

1995
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Emergency Services)

Fire Brigade (Amendment) Bill 1995

A BILL

FOR

An Act to amend the *Fire Brigade Act 1957*

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*.

5 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*.¹

10 Interpretation

4. Section 4 of the Principal Act is amended—

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

Job No.: 1995/171

“ ‘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);

5 ‘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

10 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

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 Section 12A of the Principal Act is repealed and the following sections are substituted:

Magistrate may issue notices

“12A. (1) Where information on oath is laid before a magistrate by the Chief Officer alleging that there are reasonable grounds for believing that—

- (a) premises or part of premises;
- 20 (b) anything upon premises;
- (c) the lack or inadequacy of fire prevention measures or fire safety measures on or in relation to premises;
- (d) the use to which premises are or are likely to be put; or
- 25 (e) the number of persons who are likely to be on 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 premises, being a risk from fire or other hazard, and the information sets out those grounds, the magistrate may authorise the Chief Officer to issue—

- 30 (f) an improvement notice;
- (g) an occupancy notice; or
- (h) a closure notice.

“(2) A magistrate shall not authorise the issue of a notice under subsection (1) unless—

- (a) the informant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) that the magistrate requires concerning the grounds on which the issue of the notice is being sought; and
- 5 (b) the magistrate is satisfied that there are reasonable grounds for issuing the notice.

“(3) 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.

- 10 “(4) 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.

“(5) The effectiveness of a notice under subsection (1) is not affected by a failure to comply with subsection (4).

- 15 “(6) 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—

- 20 (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.

- 25 “(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

- 30 “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

- 35 “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;
- 5 (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.

10 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
15 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
20 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—

- 25 (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.

“30 (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
35 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 variation or revocation, as the case requires, does not increase a risk referred to in subsection 12A (1).

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

- 5 (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.

10 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 vary or revoke a notice under subsection 12A (1).”.

Appeal

- 15 7. Section 12B of the Principal Act is amended—
 - (a) by omitting from subsection (1) “an order of the Magistrates Court made” and substituting “an authorisation to issue a notice”;
 - (b) by omitting subsection (2);
 - 20 (c) by omitting from subsection (3) “or order,” and substituting “, order or authorisation,”; and
 - (d) by omitting from subsection (4) “or order the subject of the appeal” and substituting “, order or authorisation the subject of the appeal, or of a notice issued pursuant to an authorisation the subject of an appeal”.

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*.

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