



FIRE SERVICE AMENDMENT ACT 1983

No. 22 of 1983

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AN ACT to amend the Fire Service Act 1979 for the purpose of making further provision with respect to fire hazards and orders to extinguish or control fires given by responsible fire officers and for other purposes.

[Royal Assent 19 July 1983]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Fire Service Amendment Act* Short title. 1983.

Principal Act. **2**—In this Act, the *Fire Service Act* 1979* is referred to as the Principal Act.

Amendment of section 20 of Principal Act (Functions of Committee). **3**—Section 20 (2) of the Principal Act is amended by omitting “not less than once in each period of 3 months”.

Amendment of section 24 of Principal Act (Officers of the Commission). **4**—Section 24 (3) (a) of the Principal Act is amended by omitting “is not subject to the provisions of the *Public Service Act* 1973;” and substituting “is subject to Parts V and VI of the *Public Service Act* 1973 but is not subject to any other provision of that Act;”.

Amendment of section 49 of Principal Act (Fire hazards). **5**—Section 49 of the Principal Act is amended by inserting after subsection (9) the following subsections:—

(10) Where—

- (a) an abatement notice has been served by a municipality in accordance with section 600 of the *Local Government Act* 1962 in respect of land on which it is satisfied that a statutory nuisance referred to in section 599 (1) (i) (ii), (iii), or (iv), (m), or (o) of that Act exists;
- (b) services have been rendered by a brigade at a fire on that land; and
- (c) the abatement notice had not been complied with immediately before the rendering of those services by the brigade at that fire,

proceedings may be brought in a court of competent jurisdiction by the Commission against the occupier of that land for the recovery of an amount, being a charge for the services rendered by the brigade at the fire determined in accordance with the scale of charges fixed by the Commission under section 109 (1).

(11) In any proceedings brought by the Commission under subsection (10), the court may decline to make an order for the recovery of the amount referred to in that subsection if the person against whom the proceedings are brought satisfies the court that he took all reasonable steps to comply with the abatement notice or that it was reasonable in all the circumstances that he did not comply with the notice.

* No. 35 of 1979. For this Act as amended to 30th April 1981, see the continuing Reprint of Statutes. Subsequently amended by Nos. 73 and 74 of 1981, and Nos. 9 and 10 of 1982.

6—Section 58 of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:—

Amendment of section 58 of Principal Act (Powers of responsible fire officers).

(5) In any prosecution relating to a charge for an offence under subsection (4), the defendant has a defence to that charge if he satisfies the court—

(a) that the failure to comply with an order given to him under subsection (2) arose from the directions given to him by the occupier of the land that he had to enter in order to comply with the order; or

(b) that he took all reasonable steps to comply with the order or that it was reasonable in all the circumstances that he did not comply with the order.

(6) Where a person is convicted of the offence of failing to comply with an order given under subsection (2) to extinguish or control a fire burning on any land and services were rendered by a brigade at that fire, the court which convicted the person may, in addition to imposing a penalty in respect of that offence, order that person to pay an amount being a charge for the services rendered by the brigade at that fire determined in accordance with the scale of charges fixed by the Commission under section 109 (1).

7—Section 109 (3) of the Principal Act is amended by inserting “it is otherwise provided in this Act or unless” after “unless”.

Amendment of section 109 of Principal Act (Charges for services at fires).

8—Section 132 (3) of the Principal Act is amended by omitting from paragraph (d) “officers of the Commission and”.

Amendment of section 132 of Principal Act (Regulations).

