

FIRE AND EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2001

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. Different commencement days may be fixed for different provisions.

Part 2 – Amendments to the Fire and Emergency Services Authority of Western Australia Act 1998

Clause 3 Explanation The Act amended

The amendments in Part 2 of the Bill relate to the Fire and Emergency Services Authority of Western Australia Act 1998, the “FESA Act”.

Clause 4 Explanation Section 3 amended

This clause provides the additional definitions required for the purposes of the amendments to the FESA Act.

The existing definition of “emergency services volunteers” is to be deleted, as it is no longer required – see Clause 5.

Clause 5 Explanation Section 6 amended

This clause amends the membership provisions of Section 6, Board of management, to:

- delete the reference to 3 persons representing “emergency services volunteers”, instead specifying the various categories of volunteers that those persons will represent, i.e. volunteer fire fighters, volunteer bush fire fighters and State Emergency Service (SES) volunteers; and
- expand membership of FESA’s board of management to include:
 - the Chairman of the Volunteer Marine Rescue Services (VMRS) Consultative Committee;
 - a person representing VMRS Groups; and
 - a person representing FESA employees.

Clause 6 Explanation Section 7 amended

This clause amends the Minister's powers to appoint Board members to reflect the membership changes effected by Clause 5.

Clause 7 Explanation Section 11 amended

This clause amends Section 11 to reflect that FESA may be vested with functions under specific Acts or Regulations.

Clause 8 Explanation Section 12 amended

New Section 12(2)(ca) specifically recognizes that FESA may make charges in respect of functions performed under Section 26A of the Fire Brigades Act 1942. It replaces a provision which was previously located in Section 26A(a)(v) of that Act.

Clause 9 Explanation Section 12A inserted

New Section 12A provides legislative recognition for combined volunteer units which may undertake more than one of the traditional fire / emergency services roles. Such recognition is primarily required to ensure that the units receive the 'Protection from liability' provided by Section 37 of the FESA Act. The establishment of combined volunteer units is seen as a viable option in smaller towns where volunteer numbers are limited.

Clause 10 Explanation Section 13 amended

This clause adds 'FESA Fire and Emergency Services', 'FESA Fire Services' and 'Volunteer Marine Rescue Services' to the list of operational names which FESA may use.

Clause 11 Explanation Sections 15 and 16 replaced

This clause updates existing Sections 15 "Delegation" and 16 "Subdelegation" to provide that:

- The Minister may, in writing, delegate the performance of any of the Minister's functions under the emergency services Acts (FESA Act, Bush Fires Act and Fire Brigades Act) to FESA, and authorise FESA to subdelegate the performance of such functions to a prescribed range of persons.
- Only the Minister is empowered to delegate the power to subdelegate.
- Performance, by FESA, of delegated functions is taken to be in accordance with the terms of a delegation, unless the contrary is shown; and is to be treated as performance by the Minister.
- FESA may delegate to members of SES Units or VMRS Groups any of FESA's powers under new Sections 18B or 18G respectively.

Clause 12 Explanation **Parts 3A and 3B inserted**

This clause provides for the insertion of Parts 3A and 3B, which are specific to the SES and VMRS respectively.

□ Part 3A consists of the following:

- Section 18A defines FESA's functions as they are applicable to the SES.
- Section 18B provides FESA with the powers necessary to undertake its functions under Section 18A, both generally and in relation to specific events. FESA is empowered to use such force as is reasonably necessary to exercise the powers.
- Section 18C empowers FESA to approve of and cancel the approval of a group of persons as an SES Unit, by publication of a notice in the *Government Gazette*. Such SES Units may be incorporated. This section also requires FESA to keep a register of approved SES Units and their members.
- Section 18D requires an SES Unit to maintain a register of its members and to notify FESA after a person becomes or ceases to be a member of the Unit.
- Section 18E specifies the functions of an SES Unit, and the activities which the Unit may undertake for the purpose of performing its functions.

□ Part 3B consists of the following:

- Section 18F defines FESA's functions as they are applicable to the VMRS.
- Section 18G provides FESA with the powers necessary to undertake its functions under Section 18F, both generally and in relation to specific events. FESA is empowered to use such force as is reasonably necessary to exercise the powers.
- Section 18H empowers FESA to approve of and cancel the approval of a group of persons as a VMRS Group, by publication of a notice in the *Government Gazette*. Such VMRS Groups may be incorporated. This section also requires FESA to keep a register of approved VMRS Groups and their members.
- Section 18I requires a VMRS Group to maintain a register of its members and to notify FESA after a person becomes or ceases to be a member of the Group.
- Section 18J specifies the functions of a VMRS Group, and the activities which the Group may undertake for the purpose of performing its functions.

Clause 13 Explanation **Section 22 amended**

This clause requires the Minister to appoint a VMRS Consultative Committee, and recognizes that there will be four Consultative Committees instead of three.

Clause 14 Explanation **Section 37 amended**

For the purposes of providing legislative ‘Protection from liability’, this clause defines some of the persons considered to be performing a function under an emergency services Act (the FESA Act, Bush Fires Act or Fire Brigades Act). This does not limit the protection already provided to persons generally under Section 37(1).

This clause also ensures that liability is not incurred in circumstances where Third Party Insurance does not cover a motor vehicle accident.

In addition, this clause amends Section 37(6)(c) by removing the definition of ‘policy of insurance’, the inclusion of which is now considered unnecessary and potentially restrictive upon the person whose property has suffered damage.

Clause 15 Explanation **Sections 38A, 38B and 38C inserted**

This clause establishes offences in relation to SES and VMRS operations. These offences include:

- obstructing or hindering persons in the performance of their functions under Part 3A or 3B;
- wilful damage of, or interference with, property of SES or VMRS or FESA;
- improper or unauthorised use of names and symbols;
- impersonation of an emergency service employee or volunteer.

The clause also provides for penalties for such offences.

Part 3 – Amendments to the Bush Fires Act 1954

Clause 16 Explanation **The Act amended**

The amendments in Part 3 of the Bill, other than that in clause 42 (which relates to the CALM Act), relate to the Bush Fires Act 1954.

Clause 17 Explanation **Section 4 amended**

The existing reference to the Forests Act 1918 is being deleted, replaced by a reference to the Conservation and Land Management Act 1984 - which repealed the Forests Act 1918.

Clause 18 Explanation **Section 6 repealed**

This clause repeals Section 6, which includes an obsolete reference to Section 15 of the Interpretation Act 1918.

Clause 19 Explanation **Section 7 amended**

This clause inserts the definition of ‘authorised CALM officer’ and repeals the obsolete definition of ‘forest officer’. (This amendment was requested by the Department of Conservation and Land Management – see also Clause 41.)

Clause 20 Explanation **Section 13 amended**

This clause empowers a FESA employee to take supreme control at a specific major incident – at the request of the Local Government concerned and with FESA’s agreement.

Clause 21 Explanation **Section 14 amended**

This clause expands the powers available to fire investigators under Section 14, ‘Members of the Authority and other persons may enter land or buildings for purposes of the Act’. Fire investigators will be empowered to remove material from firegrounds, e.g. in suspected cases of arson. Similar powers are already available to fire investigators under the Fire Brigades Act 1942.

Clause 22 Explanation **Section 17 amended**

This clause increases the penalty for setting fire to the bush on land within a zone of the State during the Prohibited Burning Times, from \$2,000 or 6 months imprisonment or both, to \$10,000 or 12 months imprisonment or both.

Where a written law specifies a penalty for an offence, that is the maximum penalty that may be imposed for that offence – refer Section 70(1) of the Interpretation Act 1984.

Clause 23 Explanation **Section 18 amended**

This clause empowers FESA to declare seasonal variations of Local Governments’ Restricted Burning Times (RBT) - the period during which the lighting of fires requires authorisation by Local Governments or the Minister. The amended provisions will empower FESA to shorten, extend, suspend or re-impose RBT. FESA already has the power to declare ongoing variations of RBT dates. The proposed amendment will simplify the process for seasonal RBT variations. This provision mirrors that available to FESA in respect of seasonal variations of dates for Prohibited Burning Times.

Clause 24 Explanation **Section 21 amended**

This clause increases the penalty for setting fire to bush during a declared ‘bush fire emergency period’[#] without the permission in writing of the Minister or a person authorised by the Minister. The penalty will be increased from \$2,000 or 6 months imprisonment or both, to \$20,000 or 12 months imprisonment or both.

[#] *Such declarations are rarely made, when it is deemed necessary to impose additional restrictions upon the lighting of fires because of extreme fire weather conditions and ‘stretched’ firefighting resources.*

Clause 25 Explanation Sections 24C to 24G inserted

This clause restates, clarifies and replaces the existing provisions of the Act in respect of:

- the lighting of fires for the destruction of garden refuse and rubbish; and
- the related notices which may be issued by the Minister.

The existing provisions [in Sections 25(1)(d) & (e) and 25B] are being repealed – refer Clauses 26 and 28.

The new Sections will make a clearer distinction between the conditions applicable to ‘backyard burning’ and to burning in rubbish tips – which typically represents a greater potential threat to community fire safety.

Section 24C provides the additional definitions required for new Sections 24C to 24G.

Section 24D prohibits the burning of garden refuse when the fire danger forecast for the area concerned is “extreme” or “very high”. A penalty of \$3,000 may be imposed for an offence.

Section 24E:

- empowers the Minister to issue notices imposing conditions on burning at rubbish tips during the Restricted or Prohibited Burning Times;
- requires that garden refuse must not be burnt at rubbish tips during those times unless it is in accordance with a notice issued by the Minister. (Such notices were previously issued by the Minister under Section 25B, which is being repealed.); and
- provides that a penalty of \$10,000 may be imposed for an offence.

Section 24F specifies that garden refuse must not be burnt at places other than rubbish tips unless it is in an incinerator (in accordance with specified conditions) or on the ground (in accordance with specified conditions – which are different from those applying to incinerators). A penalty of \$3,000 may be imposed for an offence.

Section 24G empowers either the Minister or the respective Local Government to prohibit or impose restrictions on the burning of garden refuse that would otherwise be permitted under Section 24F. (This amendment has been requested by Local Governments.) A penalty of \$3,000 may be imposed for an offence.

As a temporary measure pending the passing of this legislation, the provisions of new Sections 24C to 24F (other than the penalty provisions) have effectively been set in place by the following suspension notices - the Bush Fires (Section 25B) Notice 1999 and the Bush Fires (Section 25B) (Amendment and Repeal) Notice 1999, published in the Government Gazettes of 25 May 1999 and 21 March 2000 respectively.

Clause 26 Explanation Section 25 amended

This clause –

- Removes the reference to Section 25B, as it has been repealed (see Clause 28); and
- Repeals the provisions of Section 25(1)(d) & (e) which dealt with the burning of garden refuse or rubbish. Such matters are now being dealt with under new Sections 24C to 24G inserted by Clause 25.

Clause 27 Explanation Section 25A amended

This clause –

- provides that recommendations to the Minister concerning the issue of Section 25A exemptions (for the lighting of fires for industrial/trade purposes) may be made by FESA’s CEO rather than its board of management; and
- empowers the Minister to issue Section 25A exemptions for a broader range of purposes than is currently allowed. The existing provisions under which the Minister may issue a Section 25A exemption are limited to the lighting of fires for purposes specified in the Act, which is not always appropriate.

Clause 28 Explanation Section 25B repealed and transitional

This clause repeals Section 25B, which empowered the Minister to suspend the operation of the provisions of Section 25 which dealt with the burning of garden refuse or rubbish. All such provisions, including the relevant suspensions by the Minister, are now dealt with in new Sections 24C to 24G – see Clause 25.

The clause also provides transitional arrangements to ensure the continued operation of three existing Section 25B suspensions in respect of Local Government rubbish tips in the Shires of Broome, Williams and Pingelly.

Clause 29 Explanation Section 33 amended

This clause amends Section 33 to reflect that the Interpretation Act 1984 repealed the Interpretation Act 1918.

Clause 30 Explanation Section 38 amended

This clause amends section 38 to reflect the insertion of new Section 38A by Clause 31. It relieves a Local Government of its obligation to appoint a Chief Bush Fire Control Officer under Section 38(1) – provided that FESA has appointed one under new Section 38A(2).

Clause 31 Explanation Section 38A inserted

This clause inserts new Section 38A, which provides for the appointment of a FESA employee as a Chief Bush Fire Control Officer (CBFCO) – at the request of the Local Government concerned and with FESA’s agreement. (This amendment was requested by Local Government.)

When this happens:

- the Local Government would not appoint a CBFCO; and
- the powers which would normally be available to the Local Government under the provisions of Section 38(3) to (5) in respect of a Local Government appointed CBFCO would instead be available to FESA in respect of the FESA-appointed CBFCO.

Clause 32 Explanation Section 39 amended

This clause amends Section 39 to replace a reference to the (obsolete) position of “Chief Officer of Fire Brigades” with a reference to “Director of Operations” - consistent with the changes made to the *Fire Brigades Act 1942* – see Clause 50.

Clause 33 Explanation Section 41 amended

This clause amends Section 41 to clarify that Local Governments are required to maintain registers of bush fire brigades and their members. In practical terms, the registers of brigade members are maintained by the bush fire brigades themselves, which are part of Local Governments’ organisations.

Clause 34 Explanation Section 42 amended

This clause ensures that the member registration provisions of Section 41 also apply to bush fire brigades established jointly by two or more Local Governments.

Clause 35 Explanation Section 42A inserted

This clause provides recognition that bush fire brigades may be incorporated. The intention is to ensure that ‘incorporated’ bush fire brigades (which are separate legal entities, and are therefore potentially subject to prosecution) receive the ‘protection from liability’ provided under Section 37 of the FESA Act.

Clause 36 Explanation Section 48 replaced

This clause repeals the existing Section 48, which requires the repair or re-erection of a dividing fence damaged by bushfire, with the cost to be met by the landowner who had not cleared a 3 metre firebreak adjacent to the dividing fence. However, the relevant Local Government’s firebreak order may not have required a dividing fence firebreak (opting instead for strategic firebreaks). Section 48 therefore creates potential confusion as to the type of firebreak required, and whether a landowner/occupier needs to install two sets of firebreaks to comply with all requirements. Advice from the Crown Solicitor’s Office was that it was unlikely that reliance had ever been placed on Section 48.

As an entirely separate matter, the replacement Section 48 empowers Local Governments to delegate to their chief executive officers the performance of functions under the Act. It provides a legislative basis for any formal delegation process which a Local Government may wish to establish. (This amendment was requested by Local Governments, to assist in clarifying the extent to which matters needed to be dealt with by their councils, or could be handled at other levels.)

Section 48 also stipulates that such provisions do not limit the ability of Local Governments to act through their councils, members of staff or agents in the normal course of business.

Clause 37 Explanation **Section 59 amended**

This clause amends the provision of Section 59 which empowers Local Governments to delegate to their chief executive officers (amongst others) the authority to initiate prosecutions against persons who have allegedly committed offences under the Act. This specific provision is no longer required, as the Local Government will have the general power of delegation under new Section 48 – refer Clause36.

Clause 38 Explanation **Section 59A amended**

This clause extends the timeframe within which Local Governments may withdraw infringement notices that they have issued. Local Governments have advised that the existing provisions do not allow sufficient time to consider written submissions/appeals by persons who have received infringement notices. (The extended timeframe is consistent with the approach taken in Section 102(5) of the Road Traffic Act 1974 and Section 9.19 of the Local Government Act 1995.)

Clause 39 Explanation **Section 64 amended**

This clause adds existing Sections 24A(2) and 24B(3) to the list of the Act’s prohibitions in Section 64 which do not apply to persons exercising powers, or performing functions, under the Act.

Clause 40 Explanation **Various sections amended - penalties**

The penalties applicable to a range of offences under the Act are being increased. (Increases in such penalties were sought by Local Governments, to assist in encouraging compliance with fire prevention measures and to therefore make our communities safer from fire.)

Clause 41 Explanation **Various sections amended – authorised CALM officers**

This clause amends the term “forest officer”, which appears in a number of sections of the Act (thereby providing such persons with a range of powers), to “authorised CALM officer”. The Department of Conservation and Land Management (CALM) has advised that:

- not all persons designated as CALM “forest officers” are qualified or empowered by CALM to undertake responsibilities under the Bush Fires Act; and that
- such responsibilities should only be vested in an “authorised CALM officer”.

The proposed definition will allow CALM the flexibility to appoint as an “authorised CALM officer” for the purposes of the Bush Fires Act, a person designated under the CALM Act as a “wildlife officer”, “forest officer”, “ranger” or “conservation and land management officer”.

Clause 42 Explanation **Consequential amendment to Conservation and Land Management Act 1984**

This clause amends the relevant provisions of the CALM Act to empower CALM to appoint persons as “authorised CALM officers” for the purposes of the Bush Fires Act.

Part 4 – Amendments to the Fire Brigades Act 1942

The changes to the Fire Brigades Act include a number where functions which were previously undertaken by the Governor will instead be handled by other persons, principally the Minister . Such changes have been mooted for some time, the basic principles having been re-inforced in Circular to Ministers 42/94 dated 28 October 1994. (That Circular, in turn, referred to the rationale and guidelines developed by the Executive Council Review Working Party in 1989.)

Clause 43 Explanation **The Act amended**

This clause stipulates that amendments in Part 4 of the Bill relate to the Fire Brigades Act 1942.

Clause 44 Explanation **Section 3 repealed**

This clause repeals Section 3, which was omitted under the Reprints Act 1984.

Clause 45 Explanation **Section 4 amended**

This clause:

- deletes the definition for the obsolete position of “Chief Officer”, replacing it with one for the new position of “Director of Operations”; and
- amends the definition of “policy of insurance” to reflect the changes made to Section 35A(1) by Clause 55. (Briefly, a function previously undertaken by the Governor will in future be dealt with by the Minister.)

Clause 46 Explanation **Section 5 amended, and transitional**

This clause amends Section 5 to provide that the actions required in relation to the constitution etc of a ‘fire district’ under the Act will be taken by the Minister, rather than by the Governor.

Clause 46(4)’s transitional provisions ensure that orders already made by the Governor will remain in force.

Clause 47 Explanation **Section 5A amended**

This clause removes from Section 5A an obsolete reference to Section 6(4) – which was repealed by No. 42 of 1998, s.19.

Clause 48 Explanation **Section 25 amended**

This clause amends the functions of FESA to recognise that these include the promotion of the safety of life and property from fire, hazardous material incidents, accidents, explosions or other incidents requiring rescue operations.

The amendment will address an existing anomaly under which the powers to perform such functions had already been provided for in the legislation, but the functions themselves were not.

Clause 49 Explanation **Section 26A replaced**

This clause restates the powers of FESA provided for in Section 26A, to recognise some of the changes to such powers reflected in other Clauses, and to address some anomalies inadvertently created by 1994 amendments to the Act. New Section 26A(1) clarifies that FESA may exercise its powers under restated Section 26A ‘anywhere in the State’.

Clause 50 Explanation **Section 31 amended, and consequential amendments**

This clause amends Section 31 to:

- replace the existing reference to the obsolete position of “Chief Officer” with the new position of “Director of Operations”; and
- provide that the “Director of Operations” will be appointed by the chief executive officer – who is responsible for the appointment of all FESA employees.

The clause also replaces the other references to “Chief Officer” in the Act to “Director” - the abbreviation provided for “Director of Operations” in Section 4(1).

Clause 51 Explanation **Section 33 amended**

This clause clarifies that the term “any officer” means “any officer of the Authority”.

Clause 52 Explanation **Section 33A amended**

This clause clarifies that the term “an officer” means “an officer of the Authority”.

Clause 53 Explanation **Section 34 amended**

This clause clarifies that the term “officer” means “an officer of the Authority”.

Clause 54 Explanation **Section 35 amended**

This clause clarifies that regulations in relation to permitting fire brigades to travel outside fire districts to attend fires, may also cover such travel in relation to “hazardous materials incidents or rescue operations”. (Other relevant areas of the Act were expanded to include references to hazmat and rescue operations in 1994.)

The reference to Section 26A(c) in Section 35(pa) is amended to reflect one of the changes made by Clause 49.

Clause 55 Explanation **Section 35A amended and transitional**

This clause amends the provisions of Section 35A to reflect that instead of the Governor:

- declaring matters in relation to insurance policies (for the purposes of the funding provisions of the Act); and
 - declaring a fire district to be a fire district served by a permanent fire brigade;
- such matters are to be dealt with by the Minister.

Transitional provisions will ensure that any orders already issued by the Governor will remain in force.

Clause 56 Explanation **Section 36 amended**

This clause provides that the Minister may approve any extension to the 31 July deadline for the preparation of FESA’s estimates. The approval of the Governor was previously required for any such extension.

Clause 57 Explanation **Section 39 amended**

This clause amends Section 39 to reflect the change effected to Section 35A.

Clause 58 Explanation **Section 44 amended**

This clause amends Section 44(3) to reflect that FESA’s charges will in future be prescribed in regulations, rather than in the Third Schedule of the Act – see also Clauses 60 and 62.

Clause 59 Explanation **Section 47A amended**

This clause deletes Section 47A(c) to remove the reference to the appointment of the “Chief Officer” under Section 31. For the purposes of this Section, the new position of “Director of Operations” is included with other FESA employees in Section 47A(b).

Clause 60 Explanation **Section 65 amended**

This clause amends Section 65 to provide that FESA’s charges will in future be prescribed in regulations, rather than in the Third Schedule of the Act – see also Clause 62.

Clause 61 Explanation **First Schedule repealed**

This clause repeals the First Schedule, which was omitted under the Reprints Act 1984.

Clause 62 Explanation **Third Schedule repealed**

This clause repeals the Third Schedule, “Maximum Scale of Fees and Charges Allowed for Attendance at any fire”. Such charges will in future be prescribed in regulations – see Clause 60.

Clause 63 Explanation **Fire Brigades Amendment Act (No. 2) 1982 repealed**

This clause repeals the Fire Brigades Amendment Act (No.2) 1982, which was assented to on 8 December 1982 as Act No. 111 of 1982, but was not proclaimed.

The amendments included discipline provisions for firefighters and a new Fifth Schedule (“Discipline Code”) to the Fire Brigades Act 1942. The legislation is no longer relevant or required, as the “Discipline Code” will not be implemented. Instead FESA has adopted a “Living Our Values” approach which is considered to be entirely compatible with the ethical principles, values and behaviour embodied in the WA Public Sector Code of Ethics.

Part 5 – Amendments to the Fire Brigades Superannuation Act 1985

Clause 64 Explanation **The Act amended**

The amendments in Part 5 of the Bill relate to the *Fire Brigades Superannuation Act 1985*.

Clause 65 Explanation **Long title amended**

The long title of the Act is to reflect that the Superannuation Board will be empowered to provide superannuation and other benefits for “certain other persons”, e.g. spouses – see Clause 70.

Clause 66 Explanation **Section 1 amended**

The short title of the Act is being amended to the *Fire and Emergency Services Superannuation Act 1985*.

Clause 67 Explanation **Section 3 amended**

The definitions are being amended to:

- Update the reference to the supervisory ‘Commonwealth Act’ with which all superannuation funds must comply. The revised wording will also provide for the Superannuation Fund to continue to be bound by the relevant Commonwealth Act even if there is a future change in the Commonwealth legislation.
- Provide that ‘Commonwealth standards’ may be prescribed in a Commonwealth Act or Regulations.
- Include a definition for ‘spouse’.
- Recognise that the names of the Superannuation Board and the Superannuation Fund are being changed.

Clause 68 Explanation **Heading to Part II replaced**

The heading of Part II is being amended to reflect that the names of the Superannuation Board and the Superannuation Fund are being changed.

Clause 69 Explanation **Section 4 amended**

This clause amends the title of the Superannuation Board, and stipulates that the Fire and Emergency Services Superannuation Board is a continuation of, and is the same legal entity as, the Western Australian Fire Brigades Superannuation Board.

Clause 70 Explanation **Section 5 amended**

This clause amends the title of the Superannuation Fund, and stipulates that the Fire and Emergency Services Superannuation Fund is a continuation of, and is the same legal entity as, the Western Australian Fire Brigades Superannuation Fund.

Clause 70 also amends Section 5 so that the range of persons eligible for membership of the Superannuation Fund may be expanded (by the making of Regulations) to include current and former spouses of persons currently eligible for membership.

Clause 71 Explanation **Section 6 amended**

This clause amends Section 6 to empower the Superannuation Board to effect a Trustee and Officers liability insurance policy.

Clause 72 Explanation **Section 7 amended**

This clause amends Section 7 to remove references to specific types of investment that may be undertaken by the Superannuation Board. There are already other ‘general’ provisions in place which allow the Board to invest in any investments it considers suitable, so the specific provisions are superfluous and are potentially confusing.

Reliance upon a general investment power that does not specify particular types of investment is consistent with the approach now taken in the *Trustees Act 1962* and the *State Superannuation Act 2000*.

Clause 73 Explanation **Section 32 amended**

This clause -

- Deletes from Section 32 the listing of categories of potential members about which the Governor may make regulations; and
- Inserts in Section 32 a linkage to Section 5, which is where that listing is now located – refer clause 70.

Clause 74 Explanation **Schedule 1 replaced**

This clause updates the Schedule 1 listing of “Bodies that may be associated employers”:

- Including the Superannuation Board’s new name;
- Removing unnecessary entries for “W.A. Fire Brigades Employees’ Credit Union Society Limited”, “Minister for Public Sector Management” and “Chief executive officer of the Authority”; and
- Recognising that the “West Australia Volunteer Fire Brigades Association (Inc.)” has changed its name to “Western Australian Volunteer Fire and Rescue Services Association (Inc.)”.

Clause 75 Explanation **Consequential amendments**

The entry for the Superannuation Board in the list of statutory authorities included in Schedule 1 of the *Financial Administration and Audit Act 1985* is amended to reflect the Board’s new name.