

No. 52 of 1974

FIRE BRIGADE (ADMINISTRATION) ORDINANCE 1974

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No. 52 of 1974

AN ORDINANCE

To establish an Australian Capital Territory Fire Brigade.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this twenty-second day of November, 1974.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

FIRE BRIGADE (ADMINISTRATION) ORDINANCE 1974

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Fire Brigade (Administration) Ordinance 1974*.*

Short title.

2. (1) Sections 1 and 2 shall come into operation on the day on which this Ordinance is notified in the *Gazette*.

Commence-
ment.

(2) The remaining sections of this Ordinance shall come into operation on the date fixed by the Minister by notice published in the *Gazette*.

3. In this Ordinance, unless the contrary intention appears—

Definitions.

“Board” means the Fire Brigade Appeal Board established by this Ordinance;

“Brigade” means the Australian Capital Territory Fire Brigade established by this Ordinance;

“Commissioner” means the Fire Commissioner appointed under section 4;

“member” means a member of the Brigade.

* Notified in the *Australian Government Gazette* on 22 November 1974.

PART II—THE FIRE COMMISSIONER

Fire Commissioner.

4. There shall be a Fire Commissioner, who shall be appointed by the Minister.

Tenure of office.

5. (1) Subject to this Ordinance, the Commissioner holds office for such period, not exceeding 7 years, as is specified in the instrument of his appointment and on such terms and conditions as the Minister determines, but is eligible for re-appointment.

(2) Nothing in sub-section (1) authorizes the Minister to determine conditions relating to superannuation.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Commissioner, and a person shall not be appointed or re-appointed as the Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

Remuneration and allowances.

6. (1) The Commissioner shall be paid salary at such rate, and an annual allowance at such rate (if any), as is prescribed.

(2) The Commissioner shall be paid such allowances (other than annual allowances) as are prescribed.

Leave of absence.

7. The Minister may grant leave of absence to the Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation.

8. The Commissioner may resign his office by writing under his hand delivered to the Minister but the resignation does not have effect until it is accepted by the Minister.

Commissioner not to undertake other work.

9. (1) The Commissioner shall not engage in paid employment outside the duties of his office except with the approval of the Minister.

(2) The Minister shall not give an approval for the purposes of sub-section (1) unless he is satisfied that the paid employment will not interfere with the performance of the duties of the Commissioner under this Ordinance.

(3) For the purposes of sub-sections 4 (3A) and (4) of the *Superannuation Act* 1922-1973, the Commissioner shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

Termination of employment.

10. (1) The Minister may retire the Commissioner on the ground of invalidity.

(2) The Minister shall terminate the appointment of the Commissioner if the Commissioner—

(a) absents himself from duty for 14 consecutive days, or for 28 days in any 12 months, except on leave granted by the Minister;

(b) is guilty of misbehaviour; or

(c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

11. (1) Where the person holding the office of Commissioner is, or is expected to be, absent from duty or there is a vacancy in that office, the Minister may appoint a person to act in that office, during the absence or until the filling of the vacancy, as the case may be, but a person so appointed by reason of a vacancy in the office of Commissioner shall not act in that office for a continuous period of more than 6 months.

Acting
appoint-
ments.

(2) Where a person has been appointed under this section to act in the office of Commissioner otherwise than during a vacancy in that office and the person who holds that office ceases to hold office during the period of appointment, the appointment shall be deemed to continue until it is terminated by the Minister or until the expiration of six months from the date on which the Commissioner ceases to hold office, whichever first happens.

(3) The Minister may at any time terminate an appointment under this section.

(4) Sections 7 and 8 apply in relation to a person appointed under this section to act in the office of Commissioner in like manner as they apply in relation to the Commissioner.

(5) Subject to this section, a person appointed under this section to act in the office of Commissioner holds office on such terms and conditions as the Minister determines.

(6) A person appointed under this section to act in the office of Commissioner has all the functions, powers and duties of the Commissioner under this Ordinance.

12. Subject to this Ordinance, the Commissioner shall, under the direction of the Minister, be charged with the general control and management of the Fire Brigade.

Functions,
duties and
powers of
Com-
missioner.

13. The Commissioner may, from time to time, in writing, issue such general orders and instructions as are necessary to secure the good government and efficient working of the Brigade.

General
orders and
instructions.

14. (1) The Commissioner shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report on the activities of the Brigade during that financial year.

Report by
Com-
missioner.

(2) The Commissioner shall, from time to time, furnish to the Minister such information as the Minister requires concerning the activities of the Brigade.

15. (1) The Commissioner may, by instrument in writing under his hand, delegate to a member of the Brigade, either generally or otherwise as provided by the instrument of delegation, all or any of his powers under this Ordinance except this power of delegation.

Delegation.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and this Ordinance has effect in relation to the exercise of the power by the delegate as if a reference in this Ordinance to the Commissioner were a reference to the delegate.

(3) A delegation under this section is revocable in writing at will and does not prevent the exercise of a power by the Commissioner.

PART III—AUSTRALIAN CAPITAL TERRITORY FIRE BRIGADE

Division 1—Establishment of the Brigade

Establish-
ment of
Fire Brigade.

16. (1) There is hereby established an Australian Capital Territory Fire Brigade.

(2) The Brigade shall consist of—

- (a) the Commissioner; and
- (b) the members of the Brigade.

(3) The members of the Brigade are the officers and firemen appointed by the Commissioner.

(4) Subject to this Ordinance, the members of the Brigade are to be employed on such terms, and subject to such conditions, as are prescribed.

(5) Nothing in sub-section (4) authorizes the making of regulations relating to superannuation.

Officers.

17. The ranks of officers of the Brigade shall be—

- (a) Superintendent;
- (b) District Officer; and
- (c) Station Officer.

Firemen.

18. The ranks of firemen shall be—

- (a) Senior Fireman;
- (b) First Class Fireman, Grade A;
- (c) First Class Fireman, Grade B;
- (d) Second Class Fireman;
- (e) Third Class Fireman; and
- (f) Fourth Class Fireman.

Alterations
of ranks.

19. The Minister may create new ranks of officers or firemen in addition to those specified in sections 17 and 18 or in substitution for any of the ranks so specified.

Division 2—Appointment of Officers and Firemen

Appointment
of officers
and firemen.

20. (1) The Commissioner shall, by instrument in writing under his hand, appoint such officers and firemen as he thinks necessary for the efficient operation of the Brigade.

(2) Subject to section 82, the Commissioner shall not appoint a person as a fireman otherwise than to the rank of Fourth Class Fireman.

(3) Subject to sub-section (4), a person shall not be appointed under sub-section (1) unless—

- (a) he has the status of a British subject;

- (b) the Commissioner is satisfied as to his health and physical fitness; and
- (c) the Commissioner is satisfied that he is a fit and proper person to be appointed to the Brigade.

(4) The Commissioner may, with the approval of the Minister, appoint, under sub-section (1), a person who does not have the status of a British subject.

21. (1) Subject to this section, a person under the age of 18 years or of or over the age of 34 years shall not be appointed under sub-section 20 (1). Appointment of person under 18 or over 34.

(2) Where the Commissioner is of the opinion that a person who is of or over the age of 34 years should, because of his experience or qualifications, be appointed under sub-section 20 (1), the Commissioner may appoint the person to be a member of the Brigade.

22. (1) Subject to the regulations, the appointment of a person as a Fourth Class Fireman shall be on probation for a period of 6 months commencing on the date on which the person commences duties in pursuance of the appointment. Appointment to be on probation.

(2) As soon as practicable after the expiration of the period of 6 months, the Commissioner shall, by instrument in writing under his hand—

- (a) where the person is qualified, in accordance with the regulations, for confirmation—confirm the appointment;
- (b) in any other case—terminate the appointment, or direct that the probationer continue on probation for such further period (not being a period exceeding 6 months) as the Commissioner thinks fit.

(3) Where the Commissioner directs that a probationer continue on probation for a further period, he may confirm or terminate the appointment of the probationer at any time during that further period and, if he has not confirmed or terminated the appointment before the expiration of that period, he shall do so as soon as practicable after the expiration of that period.

(4) Where the appointment of a probationer is terminated, the Commissioner shall cause notice in writing of the reasons for the termination to be given to the probationer.

23. A person shall not be appointed under this Division unless he is qualified in accordance with the regulations. Qualifications.

24. An officer or fireman who attains the age of 60 years ceases to be a member of the Brigade. Retirement.

25. A member may resign from the Brigade by giving 7 days' notice in writing to the Commissioner but the resignation does not take effect until the expiration of 7 days from the date of the notice. Resignation.

Re-
appointment
of persons
who have
resigned to
become
candidates
at elections.

26. (1) Where the Commissioner is satisfied that—

(a) a person who was a member of the Brigade—

(i) resigned from the Brigade in order to become a candidate for election as a member of a House of Parliament of Australia or of a State;

(ii) was a candidate at the election; and

(iii) failed to be elected; and

(b) the resignation took effect not earlier than one month before the date on which nominations for the election closed,

the Commissioner may, upon application by the person within two months after the declaration of the result of the election, re-appoint him to the Brigade to a position not lower in rank, and at a remuneration and under terms and conditions not less favourable, than that applicable to him at the date of his resignation.

(2) A person may be re-appointed under this section whether or not he is within the age limit specified in section 21.

(3) A person may be re-appointed under this section without probation.

(4) A person re-appointed under this section shall be deemed to have continued as a member of the Brigade as if he had been on leave of absence without pay during the period from and including the day on which his resignation became effective to and including the day immediately preceding the day on which he was re-appointed.

(5) The period referred to in sub-section (4) shall, for all purposes, be deemed to form part of the member's period of service.

Leave for
service with
other fire
authorities.

27. (1) The Commissioner may make an officer or fireman available to an authority of a State or the Northern Territory of Australia.

(2) Where, in pursuance of sub-section (1), the Commissioner makes an officer or fireman available, the Commissioner may grant him leave of absence for the period for which he is so made available on such terms and conditions as the Minister approves.

(3) An officer or fireman shall not be made available under sub-section (1) for a continuous period exceeding 3 years.

(4) A period during which an officer or fireman is absent on leave granted under sub-section (2) forms part of his period of service as an officer or fireman, as the case may be.

Service by
members of
other fire
authorities
with Brigade.

28. Where a person is made available to the Commissioner by an authority of a State or the Northern Territory of Australia, the provisions of this Ordinance apply to and in relation to the person as if he were appointed a member of the Brigade under section 20.

Division 3—Promotions

Com-
missioner
may promote
officers and
firemen.

29. (1) Subject to this Ordinance, the Commissioner may, by instrument in writing under his hand—

(a) promote an officer to a higher rank; and

- (b) promote a fireman to a rank of officer or to a higher rank as fireman.

(2) The Commissioner shall not promote an officer or a fireman to a rank unless the officer or fireman is eligible in accordance with the regulations for promotion to that rank.

(3) The Commissioner shall, in accordance with the general orders, notify members of the promotion of a member under sub-section (1).

30. The Commissioner may, from time to time, in accordance with the regulations, appoint an officer to act temporarily in a higher rank. Acting appointments.

Division 4—Retirement

31. The Commissioner may retire a member on the ground of invalidity. Retirement on ground of invalidity.

Division 5—Appeals against Promotions

32. The promotion of a member—

- (a) is provisional and without increased salary pending confirmation of the promotion; and
(b) is subject to appeal in accordance with this Division.

Promotion provisional pending appeal.

33. (1) A member who considers that he should have been promoted in preference to the member provisionally promoted may appeal, within a period of 2 weeks from the date on which the promotion is notified in accordance with sub-section 29 (3), against the provisional promotion on the ground of equal efficiency and seniority. Appeals against promotions.

(2) Upon an appeal or appeals being made against a provisional promotion, a Promotions Appeal Tribunal specified by the Minister shall make full inquiry into the claims of the appellant or appellants and the claims of the member provisionally promoted and determine the appeal or appeals.

(3) Where an appeal is allowed, the Commissioner shall cancel the provisional promotion and promote the appellant to the rank concerned.

(4) Where the Commissioner promotes a member under sub-section (3), the promotion shall be deemed to date from the date on which the promotion of the member against whom the appellant successfully appealed was notified in accordance with sub-section 29 (3).

(5) Where, in respect of a provisional promotion, no appeal is duly made, or all appeals that have been made are disallowed or have become inoperative, the Commissioner shall confirm the provisional promotion.

(6) For the purposes of this section, an appeal is inoperative if—

- (a) the appeal is withdrawn;
(b) the appellant ceases to be a member; or
(c) the appellant ceases to be eligible for promotion to the rank concerned.

Promotions
Appeal
Tribunal.

34. (1) For the purposes of this Division, the Minister shall, from time to time, arrange for the constitution of such Promotions Appeal Tribunals as are required.

(2) A Promotions Appeal Tribunal shall consist of—

- (a) a Chairman appointed by the Minister;
- (b) a member of the Brigade appointed by the Commissioner; and
- (c) a member of the Brigade elected, in accordance with the general orders, by the members of the Brigade.

(3) The Chairman of the Promotions Appeal Tribunal shall be paid such remuneration, and such allowances (if any), as are prescribed and holds office on such other terms and conditions as the Minister determines.

(4) The 2 other members of the Promotions Appeal Tribunal hold office for such period as is specified in the general orders.

(5) The procedure of the Promotions Appeal Tribunal is, subject to the general orders, within the discretion of the Tribunal.

PART IV—DISCIPLINE

Division 1—Duties and Obligations of Members

Performance
of duties.

35. A member of the Brigade—

- (a) shall, during his hours of duty, devote himself exclusively and zealously to the discharge of his duties;
- (b) shall give prompt attention to all matters that come within the scope of his duties; and
- (c) shall comply with, and give effect to, such of the provisions of the laws in force in the Territory, and of the general orders and instructions issued by the Commissioner, as are applicable to him in the performance of his duties.

Obedience to
lawful
instructions.

36. A member of the Brigade shall promptly obey all lawful instructions given to him by the member of the Brigade under whose control, direction or supervision he performs his duties.

Influence
not to be
sought.

37. A member shall not seek the influence or interest of any person for the purpose of obtaining promotion, transfer or any other benefit or advantage.

Solicitation
of gifts.

38. A member of the Brigade shall not, either directly or indirectly, solicit or accept a gift or a present from any person concerned directly or indirectly with any matter in which the member in the performance of his duties is interested or concerned.

Performance
of work
outside the
Brigade.

39. (1) Except with the express permission in writing of the Commissioner, a member of the Brigade shall not, whether within or outside the Territory—

- (a) accept, or continue to hold or discharge the duties of, a paid office in connexion with any business, whether carried on by a body corporate or partnership or an individual;
- (b) engage in business, whether as a principal or agent;

- (c) engage, or continue in the private practice of, a profession, occupation or trade or enter into employment, whether remunerative or not, in a profession, occupation or trade with a body corporate, partnership or individual; or
- (d) accept or engage in any remunerative employment otherwise than in connexion with his duties as a member of the Brigade.

(2) Sub-section (1) does not prevent a member of the Brigade from becoming a member or shareholder of an incorporated company or of a company or society of persons registered under the law of a State or Territory but, except as provided by sub-section (3), a member of the Brigade shall not take any part in the conduct of the business of the company or society otherwise than in the exercise of his rights as a member or shareholder of the company or society.

(3) A member of the Brigade may, with the written approval of the Commissioner, act as a director of a co-operative society that is registered under the law of a State or Territory and does not enter into contracts for the supply of goods or services to Australia.

(4) The Commissioner may, at any time, withdraw a permission or approval granted under this section.

40. A member of the Brigade shall not, in connexion with a matter arising in the course of his duty, wilfully make a false, misleading or inaccurate statement. False, misleading or inaccurate statement.

41. A member of the Brigade shall not use the fact that he is such a member for the purpose of obtaining a personal advantage. Improper use of position.

42. (1) A member shall not use for any purpose, other than the discharge of his duty as a member, information gained through his connexion with the Brigade. Public comment by members.

(2) A member shall not, other than in the discharge of his duty as a member, disclose, directly or indirectly, any information obtained by him by virtue of his being a member.

Division 2—Disciplinary Offences

- 43.** A member of the Brigade is guilty of a disciplinary offence if— Disciplinary offences.
- (a) he contravenes or fails to comply with any of sections 35 to 42 (inclusive);
 - (b) he is guilty of disgraceful or improper conduct, either in his official capacity or otherwise;
 - (c) he is negligent or careless in the discharge of his duties;
 - (d) he acts in a disorderly manner or in a manner unbecoming a member of the Brigade;
 - (e) he acts in a manner that is prejudicial to the good order and discipline of the Brigade;

- (f) he acts in a manner that brings discredit to the reputation of the Brigade; or
- (g) he is, while on duty, under the influence of intoxicating liquor or a drug.

Division 3—Disciplinary Powers of the Commissioner

Com-
missioner
may call on
member to
show cause.

44. Where it appears to the Commissioner that a member of the Brigade may have committed a disciplinary offence, the Commissioner may cause to be served personally on that member a written notice—

- (a) stating particulars of the disciplinary offence;
- (b) stating that the member may, within 7 days after the date of service of the notice, deliver to the Commissioner a written statement in connexion with the alleged disciplinary offence;
- (c) stating the time and place at which the Commissioner will hear and determine the matter; and
- (d) stating that the member is entitled to appear before the Commissioner at the hearing of the matter.

Com-
missioner
to determine
charge.

45. (1) After the expiration of the time specified in a notice given under section 44, the Commissioner shall determine whether the member of the Brigade to whom the notice was given has committed the disciplinary offence specified in the notice.

(2) For the purpose of determining whether a member of the Brigade has committed a disciplinary offence, the Commissioner shall take into account the contents of any written statement delivered to him by the member, and, if the member appears before the Commissioner at the hearing, any oral statements made before him by the member, in relation to the question whether the member has committed that disciplinary offence.

(3) A member who appears before the Commissioner at the hearing may be represented by another member of the Brigade.

Penalties.

46. (1) Where the Commissioner has determined, under section 45, that a member of the Brigade has committed a disciplinary offence, the Commissioner shall record his determination in writing and may—

- (a) reprimand the member;
- (b) impose on the member a fine not exceeding \$40;
- (c) reduce the member to a lower rank;
- (d) reduce the rate of salary of the member to a rate of salary within the limits of salary fixed for the rank held by the member; or
- (e) dismiss the member.

(2) The Commissioner shall cause to be served personally on the member notice of the determination and of the punishment imposed under sub-section (1).

(3) Where the Commissioner has determined that a member of the Brigade has not committed a disciplinary offence with which he was charged, the Commissioner shall notify the member in writing accordingly.

(4) Unless an appeal is instituted in accordance with section 65, a punishment imposed under this section takes effect at the expiration of the period of fourteen days after the date on which the punishment was imposed.

47. (1) Where it appears to the Commissioner that a member may have committed a disciplinary offence and—

Com-
missioner
may suspend
in certain
circum-
stances.

(a) the nature of the offence is such that, in the interests of the safety of the Brigade, the member should be suspended from duty; or

(b) the Commissioner considers that the offence is of such a serious nature that the member should not continue to perform his duties until the question whether the member has committed the offence has been determined,

the Commissioner may suspend the member from duty.

(2) A suspension under this section ceases to have effect unless, within 24 hours of the suspension, the Commissioner causes a notice to be served on the member under section 44.

(3) The Commissioner may, at any time, cancel a suspension under this section.

(4) Where the Commissioner or the Board determines that the member has not committed a disciplinary offence, the Commissioner shall cancel the suspension.

48. (1) Where a member of the Brigade is charged with an offence against a law of Australia or of a State or Territory, whether the offence is punishable on indictment or on summary conviction, the Commissioner may suspend the member from duty.

Suspension
of member
charged
with criminal
offence.

(2) If, upon the hearing of the charge by a court, the member of the Brigade is found guilty of the offence, the Commissioner may—

(a) dismiss the member;

(b) reduce the member to a lower rank; or

(c) reduce the salary of the member.

(3) The Commissioner may at any time revoke the suspension of a member, suspended under this section, whether before or after the conviction of the member.

(4) Where a person has been dismissed under sub-section (2) but—

(a) the conviction or finding has subsequently been quashed;

(b) the person has received a pardon;

(c) the conviction or finding has otherwise been nullified; or

(d) the person has been released from prison as a result of an inquiry into the conviction,

the Commissioner shall, at the request of the member made within one month of the quashing or nullifying of the conviction or finding, the pardoning of the person or the release of the person, re-appoint the person as a member of the Brigade.

(5) Unless the Minister directs otherwise, where a person is re-appointed as a member of the Brigade under sub-section (4)—

- (a) the person shall be deemed to have been, during the period that commenced on the date of his dismissal and ended on the date of his re-appointment, on leave of absence without pay; and
- (b) that period shall, for all purposes, be counted as a period of service as a member.

Payment of
salary during
suspension.

49. A member of the Brigade who is suspended from duty shall be paid his salary during the period of the suspension.

PART V—THE FIRE BRIGADE APPEAL BOARD

Constitution
of Board.

50. (1) There is hereby established a Fire Brigade Appeal Board, which shall consist of a chairman and two other members.

(2) The members of the Board shall be appointed by the Minister.

Qualifi-
cations of
members.

51. (1) A person shall not be appointed as Chairman unless—

- (a) he is a magistrate; or
- (b) he is a person whose name is on, and has appeared for at least 5 years on, a roll referred to in sub-section 55D (1) of the *Judiciary Act* 1903-1973.

(2) Of the members of the Board other than the Chairman, one shall be a person, whether a member of the Brigade or not, elected by the members of the Brigade.

(3) There shall be a Secretary to the Board who shall be appointed by the Minister.

(4) The Secretary shall be a person who is a member of the Department of the Capital Territory.

Term of
office of
members.

52. Each member of the Board holds office for such term as is specified in the instrument of appointment, not being a term exceeding three years, and, on the expiration of his term of office, is, subject to this Ordinance, eligible for re-appointment.

Fees and
allowances.

53. The members of the Board shall be paid such fees and allowances (if any) as are prescribed.

Vacation of
office by
members.

54. (1) The office of a member of the Board becomes vacant if—

- (a) the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupts or insolvent debtors or compounds with his creditors;

- (b) the member, by writing under his hand addressed to the Minister, resigns his office;
- (c) the member is guilty of misbehaviour or becomes, in the opinion of the Minister, incapable of performing the duties of his office; or
- (d) in the case of the person elected by the members of the Brigade—the Brigade elects another person in his stead.

(2) Where the office of chairman of the Board becomes vacant, the Minister shall appoint a person having the qualifications referred to in sub-section 51 (1) to the office of chairman.

(3) Where the office of a member of the Board other than that of chairman becomes vacant, the Minister shall—

- (a) in the case of a vacancy other than a vacancy in the office of elected member—appoint a person; or
- (b) in the case of a vacancy in the office of elected member—appoint a person elected by the members of the Brigade,

as a member of the Board.

55. Where, for any reason, the Chairman or another member of the Board is unable to act as the Chairman or as a member, as the case may be, the Minister may— Acting appointments.

- (a) appoint a person having the qualifications specified in sub-section 51 (1) to act as Chairman of the Board in place of the Chairman;
- (b) appoint a person elected by the members of the Brigade to act as a member of the Board in place of the elected member; or
- (c) appoint a person to act in place of the other member of the Board.

56. An action or proceeding, civil or criminal, does not lie against a member of the Board for or in respect of any act or thing done in good faith by the member in his capacity as a member. Protection of members.

57. Meetings of the Board shall be called by the Chairman, or by the Secretary to the Board on the direction of the Chairman, and shall be held at such times and places as are specified by the Chairman. Meetings of Board.

58. (1) The Secretary to the Board shall cause notice of the time and place fixed for the hearing of proceedings before the Board to be given to the persons entitled to be heard by the Board. Procedure.

(2) The Board may adjourn the hearing of proceedings before it from time to time.

(3) The Board may take evidence on oath or affirmation and, for that purpose, the Chairman may administer an oath or affirmation.

(4) Subject to this Ordinance and to the regulations, the procedure on the hearing of proceedings before the Board is within the discretion of the Board.

Witnesses.

59. (1) The Board may, of its own motion or on the application of a party to an appeal before it, by writing under the hand of the Chairman, summon a person to attend before the Board at a time and place specified in the summons to give evidence in relation to the appeal and to produce any books, documents or writings in his custody or under his control relating to the appeal that are specified or referred to in the summons.

(2) A witness appearing before the Board may be examined by the Chairman or a member of the Board and by a person representing a party to the proceedings before the Board.

Service of summons.

60. A summons to a witness under this Ordinance may be served personally or by sending it by pre-paid post as a letter to the person to whom it is directed at his last known place of residence or business.

Offences by witnesses.

61. A person summoned to attend as a witness before the Board shall not—

- (a) without reasonable excuse, refuse or fail to attend, or to produce documents, books or writings, in accordance with the summons; or
- (b) refuse to be sworn or to make an affirmation or, except as provided by section 57 of the *Evidence Ordinance* 1971, to answer a question relevant to the proceedings before the Board.

Penalty: \$200.

Obstruction.

62. A person who obstructs the Chairman or a member of the Board in the exercise of the powers conferred on him under this Ordinance is guilty of an offence and is liable, on conviction, to a fine not exceeding \$200.

Communication by members of information relating to appeals.

63. A member of the Brigade who communicates any information that he has received in the performance of any duties connected with the exercise of the powers or performance of the functions of the Board to a person other than a member of the Board or to a person to whom the Board has authorized him to communicate the information is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$200.

Protection of witnesses, &c.

64. (1) A person who, in pursuance of sub-section 70 (2) of this Ordinance, represents the appellant or the Commissioner in proceedings before the Board has the same protection and immunity as a barrister and solicitor has in appearing for a party in proceedings in the Supreme Court.

(2) A witness who gives evidence in proceedings before the Board has the same protection as a witness in proceedings before the Supreme Court.

PART VI—APPEALS

Right of appeal.

65. Subject to this Part, where—

- (a) the Commissioner has determined that a member has committed a disciplinary offence; or

- (b) the Commissioner has, under section 48 (2), dismissed a member, reduced a member to a lower rank or reduced the salary of a member,

the member may appeal to the Board.

66. An appeal under this Part shall be instituted before the expiration of the period of 14 days after the date on which notice was served on the appellant for the purposes of section 46 or within such further time as the Board, either before or after the expiration of that period, allows. Time for appeal.

67. (1) An appeal under this Part shall be instituted by lodging with the Secretary to the Board a notice of appeal. Institution of appeals.

(2) A notice of appeal for the purposes of this Part shall—

- (a) state the ground or grounds on which the appeal is made; and
- (b) be signed by the appellant.

68. An appeal under this Part may be made—

- (a) on the ground that the Commissioner's determination was wrong; or
- (b) on the ground that the punishment imposed is unduly severe,

Grounds of appeal.

or on both of those grounds.

69. When an appeal is instituted under this part, the Chairman shall— Chairman to fix date for hearing.

- (a) fix the date on which, and the time and place at which, the hearing of the appeal will commence; and
- (b) notify the parties to the appeal of the date, time and place so fixed.

70. (1) On an appeal under this Part, the appellant and the Commissioner are each entitled to be heard and may examine witnesses and address the Board. Representation.

(2) A person who is entitled to be heard on an appeal under this Part may be represented by a barrister and solicitor or by a member of the Brigade, and the barrister and solicitor or member may examine witnesses and address the Board on behalf of the person.

71. An appeal under this Part shall be by way of a re-hearing. Appeal to be re-hearing.

72. The Board shall cause a record to be made of the evidence of a witness at the hearing of an appeal under this Part. Record of proceedings.

73. (1) A question of law arising in an appeal under this Part (including the question whether a particular question is one of law) shall be determined in accordance with the opinion of the Chairman. Decisions of questions.

(2) Subject to sub-section (1), a question arising in an appeal under this Part shall be determined in accordance with the opinion of a majority of the Board.

Appeal to be heard in private except where Board directs otherwise.

74. The hearing of an appeal under this Part shall not be open to the public except to the extent that the Board, in its discretion, directs.

Powers of Board.

75. On an appeal under this Part, the Board may—

- (a) affirm, vary or set aside the determination of the Commissioner; and
- (b) where the Board affirms the determination—impose on the appellant any punishment that the Commissioner could have imposed.

Minister and Commissioner to give effect to decision of Board.

76. Where the Board imposes a punishment on a member of the Brigade, the Minister, in the case of an officer, or the Commissioner, in the case of a fireman, shall take such action as is necessary to give effect to the decision of the Board.

PART VII—MISCELLANEOUS

Appeal to Supreme Court.

77. A member of the Brigade may, within the period of 21 days after the decision of the Board, or within such further time as the Supreme Court, either before or after the expiration of that period, allows, appeal to the Supreme Court from the decision.

Powers of Supreme Court on appeal.

78. On an appeal under section 77, the Supreme Court may confirm, vary or reverse the decision of the Board and may make such further order in the matter as it thinks just.

Payment of fines.

79. (1) A fine imposed on a member of the Brigade under Part IV is payable—

- (a) at the expiration of the period of fourteen days after the date on which notice is served on the member in accordance with sub-section 46 (2); or
- (b) where, on an appeal under Part VI, the fine is imposed by the Board or the imposition of the fine by the Commissioner is confirmed by the Board—at the expiration of fourteen days after the date determined for the purpose of this paragraph by the Board.

(2) Where—

- (a) a fine imposed on a member of the Brigade under Part IV is payable; and
 - (b) the fine has remained unpaid for not less than fourteen days,
- the Commissioner may cause the amount of the fine to be deducted from salary due to the member either in a lump sum or by such instalments as the Commissioner thinks proper.

80. Where a notice is required by this Ordinance to be given to or served on a person, it may be given or served by post. Service of notices.

81. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and, in particular, prescribing matters for and in relation to— Regulations.

- (a) the appointment and promotion of members;
- (b) the holding of examinations in connexion with the appointment and promotion of members;
- (c) the temporary appointment of an officer to a higher rank.

PART VIII—TRANSITIONAL

82. (1) In this section, “prescribed period” means the period commencing on the date fixed under sub-section 2 (2) and ending on the day 3 months after that date. Appointment of certain persons.

(2) A person to whom, at the commencement of the prescribed period, this Ordinance applies by virtue of section 28 may, before the expiration of the prescribed period, elect, by notice in writing given to the Commissioner, to become a member of the Brigade.

(3) The Commissioner shall, in accordance with the regulations, appoint as a member of the Brigade a person who has made an election in pursuance of sub-section (2).

(4) Notwithstanding the provisions of sub-section 20 (2), the Commissioner may, during the period commencing on the date of commencement of this Ordinance and ending on a day 9 months after that date, appoint a person to a rank other than that of Fourth Class Fireman.