

AUSTRALIAN CAPITAL TERRITORY

FIRE BRIGADE (ADMINISTRATION) ACT 1974

INSTRUMENT NO. 319 OF 2000

**APPOINTMENT AND DETERMINATION
OF TERMS AND CONDITIONS**

In pursuance of sections 4 and 5 of the *Fire Brigade (Administration) Act 1974*, I **APPOINT**

IAN MOUNTFORD BENNETT

as **FIRE COMMISSIONER** for a period of five years, commencing on the day this Instrument is notified in the Gazette, and **DETERMINE** that the terms and conditions of the appointment are set out in the Attachment.

Dated this 3rd day of October 2000.

GARY HUMPHRIES MLA
Minister for Justice and Community Safety

ATTACHMENT

FIRE BRIGADE (ADMINISTRATION) ACT 1974

1 DUTIES

The Fire Commissioner must undertake to bring expenditure each financial year within the budget allocated to him, unless a variation has previously been allowed in writing by the Executive Director, Emergency Services Bureau.

[EXPLANATORY NOTE:

Section 12 of the Fire Brigade (Administration) Act 1974 provides for the functions, duties and powers of the Fire Commissioner. Clause 1 forms part of the Fire Commissioner's duty of general control and management of the fire brigade pursuant to section 12.]

2 HOURS OF DUTY

Ordinary hours of duty shall be 36 hours 45 minutes per week between 8.00 am and 6.00 pm Monday and Friday. However, the Fire Commissioner will be expected to be available for work, if required, on a 24-hour basis.

3 LEAVE AND OTHER ENTITLEMENTS

- (1) The Fire Commissioner is entitled to four weeks leave of absence on full pay for recreation leave after each completed year of service which will accrue on the First of January of each year.
- (2) The Fire Commissioner shall be entitled to a sick leave credit of two weeks on full pay and two weeks on half pay for each year of service.

[EXPLANATORY NOTE

Recreation Leave

Note that a carry over of recreation leave entitlements from previous service with the ACT Fire Brigade will be permitted. On 01 January 2001, a pro rata amount will be calculated based on the proportionate lengths of service as Fire Commissioner and Superintendent in the preceding year.

At the end of his appointment or upon resignation unused recreation leave and a pro rata credit based on completed months of service shall be paid to the Fire Commissioner as a lump sum calculated at his ordinary rate of pay and in accordance with arrangements that may be agreed upon between the Fire Commissioner and the Executive Director, Emergency Services Bureau.

Sick Leave

The Fire Commissioner shall be eligible for recognition of prior sick leave credit in accordance with arrangements that apply to all ACT Government employees.

Unutilised sick leave credits can accumulate without limitation. However, at the end of his appointment or upon resignation as Fire Commissioner, any accumulated sick leave is lost except where the appointee resumes an appointment with the ACT Fire Brigade or ACTPS.

Long Service Leave

The Fire Commissioner's Long Service Leave entitlements are determined under Part VII of the Public Sector Management Act 1994 (see the definition of "officer" in section 148(1) of that Act)

Salary and Allowances

The Fire Commissioner shall receive such remuneration and allowances to be paid, and entitlements to be granted, as are determined by the Remuneration Tribunal pursuant to the Remuneration Tribunal Act 1995

Compensation

The Fire Commissioner shall be eligible for such compensation benefits as are prescribed by the Commonwealth's Safety Rehabilitation and Compensation Act 1988.

4 DISCLOSURE OF MATERIAL INFORMATION

The Fire Commissioner shall provide, as soon as practicable to the Executive Director, Emergency Services Bureau, information on the following:

- (1) any action, suit or proceeding brought against him before a judicial, quasi-judicial or administrative body;
- (2) his conviction of any offence;
- (3) his bankruptcy or an application to take the benefit of any law for the relief of bankrupt or insolvent debtor pursuant to subsection 10(2)(c) of the *Fire Brigade (Administration) Act*;
- (4) compromise with his creditors or an assignment of his remuneration to their benefit pursuant to subsection 10(2)(c) of the *Fire Brigade (Administration) Act*;
- (5) a written statement of his personal financial interests upon taking the appointment whenever his personal financial interests change substantially; and
- (6) actual, possible or potential conflicts of interest or perception of a conflict of interest of which he is aware or ought to be aware.

[EXPLANATORY NOTE]

Other statutory provisions also impose disclosure requirements on the Fire Commissioner.

Termination of Employment

Clause 4 requires the Fire Commissioner to disclose certain information as soon as practicable to the Executive Director, Emergency Services Bureau. Failure to do so could be regarded as misbehaviour pursuant to section 10 of the Fire Brigade (Administration) Act 1974.

Section 10 of the Act provides for the termination of the appointment of the Fire Commissioner.

Subsection 10 (1) provides that the Minister may retire the Fire Commissioner on the ground of invalidity.

Subsection 10(2) makes it mandatory for the Minister to terminate the appointment of the Fire Commissioner in any of the following circumstances:

- (a) the Fire Commissioner absents himself from duty for 14 consecutive days, or for 28 days in any 12 months, except on leave granted by the Minister;
- (b) the Fire Commissioner is guilty of misbehaviour; or
- (c) the Fire Commissioner becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

Performance Reporting

The Fire Commissioner shall, from time to time, furnish to the Minister (or his delegate) such information as the Minister requires concerning the activities of the Fire Brigade pursuant to section 14 of the Fire Brigade (Administration) Act 1974.

Note that the Fire Commissioner's failure or refusal to submit such information or report required by the Minister (or his delegate) may be considered misbehaviour under subsection 10 (2) (b) of the Act.

Employment Outside Official Duties

Subsection 9 (1) prohibits the Fire Commissioner from engaging in paid employment outside the duties of his office except with the approval of the Minister (or his delegate).

Subsection 9 (2) mandates the Minister not to give his approval for purposes of subsection 9(1) unless he is satisfied that the paid employment will not interfere with the performance of the duties of the Fire Commissioner.

Subsection 9 (3) provides that the Fire Commissioner shall be deemed to be required by the terms of his appointment to give the whole of his time to the duties of his office.

Disclosure of Information

Pursuant to the Crimes (Offences Against the Government) Act 1989, the Fire Commissioner, during his employment, shall not disclose without lawful authority:

- (1) any information acquired by him as a consequence of his employment; and
- (2) any information acquired by him from any document to which he has access as a consequence of his employment.

Upon termination of his appointment, the Fire Commissioner shall not, without lawful authority, disclose any information which came to his knowledge as Fire Commissioner.

This requirement, however, does not apply to the extent the confidential information is in the public domain.]

5 UNIFORM

The Emergency Services Bureau, will meet the cost (from funds allocated to the Fire Brigade) of the

- (1) replacement of the official uniform as a consequence of fair wear and tear, upon the approval of the Executive Director, Emergency Services Bureau; and
- (2) cleaning and/or repairs should the official uniform be unduly soiled or damaged in the course of duty.

[EXPLANATORY NOTE

The Fire Commissioner is in possession of an official uniform which was provided during his previous period of employment with the Fire Brigade.

Note that the regular cleaning and maintenance of the official uniform will be the responsibility of the Fire Commissioner.]

6 RESTROSPECTIVE EFFECT

The terms and conditions of this appointment in so far as they do not prejudice the appointee shall apply from 18 April 2000, the date when the appointee commenced duties as Fire Commissioner in an acting capacity.

[EXPLANATORY NOTE

Note that clause 6 is subject to section 7 of the Subordinate Laws Act 1989 which provides that a subordinate law (which includes a determination made by the Minister pursuant to a provision of an Act) shall not be expressed to take effect before the date of its notification in the Gazette if :

- (a) the rights of a person existing at the date of notification would be affected in a manner prejudicial to that person; or*
- (b) liabilities would be imposed on a person in respect of any act or omission before the date of notification.]*

7 TRANSITIONAL REVIEW

In the event that section 5 of the *Fire Brigade (Administration) Act 1974* is amended or repealed, this appointment will continue. The Minister, however, may vary the terms and conditions of this appointment in accordance with the requirements of the new law.

[EXPLANATORY NOTE

Note that the terms and conditions of this appointment may be amended to comply with the new law. However, such new terms and conditions will not have retrospective effect.]