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1974, No. 25

An Act to amend the Fire Services Act 1972

[2 July 1974]

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

1. Short Title and commencement—(1) This Act may be cited as the Fire Services Amendment Act 1974, and shall be read together with and deemed part of the Fire Services Act 1972 (hereinafter referred to as the principal Act).

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

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

PART I

ESTABLISHMENT OF FIRE SERVICE COMMISSION

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

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

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

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

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

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

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

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

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

“(3) The Commission is hereby declared to be the successor of the Fire Service Council constituted under the section for which this section was substituted by section 3 of the Fire Services Amendment Act 1974.

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

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

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

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

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

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

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

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

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

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

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

“(3) Any member of the Commission who after appointment becomes a member of or an office holder in or an employee of any Fire Board or Fire Committee, or associa-

tion of Urban Fire Authorities or their employees shall thereupon cease to be a member of the Commission and the vacancy so created shall be filled in the manner provided by subsection (7) of this section.

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

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

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

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

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

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

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

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

“5. Deputies of members—(1) In any case in which the Governor-General is satisfied that any member of the Commission is incapacitated or prevented by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General may appoint a person qualified

for appointment to the office of that member to act for that member while he is so incapacitated or prevented, and any such deputy shall, while he acts as such, be deemed to be a member of the Commission and, if he is the deputy of the Chairman and notwithstanding that there is a Deputy Chairman of the Commission under section 6 of this Act, to be the Chairman of the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Functions and powers of the Commission—Section 10 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (q), the following paragraph:

“(qa) To consult with representatives of the United Fire Brigades' Association of New Zealand on fire service matters at least twice a year:”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART II

MISCELLANEOUS PROVISIONS

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

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

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

“(b) Abolish that district.”

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

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

“(2) It shall not be an offence under this section for a person to use the aforesaid words if he possesses one or more of the qualifications in fire engineering (by examination or

otherwise) as the Commission may from time to time declare, by notice in the *Gazette*, to be sufficient for the purposes of complying with this subsection.

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

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

16. Regulations—Section 98 of the principal Act (as amended by section 13 of this Act) is hereby further amended by inserting in subsection (1), after paragraph (1), the following paragraph:

"(1a) Controlling the sale and use of fire extinguishers:".

This Act is administered in the Department of Internal Affairs.
