

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

FIRE BRIGADE (ADMINISTRATION) (AMENDMENT) ORDINANCE 1989

No. 3 of 1989

The Fire Brigade (Administration) Ordinance 1974 (the Principal Ordinance) is an Ordinance relating to the administration of the ACT Fire Brigade.

The Fire Brigade (Administration) (Amendment) Ordinance 1989 (the proposed Ordinance) amends the Principal Ordinance with respect to the resignation of members of the ACT Fire Brigade who wish to contest elections, in particular, elections for the ACT Legislative Assembly.

The Ordinance amends two sections of the Principal Ordinance relating to the resignation procedure for fire brigade members and the reappointment of persons who have resigned to become candidates at elections.

The amended resignation procedure provides that a resignation takes effect when it is delivered to the Commissioner. The requirement in the Principal Ordinance that a resignation is only to take effect after the expiration of seven days from the date of notice to the Commissioner will be omitted. The amendment is necessary to remove any difficulties for candidates for election to the ACT Legislative Assembly. Successful candidates are required, by subsection 67(4) of the Australian Capital Territory (Self-Government) Act 1988 to resign from the Brigade before the first meeting of the Assembly. The Assembly will be required by the Australian Capital Territory (Self-Government) Act 1988 to meet within seven days after the result of a general election is declared. The notice period for an effective resignation may disqualify a member of the brigade from taking a seat, particularly when a candidate's election remains in doubt until the final stages of the count.

The Ordinance also amends the Principal Ordinance to provide for the mandatory reappointment of persons who have resigned to become candidates for a Legislative Assembly of a Territory and for the calculation of the probation period of a member who resigns and is subsequently reappointed in these circumstances.

The provisions of the Ordinance apply to members who have resigned before the commencement of the Ordinance to contest the forthcoming elections for the ACT Legislative Assembly.

These amendments bring the Principal Ordinance into line with similar provisions in section 47C of the Public Service Act 1922.

Details of the Ordinance are attached.

**ISSUED BY AUTHORITY OF
THE MINISTER OF STATE
FOR THE ARTS AND TERRITORIES**

ATTACHMENT

Section 1 cites the short title of the Ordinance.

Section 2 defines 'Principal Ordinance' as the Fire Brigade (Administration) Ordinance 1974.

Section 3 repeals section 25 of the Principal Ordinance which requires that a member give seven days' notice of resignation from the Brigade and that the resignation is not effective until the expiration of the seven days. Section 3 also substitutes a new section 25 which provides that a member may resign from the Brigade by writing signed by the member and delivered to the Commissioner.

Subsection 4(1) amends section 26 of the Principal Ordinance, which concerns the reappointment of election candidates, by -

- (a) adding at the end of subparagraph (1)(a)(i) a provision extending the operation of the section to a member who resigns to become a candidate for election as a member of a Legislative Assembly of a Territory;
- (b) removing the Commissioner's discretion to refuse reappointment of persons who have resigned to become candidates for elections; and
- (c) inserting new subsections (3A) and (3B).

Subsection (3A) of the Principal Ordinance provides that the reference in subsection 26(1) to the declaration of the result of the election, in relation to an election the result of which is challenged, shall be read as a reference to the determination of the challenge by a court of disputed returns or the lapsing of the challenge, whichever happens first.

Subsection (3B) of the Principal Ordinance provides that for the purposes of calculating a member's probationary period where that member was appointed to the Brigade on probation and at the time of resignation that appointment had not been confirmed, the period between resignation and reappointment will be disregarded.

Subsection 4(2) provides that the amendments made by subsection 4(1) of the Ordinance apply to a resignation of a member who becomes a candidate at an election unless the result of the election was declared earlier than two months before the commencement of the subsection.