



AUSTRALIAN CAPITAL TERRITORY

## Fire Brigade (Amendment) Act 1995

No. 57 of 1995

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### **An Act to amend the *Fire Brigade Act 1957***

*[Notified in ACT Gazette S313: 20 December 1995]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Fire Brigade (Amendment) Act 1995*.

#### **Commencement**

2. This Act commences on the day on which it is notified in the *Gazette*.

#### **Principal Act**

3. In this Act, “Principal Act” means the *Fire Brigade Act 1957*.<sup>1</sup>

#### **Interpretation**

4. Section 4 of the Principal Act is amended—

- (a) by inserting in subsection (1) the following definitions:

“ ‘closure notice’ means a notice under subsection 12A (1) that complies with subsection 12AC (1);

‘improvement notice’ means a notice under subsection 12A (1) that complies with subsection 12AA (1);

‘occupancy notice’ means a notice under subsection 12A (1) that complies with section 12AB;” and

- (b) by inserting after “section” (first occurring) in subsection (3) “12A, 12AA, 12AF, 12AG,”.

### **Inspection of premises**

5. Section 11 of the Principal Act is amended by adding at the end “or whether grounds exist for making an application for a notice under subsection 12A (1)”.

### **Substitution**

6. Section 12A of the Principal Act is repealed and the following sections are substituted:

#### **Court orders for notices**

“12A. (1) The Chief Officer may apply to the Magistrates Court for an order for the issue of—

- (a) an improvement notice;
- (b) an occupancy notice; or
- (c) a closure notice;

in respect of premises.

“(2) An application shall be supported by an affidavit setting out the grounds for believing that—

- (a) the premises or part of the premises;
- (b) anything upon the premises;
- (c) the lack or inadequacy of fire prevention measures or fire safety measures on or in relation to the premises;
- (d) the use to which the premises are or are likely to be put; or
- (e) the number of persons who are likely to be on the premises at any time;

is or are likely to present a risk to public safety or to the safety of persons who are or are likely to be on the premises, being a risk from fire or other hazard.

“(3) The occupier of the premises to which an application relates is the respondent to the application.

“(4) Where, on an application for an order for the issue of a closure notice in respect of premises, the Magistrates Court is satisfied that the gravity of the risk is such that the notice sought should be issued forthwith, the Court may make an interim order for the issue of such a notice whether or not a copy of the application and of the supporting affidavit have been served on the respondent.

“(5) An interim order may be made *ex parte*.

“(6) Jurisdiction is conferred on the Magistrates Court to hear and determine an application under this section.

“(7) The Chief Officer shall serve a copy of a notice under subsection (1) on the person whom he or she believes on reasonable grounds to be the occupier of the premises.

“(8) Where the person on whom a copy of a notice under subsection (1) is served is not the owner of the premises, the Chief Officer shall serve a copy of the notice on the owner.

“(9) The effectiveness of a notice under subsection (1) is not affected by a failure to comply with subsection (8).

“(10) A notice under subsection (1) continues in force and has effect—

- (a) as varied under section 12AH; and
- (b) until revoked in accordance under section 12AG or 12AH.

### **Improvement notices**

“12AA. (1) An improvement notice shall specify—

- (a) the action that the occupier of the premises is to take in order to reduce the risk, from fire or other hazard, to public safety or to the safety of persons who are or are likely to be on premises, to a level that the Chief Officer considers acceptable; and
- (b) the period of time during which the action is to be taken.

“(2) Before the end of the period specified in an improvement notice, the Chief Officer may, on his or her own motion or on application from the occupier of the premises, by notice in writing given to the occupier, extend that period.

### **Occupancy notices**

“12AB. An occupancy notice shall direct the occupier of the premises not to permit more than the number of persons specified in the notice to be on the premises at any time.

### **Closure notices**

“12AC. (1) A closure notice shall direct the occupier of the premises not to permit any other person to be on the premises.

“(2) In subsection (1), the reference to any other person shall be read as not including a person required or permitted to be on the premises—

- (a) in the course of his or her employment with the occupier;
- (b) for the purpose of cleaning, maintaining, repairing or altering the premises or anything on them; or
- (c) for the purposes of this Act.

**Compliance with notices**

“12AD. A person on whom a notice under subsection 12A (1) has been served shall not, without reasonable excuse, fail to comply with the notice.

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

**Display of notices**

“12AE. The occupier of premises in respect of which a notice under subsection 12A (1) has been served shall display a copy of the notice at each entrance to the premises in such manner as to enable it to be read by persons outside the premises.

Penalty: 10 penalty units.

**Enforcement of occupancy and closure notices**

“12AF. (1) The Chief Officer, a member of the Brigade or a police officer may take such action as is reasonable in order to ensure that an occupancy notice or a closure notice is complied with.

“(2) Without prejudice to the generality of subsection (1), the Chief Officer, a member of the Brigade or a police officer may, if he or she believes on reasonable grounds that a person has contravened an occupancy notice or a closure notice—

- (a) enter the relevant premises with such force and such assistance as is reasonable;
- (b) prevent a person from entering premises; or
- (c) remove a person from premises.

“(3) The occupier of the relevant premises is liable to pay to the Territory an amount equal to the amount of the costs or expenses necessarily and reasonably incurred in taking action under this section.

**Chief Officer’s power to revoke notices**

“12AG. (1) The Chief Officer may, on his or her own motion or on written application by the occupier or owner of the relevant premises, revoke an occupancy notice or a closure notice if satisfied that—

- (a) it is reasonable for him or her to do so; and
- (b) the revocation does not increase a risk referred to in subsection 12A (1).

“(2) The Chief Officer shall revoke an improvement notice if—

- (a) all the action required to be taken under it has been taken to the satisfaction of the Chief Officer; or
- (b) the Chief Officer is satisfied that the risk referred to in subsection 12A (1) is no longer present or likely to be present, as the case requires.

**Court's power to vary or revoke notices**

“12AH. The Magistrates Court, on application of the Chief Officer or the occupier or owner of the relevant premises, may make an order for the variation or revocation of a notice under subsection 12A (1).”.

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**NOTES**

**Principal Act**

1. Reprinted as at 31 January 1994. See also Acts Nos. 81 and 109, 1994.

**Penalty units**

See section 33AA of the *Interpretation Act 1967*.

*[Presentation speech made in Assembly on 12 December 1995]*