced the salary of the member, the commissioner shall cause to be served personally on the member notice of the dismissal or the reduction, as the case requires.
- (4) The commissioner may at any time revoke the suspension of a member, suspended under this section, whether before or after the conviction of the member.
- (5) Where a person has been dismissed under subsection (2) but—
  - (a) the conviction or finding has subsequently been quashed; or
  - (b) the person has received a pardon; or
  - (c) the conviction or finding has otherwise been nullified; or
  - (d) the person has been released from prison as a result of an inquiry into the conviction;the commissioner shall, at the request of the member made within 1 month of the quashing or nullifying of the conviction or finding, the pardoning of the person or the release of the person, reappoint the person as a member of the brigade.
- (6) Unless the Minister directs otherwise, where a person is reappointed as a member of the brigade under subsection (5)—
  - (a) the person shall be deemed to have been, during the period that commenced on the date of his or her dismissal and ended on the date of his or her reappointment, on leave of absence without pay; and
  - (b) that period shall, for all purposes, be counted as a period of service as a member.

**49 Payment of salary during suspension**

A member of the brigade who is suspended from duty shall be paid his or her salary during the period of the suspension.



## Part 5 Fire Brigade Appeal Board

### 50 Constitution of board

- (1) There is hereby established a Fire Brigade Appeal Board, which shall consist of a chairperson and 2 other members.
- (2) The members of the board shall be appointed by the Minister.

### 51 Qualifications of members

- (1) A person shall not be appointed as chairperson unless—
  - (a) he or she is a magistrate; or
  - (b) he or she is a person whose name is on, and has appeared for at least 5 years on, a roll referred to in the *Judiciary Act 1903* (Cwlth), section 55D (1).
- (2) Of the members of the board other than the chairperson, 1 shall be a person, whether a member of the brigade or not, elected by the members of the brigade.
- (3) There shall be a secretary to the board who shall be appointed by the Minister.
- (4) The secretary shall be a public servant.

### 52 Term of office of members

Each member of the board holds office for such term as is specified in the instrument of appointment, not being a term exceeding 3 years, and, on the expiration of his or her term of office, is, subject to this Act, eligible for reappointment.

### 53 Fees and allowances

The members of the board shall be paid such fees and allowances (if any) as are prescribed.

**54 Vacation of office by members**

- (1) The office of a member of the board becomes vacant if—
  - (a) the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupts or insolvent debtors or compounds with his or her creditors; or
  - (b) the member, by writing under his or her hand addressed to the Minister, resigns his or her office; or
  - (c) the member is guilty of misbehaviour or becomes, in the opinion of the Minister, incapable of performing the duties of his or her office; or
  - (d) in the case of the person elected by the members of the brigade—the brigade elects another person in his or her place.
- (2) Where the office of chairperson of the board becomes vacant, the Minister shall appoint a person having the qualifications referred to in section 51 (1) to the office of chairperson.
- (3) Where the office of a member of the board other than that of chairperson becomes vacant, the Minister shall—
  - (a) in the case of a vacancy other than a vacancy in the office of elected member—appoint a person; or
  - (b) in the case of a vacancy in the office of elected member—appoint a person elected by the members of the brigade;as a member of the board.

**55 Acting appointments**

Where, for any reason, the chairperson or another member of the board is unable to act as the chairperson or as a member, as the case may be, the Minister may—

- (a) appoint a person having the qualifications specified in section 51 (1) to act as chairperson of the board in place of the chairperson;
- (b) appoint a person elected by the members of the brigade to act as a member of the board in place of the elected member; or
- (c) appoint a person to act in place of the other member of the board.

## **56 Protection of members**

An action or proceeding, civil or criminal, does not lie against a member of the board for or in respect of any act or thing done in good faith by the member in his or her capacity as a member.

## **57 Meetings of board**

Meetings of the board shall be called by the chairperson, or by the secretary to the board on the direction of the chairperson, and shall be held at such times and places as are specified by the chairperson.

## **58 Procedure**

- (1) The secretary to the board shall cause notice of the time and place fixed for the hearing of proceedings before the board to be given to the persons entitled to be heard by the board.
- (2) The board may adjourn the hearing of proceedings before it from time to time.
- (3) The board may take evidence on oath or affirmation and, for that purpose, the chairperson may administer an oath or affirmation.
- (4) Subject to this Act, the procedure on the hearing of proceedings before the board is within the discretion of the board.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

**59 Witnesses**

- (1) The board may, of its own motion or on the application of a party to an appeal before it, by writing under the hand of the chairperson, summon a person to attend before the board at a time and place specified in the summons to give evidence in relation to the appeal and to produce any books, documents or writings in his or her custody or under his or her control relating to the appeal that are specified or referred to in the summons.
- (2) A witness appearing before the board may be examined by the chairperson or a member of the board and by a person representing a party to the proceedings before the board.

**60 Service of summons**

A summons to a witness under this Act may be served personally or by sending it by prepaid post as a letter to the person to whom it is directed at his or her last-known place of residence or business.

**61 Offences by witnesses**

A person summoned to attend as a witness before the board shall not—

- (a) without reasonable excuse, refuse or fail to attend, or to produce documents, books or writings, in accordance with the summons; or
- (b) refuse to be sworn or to make an affirmation or, except as provided by the *Evidence Act 1971*, section 57, to answer a question relevant to the proceedings before the board.

Maximum penalty:

- (a) for paragraph (a)—50 penalty units, imprisonment for 6 months or both;
- (b) for paragraph (b)—50 penalty units, imprisonment for 6 months or both.

**62      Obstruction**

A person who obstructs the chairperson or a member of the board in the exercise of the powers conferred on him or her under this Act commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**63      Communication by members of information relating to appeals**

A member of the brigade who communicates any information that he or she has received in the performance of any duties connected with the exercise of the powers or performance of the functions of the board to a person other than a member of the board or to a person to whom the board has authorised him or her to communicate the information commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**64      Protection of witnesses etc**

- (1) A person who, under section 70 (2), represents the appellant or the commissioner in proceedings before the board has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court.
- (2) A witness who gives evidence in proceedings before the board has the same protection as a witness in proceedings before the Supreme Court.

## Part 6 Appeals

### 65 Right of appeal

Subject to this part, where—

- (a) the commissioner has determined that a member has committed a disciplinary offence; or
- (b) the commissioner has, under section 48 (2), dismissed a member, reduced a member to a lower rank or reduced the salary of a member; or

the member may appeal to the board.

### 66 Time for appeal

An appeal under this part shall be instituted before the expiration of the period of 14 days after the date on which notice was served on the appellant for section 46 or 48 or within such further time as the board, either before or after the expiration of that period, allows.

### 67 Institution of appeals

- (1) An appeal under this part shall be instituted by lodging with the secretary to the board a notice of appeal.
- (2) A notice of appeal for this part shall—
  - (a) state the ground or grounds on which the appeal is made; and
  - (b) be signed by the appellant.

### 68 Grounds of appeal

An appeal under this part may be made—

- (a) on the ground that the commissioner's determination was wrong; or

- (b) on the ground that the punishment imposed is unduly severe; or on both of those grounds.

**69 Chairperson to fix date for hearing**

When an appeal is instituted under this part, the chairperson shall—

- (a) fix the date on which, and the time and place at which, the hearing of the appeal will commence; and
- (b) notify the parties to the appeal of the date, time and place so fixed.

**70 Representation**

- (1) On an appeal under this part, the appellant and the commissioner are each entitled to be heard and may examine witnesses and address the board.
- (2) A person who is entitled to be heard on an appeal under this part may be represented by a legal practitioner or by a member of the brigade, and the legal practitioner or member may examine witnesses and address the board on behalf of the person.

**71 Appeal to be rehearing**

An appeal under this part shall be by way of a rehearing.

**72 Record of proceedings**

The board shall cause a record to be made of the evidence of a witness at the hearing of an appeal under this part.

**73 Decisions of questions**

- (1) A question of law arising in an appeal under this part (including the question whether a particular question is one of law) shall be determined in accordance with the opinion of the chairperson.

- (2) Subject to subsection (1), a question arising in an appeal under this part shall be determined in accordance with the opinion of a majority of the board.

**74 Appeal to be heard in private except where board directs otherwise**

The hearing of an appeal under this part shall not be open to the public except to the extent that the board, in its discretion, directs.

**75 Powers of board**

On an appeal under this part, the board may—

- (a) affirm, vary or set aside the determination of the commissioner; and
- (b) where the board affirms the determination—impose on the appellant any punishment that the commissioner could have imposed.

**76 Minister and commissioner to give effect to decision of board**

Where the board imposes a punishment on a member of the brigade, the Minister, in the case of an officer, or the commissioner, in the case of a firefighter, shall take such action as is necessary to give effect to the decision of the board.



## Part 7                      Miscellaneous

### 77                      Appeal to Supreme Court

A member of the brigade may, within the period of 21 days after the decision of the board, or within such further time as the Supreme Court, either before or after the expiration of that period, allows, appeal to the Supreme Court from the decision.

### 78                      Powers of Supreme Court on appeal

On an appeal under section 77, the Supreme Court may confirm, vary or reverse the decision of the board and may make such further order in the matter as it thinks just.

### 79                      Payment of fines

- (1) A fine imposed on a member of the brigade under part 4 is payable—
  - (a) at the expiration of the period of 14 days after the date on which notice is served on the member in accordance with section 46 (2); or
  - (b) where, on an appeal under part 6, the fine is imposed by the board or the imposition of the fine by the commissioner is confirmed by the board—at the expiration of 14 days after the date determined for this paragraph by the board.
- (2) Where—
  - (a) a fine imposed on a member of the brigade under part 4 is payable; and
  - (b) the fine has remained unpaid for not less than 14 days;

the commissioner may cause the amount of the fine to be deducted from salary due to the member either in a lump sum or by such instalments as the commissioner thinks proper.

**80                      Service of notices**

Where a notice is required by this Act to be given to or served on a person, it may be given or served by post.

**81                      Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note*       Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to—

- (a) the appointment and promotion of members; and
- (b) examinations connected with the appointment and promotion of members; and
- (c) the temporary appointment of an officer to a higher rank.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Fire Brigade (Administration) Ordinance 1974* No 52 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

#### Legislation before becoming Territory enactment

##### **Fire Brigade (Administration) Act 1974 No 52**

notified 22 November 1974

s 1, s 2 commenced 22 November 1974

remainder commenced 25 November 1974 (Cwlth Gaz 1974 No 95F)

as amended by

##### **Fire Brigade (Administration) Ordinance 1975 No 4**

notified 20 February 1975

commenced 20 February 1975

##### **Fire Brigade (Administration) Ordinance (No. 2) 1975 No 10**

notified 11 April 1975

commenced 11 April 1975

##### **Fire Brigade (Administration) Ordinance (No. 3) 1975 No 38**

notified 31 October 1975

commenced 31 October 1975

##### **Ordinances Revision Ordinance 1978 No 46**

notified 28 December 1978

commenced 28 December 1978

##### **Fire Brigade (Administration) (Amendment) Ordinance 1980 No 38**

notified 17 October 1980

commenced 17 October 1980

**Fire Brigade (Administration) (Amendment) Ordinance 1982 No 21**

notified 4 June 1982

commenced 2 April 1987 (Cwlth Gaz 1987 No S57)

**Fire Brigade (Administration) (Amendment) Ordinance 1989 No 3**

notified 1 March 1989

commenced 1 March 1989

**Self-Government (Consequential Amendments) Ordinance 1989  
No 38 sch 1**

notified 10 May 1989

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989  
No S164)**Legislation after becoming Territory enactment****Fire Brigade (Administration) (Amendment) Act 1991 No 86**

notified 24 December 1991 (Gaz 1991 No S155)

commenced 24 December 1991

**Fire Brigade (Administration) (Amendment) Act 1992 No 17**

notified 2 June 1992 (Gaz 1992 No S62)

s 1, s 2 commenced 2 June 1992 (s 2 (1))

remainder (ss 3-18) commenced 2 December 1992 (s 2 (3))

**Fire Brigade (Administration) (Amendment) Act 1993 No 51**

notified 27 August 1993 (Gaz 1993 No S165)

commenced 27 August 1993 (s 2)

**Annual Reports (Government Agencies) (Consequential Provisions)  
Act 1995 No 25 sch**

notified 5 September 1995 (Gaz 1995 No S212)

sch commenced 5 September 1994 (s 2)

**Remuneration Tribunal (Consequential and Transitional Provisions)  
Act 1995 No 56 sch**

notified 20 December 1995 (Gaz 1995 No S313)

sch commenced 21 December 1995 (s 2 and see Gaz 1995 No S315)

## Endnotes

3 Legislation history

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**Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Public Sector Legislation Amendment Act 1999 No 70 s 4**

notified 3 December 1999 (Gaz 1999 No S62)  
s 1, s 2 commenced 3 December 1999 (IA s 10B)  
s 4 commenced 5 December 1999 (s 2 and see Cwlth Gaz 1999 No S584)

**Public Sector Legislation Amendment Act 2000 No 77 s 4**

notified 21 December 2000 (Gaz 2000 No S69)  
s 1, s 2 commenced 21 December 2000 (IA s 10B)  
s 4 commenced 31 December 2000 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 152**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 152 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.10**

notified LR 11 September 2003  
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))  
sch 3 pt 3.10 commenced 9 October 2003 (s 2 (1))

**Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.14**

notified LR 19 March 2004  
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))  
sch 1 pt 1.14 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

## 4 Amendment history

### Commencement

s 2 om 2001 No 44 amdt 1.1717

### Definitions for Act

s 3 def **commissioner** sub 1975 No 10  
 am 1982 No 21  
 def **deputy commissioner** ins 1982 No 21  
 def **designated group** ins 1992 No 17 s 4  
 def **employment matter** ins 1992 No 17 s 4  
 def **equal employment opportunity program** ins 1992  
 No 17 s 4  
 def **Merit Protection Act** ins 1992 No 17 s 4  
 def **promotion appeal committee** ins 1992 No 17 s 4  
 def **staff organisation** ins 1992 No 17 s 4  
 def **unjustified discrimination** ins 1992 No 17 s 4

### Fire commissioner and deputy fire commissioner

pt 2 hdg sub 1982 No 21

### Deputy fire commissioner

s 4A ins 1982 No 21

### Tenure of office

s 5 am 1982 No 21

### Remuneration and allowances

s 6 am 1982 No 21  
 om 1995 No 56 sch

### Leave of absence

s 7 am 1982 No 21

### Resignation

s 8 am 1982 No 21

### Commissioner and deputy commissioner not to undertake other work

s 9 am 1982 No 21

### Termination of employment

s 10 am 1982 No 21

### Acting appointments

s 11 am 1975 No 10  
 om 1982 No 21

### Functions and powers of deputy commissioner

s 12A ins 1982 No 21

### Commissioner to provide information

s 14 am 1995 No 25 sch

## Endnotes

### 4 Amendment history

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#### **Establishment of brigade**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R4 LA

#### **Establishment of fire brigade**

s 16 am 1982 No 21; 1992 No 17 s 17; R4 LA

#### **Firefighters**

s 18 hdg sub 1992 No 17 note

s 18 am 1992 No 17 s 17; R4 LA

#### **Alterations of ranks**

s 19 am 1992 No 17 s 17

#### **Personnel management**

div 3.1A (prev pt 3 div 1A hdg) ins 1992 No 17 s 5  
renum R4 LA

#### **Merit and equal opportunity principles to apply**

s 19A ins 1992 No 17 s 5

#### **Equal employment opportunity program**

s 19B ins 1992 No 17 s 5  
am 1995 No 25 sch  
sub A2003-41 amdt 3.217  
am A2004-9 amdt 1.19

#### **Notices relating to appointments, promotions etc**

s 19C ins 1992 No 17 s 5  
am 2001 No 44 amdt 1.1718, amdt 1.1719

#### **Tests, examinations etc**

s 19D ins 1992 No 17 s 5

#### **Appointment of members**

div 3.2 hdg (prev pt 3 div 2 hdg) am 1991 No 86 s 3  
sub 1992 No 17 s 6  
renum R4 LA

#### **Appointments**

s 20 am 1992 No 17 s 7

#### **Appointment of person under 18 or over 34**

s 21 om 1992 No 17 s 8

#### **Appointment on probation**

s 22 am 1992 No 17 s 9

#### **Qualifications**

s 23 om 1992 No 17 s 10

#### **Retirement**

s 24 am 1982 No 21; 1992 No 17 s 17



**Retirement benefit**

s 24A ins 1991 No 86 s 4

**Resignation**

s 25 sub 1989 No 3

**Reappointment of election candidates**

s 26 am 1989 No 3; 1992 No 17 s 11; R4 LA

**Leave for service with other fire authorities**

s 27 am 1992 No 17 s 17

**Promotions and acting appointments**div 3.3 hdg (prev pt 3 div 3 hdg) sub 1992 No 17 s 12  
renum R4 LA**Promotions—general**

s 29 sub 1992 No 17 s 12

**Selection of members for promotion**

s 29A ins 1992 No 17 s 12

**Promotion in accordance with joint selection committee advice**

s 29B ins 1992 No 17 s 12

**Procedure of joint selection committee**

s 29C ins 1992 No 17 s 12

**Acting appointments**

s 30 sub 1992 No 17 s 12

**Retirement**

div 3.4 hdg (prev pt 3 div 4 hdg) renum R4 LA

**Excess members**s 32 om 1992 No 17 s 13  
ins 1993 No 51 s 4**Appeals against promotions**

div 3.5 hdg (prev pt 3 div 5 hdg) renum R4 LA

**Appeals against provisional promotions**

s 33 am 1992 No 17 s 14

**Promotion appeal committees established under Merit Protection Act**s 34 sub 1992 No 17 s 15  
am 1999 No 70 s 4; 2000 No 77 s 4**Duties and obligations of members**

div 4.1 hdg (prev pt 4 div 1 hdg) renum R4 LA

**Disciplinary offences**

div 4.2 hdg (prev pt 4 div 2 hdg) renum R4 LA

## Endnotes

4 Amendment history

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### **Disciplinary powers of commissioner**

div 4.3 hdg (prev pt 4 div 3 hdg) renum R4 LA

### **Suspension of member charged with criminal offence**

s 48 am 1975 No 4; R4 LA

### **Qualifications of members**

s 51 am 1989 No 38

### **Procedure**

s 58 am 2001 No 44 amdt 1.1720, amdt 1.1721

### **Offences by witnesses**

s 61 am 1998 No 54 sch

### **Obstruction**

s 62 am 1998 No 54 sch

### **Communication by members of information relating to appeals**

s 63 am 1998 No 54 sch

### **Protection of witnesses etc**

s 64 am 1997 No 96 sch 1

### **Right of appeal**

s 65 am 1975 No 4

### **Time for appeal**

s 66 sub 1975 No 4

### **Representation**

s 70 am 1997 No 96 sch 1

### **Minister and commissioner to give effect to decision of board**

s 76 am 1992 No 17 s 17

### **Appeal to Supreme Court**

s 77 am 1998 No 46

### **Regulation-making power**

s 81 am 1989 No 38  
sub 2001 No 44 amdt 1.1722

### **Appointment of certain persons**

s 82 am 1975 No 4; 1975 No 38  
om 1992 No 17 s 16

### **Transitional**

pt 8 hdg om 2001 No 44 amdt 1.723

### **Validation of certain acts**

s 83 ins 1980 No 38  
om 2001 No 44 amdt 1.723

## 5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Replication No	Amendments to	Replication date
1	Act 1992 No 17	2 December 1992
2	Act 1995 No 56	1 January 1996
3	Act 1998 No 54	31 March 1999
4	A2001-44	23 November 2001
5	A2003-41	9 October 2003

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