

FIRE SERVICES AMENDMENT BILL

EXPLANATORY NOTE

This Bill amends the Fire Services Act 1972. *Part I* makes provision for a Fire Service Commission to replace the Fire Service Council and *Part II* provides for miscellaneous amendments.

Clause 1 relates to the Short Title and commencement of the Bill. *Part I* is to come into force on 1 April 1974, and *Part II* (except for *clause 14*) is to come into force on the passing of the Bill.

PART I

ESTABLISHMENT OF FIRE SERVICE COMMISSION

Clause 2 amends the definition of "Chief Fire Service Officer", and adds a new definition of "Chief Fire Service Inspector". It also inserts a definition of "Commission" to replace the definition of "Council".

Clause 3 repeals sections 3 to 7 of the principal Act and substitutes new sections to provide for the establishment of the Fire Service Commission to replace the Fire Service Council.

The new section 3 establishes the Commission as a corporate body succeeding the Fire Service Council and taking over its assets and liabilities.

The new section 4 provides for the membership of the Commission. It is to consist of 3 members to be appointed by the Governor-General, namely—

- (a) One member, being a person having a special knowledge of administration.
- (b) Two members, with a background of senior operational experience in a fire service, of whom one shall be appointed as the Chief Fire Service Officer and the other as Chief Fire Service Inspector.

The members are to hold office for a term not exceeding 5 years, but may be reappointed. The section also provides the procedure for removing members from office for specified reasons, for the resignation of members, and for the filling of vacancies.

The new section 5 provides for a qualified person to be appointed as a deputy of a member of the Commission in any case where the member is incapacitated or prevented from performing the duties of his office. A person appointed as deputy for the Chairman of the Commission is to act as Chairman notwithstanding that there is a Deputy Chairman appointed under the new section 6.

The new section 6 provides for the appointment by the Minister of one of the members of the Commission to be the Deputy Chairman, who is to have and exercise all the powers and duties of the Chairman—

- (a) With the consent of the Chairman, at any time during the temporary absence of the Chairman.
- (b) Without that consent, at any time while the Chairman is temporarily incapacitated or prevented from performing the duties of his office.
- (c) While there is a vacancy in the office of Chairman.

The new section 7 provides for meetings of the Commission. It is to meet at such times and places as the Commission or the Chairman determines. The quorum is 2 members, of whom one is to be the Chairman, or the Deputy Chairman acting as the Chairman. The Chairman is to have a casting vote, as well as a deliberative vote, and the decision of the Commission is to be determined by a majority of the valid votes cast.

Clause 4 repeals subsection (1) of section 8 of the principal Act which provided for standing committees of members to be established.

Clause 5 amends section 11 of the principal Act to enable the Commission by resolution with which the Chairman concurs, to delegate any of its powers and functions to any member of the Commission, and not, as at present, to the Chairman only, and also to delegate those powers and functions to members of its staff.

Clause 6 deletes the reference to the Chief Fire Service Officer and the Deputy Chief Fire Service Officer being members of the staff.

Clause 7 makes it clear that duties of the Chief Fire Service Officer as laid down in section 17 of the principal Act are in addition to his responsibilities as a member of the Commission.

Clause 8 provides that, in addition to his responsibilities as a member of the Commission, the Chief Fire Service Inspector is to have such of the duties, powers, and functions of the Chief Fire Service Officer as the Commission may delegate or assign to him.

Clause 9 provides for members of the Commission and its committees to be paid remuneration and allowances in accordance with the Fees and Travelling Allowances Act 1951.

Clause 10 amends the interpretation section of Part IV of the principal Act, which deals with fire service appeals, to exclude the Chief Fire Service Officer and the Chief Fire Service Inspector from the provisions of that Part except so far as they will be dealing with appeals by employees of the Commission to whom that Part applies.

Clause 11 makes it an offence to resist, deceive, or knowingly obstruct the Commission or any member or employee of the Commission in the exercise of any powers, functions, or duties.

Clause 12 amends the power for regulations to be made prescribing retiring ages for members of the fire service by excluding the Chief Fire Service Officer and the Deputy Chief Fire Service Officer.

PART II

MISCELLANEOUS PROVISIONS

Clause 13 amends the provisions of the principal Act regarding the constitution of urban fire districts and secondary urban fire districts by providing that where, pursuant to any local scheme under the Local Government Commission Act 1967, the whole or part of any district is transferred from the jurisdiction of one local authority to that of another, the Governor-General, by Order in Council, may include the whole or part of that district in any existing district or districts and may abolish that district.

Clause 14 makes it an offence for any person to publicly use the written words "fire engineer" in connection with his business, trade, calling, or profession with intent to cause any other person to believe that he is a fire engineer, unless he possesses one or more of the qualifications in fire engineering which the Commission, by notice in the *Gazette*, declare to be sufficient for the purpose.

This clause comes into force on 1 April 1975.

Clause 15 adds the controlling of the sale and use of fire extinguishers to the matters that may be provided for by regulations made under the principal Act.

Hon. Mr May

FIRE SERVICES AMENDMENT

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A BILL INTITULED

An Act to amend the Fire Services Act 1972

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title and commencement—(1) This Act may be cited as the Fire Services Amendment Act 1973, and shall be read together with and deemed part of the Fire Services Act 1972 (hereinafter referred to as the principal Act).

(2) Part I of this Act shall come into force on the 1st day of April 1974.

(3) Part II of this Act shall, except where otherwise provided, come into force on the passing of this Act.

PART I

5

ESTABLISHMENT OF FIRE SERVICE COMMISSION

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the expressions “Chief Fire Service Officer” and “Deputy Chief Fire Service Officer”, and substituting the following definitions: 10

“‘Chief Fire Service Inspector’ means the Chief Fire Service Inspector appointed under this Act:

“‘Chief Fire Service Officer’ means the Chief Fire Service Officer appointed under this Act:”

(2) The said section 2 is hereby further amended by 15 inserting, after the definition of the expression “civil defence emergency”, the following definition:

“‘Commission’ means the Fire Service Commission established under this Act:”

(3) The said section 2 is hereby further amended by 20 repealing the definition of the expression “Council”.

3. New sections (relating to the establishment of the Fire Service Commission) substituted—(1) The principal Act is hereby further amended by repealing sections 3 to 7, and substituting the following sections: 25

“3. Fire Service Commission—(1) There is hereby established a commission to be known as the Fire Service Commission.

“(2) The Commission shall be a body corporate having perpetual succession and a common seal and with power to 30 acquire, hold, and dispose of real and personal property, to sue and to be sued, and to do and suffer all such other acts and things as bodies corporate may lawfully do or suffer.

“(3) The Commission is hereby declared to be the successor of the Fire Service Council constituted under the section 35 for which this section was substituted by section 3 of the Fire Services Amendment Act 1973.

“(4) All real and personal property that immediately before the 1st day of April 1974 was vested in the Fire Service Council shall on that date, without conveyance, transfer, or assignment, vest in the Commission for the estate and
5 interest of the Fire Service Council in that property, subject to all liabilities, charges, obligations, and trusts affecting the property.

“(5) All the contracts, debts, and liabilities of the Fire Service Council immediately before the 1st day of April
10 1974 shall on that date become the contracts, debts, and liabilities of the Commission.

“(6) A District Land Registrar shall, on written application under the seal of the Commission, register it as the proprietor of any estate or interest in land that is registered
15 in his land registration district under the Land Transfer Act 1952 and is vested in the Commission under this section.

“(7) The Fire Service Council is hereby abolished.

“(8) Every reference in any enactment or any document to the Fire Service Council shall hereafter, unless the context
20 otherwise requires, be read as a reference to the Commission.

“(9) The common seal of the Commission shall not be affixed to any deed or instrument except pursuant to a resolution of the Commission, and every deed or instrument required to be under seal shall be signed by 2 persons, of
25 whom one shall be a member of the Commission, and the other either a member of the Commission or an officer of the Commission authorised in that behalf by the Commission.

“(10) The Commission shall be deemed to be a local authority for the purposes of the National Provident Fund
30 Act 1950, the Public Revenues Act 1953, and the Local Authorities Loans Act 1956.

“**4. Members of the Commission**—(1) The Commission shall consist of 3 members to be appointed from time to time by the Governor-General, namely,—

35 “(a) One member, being a person having a special knowledge of administration, who shall be appointed as Chairman of the Commission; and

“(b) Two members, being persons having a background of senior operational experience in a fire service,
40 of whom one shall be appointed as Chief Fire Service Officer, and the other as Chief Fire Service Inspector.

“(2) Where any person appointed to the Commission is a member of or an office holder in or an employee of any Fire Board or Fire Committee, or association of Urban Fire Authorities or their employees, he shall relinquish that membership, office, or employment before entering upon his duties as a member of the Commission. 5

“(3) Any member of the Commission who after appointment becomes a member of or an office holder in or an employee of any Fire Board or Fire Committee, or association of Urban Fire Authorities or their employees shall thereupon cease to be a member of the Commission and the vacancy so created shall be filled in the manner provided by subsection (7) of this section. 10

“(4) For the purposes of subsections (2) and (3) of this section, any person who receives any remuneration from any Fire Board or Fire Committee, or association of Urban Fire Authorities or their employees, and whether by way of salary, wages, fee, commission, allowance, or otherwise, shall be deemed to be an employee of that Board, Committee, or association. 20

“(5) Except as otherwise provided in this Act, every member of the Commission shall hold office for such term, not exceeding 5 years, as the Governor-General thinks fit.

“(6) Any member of the Commission may at any time be reappointed, or may at any time be removed by the Governor-General for inefficiency, disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister. 25

“(7) If any member of the Commission dies, is removed from office, or resigns, the vacancy so created shall be filled by the appointment of another person qualified for appointment to the office of that member. 30

“(8) Unless he sooner vacates his office as provided in subsection (6) of this section, every member of the Commission shall continue in office until his successor is appointed, notwithstanding that the term for which he was appointed may have expired. 35

“(9) The power of the Commission shall not be affected by any vacancy in its membership. 40

“(10) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of being a member of the Commission.

“(11) Every member of the Commission shall be deemed to be an employee of the Commission for the purposes of the National Provident Fund Act 1950.

“5. **Deputies of members**—(1) In any case in which the
5 Governor-General is satisfied that any member of the Commission is incapacitated or prevented by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General may appoint a person qualified for appointment to the office of that member to act for that
10 member while he is so incapacitated or prevented, and any such deputy shall, while he acts as such, be deemed to be a member of the Commission and, if he is the deputy of the Chairman and notwithstanding that there is a Deputy Chairman of the Commission under section 6 of this Act, to be
15 the Chairman of the Commission.

“(2) No such appointment of a deputy and no acts done by a deputy as such shall in any proceedings be questioned on the grounds that the occasion for his appointment had not arisen or had ceased.

20 “6. **Deputy Chairman**—(1) The Minister may from time to time appoint one of the members of the Commission to be the Deputy Chairman thereof.

“(2) Subject to section 5 of this Act, the Deputy Chairman shall have and exercise all the powers and duties of the
25 Chairman of the Commission—

“(a) With the consent of the Chairman, at any time during the temporary absence of the Chairman:

30 “(b) Without that consent, at any time while the Chairman is temporarily incapacitated or prevented by illness or other cause from performing the duties of his office:

“(c) While there is any vacancy in the office of the Chairman.

35 “(3) No acts done by the Deputy Chairman acting as the Chairman shall in any proceedings be questioned on the grounds that the occasion for his so acting had not risen or had ceased.

40 “7. **Meetings of the Commission**—(1) Meetings of the Commission shall be held at such times and places as the Commission or the Chairman thereof from time to time determines.

“(2) At all meetings of the Commission 2 members, one of whom shall be the Chairman, or the Deputy Chairman acting as Chairman, shall be a quorum.

“(3) At any meeting of the Commission the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

“(4) The decision of the Commission on any matter shall be determined by a majority of the valid votes recorded thereon. 5

“(5) Subject to this Act, the Commission may regulate its procedure in such manner as it thinks fit.”

4. Committees—Section 8 of the principal Act is hereby amended by repealing subsection (1). 10

5. Delegation of powers and functions—(1) Section 11 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Commission may by resolution with which the Chairman concurs delegate such of its functions under this Act as it considers proper to any member or members including the Chairman, or to any specified member or members of its staff, or to any members of its staff of a specified class, or the member or members of its staff for the time being holding a specified office or specified classes of offices, and that member or those members shall have in respect of any of the functions so delegated all the powers of the Commission.” 15 20

(2) Section 11 of the principal Act is hereby further amended by repealing subsection (2). 25

6. Staff of Commission—(1) Section 15 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) There shall be appointed from time to time such employees as may be necessary to enable the Commission to carry out efficiently its functions and duties under this Act.” 30

(2) The said section 15 is hereby consequentially amended by omitting from subsection (2) the words “The Secretary and”.

7. Chief Fire Service Officer—Section 17 of the principal Act is hereby amended by inserting in subsection (1), before the words “The Chief Fire Service Officer”, the words “In addition to his responsibilities as a member of the Commission,”. 35

8. Chief Fire Service Inspector—The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. (1) In addition to his responsibilities as a member
5 of the Commission, the Chief Fire Service Inspector shall have such functions, duties, and powers of the Chief Fire Service Officer as may from time to time be delegated or assigned to him by the Commission.

“ (2) The fact that the Chief Fire Service Inspector
10 exercises any function, duty, or power of the Chief Fire Service Officer shall be sufficient evidence of his authority to do so.”

9. Expenditure of Commission—(1) Section 64 of the principal Act is hereby amended by inserting, before the
15 words “In addition to”, the subsection number “(1)”, and by adding, as subsection (2), the following subsection:

“ (2) The Commission shall pay to its members and may pay to the members of any of the committees appointed by it remuneration by way of fees, salary, or allowances and
20 travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951.”

(2) The said section 64 (as amended by subsection (1) of this section) is hereby consequentially amended by repealing paragraph (c) of subsection (1).

25 **10. Interpretation**—(1) Section 78 of the principal Act is hereby amended by omitting from subparagraph (ii) of paragraph (b) the words “except the Chief Fire Service Officer and the Deputy Chief Fire Service Officer”.

(2) The said section 78 is hereby further amended by
30 repealing paragraph (c), and substituting the following paragraph:

“ (c) The expression “Chief Fire Officer” and “Deputy
Chief Fire Officer”, in relation to a fireman within
the meaning of subparagraph (i) of paragraph
35 (b) of this section, means the Chief Fire Service Officer and the Chief Fire Service Inspector respectively.”

(3) The said section 78 is hereby further amended by
40 omitting from paragraph (d) the words “Deputy Chief Fire Service Officer”, and substituting the words “Chief Fire Service Inspector”.

11. Offences—Section 96 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (1) the words “the Chief Fire Service Officer or any Chief Fire Officer or any other employee of the Council”, and substituting the words “the Commission, any member of the Commission, any Chief Fire Officer or any employee of the Commission”.

12. Regulations—Section 98 of the principal Act is hereby amended by omitting from paragraph (k) of subsection (1) the words “the Chief Fire Service Officer, the Deputy Chief Fire Service Officer”.

PART II

MISCELLANEOUS PROVISIONS

13. Urban fire districts and secondary urban fire districts—Section 23 of the principal Act is hereby amended by inserting, after subsection (6), the following subsection:

“(6A) Where pursuant to any local scheme any area constituting the whole or part of an urban fire district or of a secondary urban fire district is transferred from the jurisdiction of one local authority to that of another local authority, the Governor-General may, if he thinks fit, either in the Order in Council giving effect to the scheme or in any subsequent Order in Council—

“(a) Include the whole or any part of that district in any other district or districts:

“(b) Abolish that district.”

14. Restriction on public use of the words “fire engineer” in certain cases—(1) The principal Act is hereby further amended by inserting, after section 95, the following section:

“95A. (1) Subject to subsection (2) of this section, every person commits an offence under this section who publicly uses in connection with his business, trade, calling, or profession any written words intended or likely to cause any person to believe that he is a fire engineer or engaged in a like occupation.

“(2) It shall not be an offence under this section for a person to use the aforesaid words if he possesses one or more of the qualifications in fire engineering (by examination or otherwise) as the Commission may from time to time declare, 5 by notice in the *Gazette*, to be sufficient for the purposes of complying with this subsection.

“(3) In every prosecution for an offence against this section the burden of proving that the defendant possesses any of the qualifications required by subsection (2) of this 10 section shall be on the defendant.”

(2) This section shall come into force on the 1st day of April 1975.

15. Regulations—Section 98 of the principal Act (as amended by section 12 of this Act) is hereby further amended 15 by inserting in subsection (1), after paragraph (1), the following paragraph:

“(1a) Controlling the sale and use of fire extinguishers.”