

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprys
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik
Other countries 70c Buitelands
Post free • Posvry

Vol. 268

CAPE TOWN, 23 OCTOBER 1987

No. 11006

KAAPSTAD, 23 OKTOBER 1987

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2382.

23 October 1987

No. 2382.

23 Oktober 1987

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 99 of 1987: Fire Brigade Services Act, 1987.

No. 99 van 1987: Wet op Brandweerdienste, 1987.

ACT

To provide for the establishment, maintenance, employment, co-ordination and standardization of fire brigade services; and for matters connected therewith.

*(English text signed by the State President.)
(Assented to 15 October 1987.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context indicates otherwise—
 - (i) "Administrator", in relation to a controlling authority, means the Administrator as defined in the Provincial Government Act, 1986 (Act No. 69 of 1986), of the province in which the area of the relevant controlling authority is situated, and where that area falls within two or more provinces, the Administrator of the province in which the biggest portion of that area falls, acting after consultation with the Administrator of the province, or Administrators of the provinces, in which the rest of that area is situated; (ii)
 - (ii) "area" means—
 - (a) in relation to a service of a local authority, the area of jurisdiction of that local authority, excluding any demarcated area contemplated in section 4 (4); and
 - (b) in relation to a designated service, the demarcated area contemplated in section 4 (4) of that designated service; (vi)
 - (iii) "Board" means the Fire Brigade Board established by section 2; (x)
 - (iv) "chief fire officer" means the person in charge of a service as contemplated in section 5; (iv)
 - (v) "controlling authority" means a local authority in control of a service which complies with the prescribed requirements or the person in control of a designated service; (iii)
 - (vi) "designated service" means a service recognized by the Minister under section 4; (i)
 - (vii) "equipment" means a vehicle, or any other apparatus, intended to be used by a service in the performance of its functions; (xi)
 - (viii) "local authority" means an institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes—
 - (a) a board of management or board as defined in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

- (b) a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);
- (c) a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982); or
- (d) a local government body established by virtue of the provisions of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927);
- (ix) 10
- (x) "material" means water or any other substance consumed by a service in fighting or extinguishing a fire; (vii)
- (xi) "Minister" means the Minister of Constitutional Development and Planning; (viii) 15
- (xii) "prescribe" or "prescribed" means prescribe or prescribed by regulation under section 15; (xii)
- (xii) "service" means a fire brigade service intended to be employed for—
- (a) preventing the outbreak or spread of a fire; 20
- (b) fighting or extinguishing a fire;
- (c) the protection of life or property against a fire or other threatening danger;
- (d) the rescue of life or property from a fire or other danger; 25
- (e) subject to the provisions of the Health Act, 1977 (Act No. 63 of 1977), the rendering of an ambulance service as an integral part of the fire brigade service; or
- (f) the performance of any other function connected 30 with any of the matters referred to in paragraphs (a) to (e); (v)

Fire Brigade Board.

2. (1) There is hereby established a board known as the Fire Brigade Board, to perform the functions assigned to it in terms of this Act. 35
- (2) The Board shall consist of—
- (a) One person designated by the Minister, who shall be the chairman;
- (b) four persons designated by the South African Fire Services Institute; 40
- (c) three persons designated by the Co-ordinating Council established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983);
- (d) one person designated by the Director-General: Mineral and Energy Affairs to represent the petrochemical 45 industries;
- (e) one person designated by the Director-General of the South African Bureau of Standards;
- (f) one person designated by the President of the Council for Scientific and Industrial Research; 50
- (g) one person designated by the Chief of the South African Defence Force;
- (h) one person designated by the Director-General: Transport;
- (i) one person designated by the General Manager of the 55 South African Transport Services;
- (j) one person designated by the Director-General: Finance;
- (k) one town clerk designated by the Institute of Town Clerks of Southern Africa; 60
- (l) one person designated jointly by the four provincial secretaries of the provinces; and
- (m) not more than three persons designated by the Minister.
- (3) The quorum for and the procedure at a meeting of the 65 Board shall be determined by the Board.
- (4) The administrative work arising from the performance of the functions of the Board under this Act shall be performed by

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

officers designated by the Chief: Constitutional Development Services for that purpose.

(5) (a) The Board may establish a committee to perform such functions as may be assigned to it by the Board.

(b) The Board shall designate a member of a committee so established as chairman of that committee.

(6) The Board may allow any member of a committee established under subsection (5) who is not a member of the Board to attend any meeting of the Board at which any matter relating to a function assigned to that committee is dealt with and may allow such member to take part in the proceedings at such meeting.

(7) A member of the Board, or of a committee referred to in subsection (5), who is not in the full-time employment of the State may, out of money appropriated by Parliament for that purpose, in respect of his services as a member of the Board or committee, as the case may be, be paid such remuneration and allowances as the Minister may, with the concurrence of the Minister of Finance, determine.

Services of local authorities.

3. (1) A local authority may establish and maintain a service in accordance with the prescribed requirements.

(2) The Administrator may, after consultation with the Board and the local authority concerned, direct a local authority—

(a) to maintain a service which it has established; or

(b) to establish and maintain a service,

in accordance with the prescribed requirements.

(3) A service contemplated in this section shall be employed inside its area, unless it is requested, or in terms of an agreement contemplated in section 12 obliged, to be employed outside its area.

Designated services.

4. (1) A service which does not fall under the control of a local authority may, in the prescribed manner, apply to the Minister to be recognized as a designated service.

(2) If the Minister after consultation with the Board is satisfied that the service referred to in subsection (1) complies with the prescribed requirements, he may recognize the service as a designated service subject to such conditions as he may determine.

(3) (a) If the Minister after consultation with the Board is of the opinion that circumstances exist at a place which require that there should be a service which complies with the prescribed requirements, the Minister may direct the person (including a department of State) who in the opinion of the Minister is responsible for those circumstances—

(i) to maintain a service which it has established; or

(ii) to establish and maintain a service,

in accordance with the prescribed requirements, and such a service may under subsection (2) be recognized as a designated service.

(b) (i) A department of State shall not be directed in terms of paragraph (a) without the concurrence of the Minister responsible for that department of State.

(ii) Any other person shall not be directed in terms of paragraph (a) unless the Board has consulted with the person concerned.

(4) A designated service shall be employed inside the area demarcated for it by the Minister after consultation with the Board, unless it is obliged in terms of an agreement contemplated in section 12 to be employed outside that area.

(5) The Minister may, after consultation with the Board which has consulted with the controlling authority, withdraw a recognition contemplated in subsection (2).

Chief fire officer.

5. (1) A controlling authority shall appoint a person who possesses the prescribed qualifications and experience, as chief fire officer to be in charge of its service.

(2) A person who immediately prior to the commencement of

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

this Act was in the service of a local authority as a chief fire officer in terms of a law which is repealed by this Act shall be deemed to have been appointed in terms of subsection (1).

Members of service.

6. (1) A controlling authority may appoint any person who possesses the prescribed qualifications and experience, as a member of its service to perform such functions as may be assigned to him by the chief fire officer: Provided that a controlling authority may, after due consideration of the peculiar circumstances of a specific case, appoint any person who does not possess the prescribed qualifications and experience as a member of its service subject to the general conditions determined by the Board. 5 10

(2) A person who immediately prior to the commencement of this Act was employed as a member of a service of a local authority in terms of a law which is repealed by this Act, shall be deemed to have been appointed in terms of subsection (1). 15

Training institutions.

7. (1) The Minister may after consultation with the Training Board established by section 2 of the Local Government Training Act, 1985 (Act No. 41 of 1985), and the Board which has consulted with the service or other institution concerned— 20

(a) by notice in the *Gazette* declare such a service or other institution as a training institution at which the prescribed qualifications of a chief fire officer or a member of a service may be obtained; and

(b) take such steps or cause such steps to be taken as he may deem necessary or expedient for the proper control, management and development of, or for the extension of the training facilities at, such training institution. 25

(2) Whenever a member of a service with the approval of his employer attends a course at such training institution, that employer shall pay to the training institution the costs of such attendance according to a tariff determined by the training institution concerned. 30

Powers of members of service.

8. (1) A member of a service of a controlling authority, including a chief fire officer, may, whenever he regards it necessary or expedient in order to perform his functions, perform any act, and may also— 35

(a) close any street;

(b) enter or break and enter any premises; 40

(c) damage, destroy or pull down any property;

(d) forcibly remove or cause to be removed from the scene any person who is in danger or who obstructs that member in the performance of his duties; and

(e) take material or any object from any person: 45

Provided that the owner of the material or object so taken shall be compensated therefor by the controlling authority concerned to an amount agreed upon by the controlling authority and the owner, or in the absence of such agreement, an amount determined by arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965). 50

(2) A member of a service of a controlling authority, including a chief fire officer, may, whenever he regards it necessary in order to perform his functions, order any inhabitant of the Republic who is not younger than 16 years and not older than 60 years to assist him in the performance of his functions on any particular occasion. 55

Salvaging of movable property.

9. (1) A chief fire officer may in the performance of his functions salvage, or remove and place in safe custody, any movable property which in his opinion is in danger. 60

(2) Any costs incurred by or at the request of a chief fire officer for the purposes contemplated in subsection (1), may be recovered from the owner or possessor of the property in ques-

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

tion, and the controlling authority concerned has a lien on that property for the payment of those costs.

(3) If the costs referred to in subsection (2) are not paid within 30 days, or such longer period as may be determined by the controlling authority concerned, after that authority— 5

(a) served a written request for payment thereof on the owner or possessor in question; or

(b) if that owner or possessor cannot be traced, remitted such request by registered post to his last known address or published such request in both official languages in a newspaper circulated in the area concerned, 10

the controlling authority may sell the property in question by public auction and shall apply the proceeds thereof for the defrayal of those costs, while any balance shall on application be reimbursed to the owner or possessor in question. 15

(4) If no application for reimbursement of the balance is made within one year after the public auction referred to in subsection (3), that balance shall be forfeited to the controlling authority concerned.

(5) A certificate purporting to be signed by a chief fire officer 20 and in which it is certified that the costs specified therein have been incurred for the purposes contemplated in subsection (1) shall on production thereof in a court of law be *prima facie* proof of the costs referred to in subsection (2).

(6) If the owner or possessor of movable property which in 25 terms of subsection (1) has been salvaged or removed does not claim such property within 30 days after the controlling authority has made known in both official languages in a newspaper circulated in the area concerned that such property has been placed in safe custody, that controlling authority may sell the property 30 concerned by public auction and apply the proceeds thereof for the defrayal of any costs incurred while any balance shall be employed by the controlling authority in respect of the maintenance of its service.

Fees.

10. (1) A controlling authority may, subject to any condition 35 contemplated in section 11 (2) (a), determine the fees payable by a person on whose behalf the service of the controlling authority is applied—

(a) for the attendance of the service;

(b) for the use of the service and equipment; or 40

(c) for any material consumed.

(2) A person on whose behalf, in the opinion of the chief fire officer concerned, a service of a controlling authority has been employed, may in writing be assessed by that chief fire officer for the payment of the fees referred to in subsection (1) or any 45 portion thereof.

(3) Any person who feels aggrieved by an assessment contemplated in subsection (2) may within 14 days after receipt of that assessment object in writing against that assessment as such or the amount thereof to the controlling authority concerned. 50

(4) As soon as an objection contemplated in subsection (3) is received the chief executive officer of the controlling authority concerned shall without delay obtain written comment thereon from the chief fire officer and submit it together with the objection to the controlling authority, which may confirm, alter or 55 revoke the assessment.

(5) A certificate purporting to be signed by a chief fire officer and in which it is certified that the assessment specified therein was made under subsection (2), shall on production thereof in a court of law be *prima facie* proof of the amount payable by the 60 person mentioned therein.

Grants-in-aid.

11. (1) Subject to subsections (2) and (3), the Administrator may, after consultation with the Board, from money appropriated by Parliament for the purpose, pay a grant-in-aid calculated on the prescribed basis to any controlling authority in respect of 65 the establishment or maintenance of its service.

(2) A grant-in-aid contemplated in subsection (1)—

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

- (a) shall be paid subject to the prescribed conditions and the further conditions determined by the Administrator after consultation with the Board in any particular case; and
- (b) shall not be paid unless any local authority produces proof to the Administrator that the local authority does not discriminate in its service between its employees on the basis of sex, race, colour or religion. 5
- (3) A controlling authority which receives a grant-in-aid in terms of this section shall submit annually to the Provincial Secretary of the province from which the grant-in-aid is received— 10
- (a) in the form and manner and before or on a date determined by the said Provincial Secretary, an estimate of expenditure in respect of its service for the ensuing financial year for approval by the Administrator; and 15
- (b) before or on 30 September or such later date as the said Provincial Secretary may determine, a written statement certified by the treasurer of the controlling authority and specifying—
- (i) the actual expenditure incurred in respect of its service during the immediately preceding financial year; 20
- (ii) the actual income received in respect of its service during the financial year referred to in subparagraph (i); and 25
- (iii) such further information as the Provincial Secretary may require.

Agreements.

12. (1) Subject to any condition contemplated in section 11 (2) (a) a controlling authority may, with a view to the more efficient employment of its service, conclude a written agreement— 30
- (a) with any other controlling authority in terms of which the parties undertake to co-operate on the conditions as may be agreed upon; or
- (b) with any other person in terms of which the controlling authority undertakes to make available its service to that person, or in terms of which that person undertakes to make available his material or equipment to the controlling authority. 35
- (2) A controlling authority may under subsection (1) undertake to employ its service inside or outside its area or inside or outside the province in which its area is situated. 40

Minister may authorize persons.

13. The Minister may, after consultation with the Board, by notice in the *Gazette* declare that a category of persons in the service of the State or a controlling authority may by virtue of their offices perform the prescribed functions in order to ensure that the objects of this Act are achieved. 45

Urgent cases.

14. (1) Notwithstanding anything to the contrary contained in any other law, the Minister or his deputy may, in any case where in his opinion urgent action is necessary in the public interest—
- (a) order any person, including a controlling authority, to make available his service, or equipment or material under his control, to a particular service or to employ it in a particular way; or 50
- (b) order any person who manufactures equipment or material to manufacture particular equipment or material within a particular period. 55
- (2) A person who has acted in terms of an order referred to in subsection (1), shall be compensated therefor by the Minister to an amount agreed upon between the Minister and the person concerned, or in the absence of such agreement, an amount determined by arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1956). 60

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

Regulations.

15. (1) The Minister may, after consultation with the Board, make regulations which are not contrary to this Act or any other law—

- (a) regarding any matter which may or shall be prescribed in terms of this Act; 5
- (b) regarding the organization and procedure for the employment of a service of a controlling authority;
- (c) regarding the uniforms, insignia and identification of members of a service of a controlling authority;
- (d) regarding the safety requirements to be complied with on premises in order to reduce the risk of a fire or other danger, or to facilitate the evacuation of the premises in the event of such danger; 10
- (e) regarding the use, manufacture, storage or transportation of explosives, fireworks, petroleum or any other inflammable or combustible substance or gas; 15
- (f) regarding the specifications and standards with which the equipment and material of a service shall comply; and
- (g) regarding any matter which he may deem necessary or expedient in order to achieve the objects of this Act. 20

(2) A regulation regarding the qualifications and experience of a chief fire officer, and of a member of a service, of a controlling authority which is a department of State, shall not be made without consultation with the Minister responsible for the department of State concerned. 25

(3) The Minister may after consultation with the Board incorporate in the regulations any code of practice issued under section 18 of the Standards Act, 1982 (Act No. 30 of 1982), by means of a mere reference to particulars by which it can be identified, and thereafter the code of practice shall in so far as it is not repugnant to this Act be deemed to be part of the regulations. 30

- (4) (a) A regulation contemplated in this section shall not be made before the proposed regulation has been published in the *Gazette* together with a notice calling upon interested persons to lodge any objections they may have against it in writing to the Minister within the period mentioned therein and that period has expired. 35
- (b) The provisions of paragraph (a) shall not apply to any amendment effected by the Minister with the concurrence of the Board to the proposed regulations as a result of objections received in terms of that paragraph. 40

(5) A regulation made under this section may, in respect of a contravention thereof or a failure to comply therewith, provide for a punishment of a fine not exceeding R10 000 or of imprisonment for a period not exceeding 12 months. 45

By-laws.

16. (1) A local authority may, after consultation with the Board, and subject to the provisions of any law applicable to the local authority in relation to the promulgation of by-laws, make by-laws which are not contrary to any law, for its area of jurisdiction regarding any matter which it may deem necessary or expedient in order to employ its service effectively. 50

(2) The Administrator may after consultation with the Board make by-laws which are not contrary to any law, regarding any matter referred to in subsection (1), and such by-laws shall apply in the area of jurisdiction of every local authority in the province concerned in so far as they are applicable and not inconsistent with the by-laws of the local authority concerned. 55

(3) A by-law contemplated in subsection (1) or (2) may in respect of a contravention thereof or failure to comply therewith provide for a punishment of a fine not exceeding R5 000 or of imprisonment for a period not exceeding six months. 60

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

Failure to comply with requirements.

17. (1) If a person, including a local authority and a department of State, fails to comply with a requirement, standard or direction determined or issued under this Act or the regulations contemplated in section 15, the Administrator may by written notice direct a local authority, and the Minister may by written notice direct any other person, to comply with the requirement, standard or direction within the period mentioned therein. 5

(2) If such a person fails to give effect to such a notice, the Administrator or Minister, as the case may be, may cause steps to be taken in order to comply with the requirement, standard or direction on behalf of the person concerned and to recover the costs in connection therewith from that person. 10

(3) A direction referred to in subsection (1) shall not be issued before consultation with the local authority or person concerned, as the case may be. 15

Enforcement of provisions.

18. (1) A chief fire officer may at any reasonable time enter any premises in the area of the controlling authority concerned in order to determine whether the provisions contemplated in sections 15 (1) (a), (d), (e) and (g) and 16 are being complied with. 20

(2) If the chief fire officer finds that such provisions are not being complied with, he may issue to the owner of those premises a written instruction to comply with the provisions in question within the period mentioned therein.

(3) If an instruction contemplated in subsection (2) is not carried out within the period mentioned therein, the controlling authority concerned may cause the necessary steps to be taken in order to comply with the provisions in question on behalf of the owner concerned and to recover the costs in connection therewith from the owner. 25 30

(4) For the purposes of this section "owner" means the registered owner of the premises or in relation to a sectional title scheme, the body corporate established in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986).

Delegation.

19. (1) A chief fire officer may— 35

(a) delegate any power granted to him by or under this Act, the regulations contemplated in section 15 or the by-laws contemplated in section 16, excluding the power referred to in this section, to a member of the service concerned; and 40

(b) grant authority that a duty so assigned to him may be performed by such a member.

(2) A power so delegated and a duty so authorized shall be exercised or performed subject to the directions of the chief fire officer, who may at any time withdraw such delegation or authority. 45

(3) A delegation under subsection (1) (a) does not prevent the chief fire officer from exercising the power in question himself.

Indemnity.

20. Subject to the proviso to paragraph (e) of section 8 (1), a controlling authority, chief fire officer or member of a service of a controlling authority or an inhabitant referred to in section 8 (2) shall not be liable for any damage or loss as a result of bodily injury, loss of life or loss of or damage to property which is caused by or arises out of or in connection with anything done or performed *bona fide* in the exercise or performance of a power, function or duty conferred or imposed in terms of this Act, the regulations contemplated in section 15 or the by-laws contemplated in section 16. 50 55

Offences.

21. Any person who—

(a) intentionally resists or obstructs a member of a service, including a chief fire officer, in the exercise of his powers referred to in section 8 (1); 60

(b) refuses or fails to comply with an order contemplated in section 14 (1);

Act No. 99, 1987

FIRE BRIGADE SERVICES ACT, 1987

(c) refuses or fails to carry out an instruction contemplated in section 18 (2) within the period mentioned therein;
or

(d) summons a service while he knows that there is no reason to do so,

shall be guilty of an offence, and on conviction liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding 12 months.

Repeal of laws and savings.

22. (1) The laws specified in the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.

(2) A regulation or by-law made under a law repealed by subsection (1) and which deals with a matter referred to in section 15 (1) or 16 (1) of this Act, shall be deemed to have been made under the relevant section of this Act.

Short title.

23. This Act shall be called the Fire Brigade Services Act, 1987.

Schedule

No. and year of law	Title	Extent of repeal
Ordinance No. 18 of 1977, of the Transvaal	Ordinance on Fire Brigade Services	The whole
Ordinance No. 2 of 1978, of the Orange Free State	Ordinance on Fire Brigade Services	The whole
Ordinance No. 14 of 1978, of the Cape of Good Hope	Ordinance on Fire Brigade Services	The whole
Ordinance No. 31 of 1978, of Natal	Ordinance on Fire Brigade Services	The whole
Ordinance No. 9 of 1979, of the Orange Free State	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 14 of 1979, of the Transvaal	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 8 of 1980, of the Cape of Good Hope	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 12 of 1980, of Natal	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 14 of 1981, of the Cape of Good Hope	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 22 of 1982, of Natal	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 15 of 1983, of the Transvaal	Fire Brigade Services Amendment Ordinance	The whole
Ordinance No. 12 of 1984, of the Orange Free State	Fire Brigade Services Amendment Ordinance	The whole
Act No. 102 of 1982	Black Local Authorities Act	Item 30 (c) of Schedule