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An Act to consolidate the Law relating to the Protection of Life and Property from Fire in the Metropolitan Fire District.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1 Short title and commencement

This Act may be cited as the Metropolitan Fire Brigades Act 1958, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

2 Purposes

The main purposes of this Act are—

(a) to provide for fire safety, fire suppression and fire prevention services and emergency response services in the metropolitan fire district; and

(b) to establish a Metropolitan Fire and Emergency Services Board.
3 Definitions

(1) In this Act unless inconsistent with the context or subject-matter—

**applicable work program** means a work program (within the meaning of the **Fire Services Commissioner Act 2010**) that applies to the Board;

**Australian Fire Brigades Charges Scheme** means the Scheme in operation from 1 April 1982 providing the procedure for reimbursement of Fire Brigade Charges established by the 1982 Agreement between the "Participating Underwriters" and the "Subscribing Brokers" as defined in that Agreement;

**Board** means the Metropolitan Fire and Emergency Services Board;

**Chief Officer** means the Chief Officer of the Metropolitan Fire and Emergency Services;

**emergency** means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person or which destroys or damages, or threatens to destroy
or damage, any property or endangers or threatens to endanger the environment or an element of the environment, including, without limiting the generality of the foregoing—

(a) an earthquake, flood, wind-storm or other natural event; and

(b) a fire; and

(c) an explosion; and

(d) a road accident or any other accident;

*fire* includes—

(a) a hazardous material incident where the major or sole danger is the threat of fire up to the stage where there is no longer a threat of fire; and

(b) a toxic fire incident up to the stage where the fire has been effectively extinguished;

*fire prevention officer* means a fire prevention officer appointed under section 5A;

*fire services agency* has the same meaning as in the *Fire Services Commissioner Act 2010*;

*Fire Services Commissioner* means the person appointed under section 5 of the *Fire Services Commissioner Act 2010*;
fire services reform action plan has the same meaning as in the Fire Services Commissioner Act 2010;

incident management operating procedures has the same meaning as in the Fire Services Commissioner Act 2010;

insurance against fire means insurance against the risk of fire or the risk of loss of profits consequent on fire whether the insurance is associated with insurance against any other risk or not and insured against fire and insuring against fire have corresponding interpretations;

insurance company means—

(a) a person (including a body corporate or unincorporate, a partnership or an underwriter) who, in Victoria, issues, or undertakes liability under, policies of insurance against fire in respect of property in Victoria; or

(b) a Lloyd's underwriter who—

(i) issues, or undertakes liability under, policies of insurance against fire in respect of property in Victoria; and

(ii) is a member of the Australian Fire Brigades Charges Scheme and makes payments to the Fund established under that Scheme;
insurance intermediary means—

(a) a person who arranges contracts of insurance in Victoria—

(i) for reward; and

(ii) as an agent for a person carrying on a business of insurance; or

(b) a financial services licensee (as defined in section 761A of the Corporations Act) whose licence covers arranging contracts of insurance as an agent for a person carrying on a business of insurance; or

(c) a regulated principal (as defined in section 1430 of the Corporations Act) when carrying on business as an insurance broker as authorised by Subdivision D of Division 1 of Part 10.2 of that Act; or

(d) a Lloyd's underwriter who—

(i) issues, or undertakes liability under, policies of insurance against fire in respect of property in Victoria; and

(ii) is not a member of the Australian Fire Brigades Charges Scheme, or is a member of the Australian Fire Brigades Charges Scheme but has failed to make payments to the Fund established under that Scheme;

Lloyd's means the society of that name incorporated by the Act of the United Kingdom known as Lloyd's Act 1871;
Metropolitan Fire Brigades Act 1958
No. 6315 of 1958

s. 3

Lloyd's underwriter means an underwriting member of Lloyd's;

metropolitan district means the metropolitan fire district constituted by or under this Act;

operational staff means all members of units;

owner means the person for the time being receiving the rack rent of the premises in connexion with which the word is used either on his own account or as agent or trustee for some other person, or who would receive the same if the premises were let at a rack rent;
private street means a road, other than—

(a) a freeway or an arterial road within the meaning of the Road Management Act 2004;

(b) a road vested in a public authority;

(c) a road that is under the care and management of a municipal council under section 205 of the Local Government Act 1989;

road has the meaning given in section 3 of the Local Government Act 1989;

senior operational staff means all employees of the Board employed in senior positions;

senior position means a position in a unit designated by the Board as a senior position;
the 1982 Agreement means the Agreement establishing the Australian Fire Brigades Charges Scheme, a certified copy of which is lodged with the Minister under section 69A;

unit means a fire or emergency service unit established under this Act;

year means year ending the thirtieth day of June.

Metropolitan fire district

4 Metropolitan fire district

(1) For the proper and efficient carrying out of the provisions of this Act there shall be a metropolitan fire district consisting of the municipal districts or parts thereof set forth in the Second Schedule to this Act.
(2) The metropolitan fire district includes—

(a) the port of Melbourne within the meaning of the **Port Management Act 1995**; and

(b) any rivers or waterways—

which are designated as being within the metropolitan fire district by the Governor in Council by proclamation published in the Government Gazette.
(3) On receiving the request of a council whose municipal district or any part of it is outside the metropolitan fire district and the certificate of the Board that it is necessary or desirable so to do, the Governor in Council may by proclamation published in the Government Gazette declare that that municipal district or a specified part of that municipal district is to be added to the metropolitan fire district.

(4) As from the date specified in a proclamation under subsection (3), the municipal district or part of the municipal district specified in the proclamation is included in and is part of the metropolitan fire district for the purposes of this Act.

(5) On the certificate of the Board that it is necessary or desirable that a part of the metropolitan fire district be excised, the Governor in Council may by proclamation published in the Government Gazette declare that part to be excised from the metropolitan fire district.

(6) As from the date specified in a proclamation under subsection (5), the part of the metropolitan fire district specified in the proclamation is no longer included in or part of the metropolitan fire district for the purposes of this Act.
5 Duties and powers of councils and public authorities in relation to fire

(1) In the metropolitan district it is the duty of every municipal council and public authority to take all practicable steps (including burning) to prevent the occurrence of fires on, and minimise the danger of the spread of fires on and from—
   (a) any land vested in it or under its control or management; and
   (b) any road under its care and management.

(2) A municipal council or public authority may—
   (a) acquire any equipment;
   (b) do any thing;
   (c) expend from its funds any amount—
       that is necessary or expedient for the purpose of fulfilling its duty under subsection (1).

(3) If the cost of maintenance of a road is apportioned between municipal councils or public authorities or both the cost of fulfilling the duty imposed by subsection (1) must be apportioned in the same manner.

5A Municipal fire prevention officers and assistants

(1) Each municipal council, the municipal district or part of the municipal district of which is in the metropolitan district—
   (a) must appoint a person to be the fire prevention officer for that council for the purposes of this Act;
   (b) may appoint any number of persons it thinks fit to be assistant fire prevention officers.
(2) A fire prevention officer may, by written instrument, delegate to an assistant fire prevention officer, either generally or as otherwise provided in the instrument, any power or duty of the fire prevention officer under this Act or the regulations except this power of delegation.

**Metropolitan Fire and Emergency Services Board**

6 Metropolitan Fire and Emergency Services Board  

(1) There is established a Metropolitan Fire and Emergency Services Board.

(2) The Board—

(a) is a body corporate with perpetual succession; and

(b) shall have a common seal; and

(c) may sue and be sued in its corporate name; and

(d) may acquire, hold and dispose of real and personal property for the purpose of performing its functions; and

(e) may do and suffer all acts and things that bodies corporate may by law do and suffer and that are necessary or incidental for the performance of its functions.
7 Functions of Board

(1) The functions of the Board are—
   (a) to provide for fire suppression and fire prevention services in the metropolitan fire district; and
   (b) to provide for emergency prevention and response services in the metropolitan fire district; and
   (c) to carry out any other functions conferred on the Board by or under this Act or any other Act.

(2) The Board has all powers necessary to carry out its functions.

(3) The functions of the Board extend to any vessel berthed adjacent to land which by virtue of section 4(2) is part of the metropolitan fire district.

(4) The Board must use its best endeavours to carry out its functions in accordance with the performance standards developed by the Fire Services Commissioner under section 19 of the Fire Services Commissioner Act 2010.

(5) The Board must, at the expiration of each period of 3 months, report in writing on the action it has taken during the preceding 3 months to comply with the performance standards developed by the Fire Services Commissioner under section 19 of the Fire Services Commissioner Act 2010.

(6) A copy of the report prepared by the Board under subsection (5) must be given to—
   (a) the Fire Services Commissioner; and
   (b) the Emergency Services Commissioner.
7A Fire services reform action plan

(1) The Board must use its best endeavours to implement the applicable work program to give effect to the fire services reform action plan.

(2) The Board must prepare a written report on the progress made, and achievements attained, by the Board in its endeavours to give effect to the fire services reform action plan at intervals determined by the Fire Services Commissioner. The intervals must not be less than one a year.

(3) The Board must give a copy of a report prepared under subsection (2) to the Fire Services Commissioner.

7B Compliance with incident management operating procedures

The Board must comply with any incident management operating procedures.

8 Accountability of Board

(1) The Board is subject to the general direction and control of the Minister in the performance of its functions and the exercise of its powers.

(2) The Minister may from time to time give written directions to the Board.
9 Constitution of the Board

(1) The Board consists of up to 7 members appointed by the Governor in Council.

(2) One of the members is to be appointed as President of the Board.

(3) Another of the members is to be appointed as Deputy President of the Board.

10 Term of appointment

(1) Subject to this Act, a member of the Board holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment.

(2) A member of the Board is eligible for reappointment.

(3) The instrument of appointment may specify terms and conditions of appointment not inconsistent with this Act or the regulations.

(4) A member of the Board may be removed from office by the Governor in Council.
11 Remuneration and allowances

(1) A member of the Board (other than an employee of the public service) is entitled to receive—
   (a) remuneration; and
   (b) travelling or other allowances—
       from time to time fixed by the Governor in Council.

(2) If a member of the Board is a member of the Legislative Council or the Legislative Assembly, the member is not entitled to the payment of any remuneration or allowances under this Act.

12 Application of Public Administration Act 2004

The Public Administration Act 2004 (other than Part 3 of that Act) applies to a member of the Board in respect of the office of member.
13 Vacancies

(1) A member of the Board may resign from membership by letter signed by the member and delivered to the Minister.

(2) The office of a member of the Board becomes vacant if the member—

(a) without the approval of the Board, fails to attend 3 consecutive meetings of the Board; or

(b) becomes bankrupt; or

(c) is convicted in Victoria of an offence punishable on first conviction with imprisonment for a term of 12 months or more or is elsewhere convicted of an offence which, if committed in Victoria, would be so punishable.

14 Acting members

(1) If a member of the Board is unable to perform the duties of his or her office, the Governor in Council may appoint a person to act in the place of the member during the period of inability.

(2) An acting appointment is to be for any term and on any conditions determined by the Governor in Council.

(3) The Governor in Council may at any time terminate an acting appointment.

(4) An acting member has all the powers and functions and may perform the duties of the member for whom he or she is acting.

(5) An acting member is entitled to receive any remuneration or travelling or other allowances fixed from time to time by the Governor in Council in respect of that acting member.
15 Membership of Board not office or place of profit

A member of the Board must not, in respect of the office of member, be taken to hold an office or place of profit under the Crown which would—

(a) prevent the member sitting or voting as a member of the Legislative Council or the Legislative Assembly;

(b) make void the member's election to the Legislative Council or the Legislative Assembly;

(c) prevent the member continuing to be a member of the Legislative Council or the Legislative Assembly;

(d) subject the member to liability to a penalty under the Constitution Act 1975.

16 Decisions not affected by certain matters

An act or decision of the Board is not invalid only because—

(a) of a defect or irregularity in the appointment of a member or acting member; or

(b) of a vacancy in its membership; or

(c) the occasion for the appointment of an acting member has ceased to exist.

* * * * * *
17 Immunity of members of Board

(1) A member of the Board is not personally liable for anything done or omitted to be done in good faith—

(a) in the exercise of a power or the discharge of a duty under this Act or the regulations; or

(b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act or the regulations.

(2) Any liability resulting from an act or omission that would but for subsection (1) attach to a member of the Board attaches instead to the Board.

18 Meetings of the Board

(1) Meetings of the Board shall be held at the times and places determined by the Board.

(2) The President or, in the absence of the President, the Deputy President must preside at a meeting of the Board at which he or she is present.

(3) If neither the President nor the Deputy President is present at a meeting, the members present may elect one of their number to preside at the meeting.

(4) Four members of the Board constitute a quorum for meetings of the Board.
(5) The functions of the Board may be performed at a meeting at which there is a quorum.

(6) At a meeting a decision of the Board is the decision of the majority of members present and voting at the meeting and, if voting is equal, the person presiding at the meeting has a casting vote as well as a deliberative vote.

(7) The Board must ensure that minutes are kept of each meeting.

(8) Subject to this Act, the Board may regulate its own proceedings.

19 Participation in meetings by telephone etc.

(1) The Board may permit its members to participate in a particular meeting, or all meetings, by—
   (a) telephone; or
   (b) closed-circuit television; or
   (c) any other means of communication.

(2) A member who participates in a meeting under a permission under subsection (1) is deemed to be present at the meeting.

20 Resolutions without meetings

(1) If—
   (a) the Board has taken reasonable steps to give notice to each member setting out the terms of a proposed resolution; and
   (b) at least 4 members of the Board sign a document containing a statement that they are in favour of the resolution in the terms set out in the document—

   a resolution in those terms is deemed to have been passed at a meeting of the Board held on the day on which the document is signed or, if the members referred to in paragraph (b) do not sign
it on the same day, on the day on which the last of
those members signs the document.

(2) For the purposes of subsection (1), 2 or more
separate documents containing a statement in
identical terms, each of which is signed by one or
more members, are deemed to constitute one
document.

(3) If a resolution is deemed by this section to have
been passed at a meeting of the Board, each
member must as soon as practicable be advised of
the matter and given a copy of the resolution.

(4) The members referred to in subsection (1)(b) must
not include a member who, because of section 21,
is not entitled to vote on the resolution.

21 Conflicts of interest

(1) Whenever the Board is to make a decision on a
matter at a meeting, each member present at the
meeting must, before the matter is considered,
declare any direct or indirect pecuniary interest
that he or she has in the matter.

Penalty: 5 penalty units.

(2) The Board or the President must cause the
declaration to be tabled at that meeting or at the
next meeting of the Board and the person
presiding at that meeting must cause the
declaration to be recorded in the minutes of the
meeting.

(3) A member who has a conflict of interest in a
matter—

(a) must not be present during any deliberations
on the matter, unless a full declaration of the
interest has been made and the Board directs
otherwise; and

(b) is not entitled to vote on the matter.
(4) A member who has a conflict of interest in a matter must not be present during any deliberations leading to a direction, or take part in making a direction under subsection (3)(a).

(5) If a member votes on a matter in contravention of subsection (3)(b), his or her vote must be disallowed.

(6) For the purposes of the section, a member is not to be regarded as having a conflict of interest—

(a) in a matter relating to the supply of goods or services to the member if the goods or services are, or are to be, available to members of the public on the same terms and conditions; or

(b) in a contract or arrangement only because that contract or arrangement may benefit a company or other body in which the member has a beneficial interest that does not exceed $2000 or 1% of the total nominal value of beneficial interests in the company or body, whichever is the lesser.
General powers and duties of Board

24 Power to purchase and sell property

(1) The Board may purchase, take on lease or otherwise acquire stations for appliances and the accommodation of fire-fighters and any other buildings, land, apparatus, plant or other property as the Board thinks requisite for carrying into effect the purposes of this Act, and may from time to time sell or exchange or let any property acquired by or vested in it for the purposes of this Act.

(2) All moneys resulting from the sale, exchange or letting of any property by the Board shall be applied in the purchase of property for the Board or the improvement of the property of the Board.

24A Power to acquire land

(1) In addition to its powers under section 24, the Board may acquire compulsorily any land which it is authorized to acquire under this Act or which is required for the purposes of this Act.

(2) The Land Acquisition and Compensation Act 1986 applies to this Act and for that purpose—

(a) the Metropolitan Fire Brigades Act 1958 is the special Act; and

(b) the Metropolitan Fire and Emergency Services Board is the Authority.

24B Power of delegation

The Board may, by instrument under its common seal, delegate to any employee or class of employees of the Board any responsibility, power, authority, duty or function of the Board under this
Act or the regulations or under any other Act or regulations, other than this power of delegation.

* * * * *

25A General powers of Board

(1) Subject to this Act, the Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its duties and functions.

(2) Without limiting or derogating from the generality of the powers of the Board under this Act, the powers of the Board include the power to—

(a) enter into agreements or arrangements with any person or body for the provision of goods or services to the Board;

(b) subject to subsection (3), enter into agreements or arrangements with any person or body for the provision of goods or services by the Board;

(c) apply for, obtain and hold intellectual property rights (including patents, copyrights, trade marks and registered designs);

(d) enter into agreements or arrangements for the commercial exploitation of those intellectual property rights and ancillary services on any terms and conditions as to royalties, lump sum payments or otherwise as the Board may see fit;
s. 25A

(e) subject to subsection (3), form, participate in the formation of, or be a member of a body corporate, association, partnership, trust or other body;

(f) subject to subsection (3), enter into a joint venture agreement, shareholders agreement or unitholders agreement with any other person or body;

(g) do all things necessary or convenient to give effect to any agreements or arrangements entered into by the Board including power to appoint any person or body as the Board's agent for that purpose.

(3) The Board must obtain the written consent of the Minister before—

(a) entering into any agreement or arrangement with any person or body for the provision of goods or services by the Board; or

(b) forming, participating in the formation of, or becoming a member of a body corporate, association, partnership, trust or other body; or

(c) entering into any joint venture agreement, shareholders agreement or unitholders agreement.

(4) Subsection (3)(a) does not apply to an agreement for the provision of goods or services by the Board to a unit or group of units or to a person acting on behalf of a unit or group of units.

(4A) The Board, with the written consent of the Minister, may—

(a) enter into any agreement or arrangement with any person or body to provide consultancy services in emergency

S. 25A(4) substituted by No. 24/1997 s. 24(1).

S. 25A(4A) inserted by No. 24/1997 s. 24(1).
protection and response in any place outside Victoria; and

(b) make any charge it thinks fit for those services.

(5) The Minister's consent under subsection (3)(a) or (b) or (4A) may be given in respect of a particular case or a class of cases.

25B Employees of Board

(1) The Board may from time to time—

(a) employ any persons that it considers necessary to assist it in carrying out its functions under this Act or any other Act; and

(b) transfer, promote, suspend or remove any employee.

(2) Every appointment or promotion of a member of the operational staff is to be on 3 months' probation.

26 Formation of units

(1) The Board may at any time and from time to time establish fire or emergency services units to assist it in carrying out its functions.

(2) A unit may consist of—

(a) persons employed by the Board; or

(b) persons engaged under any contract or arrangement entered into by the Board; or

(c) both.

(3) A member of a unit is subject to the direction and control of the Chief Officer.
27 Copies of annual report and special report

(1) After the annual report of the Board has been laid before both Houses of Parliament, the Board must send a copy of the annual report to each person or body that has made contributions under this Act.

(1A) Unless subsection (1B) applies, the annual report of the Board must include—

(a) in respect of each insurance company which has made a statement under section 40(4), a statement of—

(i) the amount collected by the insurance company as being on account of a fire service levy however described; and

(ii) the amount paid to the Board as contributions;

(b) the total of the amounts under paragraph (a)(i);

(c) the total of the amounts under paragraph (a)(ii).

(1B) If the Board is of the opinion that it would be misleading to include the information in the annual report required by subsection (1A) in relation to an insurance company, the Board may instead include a note to the statement in the annual report explaining why it would be misleading to include the information in relation to the specified insurance company.

(2) The Board must if required by the Minister give the Minister a special report upon any matter relating to its activities or to the administration of this Act.
Chief Executive Officer and Chief Officer

28 Chief Executive Officer

(1) The Board must, with the approval of the Minister, appoint a person as Chief Executive Officer of the Board.

(2) The Chief Executive Officer holds office for the period, not exceeding 5 years, specified in the instrument of his or her appointment.

(3) The Chief Executive Officer is responsible to the Board for the carrying out of its functions.

(4) The Chief Executive Officer must comply with the directions of the Board.

29 Acting Chief Executive Officer

(1) The Board must appoint a person to be the Acting Chief Executive Officer of the Board—

(a) while the office of Chief Executive Officer is vacant; or

(b) during any period when the Chief Executive Officer is unable, by reason of illness or absence, to perform the functions of that office.

(2) The Acting Chief Executive Officer has all the powers and functions and may perform the duties of the Chief Executive Officer while he or she is acting, including any power, function or duty as Chief Officer.
30 Delegation of powers of Chief Executive Officer

The Chief Executive Officer may, by instrument, delegate to any person by name or to the holder of an office or position approved by the Board, any responsibility, power, authority, duty or function conferred on the Chief Executive Officer under this Act or the regulations, except this power of delegation.

31 Chief Officer

(1) There is to be an officer to be called the Chief Officer of the Metropolitan Fire and Emergency Services.

(2) The person for the time being holding the office of Chief Executive Officer of the Board is to be the Chief Officer of the Metropolitan Fire and Emergency Services.

31A Delegation of powers of Chief Officer

(1) The Chief Officer may, by written instrument, delegate to any person by name or to the holder of an office or position approved by the Board, either generally or as otherwise provided by the instrument, any power or authority conferred on the Chief Officer under this Act or the regulations or under any other Act or regulations, except—

(a) the power to form an opinion as required by section 93(1)(a);

(b) the power, under section 87(3)(b), to determine the steps to be required of an owner or occupier by a fire prevention notice served under section 93;
32 Powers of Chief Officer

Within the metropolitan district the Chief Officer or any person authorized for the purpose by the Chief Officer shall at all reasonable times have free access to any land building premises or other place for the purpose of ascertaining whether this Act and the regulations and any other law relating to—

(a) the storage of explosives;
(b) the storage of radioactive substances;
(c) the storage of inflammable liquids or substances; and
(d) the prevention of fire or the protection of life or property in the case of fire—

are being complied with.

32AA Duty to warn the community

(1) The Chief Officer must issue warnings and provide information in relation to fires in the metropolitan fire district if—

(a) the Fire Services Commissioner has delegated to the Chief Officer under section 26 of the Fire Services Commissioner Act 2010 his or her duty to issue warnings or provide information; or
(b) the Chief Officer considers that the issuing of warnings or the provision of information is necessary for the purposes of protecting life and property.
(2) The Chief Officer must have regard to any guidelines, procedures or operating protocols issued by the Fire Services Commissioner under section 25 of the Fire Services Commissioner Act 2010 for the purposes of carrying out a duty under subsection (1).

**Alarm of fire**

32A Meaning of alarm of fire

In sections 32B, 32C and 32D, *alarm of fire* means any call for assistance at a fire, accident, explosion or other emergency.

32B Action on alarm of fire

(1) For the purposes of this section, the Chief Officer is responsible for the control and direction of all members of units in the metropolitan district.

(2) On an alarm of fire being received by a unit, those members of the unit specified by the Chief Officer must, with the appliances and equipment specified by the Chief Officer, proceed with all practical speed to the scene of the alarm of fire.

(3) At the scene of an alarm of fire the senior member of the operational staff—

(a) shall endeavour by all practical means to have any fire suppressed and any person or property in jeopardy saved;
(b) shall have the control and direction of any unit present and of all persons assisting any unit or units at the scene;

(c) may, for the purposes of dealing with any alarm of fire, cause—

(i) any land building structure vessel or vehicle to be entered upon or into (if necessary by force), taken possession of, shored up, pulled down, otherwise destroyed or removed;

(ii) any vehicle or equipment to be taken through upon or into any land building structure vessel or vehicle;

(iii) water to be shut off from any main pipe or other source of supply in order to obtain a greater pressure or supply of water; and

(iv) any road waterway railway or tramway to be closed to traffic or any main pipeline conduit or conductor of gas electricity oil or any source of power fuel or energy to be shut off;

(d) may order to withdraw any persons who interfere by their presence or otherwise with the operation of the unit or units, and cause to be removed any persons who fail or refuse to comply with any such order to withdraw; and

(e) may take such other measures as appear necessary for the protection of life and property.
(4) A person shall not be liable to any penalty or claim by reason of any action taken under subsection (3)(c)(iii) or (iv).

(5) Where the scene of an alarm of fire is land which by virtue of section 4(2) is part of the metropolitan district, or is a vessel berthed adjacent to such land, the senior member of the operational staff shall so far as practicable consult with an officer of the Port of Melbourne Corporation (within the meaning of the Transport Integration Act 2010) designated for that purpose by that Corporation.

(5A) For the purposes of this section, an alarm of fire from the Emergency Services Telecommunications Authority (within the meaning of the Emergency Services Telecommunications Authority Act 2004) is to be taken not to have been received by a particular unit until a message in the prescribed form is received by the unit from the Authority.

(6) In this section, senior member of the operational staff, in relation to the scene of an alarm of fire, means the person determined in accordance with the directions of Chief Officer to be the senior member of the operational staff at the scene.

32C Destruction etc. of building by Chief Officer

(1) If a fire has been recently extinguished, the Chief Officer may cause any building or structure—

(a) which has been damaged by the fire; and
(b) which the Chief Officer reasonably believes is or may become dangerous to life or property because of that damage—

to be shored up, pulled down or otherwise destroyed or removed.

(1A) For the purposes of subsection (1), the Chief Officer may do or cause to be done anything which the senior member of the operational staff at the scene of an alarm of fire may do or cause to be done under section 32B(3)(c).

(2) The Board may sell or dispose of any material salvaged from any building or structure shored up, pulled down, otherwise destroyed or removed under this section or section 32B.

(3) The proceeds of a sale or disposal under this section shall be applied towards any expenses incurred by the Board in relation to the shoring up, pulling down, other destruction or removal, and any surplus shall be paid by the Board to the owner of the building or structure.

(4) The owner of a building or structure shored up, pulled down, otherwise destroyed or removed under this section shall pay to the Board—

(a) the expenses incurred by the Board in relation to the shoring up, pulling down, other destruction or removal and remaining after the application of the proceeds of a sale or disposal under this section; or

(b) where there has been no sale or disposal under this section, the whole of the expenses incurred by the Board in relation to the shoring up, pulling down, other destruction or removal.
32D False alarm of fire

(1) If—

(a) a unit in the metropolitan district responds to a false alarm of fire given by an automatic fire alarm system; and

(b) the Board, after considering a report by a member of the operational staff of the Board relating to the false alarm, determines that the owner or occupier of the property did not have a reasonable excuse for the alarm being given—

the Board may by notice in writing given to the owner or occupier of the property require the owner or occupier to pay to the Board the fees and charges prescribed for the attendance of the unit in response to the false alarm.

(2) An owner or occupier who receives a notice under subsection (1) may apply to the Victorian Civil and Administrative Tribunal for review of the decision of the Board to give the notice.

(3) An application for review must be made within 28 days after the later of—

(a) the day on which the notice is received;
(b) if, under the *Victorian Civil and Administrative Tribunal Act 1998*, the owner or occupier requests a statement of reasons for the decision, the day on which the statement of reasons is given to the owner or occupier or the owner or occupier is informed under section 46(5) of that Act that a statement of reasons will not be given.

*S. 33 substituted by No. 7926
s. 8(1), amended by Nos 9928
s. 2(2), 10043
s. 8(a)(b), substituted by No. 10149
s. 24(1), repealed by No. 50/1989
s. 44(4).*

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*Heading preceding s. 33A inserted by No. 9599
s. 3(b), repealed by No. 24/1997
s. 32(1).*

*S. 33A inserted by No. 9599
s. 3(b), amended by Nos 47/1992
s. 25(4)(a), 83/1992
s. 194(Sch. 6 item 14.1(a)(b)
(i)(ii)), 2/1995
s. 22(b), 59/1996
s. 10(Sch. 2 item 15.1,
15.2), repealed by No. 24/1997
s. 32(2).*

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34 Power to make regulations

(1) The Governor in Council may as to the whole or any part of Victoria make regulations for all or any of the following purposes—

(b) For the appointment, promotion, probation, transfer, suspension and removal of employees of the Board;

(ba) For the examination of employees of the Board and members of units;

(c) For regulating the duties and conduct of employees of the Board and members of units;
S. 34(1)(ca) inserted by No. 9599
s. 3(c)(iii), amended by Nos 47/1992
s. 25(4)(b), 83/1992
s. 184(Sch. 6 item 14.2(a)(b)), 2/1995
s. 22(b), 59/1996
s. 10(Sch. 2 item 15.1), repealed by No. 24/1997
s. 33(1)(a).

S. 34(1)(d) amended by No. 10043
s. 9(a)(ii), substituted by No. 50/1989
s. 44(5).

S. 34(1)(e) amended by Nos 10043
s. 9(a)(ii), 10, 2/1995
s. 22(b), repealed by No. 24/1997
s. 33(1)(a).

S. 34(1)(f) repealed by No. 24/1997
s. 33(1)(a).

S. 34(1)(g) repealed by No. 24/1997
s. 33(1)(a).

(d) for the provision of training or training
facilities and the issue of any certificate or qualification after the completion of any
course of training and the prescribing of the fees and charges payable in relation thereto;
(h) in relation to fire prevention notices, for—
   (i) things or classes of things in respect of which notices may not be served;
   (ii) the matters which may be dealt with in notices, including the steps that owners or occupiers may be required to take;
   (iii) the form and content of notices;
   (iv) the form of, and particulars to be included in, a notice under section 88(3)(b);

(i) for dividing the metropolitan district into sections or divisions and for establishing stations;

(j) for ensuring discipline and good conduct amongst members of brigades, and for ensuring their speedy attendance with engines, fire-escapes and all necessary apparatus and implements on the occasion of any alarm of fire, and generally for the maintenance of brigades in a due state of efficiency;

(k) For the establishment and registration of fire or emergency service units;

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S. 34(1)(h) repealed by No. 10043 s. 12(2), new s. 34(1)(h) inserted by No. 2/1995 s. 19(4).

S. 34(1)(i) amended by No. 24/1997 s. 33(1)(c).

S. 34(1)(k) substituted by No. 24/1997 s. 33(1)(d).

S. 34(1)(l) repealed by No. 24/1997 s. 33(1)(a).

S. 34(1)(m) repealed by No. 24/1997 s. 33(1)(a).
(n) for prescribing the basis on which the cost of attending at a hazardous material incident or toxic fire incident the whole or part of which is not a fire within the meaning of section 3(1) is to be determined and prescribing the fees and charges to be paid to the Board for that attendance;

(o) for prescribing the fees and charges to be paid to the Board for any service that the Board is empowered to provide under this Act and for which this Act or the regulations enables the board to charge for providing that service;

(oa) for prescribing the fees and charges to be paid to the Board for the inspection of plans, premises and equipment for the prevention or suppression of fire and any other services whatever rendered by the Board (whether within or outside Victoria) or for authorizing the Board to fix such fees and charges;

(ob) for prescribing, for the purposes of this Act and section 12 of the Summary Offences Act 1966, the expenses and charges of any brigade in relation to attendance at any fire or answering any alarm;

(pa) for prescribing the insignia and the use of the insignia of the Board;
(s) for managing and regulating the distribution of all revenue received under the provisions of this Act;
(t) for registering insurance companies their agents or representatives;
(u) for altering any date prescribed by this Act for the doing or performance of any duty to any other date;
(ua) for prescribing forms for the purposes of this Act;
(x) For appeals to the Metropolitan Fire and Emergency Services Appeals Commission, including the period and procedure for making an appeal;
(xa) For hearings under section 78C;
(y) and generally for the purposes of carrying into effect the objects of this Act.

(2) The regulations may prescribe in respect of any insurance or class of insurance—

(a) an amount in respect of the premium payable; or

(b) a proportion of the premium payable—

which shall in respect of that insurance or class of insurance for the purposes of this Act be the portion of the premium that is properly attributable to insurance against fire.

(3) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 23 of the Subordinate Legislation Act 1994, which disallowance shall be deemed disallowance by Parliament for the purposes of that Act.

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Financial

36 Annual estimate of expenditure and revenue

(1) Before the end of every financial year the Board must provide the Minister with—

(a) an estimate of the expenditure which may be incurred by the Board in the execution of this Act during the next financial year (including any amounts payable into any fund under this Act); and
(b) an estimate of the revenue of the Board during the next financial year (including the amounts payable into any fund under this Act).

(2) The Minister must determine the total amounts of contributions payable under section 37 having regard to the estimates under subsection (1) and to any other matters as the Minister thinks fit and that determination has no force or effect until it is approved by the Governor in Council.

37 Contributions towards annual expenditure

(1) The sum required to meet the total amount of contributions shall be contributed as follows—

(a) one-eighth from the Consolidated Fund;

(b) one-eighth by the municipal councils whose districts are within or partly within the metropolitan district out of the municipal fund of such municipal councils; and

(c) three-quarters by the insurance companies insuring against fire property situated within the metropolitan district.

(2) The amounts to be contributed pursuant to subsections (1)(a) and (1)(b) shall be paid to the Board by equal quarterly payments on the 1st day of July, October, January and April in each year.
38 Municipal contributions how ascertained

As to the annual contribution payable by the municipal councils whose districts are within or partly within the metropolitan district, the following provisions shall apply, viz—

(a) the amount of the proportion of such contribution to be paid by each such municipal council to the Board shall be a pro rata proportion of such contribution calculated upon the rateable value of the property in such municipal district or such portion thereof as is within the metropolitan district as shown by the latest municipal assessment thereof;

(b) the amount of the contribution payable by each municipal council shall be absolutely determined by the Board and shall be so fixed as to produce upon the aggregate of such contributions the whole amount of the contributions to be provided by the said municipal councils;

(c) every municipal council and every officer thereof shall when so requested by the Board furnish the Board with a return in the prescribed form and any documents papers or information relating to such municipality necessary in order to enable the Board to determine the amount of such contribution.

39 Municipal contributions under this Act may form part of rate

The amount of any contribution payable under this Act by a municipal council to which this Act applies may be raised if necessary (and notwithstanding any statutory limit of such rates) by that municipal council increasing the general rate by such a sum in the dollar as will
be sufficient to provide the amount thereof, and such increased rate shall for all purposes be deemed to be and be recoverable as general rates.

40 Returns of premiums

(1) Each insurance company must before 15 August in each year lodge with the Board a return in the prescribed form showing the portion of the total amount of the gross premiums received by or due to the insurance company during the preceding financial year as is properly attributable to insurance against fire in respect of property situated in the metropolitan district.

(1A) The Victorian Managed Insurance Authority must lodge a return under subsection (1) in respect of gross premiums referred to in that subsection received or due to the Victorian Managed Insurance Authority from a relevant body.

(1B) For the purposes of subsection (1A)—

exempt participating body means a participating body within the meaning of paragraph (a) or (b) of the definition of relevant body which is a participating body of the kind specified in paragraph (c)(i) of the definition of participating body in section 3 of the Victorian Managed Insurance Authority Act 1996;

relevant body means—

(a) a statutory authority or a body corporate declared to be a participating body under section 4(1)(b) or 4(1)(c) of the Victorian Managed Insurance Authority Act 1996; or
(b) a person or body provided with insurance by the Victorian Managed Insurance Authority under a direction given under section 25A of the Victorian Managed Insurance Authority Act 1996 which is insurance of a type that is subject to a contribution under this Act—which is not an exempt participating body;

**Victorian Managed Insurance Authority** means the Victorian Managed Insurance Authority established under section 5 of the Victorian Managed Insurance Authority Act 1996.

(2) The gross premiums shown in the return must—

(a) include any commissions or discounts;

(b) include a notional premium for deductibles of $10 000 or more calculated in accordance with the prescribed formula;

(c) exclude any amounts received or due to the insurance company in respect of re-insurance contracts or agreements.

(2A) If subsection (2)(b) applies, the return must include the prescribed details in the manner and form prescribed for the purposes of this subsection.

(3) The return must include a statutory declaration made by the manager, secretary, agent or other person for the time being performing the duties of the manager, secretary or agent of the company to the effect that according to the books of the company and to the best of his or her knowledge and belief the return contains a true statement of the amount of gross premiums.
(4) The statutory declaration made under subsection (3) must include a statement as to the amount collected by the insurance company as being on account of a fire service levy however described in any policy document, certificate of insurance, renewal notice or premium invoice.

(5) For the purposes of this section, the return must include as a discount any reduction in gross premiums as a result of the use of net rating in relevant policies of insurance against fire issued by the insurance company.

(6) In subsection (5), **net rating** means any practice or device adopted by an insurance company involving the waiving of commission or brokerage by an insurance intermediary which has the effect of reducing the premium payable to the insurance company.

40A **Determination of provisional contributions**

The Board must issue a determination of the provisional contribution of each insurance company as follows—

(a) for the quarter beginning 1 July—

(i) the aggregate of all provisional contributions by all insurance companies must equal 25% of the total amount to be contributed by insurance companies under section 37(1)(c); and

(ii) the portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premiums shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the previous preceding financial year; and
(iii) the amounts of provisional contributions are to be paid to the Board by 1 July;

(b) for the quarters beginning 1 October, 1 January and 1 April—

(i) the aggregate of all provisional contributions by all insurance companies must equal 75% of the total amount to be contributed by insurance companies under section 37(1)(c); and

(ii) the portion to be contributed by each insurance company must bear the same proportion to the whole contribution by insurance companies as the portion of gross premium shown in the insurance company's return bears to the aggregate portions of gross premiums shown in all returns in respect of the preceding financial year; and

(iii) for the purposes of this paragraph the amount of gross premiums shown in all returns excludes the amount of gross premiums returned by any insurance company which has failed within 45 days of the due date to pay the whole or any part of the provisional contributions payable by that insurance company under paragraph (a); and

(iv) unless section 41 or 43 applies, the amounts to be contributed under this paragraph are to be paid to the Board in equal quarterly instalments on 1 October, 1 January and 1 April in each financial year.
40B Final calculation of contribution

(1) The Board must make a final calculation of the contribution of each insurance company for the financial year in respect of which the return is lodged in accordance with the following formulae—

(a) in the case of an insurance company which has lodged a return in respect of that financial year but was not required to lodge a return in respect of the preceding financial year—

\[
\frac{C - B}{Pa + Pb} \times Pi;
\]

(b) in the case of an insurance company which, in respect of that financial year—

(i) has paid all of its provisional contributions under section 40A; or

(ii) has paid part of its provisional contributions under section 40A and the remainder of its provisional contributions under any notice issued under section 43(1)(b) or 43(1)(c) within that financial year; or

(iii) has paid all of its provisional contributions under any notice issued under section 43(1)(b), within that financial year—

\[
\frac{C - B}{Pa + Pb} \times Pi;
\]
(c) in the case of an insurance company which, in respect of that financial year, has not paid any of its provisional contributions under section 40A or 43(1)(b)—

\[
\left[ \frac{C - B}{Pa + Pb} \right] \times Pi;
\]

(d) in the case of an insurance company which, in respect of that financial year—

(i) has paid part of its provisional contributions for that financial year and within that financial year—

(A) under section 40A; or

(B) under any notice issued under section 43(1)(b) or 43(1)(c) during that financial year; or

(C) under section 40A and any notice issued under section 43(1)(b) or 43(1)(c) during that financial year—

and was either—

(ii) required to pay a contribution in accordance with any notice issued under section 41(3), 41(4)(a) or 41(5)(d); or

(iii) required to pay provisional contributions under any notice issued under section 43(1)(b) or 43(1)(c), but did not pay all or any part of those contributions within that financial year—
(A) in respect of amounts referred to under paragraph (d)(i)—
\[
\left[ \frac{C - B}{Pa + Pb} \times Pi \right] \times A; \text{ and}
\]

(B) in respect of amounts referred to under paragraphs (d)(ii) and (d)(iii)—
\[
\left[ \frac{C - B}{Pa + Pb} \times Pi \right] \times [1 - A].
\]

(2) If the final calculation of, or the sum of the final calculations of, contributions in respect of an insurance company is more or less than the contribution paid or payable by that insurance company in respect of that financial year, the Board must make a determination of the additional amount that is to be paid by, or of the payment that is due to, the insurance company determined as follows—

(a) in the case of an insurance company to which subsection (1)(a) applies, the amount under subsection (1)(a);

(b) in the case of an insurance company to which subsection (1)(b) applies, the amount under subsection (1)(b) less X;

(c) in the case of an insurance company to which subsection (1)(c) applies, the amount under subsection (1)(c) less Y, provided Y is not more than that amount, in which case no adjustment is to be made;

(d) in the case of an insurance company to which subsection (1)(d) applies, the sum of—
(i) the amount calculated in respect of amounts referred to in subsection (1)(d)(i), less $X$; and

(ii) the amount calculated in respect of amounts referred to in subsections (1)(d)(ii) and (1)(d)(iii), less $Y$, provided $Y$ is not more than that amount, in which case no adjustment is to be made in respect of amounts referred to in subsections (1)(d)(ii) and (1)(d)(iii).

(3) The Board must issue each insurance company with a notice of the calculation relating to that insurance company under subsection (1) and the amount determined in respect of that insurance company in accordance with subsection (2).

(4) The amount determined in respect of an insurance company under subsection (2) must be added to, or subtracted from, the instalment due to be paid by that insurance company for the quarter beginning 1 October or, if section 41(3), 41(4) or 41(5) applies, the quarter beginning 1 January, in the financial year in which the return is lodged.

(5) Where no instalment is due to be paid by an insurance company at a time when an adjustment in accordance with subsection (4) would otherwise be made, the Board must—

(a) in a case where a determination has been made of an additional amount that is to be paid by the insurance company, by notice require the insurance company to pay that amount within the period specified by the Board in the notice; and

(b) in a case where a determination has been made of an amount that is due to the insurance company, apply that amount
against any amount owing by that insurance company to the Board and refund the remainder within a reasonable period.

(6) In this section—

A means the proportion of provisional contributions paid by an insurance company under section 40A and, within that financial year, under any notice issued under section 43(1)(b) or 43(1)(c) during that financial year.

B means the sum of the provisional contributions paid by insurance companies under any notices issued under section 43(1)(b) or 43(1)(c), during the year for which final calculations are being made, but not including payments made under those notices if those payments were made during the periods specified in those notices.

C means the total amount required to be contributed by all insurance companies under section 37.

Pa means the sum of the amounts of the portions of gross premiums specified in the return of each insurance company multiplied by the proportion of provisional contributions paid by each insurance company under section 40A and, within that financial year, under any notice issued under section 43(1)(b) or 43(1)(c) during that financial year.

Pb means the sum of the amounts of the portions of gross premiums specified in the return of each insurance company which has made a return in respect of that financial year but was not required to lodge a return in respect of the preceding financial year.
**Pi** means the amount comprising the portion of gross premiums specified in the return of the insurance company in respect of which a final calculation is being made.

**X** means the total amount of provisional contributions paid by the insurance company in respect of which a final calculation is being made, under section 40A and, within that financial year, under any notice issued under section 43(1)(b) or 43(1)(c) during that financial year.

**Y**, in relation to an insurance company in respect of which a final calculation is being made, means—

(a) the total amount of payments made or payable by the insurance company under any notice issued under section 41(3), 41(4)(a) or 41(5)(d); or

(b) the total amount of provisional contributions payable by the insurance company under any notice issued during the financial year under section 43(1)(b) or 43(1)(c), but not including any amounts which have been paid during that financial year.

### 41 Penalties in relation to returns

(1) Any insurance company which fails to lodge a return before 15 August is guilty of an offence and liable to a penalty of not more than 60 penalty units.
(2) Any insurance company which lodges a return which is incomplete is to be treated for the purposes of this section as not having lodged the return until it lodges a complete return.

(3) In addition to the penalty under subsection (1), if an insurance company lodges a return after the Board has made its determinations of provisional contributions under section 40A(b) but before 1 October the Board may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company's provisional contributions for the financial year in which the return is to be lodged had the return been lodged on or before 15 August within the period specified by the Board in the notice.

(4) In addition to the penalty under subsection (1), if an insurance company lodges a return on or after 1 October—

(a) the Board may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company's provisional contributions for the financial year in which the return is to be lodged had the return been lodged on or before 15 August within the period specified by the Board in the notice; and

(b) the Board may charge the insurance company penalty interest at the rate for the time being fixed by notice under section 2 of the Penalty Interest Rates Act 1983 on the balance of the insurance company's provisional contributions for the financial year in which the return is to be lodged as from 1 October.
(5) In addition to the penalty under subsection (1), if an insurance company has not lodged a return by 1 October and in the opinion of the Board it is unlikely to do so the following apply—

(a) the Board may estimate the portion of the total amount of gross premiums received by or due to the insurance company during the preceding financial year as is properly attributable to insurance against fire in the metropolitan area of Victoria on any basis which the Board considers reasonable in the circumstances;

(b) for the purposes of this Act, the Board's estimation under paragraph (a) is deemed to constitute the insurance company's return;

(c) for the purposes of determining the appropriate penalty under subsection (1), the insurance company is deemed to have lodged its return with effect from the date on which the Board completes its estimation under paragraph (a);

(d) the Board may by notice require the insurance company to pay all of the amount which would have been assessed to be the insurance company's provisional contributions for the financial year in which the return is deemed to be lodged had the return been lodged on or before 15 August within the period specified by the Board in the notice;

(e) the Board may charge the insurance company penalty interest at the rate for the time being fixed by notice under section 2 of the Penalty Interest Rates Act 1983 on the balance of the insurance company's provisional contributions for the financial
year in which the return is deemed to have been lodged as from 1 October.

42 Inspection of documents

(1) The manager, secretary, agent or any other person having the custody of the documents of any municipal council or of any body corporate or unincorporate must allow any officer appointed by the Board to exercise the powers specified in subsection (2) for the purpose of—

(a) verifying any return or declaration made under this Act; or

(aa) reconciling amounts paid by a body to the Board as contributions with amounts specified in invoices issued by that body for insurance of property against fire as being payable for a fire service contribution (however described); or

(b) determining whether the body corporate or unincorporate is carrying on the business of insurance against fire; or

(c) ascertaining the details of any contract of insurance held by that body corporate or unincorporate and determining whether the body is liable to pay a contribution to the Board under this Act; or

(d) in the case of a municipal council, verifying any information provided by or contained in the documents or papers provided by the municipal council or its officers under section 38(c).
(2) An officer appointed by the Board has power for the purposes of subsection (1)—

(a) to inspect any documents of the municipal council or body corporate or unincorporate during normal business hours; and

(b) to make copies and take extracts from the documents; and

(c) to require the manager, secretary, agent or other person to answer any questions or provide any information in relation to the inspection.

(3) A manager, secretary, agent or other person who does not comply with any requirement under this section is guilty of an offence and liable to a penalty of not more than 60 penalty units.

(4) A person must not, without reasonable excuse, hinder or obstruct an officer appointed by the Board who is exercising a power under subsection (2).

Penalty: 120 penalty units.

43 Penalty for failure to make payment

(1) If a municipal council or an insurance company does not pay any quarterly instalment or amount payable under subsection (2), (3) or (4) within 14 days after it is due or after the date on which notice of demand is given (whichever is the later date)—

(a) the municipal council or insurance company is guilty of an offence and liable to a penalty of 10 penalty units; and

(b) where an insurance company has failed to pay by the due date the whole or any part of any contribution assessed as being payable by that insurance company under section 40A(a), the Board may by notice

S. 42(3) amended by No. 49/2002 s. 27(2).

S. 42(4) inserted by No. 49/2002 s. 27(3).

S. 43 amended by Nos 43/1987 s. 14(2)(c), 12/1989 s. 4(1)(Sch. 2 item 79.15), substituted by No. 91/1989 s. 5(2).
require the insurance company to pay the outstanding amount and all of the amount that would have been assessed to be the provisional contributions that would have otherwise have been due by that insurance company under section 40A(b) for that financial year had the insurance company paid the contributions due under section 40A(a) by the due date, within the period specified by the Board in the notice; and

(c) where an insurance company has failed to pay by the due date the whole or any part of any contribution assessed as being payable by that insurance company under section 40A(b), the Board may by notice require the insurance company to pay the balance of its provisional contributions for the financial year to which the overdue instalment relates within the period specified by the Board in the notice; and

(d) the Board may by notice require the municipal council to pay the balance of its quarterly instalments for the financial year to which the overdue instalment relates within the period specified by the Board in its notice; and

(e) the Board may charge the municipal council or insurance company penalty interest at the rate for the time being fixed by notice under section 2 of the Penalty Interest Rates Act 1983 on the outstanding instalment from the date on which it became due.

(2) If an insurance company fails to pay within 45 days after the due date of the instalment for the quarter beginning 1 July any contribution assessed as being payable by the Board, the Board may
increase in accordance with the method specified in section 40A(b) the provisional contributions that would otherwise have been payable by the other insurance companies in the quarters beginning 1 October, 1 January and 1 April of that financial year to meet the amount of the provisional contributions which the insurance company has failed to pay.

(3) If an insurance company fails to pay 45 days after the due dates of the quarterly instalments for the quarters beginning 1 October and 1 January any contribution assessed as being payable by the Board, the Board may—

(a) re-calculate in accordance with the method specified in section 40A(b) the provisional contributions due by other insurance companies during the remainder of the financial year to meet the amount of the provisional contributions which the insurance company has failed to pay; and

(b) issue a new determination of the provisional contributions payable by each insurance company in the remaining quarters of that financial year.

(4) If an insurance company fails to pay within 45 days after the due date of an instalment for the quarter beginning 1 April any contribution assessed as being payable to the Board, the Board may—

(a) re-calculate in accordance with the method specified in section 40A(b) the provisional contributions due by other insurance companies to meet the amount of the provisional contributions which the insurance company has failed to pay; and
(b) issue a notice of additional provisional contributions payable by each insurance company to meet the amount of the unpaid provisional contributions.

44 Recovery of charges where failure to pay contribution

(1) In the event of any unit attending a fire in which there is interested any insurance company which has failed or omitted to make any quarterly payment under this Act within the prescribed time, it shall be lawful for the Board to levy such charges for such attendance as are deemed adequate by the Board.

(2) Such charges may be recovered from the owner or occupier of such property in any court of competent jurisdiction and shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the said property notwithstanding any clause or condition to the contrary in any such policy; and every such occupier unless he is under contract or agreement with the owner thereof to insure such property shall be entitled to deduct all charges so paid by him and all costs and expenses incurred by him in relation thereto from any rent then due or thereafter accruing due to such owner or to recover the same from such owner in any court of competent jurisdiction.
44A Contributions by owners and brokers

(1) This section applies if property in the metropolitan district is insured against fire with a person carrying on a business of insurance against fire, not being an insurance company required to make a return under section 40.

(2) If this section applies, within 14 days after the owner of the property insured has paid the premium—

(a) the insurance intermediary through whom the insurance is arranged; or

(b) if the insurance is not arranged through an insurance intermediary or is arranged through an insurance intermediary who does not carry on business in Victoria, the owner of the property insured—

must lodge with the Board a return in the prescribed form showing the portion of the total amount of the premium paid to the insurance intermediary or insurance company as is properly attributable to insurance against fire.

Penalty: 10 penalty units and an additional penalty of double the amount that would have been payable under subsection (3) if subsection (3) had been complied with.
(3) The insurance intermediary or owner of the property insured must within 14 days after the owner of the property insured has paid the premium pay to the Board as a contribution an amount equal to \( \frac{C \times P}{T - (0.8C)} \) together with an amount equal to one per cent of the portion of the premium shown in the return lodged under subsection (2).

Penalty: 10 penalty units and an additional penalty of double the amount that would have been payable under this subsection if this subsection had been complied with.

(3A) If the return under subsection (2) is lodged by an insurance intermediary, the gross premiums shown in the return must—

(a) include any commissions or discounts;

(b) include a notional premium for deductibles of $10,000 or more calculated in accordance with the prescribed formula;

(c) exclude any amounts received or due to the insurance company in respect of re-insurance contracts or agreements.

(3B) If subsection (3A)(b) applies, the return must include the prescribed details in the manner and form prescribed for the purposes of this subsection.

(3C) For the purposes of this section, the return must include as a discount any reduction in gross premiums as a result of the use of net rating in relevant policies of insurance against fire issued by the insurance intermediary.
(3D) In subsection (3C), *net rating* means any practice or device adopted by an insurance company involving the waiving of commission or brokerage by an insurance intermediary which has the effect of reducing the premium payable to the insurance company.

(4) In subsection (3)—

*C* is the total amount required to be contributed to the Board by insurance companies under section 37 in the year in which the insurance is effected or renewed;

*P* is the amount comprising the portion of the premium shown in the return lodged under subsection (3);

*T* is the total amount of the portions of gross premiums shown in the returns by insurance companies under section 40—

(a) for the previous preceding financial year, if the insurance is effected or renewed in the quarter of a financial year beginning 1 July; or

(b) for the preceding financial year, if the insurance is effected or renewed in the quarter of a financial year beginning 1 October, 1 January or 1 April.
45 Adjustment of contribution

(1) Despite anything in this Act, if the Board is satisfied that, whether by reason of any error in any return or otherwise, the amount contributed by any municipal council or insurance company is more or less than the proper contribution of that municipal council or insurance company—

(a) the Board may require that municipal council or insurance company to submit an amended return; and

(b) the Board may, at its absolute discretion—

(i) by notice, require that municipal council or insurance company to pay the amount of the deficiency within the period specified by the Board in the notice; or

(ii) add to, or subtract from, the amount of any subsequent instalment payable by that municipal council or insurance company the amount of the excess or deficiency and that amount may be added to or subtracted from the amount of any instalment to be made by other municipal councils or insurance companies in any subsequent period; and

(c) the Board may charge the municipal council or insurance company penalty interest at the rate for the time being fixed by notice under section 2 of the Penalty Interest Rates Act 1983 on the amount of any deficiency with effect from the date upon which that amount would have become payable had the error not occurred.
(2) Despite anything in this Act, if the Board is satisfied that, because of exceptional circumstances, the contribution to be paid by an insurance intermediary or the owner of a property calculated under section 44A exceeds an amount that the Board determines to be equitable, the Board may, at its absolute discretion, determine an amount of contribution for that insurance intermediary or owner that is less than the contribution calculated under section 44A.

(3) If a new amount of contribution is determined under subsection (2), the Board may—

(a) if the contribution under section 44A has not yet been paid, require the insurance intermediary or the owner to pay that new amount instead of the amount payable under section 44A; or

(b) if the contribution under section 44A has been paid to the Board, refund to the insurance intermediary or owner the difference between the contribution paid under section 44A and the new amount.

(4) It is sufficient compliance with section 44A(3)(b) if an insurance intermediary or the owner of a property pays an amount required under subsection (3) to be paid by that insurance intermediary or owner.

45A Disclosure of information by Board

(1) The Board may disclose to the Secretary to the Department of Justice, the Secretary to the Department of Treasury and Finance or the Fire Services Commissioner or otherwise publish in any manner the Board thinks fit any information
obtained by the Board under section 38, 40, 41, 42, 44A or 45.

(2) The Secretary to the Department of Justice, the Secretary to the Department of Treasury and Finance or the Fire Services Commissioner may publish in any manner the Secretary or Commissioner thinks fit any information disclosed to the Secretary or Commissioner by the Board under subsection (1).

(3) Nothing in subsection (1) or (2) permits the disclosure or publication of information that could lead to the identification of an individual.

(4) The Board may disclose to a member of the police force any information obtained by the Board under section 38, 40, 41, 42, 44A or 45 if the Board is satisfied that the disclosure is reasonably necessary for the purpose of the investigation of an offence against this Act or any other Act or law.

46 Borrowing by Board

(1) The Board may obtain financial accommodation subject to and in accordance with the Borrowing and Investment Powers Act 1987.

(2) The payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board (including the expenses of enforcement) are secured as a first charge on the property and revenue of the Board.

(3) The amounts secured under subsection (2) include amounts (and interest) borrowed by the Board before the commencement of section 17 of the Borrowing and Investment Powers (Amendment) Act 1993.
47 Power of Minister in case of default of Board

If the Board at any time makes default in paying any principal money or interest secured by any debenture, the Minister shall be entitled to receive from the Treasurer of Victoria and receive and recover from the municipalities and the insurance companies respectively either the whole of the annual contributions which would otherwise have been payable to the Board or such part thereof as the Treasurer of Victoria determines to be necessary for the purposes of paying any principal money or interest in arrear and shall apply to such purposes the moneys so received.

This section shall not be deemed to take away any right of action or procedure which any debenture holder at any time has in respect of the property and revenue of the Board.

47A Guarantee of debentures etc. of Board

(1) The due repayment of the principal and the payment of the interest secured by any debentures issued by the Board before the commencement of section 18 of the Borrowing and Investment Powers (Amendment) Act 1993 in accordance with section 46, and the due repayment of any overdraft obtained by the Board in accordance with that section as so in force, and the payment of interest on any such overdraft, is guaranteed by the Government of Victoria.

(2) Money required by the Treasurer of Victoria for fulfilling any such guarantee shall be paid out of the Consolidated Fund, which is hereby to the necessary extent appropriated accordingly.
(3) When sufficient money becomes properly available to it, including money received under section 47, the Board must reimburse the Treasurer for any such payment, and the Treasurer must pay into the Consolidated Fund any money so reimbursed.

51 Board may establish funds

The Board may—

(a) with the consent of the Governor in Council establish a Land, Building, Vehicle, Plant and Machinery Purchase, Construction, Renewal and Replacement Fund; and
(b) pay into that fund such amounts as the Governor in Council approves either generally or in a particular case.

51A Investment by Board

The Board may invest money of the Board in accordance with powers conferred on it by the Borrowing and Investment Powers Act 1987.

General provisions

52 Units to be registered

All units—

(a) must conform to the laws affecting units; and

(b) must be registered in the manner and subject to the conditions prescribed by the regulations; and

(c) are subject to inspection by any employee of the Board who is authorised by the Board to carry out inspections.

54 Damage done to be within policy

Any damage to property caused by the Chief Officer or by any member of any unit or by any unit in the lawful execution of any power conferred by this Act is deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged despite any clause or condition to the contrary in that policy.
54A Immunity from certain liabilities

The Chief Officer and any member of a unit are not personally liable for anything done or omitted to be done in good faith—

(a) in the exercise of a power or the discharge of a duty under section 32B, 32C, 55, 55A, 55B, 55C, 55D or 55E; or

(b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under that section.

55 Board is a protection agency

The Board is a protection agency for the purposes of section 66 of the Environment Protection Act 1970.

55A Board may provide rescue and extrication services

The Board may provide a rescue and extrication service for any person or property endangered as the result of an accident or explosion (other than a road accident) which does not involve the risk or existence of a fire.

55B Board may provide road accident rescue service

(1) The Board may provide a road accident rescue service for persons involved in road accidents.

(2) The Board may charge for the provision of services under subsection (1) in accordance with the regulations.

55C Board may provide protection services

(1) The Board may enter into an agreement with any person to provide any other property protection or loss mitigation service for the prevention of or to deal with the effects of any emergency or hazard.
(2) The Board may charge for the provision of services under subsection (1) in accordance with the regulations.

**55D Board may provide emergency prevention and response service**

Without limiting any other power of the Board under this Act, the Board may provide emergency prevention and response services within the metropolitan fire district.

**55E Activities outside metropolitan fire district**

(1) Where the Board or any unit receives from any person or any body established by or under any Act or law of this or any other State or of a Territory of the Commonwealth for the prevention and suppression of fire a request for assistance in preventing or suppressing a fire in some place outside the metropolitan fire district (whether within Victoria or not) or in protecting life or property in any such place a unit may attend at that place and, subject to the direction and control of the person or body requesting the assistance and having authority in that place, may engage in the prevention or suppression of fire or the protection of life and property in that place.

(2) Where the Board or any unit receives from any person or body established by or under any Act or law of this or any other State or of a Territory of the Commonwealth to perform a function of the type specified in section 55, 55A, 55B or 55C a request for assistance in performing that function in some place outside the metropolitan fire district (whether within Victoria or not) the unit may
attend at that place and, subject to the direction and control of the person or body requesting the assistance and having authority in that place, may perform that function in that place.

(3) If the Minister directs the Board to provide an emergency prevention or response service at a place outside the metropolitan fire district (whether within Victoria or not), the Board may attend at that place and, subject to the direction and control of the person having authority in that place, may provide that service in that place.

56 Extension and application of Act

For the purposes of carrying out any function under section 55, 55A, 55B, 55C, 55D or 55E, the Board has all the powers (with any necessary modification or extension) which the Chief Officer has in relation to the prevention and suppression of fire or the protection of life and property in case of fire.

58 Removal of persons from burning premises

(1) A member of a unit or a member of the police force may order any person who is not a member of a unit or who is not acting under the control or direction of a member of a unit to withdraw from any premises then burning or which are threatened by fire.

(1A) A person must comply immediately with an order given to the person under subsection (1).
(2) If such person neglects or refuses to so withdraw he may be forcibly removed by order of any such member.

(3) Nothing herein contained shall authorize the removal from any such premises of any person having any pecuniary interest therein or in any goods or valuables whatsoever thereon.

59 Rights to water

The Board, its operational staff and any unit registered under this Act shall have the use of all water mains water plugs valves pipes vested in or belonging to the Melbourne and Metropolitan Board of Works or any public or municipal corporation or local body whatsoever and of all water therein or in any well or tank free of charge for the purpose of extinguishing any fire or for the purpose of drills competitions and practice conducted under the authority of the Board.

60 Collection of contributions for brigades

(1) Subject to regulations the Board may grant an authority in writing or in print to any person to collect contributions or subscriptions for the purposes of any unit and may at any time call in or cancel such authority.

(2) Every person not duly authorized in that behalf by the Board who solicits contributions or subscriptions for the purpose of any unit shall on conviction thereof be guilty of an offence against this Act.
61 Police to aid Units

(1) Every member of the police force present at any fire must support and assist the senior member of the operational staff at the scene—

(a) in the maintenance of the senior member's authority; and

(b) in enforcing compliance by all persons with any order given by the senior member in the execution of his or her duty.

(2) All members of the police force are authorised and required to aid units in the execution of their duties.

(3) For the purpose of subsection (2), members of the police force may—

(a) close any street in or near which a fire is burning; and

(b) of their own volition or at the request of the senior member of the operational staff at the scene, remove any persons who interfere by their presence or otherwise with the operations of the unit.

(4) In this section senior member of the operational staff has the same meaning as it has in section 32B.
64 Regulation of height of buildings

(1) In the interests of fire prevention the council of every city town or borough the municipal district of which is wholly or partly within the metropolitan district may pursuant to the provisions of any Act for the time being in force relating to local government and with the approval of the Governor in Council make alter or repeal by-laws for the purpose of regulating or limiting the height of all buildings to be erected in such city town or borough or in any part thereof specified in such by-law and for providing means of escape from every such building in case of fire.

(2) Every person who constructs any building contrary to any such by-law and suffers the height of the same to remain contrary to such by-law after twenty-eight days’ notice in writing from the council to reduce the height of such building to the height limited in the by-law shall on conviction be liable to a penalty of not more than 1/5 of a penalty unit for every day after the expiration of such notice during which such building continues to be above the height so limited.
66 Payment of expenses where property uninsured

(1) The owner of any uninsured property situate within the metropolitan district which is damaged or destroyed by fire shall be liable to pay to the Board the reasonable costs and expenses incurred by the Board in providing fire fighting services for him in relation to that property.

(2) The amount payable under subsection (1) shall be determined by the Board.

(3) Notice of the amount so determined shall be sent by post to the owner concerned.

(4) The amount specified in the notice shall be payable to the Board by the owner within 28 days after receipt of the notice.

(7) An owner who receives a notice under subsection (3) may apply to the Victorian Civil and Administrative Tribunal for review of the decision of the Board determining the amount payable by the owner.

(7A) An application for review must be made within 28 days after the later of—

(a) the day on which the notice is received;
(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the owner requests a statement of reasons for the decision, the day on which the statement of reasons is given to the owner or the owner is informed under section 46(5) of that Act that a statement of reasons will not be given.

(8) The provisions of this section do not apply to the Crown.

(9) In this section *uninsured* means not insured against fire—

(a) with an insurance company making a return under section 40; or

(b) under a contract of insurance in respect of which contributions have been paid to the Board under section 44A.

## 66A Recovery of charges for services

(1) Any money to be paid to the Board as fees and charges for services provided by the Board may be recovered by the Board in any court of competent jurisdiction as a debt due to the Board.
(2) The Board may on the application of any person who is liable in respect of an amount for services provided by the Board, if the Board considers it appropriate—

(a) remit or excuse the payment of the amount or any part of the amount; or

(b) defer the payment of the amount or any part of the amount for such time as the Board thinks fit.

67 **Power of agents to deduct payments made for insurance company**

Any agent may deduct from any moneys held by him for any insurance company all expenditure necessarily or properly incurred and paid by him under this Act for or in respect of any insurance company for which he is the agent, or he may in any court of competent jurisdiction recover from any insurance company the amount so incurred and paid.

68 **Power of agents to deduct payments made for owners**

Any agent may deduct from any moneys held by him for his principal all charges costs or expenses necessarily or properly incurred and paid by him under this Act as owner of any houses lands or premises in the metropolitan district for which he is the agent of such principal or he may in any court of competent jurisdiction recover from such principal the amount incurred and paid.

69 **Power of trustees**

Any trustee being owner of any houses lands or premises in the metropolitan district may apply any of the funds under his control in defraying any charges costs or expenses necessarily or properly incurred by him under this Act as such owner.
69A Australian Fire Brigades Charges Scheme

(1) Lloyd's must continue to operate and manage the Australian Fire Brigades Charges Scheme.

(2) Lloyd's must within 30 days of the commencement of section 73 of the Victoria State Emergency Service Act 2005 provide a certified copy of the 1982 Agreement as in force at that commencement to the Minister.

(3) If Lloyd's fails to comply with subsections (1) and (2), section 44A applies to Lloyd's.

(4) Lloyd's must at the same time that it provides a notice of changes to the Australian Fire Brigades Charges Scheme to signatories under clause 16 of the 1982 Agreement, provide a copy of the notice of changes to the Minister.

Penalty: 60 penalty units.

70 Owner to give information as to insurance

(1) The owner of a house or building in the metropolitan district where a fire occurs shall on being requested so to do by any member of the Board or by the Chief Officer or any employee of the Board make a statutory declaration to the member, officer or employee as to whether such house or building is insured or not, and at the like request shall declare to the member, officer or employee full particulars of the insurance (if any) thereon including the name of the company with which the insurance is effected and the amount of such insurance and the details of any excess applying to that insurance.

(2) The owner of any personal property which is in any house or building or on any premises in the metropolitan district where a fire occurs or which is destroyed or damaged by fire shall at the like
request make a statutory declaration giving the like information and the like particulars as are required to be given with respect to a house or building as hereinbefore provided.

(3) Every person who refuses or fails forthwith to comply with any such request as aforesaid or who wilfully gives any false information or who wilfully gives any incorrect particulars in a statutory declaration with regard to such insurance as aforesaid shall be liable to a penalty of not more than 5 penalty units.

71 Place where fire occurs

(1) The Board or the Chief Officer may cause any place in the metropolitan district where any fire occurred to be searched, and may remove and keep possession of any materials which may tend to prove the cause or origin of the fire.

(2) The Board or Chief Officer may act under subsection (1) in relation to a fire on the Board's or the Officer's own initiative but shall not so act if a Coroner is investigating the fire.

(3) Where the Board or Chief Officer causes a search to be made or takes possession of anything under subsection (1) in relation to a fire, the Board or Officer shall, if a Coroner subsequently investigates the fire——

(a) report to the Coroner any information found in the search concerning the cause or origin of the fire; and
(b) give to the Coroner anything of which the Board or Officer has taken possession under subsection (1).

(4) Anything given to the Coroner under subsection (3)(b) shall be deemed to have come into the Coroner's possession under Division 4 of Part 4 of the Coroners Act 2008.

(5) If in the opinion of the Board or the Chief Officer there are suspicious circumstances in relation to the cause or origin of any fire in the metropolitan district, the Board or the Chief Officer—

(a) may restrict access to the place where the fire occurred until a Coroner with jurisdiction to investigate the fire under the Coroners Act 2008 orders otherwise or until an inquest into the fire is held under that Act, whichever first occurs;

(b) may cause to be erected at the entrance or boundary of the place a notice in the prescribed form of the restriction; and

(c) may request a coroner to investigate the fire.

71A  Restriction of access to fire area

(1) This section applies if access to a place where a fire has occurred has been restricted under section 71.

(2) A person must not, without lawful excuse, enter or interfere with any place to which access is restricted under section 71.

Penalty: 60 penalty units or imprisonment for 6 months.
72 Board or brigades may carry out fire prevention work

(1) The Board, at the request of—
   (a) the owner or occupier of any land;
   (b) a Minister in whom any land is vested;
   (c) a municipal council or public authority—
      (i) in which any land is vested;
      (ii) that has any land under its control or management;
      (iii) that is responsible for the care and management of any road—

   may carry out on that land or road any work (including burning) for the removal or abatement of any fire danger or for the prevention of the occurrence or spread of fire.

(2) Any work carried out under subsection (1) must be paid for by the owner, occupier, Minister, council or authority requesting the work and, if not paid, is recoverable in the Magistrates' Court as a debt due to the Board.

(3) Subject to the general direction and control of the Chief Officer, the members of any unit, with the consent of the relevant owner, occupier, Minister, council or authority, may carry out any work (including burning) that the senior member of the operational staff in the unit thinks necessary or expedient for the prevention of the occurrence or spread of fire.

(4) In this section senior member of the operational staff has the same meaning as it has in section 32B.
73 **Actions for recovery of contributions**

All contributions whether from any municipal council or any insurance company shall be recoverable by action either in the Supreme Court or the County Court whatever the amount sought to be recovered.

74 **Unincorporated company may be sued in the name of manager etc.**

Where an insurance company is not incorporated or has no public officer the proceedings whether for any contribution or any penalty may be taken against the company in the name of the firm or of the manager secretary or agent of such insurance company in which case judgment against such firm manager secretary or agent shall bind the property of such insurance company.

75 **Documents signed by president to be evidence**

All orders directions notices and documents whatever purporting to be issued or written by or under the direction of the Board and purporting to be signed by the president of the Board shall be received as evidence in all courts of law, and shall be deemed to be issued or written by or under the direction of the Board without further proof unless the contrary is shown.

75A **Offences relating to impersonation**

A person must not—

(a) use any name, title or description to imply an association with the Board, without the written authority of the Board; or

(b) represent that the person is associated with the Board unless such an association exists; or
(c) impersonate a member of a unit; or

(d) use any insignia described or set out in the regulations in any manner contrary to the manner set out in the regulations without the written authority of the Board.

Penalty: 20 penalty units.

76 Penalty for offences

Every person disobeying or failing to comply with any provision of this Act shall be guilty of an offence against this Act, and if no penalty is specially provided therefor shall be liable to a penalty of not more than 1 penalty unit and to a further penalty of not more than ½ of a penalty unit for each day such offence is continued after any conviction therefor.

76A Evidence of ownership or occupancy

In any proceedings under this Act or the regulations, the following is evidence that a person is the owner or occupier of land—

(a) evidence that the person is liable to be rated in respect of the land;

(b) evidence by the certificate of the Registrar of Titles or an Assistant Registrar of Titles authenticated by the seal of the Office of Titles that the person is the registered proprietor of an estate in fee-simple or of a leasehold estate held of the Crown in the land;

(c) evidence by the certificate of the Registrar-General or a Deputy Registrar-General authenticated by the seal of the Registrar-General that the person appears from the
memorial of any deed, conveyance or instrument to be the last registered owner of the land.

77 Recovery and application of penalties

(1) Subject to section 92, any penalty for an offence committed against section 91 may be recovered—

(a) if the fire prevention notice was served by a fire prevention officer, in accordance with section 232 of the Local Government Act 1989;

(b) if the fire prevention notice was served by the Chief Officer or by any person authorised by the Board.

(2) Any penalty for an offence committed against any other provision of this Act or the regulations may be recovered by any person authorised by, the Board.

(3) All penalties recovered for offences committed against section 91, including penalties recovered under section 92, are to be paid—

(a) if the fire prevention notice was issued by a fire prevention officer, to the relevant municipal council;

(b) if the fire prevention notice was issued by the Chief Officer, to the Board.

(4) All penalties recovered for any other offences against this Act or the regulations are to be paid to the Board.
77A Time within which proceedings for certain offences may be brought

Notwithstanding anything to the contrary in any Act, proceedings for an offence against section 44A(2) or 44A(3) may be commenced within the period of 2 years after the commission of the alleged offence.

* * * * *

78A Offences by officers or members

A member of the operational staff who is—

(a) guilty of any breach of the regulations;

(b) guilty of any misconduct;

(c) negligent or careless in the discharge of his duties;

(d) inefficient or incompetent and such inefficiency or incompetence arises from causes within his own control; or

(e) guilty of any disgraceful or improper conduct—

shall be guilty of an offence.
78B Laying of charges

(1) A member of the senior operational staff may, after an investigation, lay a charge for an offence under section 78A.

(2) The Chief Executive Officer may suspend from duty with pay any person charged under subsection (1) until the charge is dealt with under section 78D.

78C Hearing of charges

(1) The Chief Executive Officer must hear a charge laid under section 78B.

(2) A member of the operational staff and any other party to the hearing is entitled to be represented at the hearing of the charge by an Australian legal practitioner (within the meaning of the Legal Profession Act 2004) or other person.

(3) The representative of a party may examine witnesses and address the Chief Executive Officer on behalf of the party.

(4) If the member of the operational staff does not attend in person or by a representative at the time and place fixed for the hearing, the Chief Executive Officer may proceed in his or her absence.

78D Decision of Chief Executive Officer

(1) If, after hearing the charge, the Chief Executive Officer is satisfied that the offence was committed, he or she may do any one or more of the following—

(a) reprimand the member concerned; or

(b) reduce the position of the member concerned for such period as the Chief Executive Officer thinks fit; or
(c) impose a fine of not more than 40 penalty units; or

(d) suspend the member from duty with or without pay for a period not exceeding 6 months; or

(e) dismiss the member concerned.

(2) If a fine is imposed under this section, the amount of the fine may be deducted from the pay of the member fined but not more than ½ of a penalty unit may be deducted from the pay attributable to any one week.

### 78E Pay while suspended

(1) A member of the operational staff who has been suspended from duty without pay under section 78D may engage in paid employment during the term of the suspension.

(2) All pay which accrues to a member during any period of suspension without pay must be withheld.

(3) If the Appeals Commission upholds an appeal by the member in respect of the charge for which he or she has been suspended, all pay withheld under subsection (2) must be immediately paid to the member, less any earnings received by the member during the period of suspension.

(4) If an appeal by the member is not upheld by the Appeals Commission in respect of the charge for which he or she has been suspended or no appeal is lodged within the prescribed time, all pay withheld under subsection (2) is forfeited unless the Appeals Commission orders otherwise.
Metropolitan Fire and Emergency Services Appeals Commission

79 Metropolitan Fire and Emergency Services Appeals Commission

There is established a Commission to be called the Metropolitan Fire and Emergency Services Appeals Commission.

79A Function of the Commission

The function of the Commission is to hear and determine any appeal made to it under this Act.

79B Membership of Commission

(1) The Commission consists of up to 3 Commissioners appointed by the Governor in Council.

(2) One of the Commissioners is to be appointed as Senior Commissioner.

79C Term of appointment

(1) Subject to this Act, a Commissioner holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment.

(2) A Commissioner is eligible for reappointment.

79D Remuneration and allowances

A Commissioner (other than an employee of the public service) is entitled to receive—

(a) remuneration; and

(b) travelling or other allowances—

from time to time fixed by the Governor in Council.
79E Application of Public Administration Act 2004

The Public Administration Act 2004 (other than Part 3 of that Act) applies to a Commissioner in respect of the office of Commissioner.

79F Vacancies

(1) A Commissioner may resign from office by letter signed by the Commissioner and delivered to the Minister.

(2) The office of Commissioner becomes vacant if the Commissioner—

(a) becomes bankrupt; or

(b) is convicted in Victoria of an offence punishable on first conviction with imprisonment for a term of 12 months or more or is elsewhere convicted of an offence which, if committed in Victoria, would be so punishable.

(3) The Governor in Council, on the recommendation of the Minister, may remove a Commissioner from office if the Commissioner—

(a) becomes incapable of performing his or her duties; or

(b) is negligent in the performance of those duties; or

(c) engages in improper conduct; or

(d) is convicted of an offence.
79G Annual report of the Commission

(1) The Commission must prepare a report in respect of each year ending on 30 June on its own work and activities for that year.

(2) The Commission must submit the report to the Minister not later than 30 September in that year.

Appeals

79H Rights of appeal

A member of the operational staff may appeal to the Commission against—

(a) a decision of the Chief Executive Officer under section 78D in relation to the member;

(b) an order of transfer of the member, other than an order of transfer for a period not exceeding 8 weeks;

(c) the failure of the Board to select the member (not being a member of the senior operational staff) for promotion to a vacant position for which he or she has applied.

79I Certain appeals to be by way of rehearing

An appeal to the Commission under section 79H(a) or (c) is to be by way of re-hearing.

79J Proceedings of the Commission

(1) An appeal is to be heard by the full Commission or a Commissioner sitting alone.

(2) For the purposes of subsection (1), the Senior Commissioner is to determine who is to hear the appeal.
79K Assistants in proceedings

(1) The Commission may in each appeal be assisted by a person nominated by the Board or the Chief Executive Officer and a person nominated by the appellant.

(2) If the Board or the Chief Executive Officer (as the case requires) or the appellant fails to nominate a person under subsection (1), the Commission may proceed to hear the appeal without that assistance.

(3) A person assisting the Commission under this section is entitled to be present during the whole of the appeal proceedings.

(4) A person assisting the Commission under this section must advise the Commission on any matter on which it seeks to be advised but must not adjudicate on the matter before the Commission.

79L Procedure on appeal

(1) A member of the operational staff who has appealed to the Commission or any other party to the appeal may appear at the appeal or may be represented at the appeal by any person including an Australian legal practitioner (within the meaning of the Legal Profession Act 2004).

(2) If a member who is the subject of an appeal does not attend in person or by a representative at the time and place fixed for the hearing, the Commission may proceed in his or her absence.

(3) At an appeal—

(a) subject to this Act, the procedure of the appeal is at the discretion of the Commission; and
(b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit; and

(c) the Commission is not bound by the rules of evidence but may inform itself in any way it sees fit; and

(d) the Commission is bound by the rules of natural justice.

79M Commission powers on appeal

Sections 14 to 16 and 21A of the Evidence (Miscellaneous Provisions) Act 1958 apply in respect of any appeal to the Commission under this Act as if the Commission were a board appointed by the Governor in Council and as if the Senior Commissioner or the Commissioner hearing the appeal had the powers of the chairman of a board appointed by the Governor in Council.

79N Costs

Each party to an appeal must bear—

(a) that party's own costs; and

(b) the costs of any nominee of that party appointed to assist the Commission under section 79K.

79O Appeals against transfer

(1) An appeal against an order of transfer may only be brought on the ground that the process used by the Board in determining the transfer was not procedurally fair.

(2) An appeal against an order of transfer does not, prior to the determination of the appeal, stay the operation of the order.
(3) The Commission must disallow an appeal against an order of transfer if it is of the opinion that the transfer was in the best interests of the efficiency of the Metropolitan Fire and Emergency Service.

**79P Promotion appeals**

(1) The Commission in determining an appeal against the failure of the Board to select a member of the operational staff for promotion must have regard to the merit of the person selected for promotion and the appellant.

(2) The Commission must disallow an appeal against the failure of the Board to select a member of the operational staff for promotion if it is of the opinion that this was in the best interests of the efficiency of the Metropolitan Fire and Emergency Service.

(3) In this section *merit* means—

(a) skills, knowledge, aptitude and experience relevant to the requirements of the position; and

(b) special qualifications, fitness (including physical fitness), diligence and good conduct; and

(c) the performance of the person selected and the appellant in previous appointments.

**79Q Determination of Commission**

The Commission—

(a) must hear and determine an appeal under this Act; and

(b) may—

(i) allow the appeal; or

(ii) dismiss the appeal; or
(iii) in the case of an appeal under section 79H(a) or (c), dismiss the appeal and vary the decision.

79R Board and Chief Executive Officer

The Board and the Chief Executive Officer must give effect to a determination of the Commission.

79S Evidence of determination

A document purporting to record a determination of the Commission and to be signed by a Commissioner is in all courts of law evidence of the determination and its making.

Long service leave

80 Definition

(1) In the next seven succeeding sections unless inconsistent with the context or subject-matter—

* * * * *

service means—

(a) service as an employee of the Board, or partly as one and partly as the other (including any period of war service as a member of the naval military or air forces of Her Majesty or of the Commonwealth which was immediately preceded and followed by service as an employee of the Board) which service, apart from such war service (if any), has been or is continuous; and
(b) to such extent as is prescribed by the regulations service in any prescribed office under the Crown or with a Public or Government Authority or service in any prescribed office of the Commonwealth of Australia or any other Australian State.

* * * * *

81 Entitlement to long service leave

(1) Every employee of the Board who has had ten years service shall be entitled to be granted by the Board three months long service leave with pay in respect of that period of ten years service and one and a half months long service leave with pay in respect of each additional period of five completed years of service.

(2) Where—

(a) the employment with the Board of any employee ceases on account of—

(i) age; or

(ii) ill health as to which he produces to the Board satisfactory evidence that it is likely to be permanent and is not due to

S. 80(2) inserted by No. 8019 s. 9(a)(iii), repealed by No. 24/1997 s. 57(3).

Nos 5517 s. 4, 5629 s. 3(1).

S. 81(1) amended by Nos 7154 s. 2(a)(i)(ii), 8019 s. 9(b), 8760 s. 2(a)(i)(ii), 2/1995 s. 22(a), 24/1997 s. 57(1).

S. 81(2) amended by Nos 7154 s. 2(b)(i)-(iii), 8760 s. 2(b)(i)-(iv), 2/1995 s. 22(a), 24/1997 s. 57(1).

S. 81(2)(a) amended by Nos 2/1995 s. 22(a), 24/1997 s. 57(1).

S. 81(2)(a)(ii) amended by No. 8760 s. 2(c)(ii).
misconduct or to causes within his own control; or

(b) an officer or employee of the Board dies—

that employee shall be entitled, or (in the case of death) shall be deemed to have been entitled, to be granted by the Board—

where the completed years of service are not less than four but are less than ten, then in respect of such completed years of service;

where the completed years of service are more than ten, then (in addition to any entitlement under subsection (1) of this section) in respect of such completed years of service (not exceeding four) as exceed the next lower multiple of five—

long service leave with pay on the basis of one-tenth of three months leave for each such completed year.

(3) Where the employment with the Board of any employee ceases on account of—

(a) age; or

(b) ill health as to which he produces to the Board satisfactory evidence that it is likely to be permanent and is not due to misconduct or to causes within his own control—

that employee may by notice in writing to the Board elect to take pay in lieu of the whole or any part of any such leave to which he is then entitled.
and the Board shall grant him pay in lieu thereof accordingly.

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81A Payment in lieu of long service leave

(1) Notwithstanding anything in section 81 where an employee with not less than ten completed years of service resigns or is dismissed or for any reason other than age or ill health has his services terminated, the Board on the written application of the employee may, in lieu of long service leave with pay, grant the payment to the employee of a sum determined by the Board, which shall not in any case exceed a sum equal to that of one-tenth of three months’ pay for every completed year of service:

Provided that no such payment shall be granted for any year of service or part thereof in respect of which long service leave with pay or pay in lieu thereof has been taken by the member.
82 Leave not to affect Board's activities

The Board shall have discretion to grant long service leave so that the activities and obligations of the Board will not be unduly affected by the granting of such leave to numbers of employees at or about the same time.

84 Provision in case of death before or during long service leave

If an employee entitled to long service leave dies before or while taking such long service leave the Board shall, to the extent that payment in lieu thereof has not already been granted to that employee, grant payment in lieu of the whole or part of the long service leave not taken to the legal personal representative of the deceased employee.
87 Fire prevention notices

(1) In the metropolitan district, the fire prevention officer of a municipal council may serve a fire prevention notice on the owner or occupier of land in the municipal district of that council (other than a public authority) in respect of anything—

(a) on that land, other than a building or in a building;

(b) on the adjacent half width of any private street that abuts that land—

(other than a prescribed thing or class of things) that by its nature, composition, condition or location constitutes or may constitute a danger to life or property from the threat of fire.

(2) A fire prevention notice may be served only if the fire prevention officer forms the opinion—

(a) that it is necessary, or may become necessary, to do so to protect life or property from the threat of fire; and

(b) that there is no procedure under any other Act or regulations made under any Act that is more appropriate in the circumstances to address that threat.
(3) A fire prevention notice—
   (a) must be in the prescribed form;
   (b) may require the owner or occupier to take
       the steps specified in the notice to remove or
       minimise the threat of fire;
   (c) must specify the time (not less than 7 days)
       within which the owner or occupier must
       comply with the notice;
   (d) must comply with the regulations.

88 Service of notices

(1) A fire prevention notice may be served on an
    owner or occupier—
    (a) by giving it to or serving it personally on the
        owner or occupier; or
    (b) by sending it by post to the owner or
        occupier at that person's usual or last known
        residential or business address; or
    (c) by leaving it at the usual or last known
        residential or business address of the owner
        or occupier with a person on the premises
        who is apparently at least 16 years old and
        apparently residing or employed there; or
    (d) in a manner prescribed by any other Act or
        law for service on a person or class of
        persons of the same type as the owner or
        occupier.

(2) If the fire prevention officer—
    (a) does not know who the owner or occupier of
        any land is; or
    (b) does not know the residential or business
        address of the owner or occupier; or
(c) believes that the owner or occupier is absent from Victoria and has no agent in Victoria known to the officer—

the fire prevention notice may be served in accordance with subsection (3).

(3) If subsection (2) applies, the fire prevention notice may be served—

(a) by displaying it on the land; and

(b) by publishing a notice, in the prescribed form and containing the prescribed particulars, in a newspaper circulating generally in the municipal district.

(4) A notice served under subsection (3) is sufficient notice to the owner or occupier from the date of display or publication, whichever is later.

(5) Unless a fire prevention notice is withdrawn or cancelled, the costs of serving the notice (including reasonable administrative, labour and overhead costs and expenses incurred) may be recovered from the person on whom it was served—

(a) if the notice was served by a fire prevention officer, by the relevant municipal council;

(b) if the notice was served by the Chief Officer, by the Board.

89 Objection to notices

(1) A person on whom a fire prevention notice has been served may lodge an objection with the fire prevention officer within 7 days of the service of the notice stating the grounds of objection.
(2) If a person lodges an objection the fire prevention officer and the person must genuinely attempt to resolve the matter by consultation.

(3) Within 14 days of the lodging of an objection the fire prevention officer must—
   (a) confirm the notice; or
   (b) vary the notice, if the fire prevention officer is satisfied that the variation will appropriately address the threat of fire; or
   (c) withdraw the notice, if the fire prevention officer is satisfied that there is no longer any case for the notice to be served.

(4) If the fire prevention officer confirms or varies the notice he or she must specify a new time within which the person must comply with the notice.

(5) In sections 91 and 92, *fire prevention notice* includes a fire prevention notice as confirmed or varied in accordance with this section.

**90 Appeal against notices**

(1) If a person has lodged an objection under section 89 and—
   (a) the fire prevention officer has failed to confirm, vary or withdraw the notice within 14 days; or
   (b) the person is not satisfied with the confirmation or variation of the notice—

   the person may appeal in writing to the Chief Officer within 7 days of the end of that 14 day period or the date of the confirmation or variation, whichever is earlier, stating the grounds of appeal.
(2) The Chief Officer—
   (a) must consider the appeal within a reasonable time; and
   (b) must take into account all relevant circumstances, including the proper needs of conservation and alternative means of addressing the threat of fire.

(3) After considering the appeal, the Chief Officer must—
   (a) confirm the notice; or
   (b) vary the notice in any way the Chief Officer thinks fit; or
   (c) cancel the notice.

(4) If the Chief Officer confirms or varies the notice he or she must specify a new time within which the person must comply with the notice.

(5) In sections 91 and 92, fire prevention notice includes a fire prevention notice as confirmed or varied in accordance with this section.

91 Compliance with notices

Subject to sections 89 and 90, a person on whom a fire prevention notice has been served must comply with the notice.

Penalty: 50 penalty units or imprisonment for 12 months.

92 Fire prevention infringement notices

(1) An authorised officer may serve a fire prevention infringement notice on a person the officer believes has committed an offence against
section 91, requiring that person to pay a penalty of 2 penalty units.

(1A) An offence referred to in subsection (1) for which a fire prevention infringement notice may be served is an infringement offence within the meaning of the Infringements Act 2006.

(2) In addition to and without limiting section 12 of the Infringements Act 2006, a fire prevention infringement notice under subsection (1) may be served in accordance with section 88(1).

(8) In this section, authorised officer means—

(a) if the fire prevention notice was served by a fire prevention officer, a person appointed for the purpose by the relevant municipal council;

(b) if the fire prevention notice was served by the Chief Officer, a person appointed for the purpose by the Chief Officer.

93 Issue of notices by Chief Officer

(1) If—

(a) the Chief Officer forms the opinion required by section 87(2); and
(b) upon request, the relevant fire prevention officer refuses or fails to issue a fire prevention notice within the time specified by the Chief Officer—

the Chief Officer may serve a fire prevention notice on the owner or occupier of the land.

(2) If the Chief Officer serves a fire prevention notice under subsection (1)—

(a) the provisions of this Act (except this section) and the regulations apply as if, unless the contrary intention appears—

(i) references to the fire prevention officer were references to the Chief Officer;

(ii) references to the Chief Officer were references to the Board;

(b) sections 225, 226, 227 and 227A of the Local Government Act 1989 apply as if references to a Council were references to the Board.

94 Supreme Court—limitation of jurisdiction

It is the intention of section 54A to alter or vary section 85 of the Constitution Act 1975.

Transitional provisions

95 Superseded references

On the commencement of section 60 of the Fire Authorities (Amendment) Act 1997, in any Act (other than this Act), or in any instrument made
under any Act or in any other document of any kind—

(a) a reference to the Metropolitan Fire Brigades Board is deemed to be a reference to the Metropolitan Fire and Emergency Services Board; and

(b) a reference to the Chief Fire Officer in relation to the Metropolitan Fire Brigades is deemed to be a reference to the Chief Officer of the Metropolitan Fire and Emergency Services; and

(c) a reference to the Metropolitan Fire Brigades is deemed to be a reference to the Metropolitan Fire and Emergency Services; and

(d) a reference to a brigade or fire brigade in relation to the Metropolitan Fire Brigades is deemed to be a reference to a fire or emergency service unit under this Act; and

(e) a reference to the Metropolitan Fire Brigades Appeal Tribunal is deemed to be a reference to the Metropolitan Fire and Emergency Services Appeals Commission.

96 Metropolitan Fire Brigades Board

On the commencement of section 60 of the Fire Authorities (Amendment) Act 1997—

(a) the Metropolitan Fire Brigades Board is abolished and its members go out of office; and

(b) the Metropolitan Fire and Emergency Services Board is the successor in law of the Metropolitan Fire Brigades Board; and
(c) all rights, assets, liabilities and obligations of the Metropolitan Fire Brigades Board immediately before its abolition become rights, assets, liabilities and obligations of the Metropolitan Fire and Emergency Services Board; and

(d) the Metropolitan Fire and Emergency Services Board is substituted for the Metropolitan Fire Brigades Board as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to the Metropolitan Fire Brigades Board; and

(e) the Metropolitan Fire and Emergency Services Board may continue and complete any other continuing matter or thing commenced by or against or in relation to the Metropolitan Fire Brigades Board.

97 Chief Fire Officer

Any act matter or thing of a continuing nature commenced under this Act as in force before the commencement of section 60 of the Fire Authorities (Amendment) Act 1997 by the Chief Fire Officer may be continued and completed on and after that commencement by the Chief Fire Officer.

98 Transitional—appeals

If—

(a) an appeal had been lodged with the Metropolitan Fire Brigades Appeal Tribunal under this Act as in force before the commencement of section 60 of the Fire Authorities (Amendment) Act 1997; and
(b) the appeal had not been heard before that commencement—

the Metropolitan Fire and Emergency Services Appeals Commission may hear and determine the appeal in accordance with this Act as in force immediately before that commencement and for that purpose has all the powers of the Metropolitan Fire Brigades Appeal Tribunal.
SCHEDULES

* * * * *

Sch. 1 repealed by No. 2/1995 s. 22(f).
SCHEDULE 2

The municipal districts of the cities of Melbourne, Box Hill, Brighton, Brunswick, Camberwell, Caulfield, Coburg, Collingwood, Essendon, Fitzroy, Footscray, Hawthorn, Kew, Malvern, Moorabbin, Mordialloc, Northcote, Nunawading, Oakleigh, Port Melbourne, Prahran, Preston, Richmond, St. Kilda, Sandringham, South Melbourne, and Williamstown.

The township of Croydon in the municipal district of the shire of Lillydale.

The municipal district of the borough of Ringwood.

So much of each of the municipal districts of the city of Broadmeadows and the shires of Altona and Werribee as is within a distance of 16.09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne.

So much of the municipal district of the city of Heidelberg as is within a distance of 16.09344 kilometres from the post-office at the corner of Bourke-street, and Elizabeth-street in the city of Melbourne, and the area following:

Commencing at the point of intersection of the circle of 16.09344 kilometres radius from the post-office at the corner of Bourke-street and Elizabeth-street, in the city of Melbourne, and Marcona-street; thence in a northerly direction along Marcona-street; then in an easterly direction along Yando-street to the Plenty River; thence down stream along the Plenty River to a point where the west boundary of the Greensborough Park meets the Plenty River; thence bearing north 21 deg. 0 min. east for a distance of 11.062 metres; thence bearing north 84 deg. 0 min. east for a distance of 80.47 metres; thence bearing east for a distance of 218.30 metres to a point where the north boundary of the Greensborough Park meets the main Diamond Creek-road; thence in a south-easterly direction along the main Diamond Creek-road to the Plenty River; thence again down stream along the Plenty River to a point where the 16.09344 kilometres radius circle intersects the Plenty River, thence
along the 16.09344 kilometres radius circle back to the commencing point.

So much of the municipal district of the shire of Doncaster and Templestowe as is within a distance of 16.09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:

Commencing at a point on the 16.09344 kilometres radius in line with the continuation of George-street; thence by that line and George-street in an easterly direction to Blackburn-road; thence in a southerly direction by Blackburn-road to Koonung Creek; thence by Koonung Creek in a westerly direction to the 16.09344 kilometres radius; thence by the 16.09344 kilometres radius to the point commencing.

So much of the municipal district of the shire of Eltham as is within a distance of 16.09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:

Commencing at the south-western angle of lot 23, L.P. 8968, at its intersection with the Plenty River; thence along the southern boundary of the said lot to Para-road; thence in a southerly direction along Para-road to its intersection with Airlie-road; thence generally in an easterly direction along Airlie-road to its intersection with Green's-road; thence in a northerly and westerly direction along Green's-road to its intersection with Looker-road; thence generally in a northerly direction along Looker-road and Mountain View-road to Price-avenue; thence along Price-avenue in a north-easterly direction to Sherbourne-road; thence in a south-easterly direction along Sherbourne-road to the south-eastern angle of lot 84, L.P. 5630; thence northerly along the eastern boundary of the said lot to its intersection with the shire boundary; thence in a westerly direction along the shire boundary to its intersection with the Plenty River; thence generally in a southerly direction along the Plenty River to the commencing point.
So much of the municipal district of the city of Sunshine as is within a distance of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:

Commencing on the circumference of a circle, having a radius of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street, Melbourne, at a point where it is intersected by Main-street west, St. Albans; thence westerly by Main-street west to Station-road; thence southerly by Station-road to Ring-road; thence westerly, south-westerly and southerly by that road to Ballarat-road; thence south-easterly by that road to Murray-street; thence by that street and a line in continuation thereof to the Ballarat-Melbourne railway-line; thence easterly by that railway line to the circumference of the circle aforesaid; and thence northerly by that circumference to the point of commencement.

So much of the municipal district of the shire of Keilor as is within a distance of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:

Commencing on the circumference of a circle, having a radius of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street, Melbourne, at a point where it is intersected by Main-road west, St. Albans; thence westerly by Main-road west to Matthews-street; thence northerly by that street to Taylor's-road; thence easterly by that road to the circumference of the circle aforesaid; and hence southerly by that circumference to the point of commencement.

So much of the municipal district of the shire of Mulgrave as is within a distance of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:
Commencing on the circumference of a circle, having a radius of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street, Melbourne, at a point where it is intersected by Highbury-road, Tally Ho; thence southerly by that circumference to Fern Tree Gully-road; thence easterly by that road to Macrina-street; thence southerly by that street to Princes-highway; hence south-easterly by that highway to Clayton-road; thence southerly by that road to North-road; thence westerly by that road to Flora-road; thence southerly by that road, a line and Palmer-street to Centre-road; thence easterly by that road, a line and Police-road to a point in line with Gallaghers-road; thence northerly by that line to Wellington-road; thence easterly by that road to Lum-road; thence northerly by that road to Waverley-road; thence westerly by that road to Gallagher's-road; thence northerly by that road and a line to Highbury-road; thence westerly by that road to the point of commencement.

So much of the municipal district of the shire of Springvale and Noble Park as is within a distance of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:

Commencing at the intersection of Centre-road and Clayton-road; thence southerly by that road to Fairbank-road; thence easterly by that road and a line to Westall-road; thence northerly by that road to Centre-road; thence westerly by that road to the point of commencement.

So much of the municipal district of the shire of Whittlesea as is within a distance of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street in the city of Melbourne and the area following:

Commencing on the circumference of a circle, having a radius of 16·09344 kilometres from the post-office at the corner of Bourke-street and Elizabeth-street, Melbourne, at a point where it is intersected by Mount View-road, Thomastown; thence northerly and north-westerly by that road to a point in line with the rear of allotments fronting the north-side of Dickens-street; thence easterly by that line and...
its continuation to Station-street; thence generally northerly by that street to a point in line with the rear of allotments fronting the north side of Anderson-street; thence easterly by that line and its continuation at the rear of allotments fronting the north side of Curtin-avenue to Dalton-street; thence southerly by that street to the circumference of the circle aforesaid; thence generally westerly by that circumference to the point of commencement.
ENDNOTES

1. General Information

The Metropolitan Fire Brigades Act 1958 was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 893.
2. Table of Amendments

This Version incorporates amendments made to the Metropolitan Fire Brigades Act 1958 by Acts and subordinate instruments.

Metropolitan Fire Brigades (Board) Act 1958, No. 6434/1958
Assent Date: 28.10.58
Commencement Date: 28.10.58
Current State: All of Act in operation

Metropolitan Fire Brigades (Borrowing Powers) Act 1959, No. 6568/1959
Assent Date: 1.12.59
Commencement Date: 1.12.59
Current State: All of Act in operation

Metropolitan Fire Brigades (Borrowing Powers) Act 1960, No. 6614/1960
Assent Date: 10.5.60
Commencement Date: 10.5.60
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962
Assent Date: 8.5.62
Commencement Date: 1.1.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

Metropolitan Fire Brigades (Long Service Leave) Act 1964, No. 7154/1964
Assent Date: 6.10.64
Commencement Date: 6.10.64
Current State: All of Act in operation

Assent Date: 17.3.67
Commencement Date: 17.3.67
Current State: All of Act in operation

Assent Date: 21.10.69
Commencement Date: 21.10.69
Current State: All of Act in operation

Fire Brigades (Contributions) Act 1969, No. 7885/1969
Assent Date: 2.12.69
Commencement Date: 1.7.70: Government Gazette 1.7.70 p. 2271
Current State: All of Act in operation

Metropolitan Fire Brigades (Amendment) Act 1969, No. 7926/1969
Assent Date: 16.12.69
Commencement Date: 17.6.70: Government Gazette 10.6.70 p. 1958
Current State: All of Act in operation
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Assent Date: 2.12.70
Commencement Date: 27.1.71 (except for ss 4, 5, 7, 8): Government Gazette 21.1.71 p. 200; ss 4, 5, 7, 8 on 15.12.72: Government Gazette 13.12.72 p. 3977
Current State: All of Act in operation

Statutory Salaries Act 1971, No. 8165/1971
Assent Date: 3.11.71
Commencement Date: 3.11.71: Government Gazette 13.12.72 p. 3977
Current State: All of Act in operation

Metropolitan Fire Brigades (Amendment) Act 1973, No. 8476/1973
Assent Date: 20.11.73
Commencement Date: All of Act (except s. 4) on 20.11.73: s. 1(3); s. 4 on 1.7.74: s. 4(2)
Current State: All of Act in operation

Constitution Act 1975, No. 8750/1975
Assent Date: 22.10.75
Commencement Date: 1.12.75: Government Gazette 26.11.75 p. 3888
Current State: All of Act in operation

Metropolitan Fire Brigades (Borrowing Powers) Act 1975, No. 8753/1975
Assent Date: 18.11.75
Commencement Date: 18.11.75
Current State: All of Act in operation

Metropolitan Fire Brigades (Long Service Leave) Act 1975, No. 8760/1975
Assent Date: 18.11.75
Commencement Date: 18.11.75
Current State: All of Act in operation

Assent Date: 17.5.77
Commencement Date: 17.5.77
Current State: All of Act in operation

Assent Date: 24.11.81
Commencement Date: 24.11.81
Current State: All of Act in operation

Metropolitan Fire Brigades (Amendment) Act 1982, No. 9727/1982
Assent Date: 22.6.82
Commencement Date: 22.6.82
Current State: All of Act in operation

Assent Date: 28.6.83
Commencement Date: S. 13 on 29.6.83: Government Gazette 29.6.83 p. 1889; rest of Act on 20.7.83: Government Gazette 20.7.83 p. 2291
Current State: All of Act in operation

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Metropolitan Fire Brigades (Amendment) Act 1984, No. 10043/1984
Assent Date: 1.5.84
Commencement Date: Ss 1–3, 13 on 2.5.84: Government Gazette 2.5.84 p. 1363; ss 4–12 on 9.5.84: Government Gazette 9.5.84 p. 1387
Current State: All of Act in operation

Fire Authorities Act 1984, No. 10149/1984 (as amended by No. 10173)
Assent Date: 13.11.84
Commencement Date: S. 21(2) on 31.10.84; s. 2(2); ss 1–3, 5, 7–9, 11, 12, 22–25 on 13.11.84: Government Gazette 13.11.84 p. 4051; rest of Act on 1.12.84: Government Gazette 30.11.84 p. 4207
Current State: All of Act in operation

Coroners Act 1985, No. 10257/1985
Assent Date: 10.12.85
Commencement Date: Ss 1–3, Pt 9 on 12.2.86: Government Gazette 12.2.86 p. 382; rest of Act on 1.6.86: Government Gazette 30.4.86 p. 1115
Current State: All of Act in operation

Health (Amendment) Act 1985, No. 10262/1985
Assent Date: 10.12.85
Commencement Date: S. 4 on 1.3.86: Government Gazette 26.2.86 p. 451
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Courts Amendment Act 1986, No. 16/1986
Assent Date: 22.4.86
Commencement Date: Ss 1–11, 13–27, 29–34 on 1.7.86: Government Gazette 25.6.86 p. 2180; s. 28 on 1.9.86: Government Gazette 27.8.86 p. 3201; s. 12 on 1.1.88: Government Gazette 7.10.87 p. 2701
Current State: All of Act in operation

Fire Authorities (Amendment) Act 1986, No. 45/1986
Assent Date: 20.5.86
Commencement Date: S. 7 on 1.11.86: Government Gazette 21.5.86 p. 1484; s. 8 on 1.8.86: Government Gazette 30.7.86 p. 2945
Current State: All of Act in operation

Land Acquisition and Compensation Act 1986, No. 121/1986
Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Fire Authorities Act 1987, No. 43/1987
Assent Date: 19.5.87
Commencement Date: Ss 1, 2, 4, 6, 7, 9, 13 on 20.5.87; ss 3, 5, 8, 10–12, 14 on 1.7.87: Government Gazette 20.5.87 p. 1155
Current State: All of Act in operation
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<th>Assent Date</th>
<th>Commencement Date</th>
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<td>Liquor Control Act 1987, No. 97/1987</td>
<td>1.12.87</td>
<td>S. 181(10) on 3.5.88: Government Gazette 27.4.88 p. 1044</td>
<td>This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958</td>
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<td>State Superannuation Act 1988, No. 50/1988</td>
<td>24.5.88</td>
<td>S. 93(3) on 1.7.87: s. 2(1); s. 93(4) on 27.11.87: s. 2(2); Pt 1, Pt 6 Div. 2, s. 91 on 1.1.88: s. 2(3); rest of Act on 1.7.88: Government Gazette 1.6.88 p. 1487</td>
<td>All of Act in operation</td>
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Fire Authorities (Contributions) Act 1989, No. 91/1989
Assent Date: 5.12.89
Commencement Date: Ss 1–6, 7(b)–(h), 8 on 12.12.89: Special Gazette (No. 72) 12.12.89 p. 1; s. 7(a) on 1.9.94: Special Gazette (No. 58) 30.8.94 p. 1
Current State: All of Act in operation

Assent Date: 18.12.90
Commencement Date: Pts 1 (ss 1–6), 2 (ss 7, 8) on 18.12.90: s. 2(1); Pt 4 (ss 28–38) on 31.12.90: s. 2(2); rest of Act (Pts 3, 5) on 1.1.91: Special Gazette (No. 73) 31.12.90 p. 1
Current State: All of Act in operation

Assent Date: 16.4.91
Commencement Date: Ss 3 (except sub-s. (5)), 4 (except sub-s. (5)) on 12.12.89: s. 2(2); ss 3(5), 4(5) on 1.10.90: s. 2(3); rest of Act on 16.4.91: s. 2(1)
Current State: All of Act in operation

Assent Date: 16.6.92
Commencement Date: 30.6.92: Government Gazette 24.6.92 p. 1531
Current State: All of Act in operation

Assent Date: 23.6.92
Commencement Date: 1.8.92: Government Gazette 22.7.92 p. 1874
Current State: All of Act in operation

Assent Date: 24.11.92
Commencement Date: S. 184(Sch. 6 items 14.1–14.3) on 1.3.93: Special Gazette (No. 63) 27.11.92 p. 1
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Assent Date: 23.11.93
Commencement Date: Pt 1 (ss 1–3) on 23.11.93: s. 2(1); rest of Act on 24.5.94: s. 2(3)
Current State: All of Act in operation

Fire Authorities (Miscellaneous Amendments) Act 1995, No. 2/1995
Assent Date: 15.3.95
Commencement Date: Pts 1, 2 (ss 1–3) on 15.3.95: s. 2(1); ss 4, 16 on 23.3.95: Government Gazette 23.3.95 p. 611; rest of Act on 1.9.95: s. 2(3)
Current State: All of Act in operation

Assent Date: 14.6.95
Commencement Date: S. 224(Sch. 2 item 25) on 1.1.96: Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Port Services Act 1995, No. 82/1995

Assent Date: 28.11.95
Commencement Date: S. 206 on 14.12.95: Government Gazette 14.12.95 p. 3488
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958


Assent Date: 12.12.96
Commencement Date: S. 10(Sch. 2 items 15.1–15.3) on 1.1.97: Special Gazette (No. 146) 23.12.96 p. 15
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Fire Authorities (Amendment) Act 1997, No. 24/1997 (as amended by No. 74/2000)

Assent Date: 20.5.97
Commencement Date: Pt 3 on 1.9.97: Government Gazette 14.8.97 p. 2085
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Port Services (Amendment) Act 1997, No. 63/1997

Assent Date: 5.11.97
Commencement Date: S. 10(4)(Sch. items 3.1, 3.2) on 10.12.97: Government Gazette 4.12.97 p. 3290
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958


Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958


Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 62) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

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Assent Date: 17.11.98
Commencement Date: S. 23 on 1.7.99: Government Gazette 17.6.99 p. 1406
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958


Assent Date: 14.6.00
Commencement Date: 15.6.00: s. 2
Current State: All of Act in operation

Corporations (Financial Services Reform Amendments) Act 2002, No. 9/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. item 11) on 23.4.02: s. 2
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958


Assent Date: 22.10.02
Commencement Date: Ss 26–29 on 23.10.02: s. 2(1)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Port Services (Port of Melbourne Reform) Act 2003, No. 23/2003 (as amended by No. 29/2006)

Assent Date: 13.5.03
Commencement Date: S. 28 on 3.11.03: Government Gazette 30.10.03 p. 2744
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Victorian Urban Development Authority Act 2003, No. 59/2003

Assent Date: 16.6.03
Commencement Date: S. 122 on 1.8.03: Government Gazette 31.7.03 p. 2125
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: S. 163 on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958


Assent Date: 16.6.04
Commencement Date: S. 22 on 17.6.04: s. 2
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958
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Emergency Services Telecommunications Authority Act 2004, No. 98/2004
Assent Date: 14.12.04
Commencement Date: S. 41 on 1.7.05: Government Gazette 9.6.05 p. 1175
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 133) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Statute Law Revision Act 2005, No. 10/2005
Assent Date: 27.4.05
Commencement Date: S. 3(Sch. 1 item 16) on 28.4.05: s. 2
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005
Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 68) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Victoria State Emergency Service Act 2005, No. 51/2005
Assent Date: 24.8.05
Commencement Date: Ss 67–74 on 1.7.06: s. 2(3)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006
Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 32) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006
Assent Date: 10.10.06
Commencement Date: S. 27 on 1.7.07: Government Gazette 28.6.07 p. 1303
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 70) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958
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Coroners Act 2008, No. 77/2008
Assent Date: 11.12.08
Commencement Date: S. 129(Sch. 2 item 17) on 1.11.09: s. 2
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 2 item 35) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Health and Human Services Legislation Amendment Act 2010, No. 29/2010
Assent Date: 8.6.10
Commencement Date: S. 65 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Transport Legislation Amendment (Ports Integration) Act 2010, No. 45/2010
Assent Date: 17.8.10
Commencement Date: Ss 51, 52 on 1.9.10: Special Gazette (No. 337) 24.8.10 p. 1
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Justice Legislation Further Amendment Act 2010, No. 64/2010
Assent Date: 28.9.10
Commencement Date: Ss 23–26 on 1.11.10: Government Gazette 21.10.10 p. 2530
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Fire Services Commissioner Act 2010, No. 73/2010
Assent Date: 19.10.10
Commencement Date: Ss 53–58 on 1.12.10: s. 2(2)
Current State: This information relates only to the provision/s amending the Metropolitan Fire Brigades Act 1958

Date of Making: 7.5.74
Date of Commencement: 7.5.74

Authorised by the Chief Parliamentary Counsel
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3. Explanatory Details

1 S. 63: The amendment proposed by section 58(3) of the Fire Services Commissioner Act 2010, No. 73/2010 is not included in this publication due to the earlier repeal of section 63 by section 26 of the Justice Legislation Further Amendment Act 2010, No. 64/2010.