

# **FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA (CONSEQUENTIAL PROVISIONS) BILL 1998**

## **Committee Notes**

### **PART 1 - PRELIMINARY**

**Clause 1 Explanation**     *Short title*

This is the formal clause titling the Bill.

**Clause 2 Explanation**     *Commencement*

The date of commencement will be fixed by proclamation.

### **PART 2 – BUSH FIRES ACT 1954**

**Clause 3 Explanation**     *The Act amended*

The amendments in Part 2 relate to the Bush Fires Act.

**Clause 4 Explanation**     *Section 7 amended*

The definitions in Section 7 are amended to:

- create definitions for the “Authority”, “member of the Authority” and “the FESA Act”;
- remove definitions for “Chairman” and “Board”;
- update the references to the chief executive officer; and to the legislation in the definition of “forest officer”.

**Clause 5 Explanation**     *Part II, Division 1 heading deleted*

The heading “Bush Fires Board” is not required, as the Bush Fires Board is being abolished and both sections of Division 1 are being repealed.

**Clause 6 Explanation**     *Sections 8 and 9 repealed*

Sections 8 “Bush Fires Board established” and 9 “Delegation of powers” are being repealed, as the Bush Fires Board is being abolished – effectively being replaced by FESA’s board of management.

**Clause 7 Explanation**     *Part II, Division 2 heading deleted*

The heading “Powers of Bush Fires Board” is not required, as the Bush Fires Board is being abolished.

**Clause 8 Explanation**     *Section 10 amended*

Whereas the Bush Fires Board previously had the power to appoint/employ persons, such power will rest with the Authority’s chief executive officer.



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**Clause 9 Explanation**     *Sections 11 and 11A repealed*

Sections 11 “Minister may give directions” and 11A “Minister to have access to information” are being repealed, as their provisions are now incorporated in the Fire and Emergency Services Authority of Western Australia legislation.

**Clause 10 Explanation**     *Section 12 amended*

The power to appoint persons as bush fire liaison officers will now rest with the Authority’s chief executive officer rather than the Bush Fires Board.

**Clause 11 Explanation**     *Part II, Divisions 3 and 4, repealed, and transitional*

Division 3 “Staff” and Division 4 “Financial provisions” are being repealed. Their provisions are incorporated into Parts 4 and 6 (respectively) of the Fire and Emergency Services Authority legislation.

Funds standing to the credit of the Bush Fires Board Fund are to be credited to the Authority’s Account.

**Clause 12 Explanation**     *Section 51 amended*

The reference to section 63 (which is being repealed) of the Bush Fires Act is amended to section 37 of the FESA Act.

**Clause 13 Explanation**     *Section 63 repealed*

Section 63 is being repealed, as its “protection” provisions are to be incorporated in section 37 of the FESA Act.

**Clause 14 Explanation**     *Section 65 amended*

Copies certified as “true copies” *under the hand of the executive officer of the Bush Fires Board* will now be certified as such *under the seal of the Authority*.

**Clause 15 Explanation**     *Section 69 repealed*

The provision requiring the review of the Bush Fires Act within a specified time is being repealed. A similar requirement in the FESA Act will require a review to be undertaken of the FESA Act, the Bush Fires Act and the Fire Brigades Act.

**Clause 16 Explanation**     *Various references to “Board” amended to “Authority”*

References to the “Board” will be replaced by “Authority”.

### PART 3 – FIRE BRIGADES ACT 1942

**Clause 17 Explanation**     *The Act amended*

The amendments in Part 3 relate to the Fire Brigades Act 1942.

**Clause 18 Explanation**     *Section 4 amended*

The definitions in Section 7 are amended to:

- create definitions for the “Authority”, “member of the Authority” and “the FESA Act”;

- remove definitions for “Chairman”, “Deputy Chairman” and “Board”;
- update the references to the chief executive officer.

**Clause 19 Explanation**    **Parts III, IV and V repealed**

Part III “The Fire Brigades Board”, Part IV “Constitution of Board” and Part V “Proceedings of the Board” are to be repealed, as the Fire Brigades Board is being abolished – effectively being replaced by FESA’s board of management.

**Clause 20 Explanation**    **Part VI heading amended**

The reference to the “Vesting of Property” in the heading of Part VI has been removed, as the relevant section (23) is being repealed – see clause 21.

**Clause 21 Explanation**    **Section 23 repealed**

Section 23 “Vesting of property” is being repealed, as it is no longer required. It was a transitional/savings provision relating to the transfer of property, assets and liabilities to the newly-constituted WA Fire Brigades Board upon the coming into operation of the Fire Brigades Act 1942.

**Clause 22 Explanation**    **Section 24 amended**

References to the “Board” are amended to the “Authority”.

**Clause 23 Explanation**    **Section 25 amended**

- Reference to the “Board” is amended to the “Authority”;
- Sections 25(2) and (3) are repealed, as their provisions are now incorporated in section 12 of the FESA Act.

**Clause 24 Explanation**    **Section 26A amended**

References to the “Board” are amended to the “Authority”. Where there are references to the Authority’s functions, those functions are qualified as being “functions under this Act”.

**Clause 25 Explanation**    **Section 29 amended**

- Officers and members of permanent brigades are to be appointed under the FESA Act by the FESA chief executive officer. (Under the previous arrangements those persons were appointed by the Fire Brigades Board.)
- The references to the Secretary of the Board, and that position’s functions etc, are removed, as the position no longer exists.
- Section 29(2) is repealed, as matters relating to payments to officers, members and other employees are now to be dealt with under the FESA Act.

**Clause 26 Explanation**    **Section 35 amended**

This clause deletes the paragraphs of section 35 which empowered the Governor to make regulations relating to matters concerning the Board, and defining the functions, powers and duties of the Chief Executive Officer, Chairman of the Board, and chairman of any committee thereof. The necessary empowerment now rests in clause 40 of the FESA Act.

**Clause 27 Explanation**    **Section 36 amended**

Minor amendments to Section 36 ensure that the application of its provisions will be limited to the Authority's operations under the Fire Brigades Act, rather than extending to include its operations under the FESA Act and the Bush Fires Act.

**Clause 28 Explanation**    **Section 40 amended**

Section 40(6) is being repealed, as it is no longer required. It was a transitional/savings provision relating to amounts levied upon insurance companies prior to the coming into operation of the Fire Brigades Act Amendment Act 1963.

**Clause 29 Explanation**    **Section 45 amended**

Section 45(2) is being repealed, as it is no longer required. It was a transitional/savings provision relating to the treatment of deficits/surpluses in volunteer brigade districts in the financial year ending 30 June 1980.

**Clause 30 Explanation**    **Section 46 amended**

Borrowings by the Authority under the Fire Brigades Act may now be approved by the Treasurer of Western Australia rather than the Governor. This is consistent with the approach taken in Section 33 of the FESA Act for other borrowings by the Authority.

**Clause 31 Explanation**    **Section 47 amended**

Minor amendments to Section 47 ensure that the application of the provisions of Section 36 ("Annual estimate of expenditure") will be limited to the Authority's operations under the Fire Brigades Act, rather than extending to include its operations under the FESA Act and the Bush Fires Act.

**Clause 32 Explanation**    **Section 47A amended**

This Section currently makes reference to the appointment under the Fire Brigades Act of the chief executive officer, officers/members of permanent brigades and other employees. Amendments will remove those references, with all such appointments to be under the FESA Act.

**Clause 33 Explanation**    **Section 54 amended**

Fire hydrants installed on or after the proclaimed day will be at the cost of the Authority rather than the (Fire Brigades) Board.

**Clause 34 Explanation**    **Section 64 repealed**

Section 64 is being repealed, as its "Protection from liability" provisions are to be incorporated in section 37 of the FESA Act.

**Clause 35 Explanation**    **Section 71 repealed**

Section 71 "Documents signed by Chief Executive Officer to be evidence" is being repealed, as it is no longer required. It has effectively been replaced by Section 38 of the FESA Act, "Execution of documents by Authority".

**Clause 36 Explanation**     *Fourth Schedule amended*

Reference to the "Board" is amended to the "Authority".

**Clause 37 Explanation**     *Various references to "Board" amended to "Authority"*

References to the "Board" are amended to the "Authority".

**PART 4 – MISCELLANEOUS AMENDMENTS****Clause 38 Explanation**     *Miscellaneous amendments*

This clause refers to Schedule 1 of this Bill, which sets out miscellaneous amendments required to other Acts.

*Schedule 1 – Miscellaneous amendments***Clause 1 Explanation**     *Constitution Acts Amendment Act 1899 amended*

References to the Bush Fires Board and the Western Australian Fire Brigades Board are deleted; the Fire and Emergency Services Authority of Western Australia is added.

(The relevant provisions of the above Act stipulate that if a board member is elected as a Member of Parliament, he/she must resign from office as a board member.)

**Clause 2 Explanation**     *Country Areas Water Supply Act 1947 amended*

A definition is added for the Authority, the definition for the Fire Brigades Board is deleted. References to the "Board" are amended to the "Authority".

**Clause 3 Explanation**     *Financial Administration and Audit Act 1985 amended*

Entries for the Bush Fires Board and Western Australian Fire Brigades Board are deleted from the list of statutory authorities included in Schedule 1 of the Act. An entry for the Fire and Emergency Services Authority of Western Australia is added.

**Clause 4 Explanation**     *Fire Brigades Superannuation Act 1985 amended, & savings*

- 4(1) The long title is amended to reflect that the Western Australian Fire Brigades Superannuation Fund will provide for a broader range of persons than previously.
- 4(2) New definitions are added for "Authority" and "chief executive officer". The definition for "Fire Brigades Board employee" is deleted, replaced by definitions for "eligible Authority employee" and "former Fire Brigades Board employee".
- 4(3) Section 5(1) is amended to show the updated list of categories of persons for whom the Fund will provide superannuation and other benefits.
- 4(4) The reference in section 5(2)(a) to "Fire Brigades Board" is amended to "chief executive officer" (as employer of FESA staff).
- 4(5) References to the "Fire Brigades Board" in Section 27(1) are amended to "chief executive officer".
- 4(6) Reference to the "Fire Brigades Board" in Section 27(2) is amended to "chief executive officer".
- 4(7) Reference to the "Fire Brigades Board" in Section 28(1) is amended to "chief executive officer".

- 4(8) Section 32(a) is amended to show the updated list of categories of persons for whom regulations may be made relating to membership.
- 4(9) Reference to the "Fire Brigades Board" in Section 32(b) is amended to "chief executive officer".
- 4(10) In Schedule 1, "Bodies that may be associated employers", a reference to the "Chief executive officer of the Authority" replaces the existing reference to the "Chief Executive Officer of the Western Australian Fire Brigades Board".
- 4(11) Reference to the "Fire Brigades Board" in Clause 1 of Schedule 2 is amended to "Authority".
- 4(12) References to the "Fire Brigades Board" in the places listed in the Table to this subclause are amended to "Authority".
- 4(13) Amendments made to Section 4, "Establishment and constitution of Superannuation Board", do not affect existing appointments.

**Clause 5 Explanation**      **Government Employees Superannuation Act 1987 amended**

Entries for the Bush Fires Board and Western Australian Fire Brigades Board are deleted from the list included in Schedule 1 of the Act. An entry for the Fire and Emergency Services Authority of Western Australia is added.

**Clause 6 Explanation**      **Litter Act 1979 amended**

An entry for the Bush Fires Board is deleted from the list included in the Third Schedule of the Act. An entry for the Fire and Emergency Services Authority of Western Australia is added.

**Clause 7 Explanation**      **Metropolitan Water Supply, Sewerage, and Drainage Act 1909 amended**

Definitions for Fire Brigades Act and Fire Brigades Board are deleted, replaced by a definition for the Fire and Emergency Services Authority of Western Australia. References to the "Fire Brigades Board" are amended to the "Authority".

**Clause 8 Explanation**      **Public Sector Management Act 1994 amended**

Entries for the Bush Fires Board and Western Australian Fire Brigades Board are deleted from the list of Senior Executive Service (SES) entities included in Schedule 2 of the Act. An entry for the Fire and Emergency Services Authority of Western Australia is added.

**Clause 9 Explanation**      **Sentencing Act 1995 amended**

Reference to the Bush Fires Board is amended to the Fire and Emergency Services Authority of Western Australia.

**Clause 10 Explanation**      **Water Boards Act 1904 amended**

Definition for (Western Australian Fire Brigades) "Board" is deleted, replaced by a definition for "Authority". References to the "Board" are replaced by the "Authority".

(The relevant provisions of the above Act cover fire hydrants in fire districts, and the involvement of the Western Australian Fire Brigades Board and the Water Board/s.)