

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 13 March, 1958.*

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. , 1958.

An Act to make further provisions in relation to contributions to be paid by insurance companies to the fund established under the Fire Brigades Act, 1909-1956, and to the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949; to increase the amount that may be borrowed by the Board of Fire Commissioners of New South Wales; for these and other purposes to amend the said Acts; and for purposes connected therewith.

Fire Brigades and Bush Fires (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Fire Brigades and Bush Fires (Amendment) Act, 1958".

Short title, citation and commencement.

(2) The Fire Brigades Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Fire Brigades Act, 1909-1958.

(3) The Bush Fires Act, 1949, as amended by this Act, may be cited as the Bush Fires Act, 1949-1958.

(4) This Act shall commence upon the first day of January, one thousand nine hundred and fifty-nine:

15 Provided that for the purposes only of the appointment of persons to be members of the Appeal Committee to be constituted under section 40A of the Fire Brigades Act, 1909-1958, and of matters necessary for or incidental to such appointment and of making any regulations necessary or expedient for the purpose of bringing the amendments effected by this Act into operation at the commencement of this Act the provisions of such amendments shall commence on the day upon which the assent of Her Majesty to this Act is signified.

25 2. The Fire Brigades Act, 1909-1956, is amended—

Amendment of Act No. 9, 1909.

(a) (i) by omitting from the matter relating to Part IV in section two the figures "40" and by inserting in lieu thereof the figures and letter "40B";

Sec. 2. (Division of Act into Parts.)

30 (ii) by omitting from the matter relating to Part V in the same section the figures "53" and by inserting in lieu thereof the figures "54";

(b)

Fire Brigades and Bush Fires (Amendment).

- 5 for, any insurance or reinsurance,
and any instrument or writing
whereby any contract of insurance
or reinsurance is made or agreed
to be made or is evidenced.
- (d) by omitting from subsection three of section Sec. 17.
seventeen the words "five hundred thousand (Power of
pounds" and by inserting in lieu thereof the board to
words "one million pounds"; borrow.)
- 10 (e) by omitting subsection one of section thirty-six Sec. 36.
and by inserting in lieu thereof the following (Payment by
subsections:— insurance
companies.)
- 15 (1) (a) Every insurance company shall
annually pay to the fund a sum equivalent to a
percentage, to be fixed by the board, of the total
amount of the premiums subject to contribution
as hereinafter provided received by or due to
20 the company during the year ended the thirty-
first day of December then last past in respect
of insurances against loss of or damage to any
property within the State of New South Wales
under the classes of policies of insurance
enumerated in Column 1 of Schedule Four to
this Act.
- 25 (b) The percentage to be fixed by the
board pursuant to paragraph (a) of this
subsection shall be such percentage as will
provide the total amount to be contributed under
section thirty-four of this Act by all insurance
30 companies in respect of all fire districts in the
year in respect of which such percentage is
applicable.
- 35 (c) The amount of the premiums under
any class of policies of insurance enumerated
in Column 1 of Schedule Four to this Act which
shall be subject to contribution under paragraph
(a) of this subsection shall be as shown in
Column 2 of Schedule Four to this Act opposite
that class of policies of insurance.

Fire Brigades and Bush Fires (Amendment).

5 (1A) Where the Minister is satisfied that at least two-thirds of the insurance companies liable to contribute to the fund as aforesaid desire that Schedule Four to this Act be varied, extended or amended in a certain manner and the board recommends such variation, extension or amendment the Minister may by notice published in the Gazette vary, extend or amend Schedule Four to this Act accordingly.

10 Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

(f) by omitting section thirty-nine and by inserting in lieu thereof the following sections:—

Subst.
sec. 39
and new
secs. 39A,
39B.

15 39. (1) Every insurance company shall, in the month of February in each year, or at such other time as the board may notify, send to the board a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Four to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

Returns by
insurance
companies

20
25
30 (2) If any such company fails to send to the board such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds

39A.

Fire Brigades and Bush Fires (Amendment).

5 39A. For the purposes of sections thirty-six and thirty-nine of this Act the expression "total amount of the premiums" includes any brokerage or commission paid or due to be paid or allowed on—

"Total amount of the premiums" defined.

(a) any such premium;

10 (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or

15 (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

(i) stamp duty payable in respect of any policy of insurance the subject of any such premium;

20 (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

25 39B. (1) The Auditor-General shall at the request of the board examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts. Any examination

Audit of accounts of insurance companies.

30

Fire Brigades and Bush Fires (Amendment).

examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

5 (2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the board a report of the result thereof.

10 (3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any
15 book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance
20 of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

(g) by omitting from section forty the word "July" Sec. 40.
and by inserting in lieu thereof the word (Returns by owners of property.)
"February";

25 (h) by inserting next after section forty the following new sections:— New secs. 40A, 40B.

30 40A. (1) Where in any year ending the thirty-first day of December sixty-six and two-thirds per centum or more of the total amount of all premiums subject to contribution under section thirty-six of this Act and received by or due to an insurance company were received by or are due to such company in respect of insurances against loss of or damage
35 to any property within New South Wales outside the
Appeals by insurance companies against assessment of contributions.

Fire Brigades and Bush Fires (Amendment).

5 the Sydney and Newcastle Fire Districts constituted by or in pursuance of this Act, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

10 (2) Every such appeal shall be heard and determined by an Appeal Committee (hereinafter referred to as the Committee) which shall consist of five persons appointed by the Minister. Of such persons one shall be appointed as Chairman and the other four shall be appointed from persons nominated by the insurance companies.

15 Of the persons nominated by the insurance companies and appointed by the Minister one shall be a public accountant registered under the Public Accountants Registration Act, 1945, as amended by subsequent Acts, and not being
20 an employee of an insurance company, one shall be a solicitor or barrister not being an employee of an insurance company and two shall be insurance officers.

25 (3) (a) Subject to the provisions of this Act the members of the Committee shall hold office for a term of five years and shall be eligible for re-appointment.

30 (b) If a member of the Committee is not nominated within the time fixed by the Minister and notified in the Gazette the Minister may appoint a fit person who shall hold office as if he had been nominated in accordance with subsection two of this section.

35 (c) The Minister may suspend or remove any member of the Committee from his office. (d)

Fire Brigades and Bush Fires (Amendment).

5 (d) If any vacancy occurs in the office of any member of the Committee such vacancy shall be filled by the Minister by the appointment thereto of a person having the like qualification for such office as that of the member whose office has become vacant, and the person so appointed shall hold office for the residue of his predecessor's term and shall be eligible for re-appointment.

10 (4) (a) Upon the hearing of any appeal under this section, three members present shall constitute a quorum and if the Chairman be not present at any such hearing the members present shall choose one of their number as Chairman.
15 The decision of the majority in number of the members of the Committee sitting upon such appeal shall be the decision of the Committee. The Chairman shall have a casting as well as a deliberative vote.

20 (b) The Committee shall sit at such places and times as the Chairman may direct.

25 (5) The decision of the Committee on any matter before it shall be final and conclusive and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(6) Regulations may be made under this Act for and with respect to—

- 30 (a) the proceedings of the Committee;
(b) the expenses payable to persons appearing before the Committee as witnesses and the expenses and fees payable to members of the Committee;
35 (c) requiring persons to attend sittings of the Committee to give evidence and produce documents thereat and to supply information thereto;

(d)

Fire Brigades and Bush Fires (Amendment).

- (d) the times within which and the persons with whom appeals may be lodged;
- (e) all other matters pertinent to appeals under this section.

5 (7) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall
 10 reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following
 15 formula:—

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

20 A is the prescribed amount.

C is the contribution to the fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

25 P1 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution
 30 under section thirty-six of this Act in the year in respect of which the appeal has been lodged.

35 P2 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year one thousand nine
 40 hundred and fifty-eight. R1

Fire Brigades and Bush Fires (Amendment).

R1 is the total contributions paid or due to be paid under this Act by all insurance companies in the year in respect of which the appeal has been lodged.

5 R2 is the total contributions paid or due to be paid under this Act by all insurance companies in the year one thousand nine hundred and fifty-eight.

10 For the purposes of the application of the foregoing formula, fractions of pounds shall be disregarded.

15 Any adjustment in respect of the contribution paid or due to be paid by the appellant company shall be effected by the board as soon as practicable after the decision of the Committee has been given.

(8) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the board shall, where such
20 appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have
25 been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion
30 as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies.
35 Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

40B.

(a)

Fire Brigades and Bush Fires (Amendment).

- 5 40B. Any contribution or any increase thereof required to be paid by an insurance company under the provisions of this Act shall be a debt due by that company to the board and shall be recoverable from that company by the board in any court of competent jurisdiction. Recovery of contributions and increases thereof.
- (i) by inserting in section forty-eight after the words "this Act," the words "the regulations"; Sec. 48. (Prosecution for breaches of Act or by-laws.)
- 10 (j) by inserting next after section fifty-three the following heading and new section:— New sec. 54.

Regulations.

- 15 54. (1) The Governor may make regulations not inconsistent with this Act for and with respect to— Regulations.
- (a) the form of return to be made by insurance companies under section thirty-nine of this Act;
- 20 (b) the form of auditor's certificate to be furnished with returns made by insurance companies under section thirty-nine of this Act;
- 25 (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.
- 30 (3) The regulations shall—
- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c)

Fire Brigades and Bush Fires (Amendment).

(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(k) by inserting next after Schedule Three the following new Schedule:—

SCHEDULE FOUR.

New
Schedule
Four.
Sees. 36, 39.

| | COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 20 | Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| 25 | Traders or Industrial Combined insurance however designated. | Eighty per cent. |
| 30 | Houseowner's and Householder's (Building and/or Contents). | Fifty per cent. |
| 35 | All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| | Motor Vehicle (Comprehensive) including Motor Cycle. | Two and one-half per cent. |
| 40 | Combined Fire and Hail on Growing Crops. | One per cent. |
| | Marine and Baggage | One per cent. |

*Fire Brigades and Bush Fires (Amendment).***3.** The Bush Fires Act, 1949, is amended—Amendment
of Act No.
31, 1949.

(a) by omitting from section two the word "SCHEDULE" and by inserting in lieu thereof the word "SCHEDULES";

Sec. 2.
(Division
into Parts.)

5 (b) by omitting from section four the words "the Schedule" and by inserting in lieu thereof the words "Schedule One";

Sec. 4.
(Repeal of
Acts.)

(c) by inserting next after section five the following new section:—

New sec. 5A.

10 5A. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Construction
of Act.

20 (d) (i) by omitting from section six the definition of "Insurance company" and by inserting in lieu thereof the following definition:—

Sec. 6.
(Interpreta-
tion.)

25 "Insurance company" means any corporate body, company, partnership, association, underwriter or person—

(a) issuing, or undertaking liability under, policies of insurance against loss of or damage to any property situate within New South Wales; or

30

(b)

Fire Brigades and Bush Fires (Amendment).

5 (b) receiving premiums in respect of such policies of insurance on behalf of or for transmission to any corporate body, company, partnership, association, underwriter or person outside New South Wales.

10 (ii) by inserting in the same section after the definition of "Owner" the following new definition:—

15 "Policy of insurance" includes every certificate or declaration as to the existence of, and any agreement for, any insurance or reinsurance, and any instrument or writing whereby any contract of insurance or reinsurance is made or agreed to be made or is evidenced.

20 (e) by omitting section thirty-four and by inserting in lieu thereof the following sections:—

34. (1) The contributions of the respective insurance companies shall be determined in accordance with the provisions of this section.

25 (2) Every insurance company shall, in the month of February in each year, or at such other time as the Minister for Local Government may notify, send to the Minister for Local Government a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

30

35

(3)

Fire Brigades and Bush Fires (Amendment).

5 (3) If any such company fails to send to the Minister for Local Government such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

10 (4) (a) The amount to be contributed in each financial year by each such company shall be a sum equivalent to a percentage, to be fixed by the Minister for Local Government, of the
15 total amount of the premiums subject to contribution as hereinafter provided received by or due to the company during the year ended the thirty-first day of December then last past in respect of insurances against loss of or
20 damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act.

25 (b) The percentage to be fixed by the Minister for Local Government pursuant to paragraph (a) of this subsection shall be such percentage as will provide the total amount to be contributed under section thirty-two of this Act by all insurance companies in the financial year in respect of which such percentage is
30 applicable.

35 (c) The amount of the premiums under any class of policies of insurance enumerated in Column 1 of Schedule Two to this Act which shall be subject to contribution under paragraph (a) of this subsection shall be as shown in Column 2 of Schedule Two to this Act opposite that class of policies of insurance.

(5)

Fire Brigades and Bush Fires (Amendment).

5 (5) Where the Minister for Local Government is satisfied that at least two-thirds of the insurance companies liable to contribute to the Fund as aforesaid desire that Schedule Two to this Act be varied, extended or amended in a certain manner the Minister for Local Government may by notice published in the Gazette vary, extend or amend Schedule Two to this Act accordingly.

10 Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

15 (6) For the purposes of this section the expression "total amount of the premiums" includes any brokerage or commission paid or due to be paid or allowed on—

(a) any such premium;

20 (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or

25 (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

30 (i) stamp duty payable in respect of any policy of insurance the subject of any such premium;

35 (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

Fire Brigades and Bush Fires (Amendment).

34A. (1) The Auditor-General shall at the request of the Minister for Local Government examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts.

Audit of
accounts of
insurance
companies.

Any examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

(2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the Minister for Local Government a report of the result thereof.

(3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

(f) by inserting next after section thirty-six the following new section:—

New sec.
36A.

36A. (1) Where in any year ending the thirty-first day of December eighty per centum or more of the total amount of all premiums subject to contribution under section thirty-four of this Act

Appeals by
insurance
companies
against
assessment
of contri-
butions.

Fire Brigades and Bush Fires (Amendment).

5 Act and received by or due to an insurance company were received by or due to such company in respect of insurances against loss of or damage to any property within fire districts constituted by or in pursuance of the Fire Brigades Act, 1909-1958, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

10 (2) Every such appeal shall be heard and determined by the Appeal Committee (hereinafter referred to as the Committee) constituted under the provisions of section 40A of the Fire Brigades Act, 1909-1958, and the provisions of
15 subsections four and five of that section and of any regulations made under that section shall apply mutatis mutandis to appeals under this section.

20 (3) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the
25 Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

30
$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

A is the prescribed amount.

35 C is the contribution to the Fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

Fire Brigades and Bush Fires (Amendment).

5 P1 is the amount of the premiums received
by or due to the appellant company
in respect of insurances against loss of
or damage to any property within the
Eastern and Central Divisions outside
fire districts constituted under the Fire
Brigades Act, 1909-1958, and subject to
contribution under section thirty-four
of this Act in the year in respect of
10 which the appeal has been lodged.

15 P2 is the amount of the premiums received
by or due to the appellant company in
respect of insurances against loss of or
damage to any property within the
Eastern and Central Divisions outside
fire districts constituted under the Fire
Brigades Act, 1909-1958, and subject to
contribution under section thirty-four
of this Act in the year one thousand
20 nine hundred and fifty-eight.

25 R1 is the total contributions paid by or due
to be paid under this Act by all
insurance companies in the year in
respect of which the appeal has been
lodged.

R2 is the total contributions paid by or due
to be paid under this Act by all
insurance companies in the year one
thousand nine hundred and fifty-eight.

30 For the purposes of the application of the
foregoing formula, fractions of pounds shall be
disregarded.

35 Any adjustment in respect of the contribution
paid or due to be paid by the appellant company
shall be effected by the Minister for Local Gov-
ernment as soon as practicable after the decision
of the Committee has been given. (4)

Fire Brigades and Bush Fires (Amendment).

5 (4) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the Minister for Local Government shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the Fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

25 Any such increase shall be recoverable by the Minister for Local Government in like manner as contributions payable under this Part of this Act are recoverable.

(g) by inserting at the end of subsection two of section fifty-seven the following new paragraphs :— Sec. 57.
(Regulations.)

30 (u) the form of return to be made by insurance companies under section thirty-four of this Act;

35 (v) the form of auditor's certificate to be furnished with returns by insurance companies made under section thirty-four of this Act;

(h)

Fire Brigades and Bush Fires (Amendment).

- (h) (i) by omitting the heading to the Schedule and Schedule.
by inserting in lieu thereof the following:—

SCHEDULES.

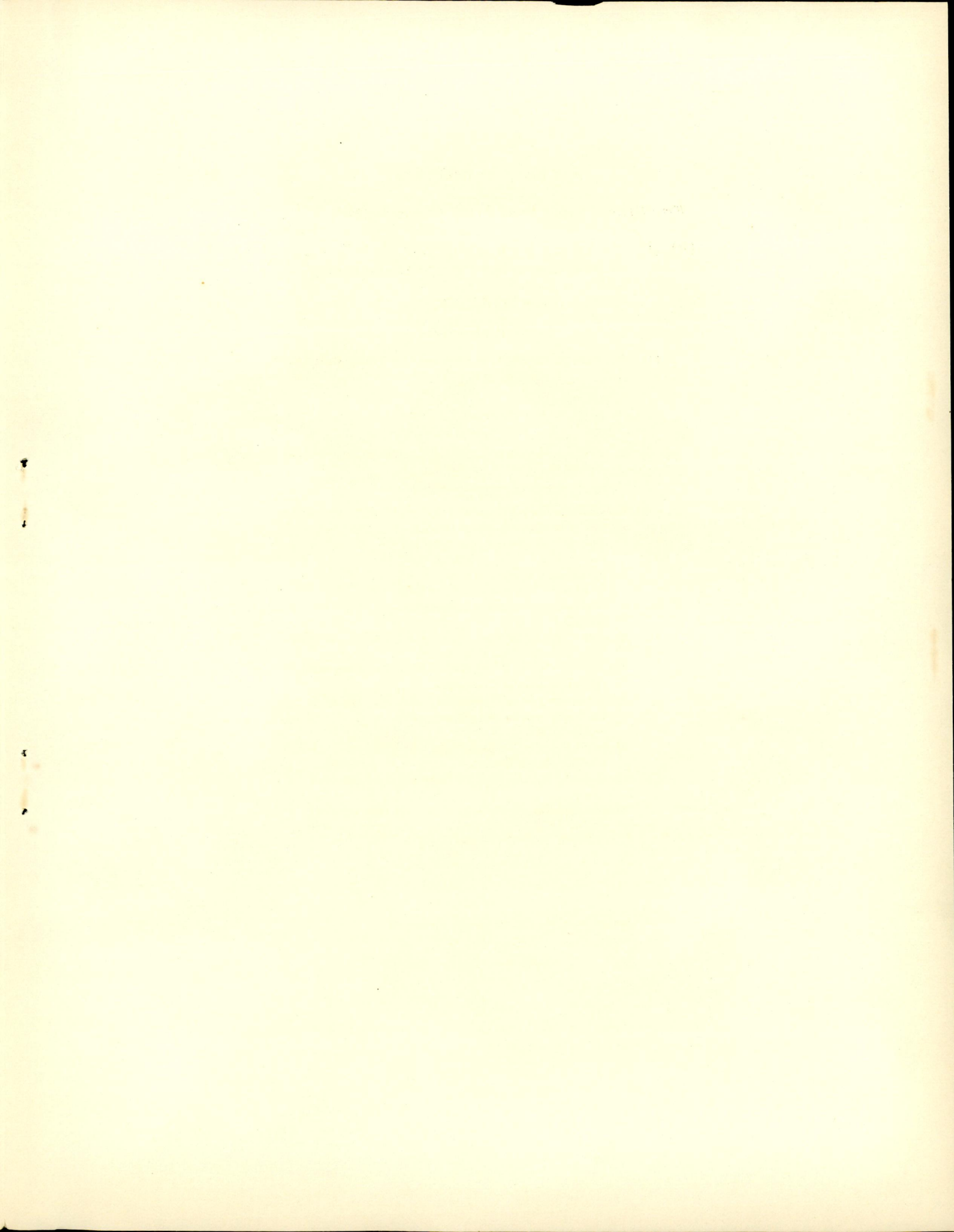
SCHEDULE ONE.

- 5 (ii) by inserting at the end of the Schedule the
following new Schedule:—

SCHEDULE TWO.

Sec. 34.

| 10 | COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| 15 | Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| 20 | Traders or Industrial Combined insurance however designated. Houseowner's and Householder's (Building and/or Contents). | Eighty per cent. Fifty per cent. |
| 25 | All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| 30 | Motor Vehicle (Comprehensive) including Motor Cycle. Combined Fire and Hail on Growing Crops. Marine and Baggage | Two and one-half per cent. One per cent. One per cent. |



No. , 1958.

A BILL

To make further provisions in relation to contributions to be paid by insurance companies to the fund established under the Fire Brigades Act, 1909-1956, and to the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949; to increase the amount that may be borrowed by the Board of Fire Commissioners of New South Wales; for these and other purposes to amend the said Acts; and for purposes connected therewith.

[MR. McMAHON *on behalf of* MR. KELLY;—
26 February, 1958.]

Fire Brigades and Bush Fires (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. (1) This Act may be cited as the "Fire Brigades and Bush Fires (Amendment) Act, 1958".

Short title,
citation and
commence-
ment.

(2) The Fire Brigades Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Fire
10 Brigades Act, 1909-1958.

(3) The Bush Fires Act, 1949, as amended by this Act, may be cited as the Bush Fires Act, 1949-1958.

(4) This Act shall commence upon the first day of January, one thousand nine hundred and fifty-nine:

15 Provided that for the purposes only of the appointment of persons to be members of the Appeal Committee to be constituted under section 40A of the Fire Brigades Act, 1909-1958, and of matters necessary for or incidental to such appointment and of making any regulations necessary or expedient for the purpose of bringing the
20 amendments effected by this Act into operation at the commencement of this Act the provisions of such amendments shall commence on the day upon which the assent of Her Majesty to this Act is signified.

25 **2.** The Fire Brigades Act, 1909-1956, is amended—

Amendment
of Act No.
9, 1909.

(a) (i) by omitting from the matter relating to Part IV in section two the figures "40" and by inserting in lieu thereof the figures and letter "40B";

Sec. 2.
(Division of
Act into
Parts.)

30 (ii) by omitting from the matter relating to Part V in the same section the figures "53" and by inserting in lieu thereof the figures "54";

(b)

Fire Brigades and Bush Fires (Amendment).

- (b) by inserting next after section four the following New sec. 4A.
new section:—

5 4A. This Act shall be read and construed sub- Construction
ject to the Commonwealth of Australia Constitu- of Act.
tion Act and so as not to exceed the legislative
power of the State to the intent that where any
provision of this Act, or the application thereof
10 to any person or circumstance, is held invalid,
the remainder of this Act and the application
of such provision to other persons or circum-
stances shall not be affected.

- (c) (i) by omitting from section five the definition Sec. 5.
of "Insurance company" and by inserting (Defini-
in lieu thereof the following definition:— tions.)

15 "Insurance company" means any
corporate body, company, partner-
ship, association, underwriter or
person—

20 (a) issuing, or undertaking
liability under, policies of
insurance against loss of
or damage to any property
situate within New South
Wales; or

25 (b) receiving premiums in
respect of such policies of
insurance on behalf of or
for transmission to any
corporate body, company,
30 partnership, association,
underwriter or person
outside New South Wales.

- (ii) by inserting in the same section after the
definition of "Permanent fire brigade" the
35 following new definition:—

"Policy of insurance" includes every
certificate or declaration as to the
existence of, and any agreement
for,

Fire Brigades and Bush Fires (Amendment).

5 for, any insurance or reinsurance,
and any instrument or writing
whereby any contract of insurance
or reinsurance is made or agreed
to be made or is evidenced.

(d) by omitting from subsection three of section Sec. 17.
seventeen the words "five hundred thousand (Power of
pounds" and by inserting in lieu thereof the board to
words "one million pounds"; borrow.)

10 (e) by omitting subsection one of section thirty-six Sec. 36.
and by inserting in lieu thereof the following (Payment by
subsections:— insurance
companies.)

15 (1) (a) Every insurance company shall
annually pay to the fund a sum equivalent to a
percentage, to be fixed by the board, of the total
amount of the premiums subject to contribution
as hereinafter provided received by or due to
20 the company during the year ended the thirty-
first day of December then last past in respect
of insurances against loss of or damage to any
property within the State of New South Wales
under the classes of policies of insurance
enumerated in Column 1 of Schedule Four to
this Act.

25 (b) The percentage to be fixed by the
board pursuant to paragraph (a) of this
subsection shall be such percentage as will
provide the total amount to be contributed under
section thirty-four of this Act by all insurance
30 companies in respect of all fire districts in the
year in respect of which such percentage is
applicable.

35 (c) The amount of the premiums under
any class of policies of insurance enumerated
in Column 1 of Schedule Four to this Act which
shall be subject to contribution under paragraph
(a) of this subsection shall be as shown in
Column 2 of Schedule Four to this Act opposite
that class of policies of insurance.

(1A)

Fire Brigades and Bush Fires (Amendment).

5 (1A) Where the Minister is satisfied that at least two-thirds of the insurance companies liable to contribute to the fund as aforesaid desire that Schedule Four to this Act be varied, extended or amended in a certain manner and the board recommends such variation, extension or amendment the Minister may by notice published in the Gazette vary, extend or amend Schedule Four to this Act accordingly.

10 Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

(f) by omitting section thirty-nine and by inserting in lieu thereof the following sections:—

Subst.
sec. 39
and new
secs. 39A,
39B.

15 39. (1) Every insurance company shall, in the month of February in each year, or at such other time as the board may notify, send to the board a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Four to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

Returns by
insurance
companies.

30 (2) If any such company fails to send to the board such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

35

39A.

Fire Brigades and Bush Fires (Amendment).

5 39A. For the purposes of sections thirty-six and thirty-nine of this Act the expression "total amount of the premiums" includes any brokerage or commission paid or due to be paid or allowed on—

"Total amount of the premiums" defined.

- (a) any such premium;
- 10 (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or
- 15 (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

- (i) stamp duty payable in respect of any policy of insurance the subject of any such premium;
- 20 (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

25 39B. (1) The Auditor-General shall at the request of the board examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts. Any examination

Audit of accounts of insurance companies.

Fire Brigades and Bush Fires (Amendment).

examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

5 (2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the board a report of the result thereof.

10 (3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any
15 book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance
20 of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

(g) by omitting from section forty the word "July" Sec. 40.
and by inserting in lieu thereof the word (Returns by owners of property.)
"February";

25 (h) by inserting next after section forty the New secs. 40A, 40B.
following new sections:—

30 40A. (1) Where in any year ending the Appeals by insurance companies against assessment of contributions.
thirty-first day of December sixty-six and two-thirds per centum or more of the total amount of all premiums subject to contribution under section thirty-six of this Act and received by or due to an insurance company were received by or are due to such company in respect of insurances against loss of or damage
35 to any property within New South Wales outside the

Fire Brigades and Bush Fires (Amendment).

5 the Sydney and Newcastle Fire Districts constituted by or in pursuance of this Act, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

10 (2) Every such appeal shall be heard and determined by an Appeal Committee (hereinafter referred to as the Committee) which shall consist of five persons appointed by the Minister. Of such persons one shall be appointed as Chairman and the other four shall be appointed from persons nominated by the insurance companies.

15 Of the persons nominated by the insurance companies and appointed by the Minister one shall be a public accountant registered under the Public Accountants Registration Act, 1945, as amended by subsequent Acts, and not being
20 an employee of an insurance company, one shall be a solicitor or barrister not being an employee of an insurance company and two shall be insurance officers.

25 (3) (a) Subject to the provisions of this Act the members of the Committee shall hold office for a term of five years and shall be eligible for re-appointment.

30 (b) If a member of the Committee is not nominated within the time fixed by the Minister and notified in the Gazette the Minister may appoint a fit person who shall hold office as if he had been nominated in accordance with subsection two of this section.

35 (c) The Minister may suspend or remove any member of the Committee from his office.
(d)

Fire Brigades and Bush Fires (Amendment).

5 (d) If any vacancy occurs in the office of any member of the Committee such vacancy shall be filled by the Minister by the appointment thereto of a person having the like qualification for such office as that of the member whose office has become vacant, and the person so appointed shall hold office for the residue of his predecessor's term and shall be eligible for re-appointment.

10 (4) (a) Upon the hearing of any appeal under this section, three members present shall constitute a quorum and if the Chairman be not present at any such hearing the members present shall choose one of their number as Chairman. 15 The decision of the majority in number of the members of the Committee sitting upon such appeal shall be the decision of the Committee. The Chairman shall have a casting as well as a deliberative vote.

20 (b) The Committee shall sit at such places and times as the Chairman may direct.

25 (5) The decision of the Committee on any matter before it shall be final and conclusive and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(6) Regulations may be made under this Act for and with respect to—

- 30 (a) the proceedings of the Committee;
- (b) the expenses payable to persons appearing before the Committee as witnesses and the expenses and fees payable to members of the Committee;
- 35 (c) requiring persons to attend sittings of the Committee to give evidence and produce documents thereat and to supply information thereto;

(d)

Fire Brigades and Bush Fires (Amendment).

- (d) the times within which and the persons with whom appeals may be lodged;
- (e) all other matters pertinent to appeals under this section.

5 (7) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

10

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

15

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

20 A is the prescribed amount.

C is the contribution to the fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

25 P1 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year in respect of which the appeal has been lodged.

30

35 P2 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year one thousand nine hundred and fifty-eight. R1

40

Fire Brigades and Bush Fires (Amendment).

R1 is the total contributions paid or due to be paid under this Act by all insurance companies in the year in respect of which the appeal has been lodged.

5 R2 is the total contributions paid or due to be paid under this Act by all insurance companies in the year one thousand nine hundred and fifty-eight.

10 For the purposes of the application of the foregoing formula, fractions of pounds shall be disregarded.

15 Any adjustment in respect of the contribution paid or due to be paid by the appellant company shall be effected by the board as soon as practicable after the decision of the Committee has been given.

20 (8) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the board shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not
25 being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance
30 company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the fund the amount of such
35 increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds. 40B.

Fire Brigades and Bush Fires (Amendment).

5 40B. Any contribution or any increase thereof required to be paid by an insurance company under the provisions of this Act shall be a debt due by that company to the board and shall be recoverable from that company by the board in any court of competent jurisdiction.

Recovery of contributions and increases thereof.

- (i) by inserting in section forty-eight after the words "this Act," the words "the regulations";
- (j) by inserting next after section fifty-three the following heading and new section:—

Sec. 48. (Prosecution for breaches of Act or by-laws.)

New sec. 54.

Regulations.

15 54. (1) The Governor may make regulations not inconsistent with this Act for and with respect to—

Regulations.

- (a) the form of return to be made by insurance companies under section thirty-nine of this Act;
- 20 (b) the form of auditor's certificate to be furnished with returns made by insurance companies under section thirty-nine of this Act;
- 25 (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

- 30 (3) The regulations shall—
- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;

(c)

Fire Brigades and Bush Fires (Amendment).

5 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

10 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

15 (k) by inserting next after Schedule Three the following new Schedule:—

SCHEDULE FOUR.

New
Schedule
Four.
Secs. 36, 39.

| | COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 20 | Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| 25 | Traders or Industrial Combined insurance however designated. | Eighty per cent. |
| | Houseowner's and Householder's (Building and/or Contents). | Fifty per cent. |
| 35 | All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| | Motor Vehicle (Comprehensive) including Motor Cycle. | Two and one-half per cent. |
| 40 | Combined Fire and Hail on Growing Crops. | One per cent. |
| | Marine and Baggage | One per cent. |

*Fire Brigades and Bush Fires (Amendment).***3.** The Bush Fires Act, 1949, is amended—Amendment
of Act No.
31, 1949.

(a) by omitting from section two the word "SCHEDULE" and by inserting in lieu thereof the word "SCHEDULES";

Sec. 2.
(Division
into Parts.)

5 (b) by omitting from section four the words "the Schedule" and by inserting in lieu thereof the words "Schedule One";

Sec. 4.
(Repeal of
Acts.)

(c) by inserting next after section five the following new section:—

New sec. 5A.

10 5A. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that
15 where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Construction
of Act.

20 (d) (i) by omitting from section six the definition of "Insurance company" and by inserting in lieu thereof the following definition:—

Sec. 6.
(Interpreta-
tion.)

25 "Insurance company" means any corporate body, company, partnership, association, underwriter or person—

30 (a) issuing, or undertaking liability under, policies of insurance against loss of or damage to any property situate within New South Wales; or
(b)

Fire Brigades and Bush Fires (Amendment).

5 (b) receiving premiums in respect of such policies of insurance on behalf of or for transmission to any corporate body, company, partnership, association, underwriter or person outside New South Wales.

10 (ii) by inserting in the same section after the definition of "Owner" the following new definition:—

15 "Policy of insurance" includes every certificate or declaration as to the existence of, and any agreement for, any insurance or reinsurance, and any instrument or writing whereby any contract of insurance or reinsurance is made or agreed to be made or is evidenced.

20 (e) by omitting section thirty-four and by inserting in lieu thereof the following sections:—

34. (1) The contributions of the respective insurance companies shall be determined in accordance with the provisions of this section.

25 (2) Every insurance company shall, in the month of February in each year, or at such other time as the Minister for Local Government may notify, send to the Minister for Local Government a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

30
35

Subst.
sec. 34, and
new sec. 34A.

Determina-
tion of
contribu-
tions of
insurance
companies.

(3)

Fire Brigades and Bush Fires (Amendment).

5 (3) If any such company fails to send to the Minister for Local Government such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

10 (4) (a) The amount to be contributed in each financial year by each such company shall be a sum equivalent to a percentage, to be fixed by the Minister for Local Government, of the
15 total amount of the premiums subject to contribution as hereinafter provided received by or due to the company during the year ended the thirty-first day of December then last past
20 in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act.

25 (b) The percentage to be fixed by the Minister for Local Government pursuant to paragraph (a) of this subsection shall be such percentage as will provide the total amount to be contributed under section thirty-two of this Act by all insurance companies in the financial year in respect of which such percentage is
30 applicable.

35 (c) The amount of the premiums under any class of policies of insurance enumerated in Column 1 of Schedule Two to this Act which shall be subject to contribution under paragraph (a) of this subsection shall be as shown in Column 2 of Schedule Two to this Act opposite that class of policies of insurance.

(5)

Fire Brigades and Bush Fires (Amendment).

5 (5) Where the Minister for Local Government is satisfied that at least two-thirds of the insurance companies liable to contribute to the Fund as aforesaid desire that Schedule Two to this Act be varied, extended or amended in a certain manner the Minister for Local Government may by notice published in the Gazette vary, extend or amend Schedule Two to this Act accordingly.

10 Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

15 (6) For the purposes of this section the expression "total amount of the premiums" includes any brokerage or commission paid or due to be paid or allowed on—

(a) any such premium;

20 (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or

25 (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

30 (i) stamp duty payable in respect of any policy of insurance the subject of any such premium;

35 (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

Fire Brigades and Bush Fires (Amendment).

34A. (1) The Auditor-General shall at the request of the Minister for Local Government examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts.

Audit of
accounts of
insurance
companies.

Any examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

(2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the Minister for Local Government a report of the result thereof.

(3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

(f) by inserting next after section thirty-six the following new section:—

New sec.
36A.

36A. (1) Where in any year ending the thirty-first day of December eighty per centum or more of the total amount of all premiums subject to contribution under section thirty-four of this

Appeals by
insurance
companies
against
assessment
of contri-
butions.

Act

Fire Brigades and Bush Fires (Amendment).

Act and received by or due to an insurance company were received by or due to such company in respect of insurances against loss of or damage to any property within fire districts constituted by or in pursuance of the Fire Brigades Act, 1909-1958, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

(2) Every such appeal shall be heard and determined by the Appeal Committee (hereinafter referred to as the Committee) constituted under the provisions of section 40A of the Fire Brigades Act, 1909-1958, and the provisions of subsections four and five of that section and of any regulations made under that section shall apply mutatis mutandis to appeals under this section.

(3) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

A is the prescribed amount.

C is the contribution to the Fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

P1

Fire Brigades and Bush Fires (Amendment).

5 P1 is the amount of the premiums received
by or due to the appellant company
in respect of insurances against loss of
or damage to any property within the
Eastern and Central Divisions outside
10 fire districts constituted under the Fire
Brigades Act, 1909-1958, and subject to
contribution under section thirty-four
of this Act in the year in respect of
which the appeal has been lodged.

15 P2 is the amount of the premiums received
by or due to the appellant company in
respect of insurances against loss of or
damage to any property within the
Eastern and Central Divisions outside
20 fire districts constituted under the Fire
Brigades Act, 1909-1958, and subject to
contribution under section thirty-four
of this Act in the year one thousand
nine hundred and fifty-eight.

25 R1 is the total contributions paid by or due
to be paid under this Act by all
insurance companies in the year in
respect of which the appeal has been
lodged.

R2 is the total contributions paid by or due
to be paid under this Act by all
insurance companies in the year one
thousand nine hundred and fifty-eight.

30 For the purposes of the application of the
foregoing formula, fractions of pounds shall be
disregarded.

35 Any adjustment in respect of the contribution
paid or due to be paid by the appellant company
shall be effected by the Minister for Local Gov-
ernment as soon as practicable after the decision
of the Committee has been given. (4)

Fire Brigades and Bush Fires (Amendment).

(4) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the Minister for Local Government shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the Fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

Any such increase shall be recoverable by the Minister for Local Government in like manner as contributions payable under this Part of this Act are recoverable.

(g) by inserting at the end of subsection two of section fifty-seven the following new paragraphs:— Sec. 57. (Regulations.)

(u) the form of return to be made by insurance companies under section thirty-four of this Act;

(v) the form of auditor's certificate to be furnished with returns by insurance companies made under section thirty-four of this Act;

(h)

Fire Brigades and Bush Fires (Amendment).

- (h) (i) by omitting the heading to the Schedule and Schedule.
by inserting in lieu thereof the following:—

SCHEDULES.

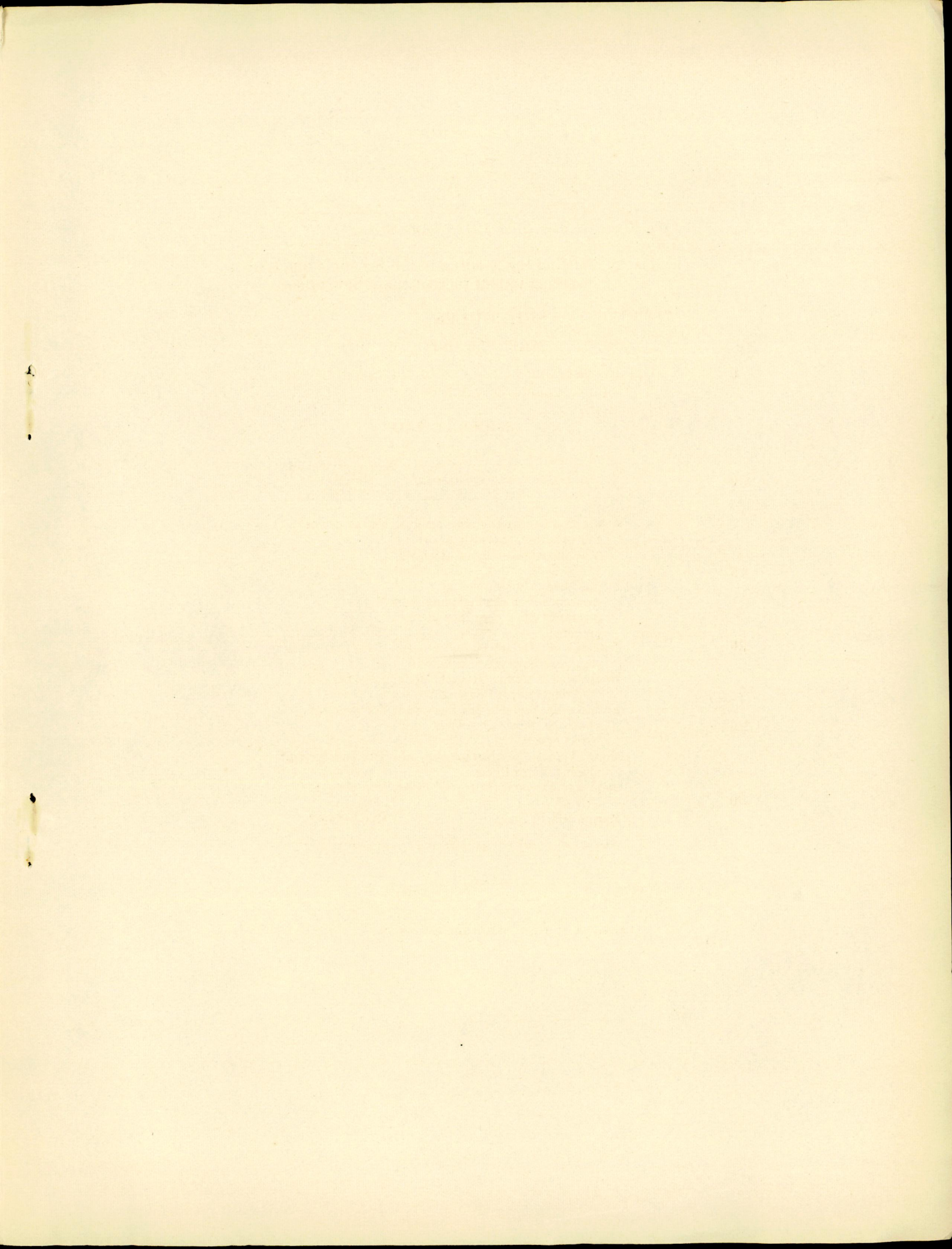
SCHEDULE ONE.

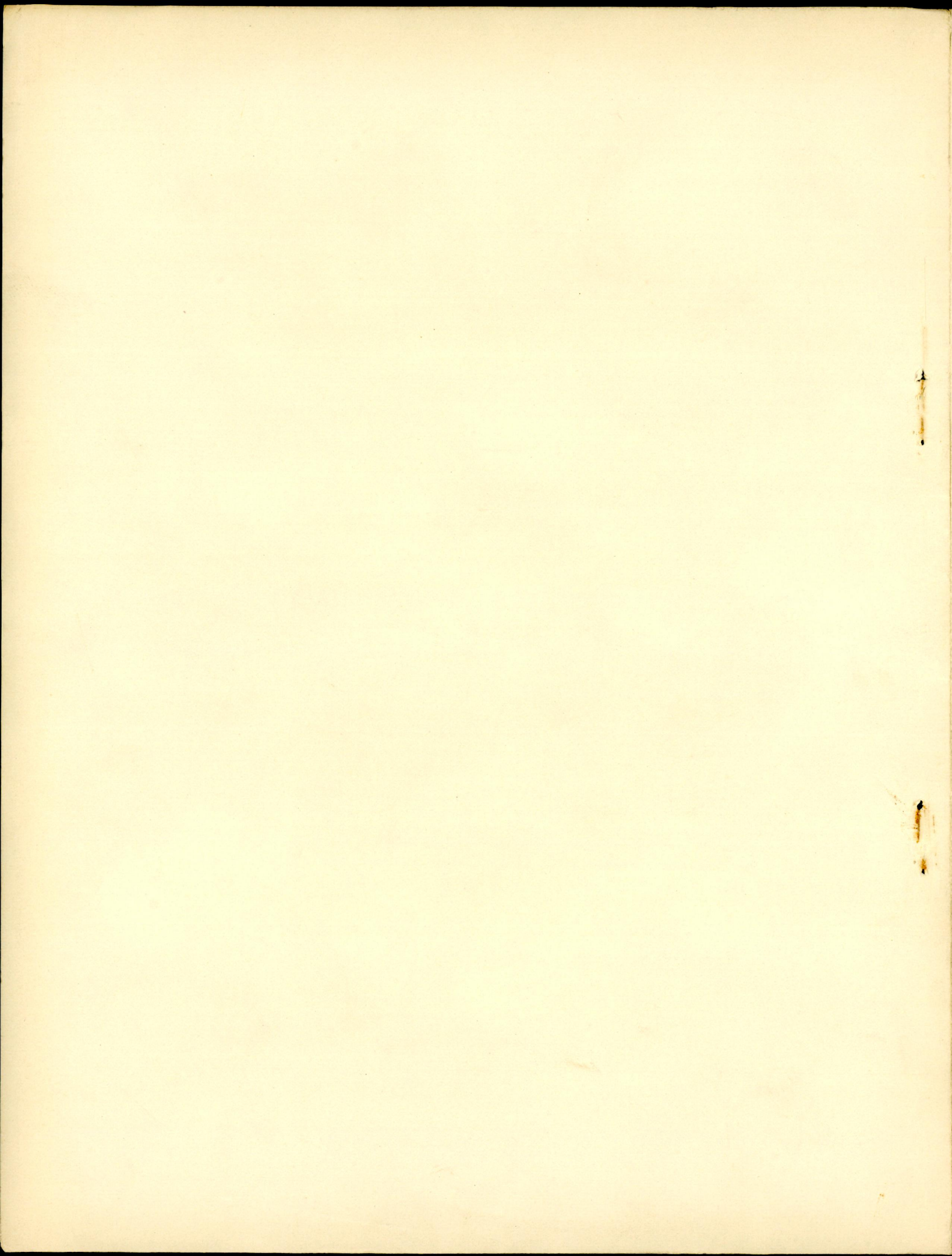
- 5 (ii) by inserting at the end of the Schedule the
following new Schedule:—

SCHEDULE TWO.

Sec. 34.

| 10 | COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| 15 | Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| 20 | Traders or Industrial Combined insurance however designated. Houseowner's and Householder's (Building and/or Contents). | Eighty per cent. Fifty per cent. |
| 25 | All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| 30 | Motor Vehicle (Comprehensive) including Motor Cycle. Combined Fire and Hail on Growing Crops. Marine and Baggage | Two and one-half per cent. One per cent. One per cent. |





New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 4, 1958.

An Act to make further provisions in relation to contributions to be paid by insurance companies to the fund established under the Fire Brigades Act, 1909-1956, and to the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949; to increase the amount that may be borrowed by the Board of Fire Commissioners of New South Wales; for these and other purposes to amend the said Acts; and for purposes connected therewith. [Assented to, 31st March, 1958.]

Fire Brigades and Bush Fires (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Fire Brigades and Bush Fires (Amendment) Act, 1958".

(2) The Fire Brigades Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Fire Brigades Act, 1909-1958.

(3) The Bush Fires Act, 1949, as amended by this Act, may be cited as the **Bush Fires Act, 1949-1958.**

(4) This Act shall commence upon the first day of January, one thousand nine hundred and fifty-nine:

Provided that for the purposes only of the appointment of persons to be members of the Appeal Committee to be constituted under section 40A of the Fire Brigades Act, 1909-1958, and of matters necessary for or incidental to such appointment and of making any regulations necessary or expedient for the purpose of bringing the amendments effected by this Act into operation at the commencement of this Act the provisions of such amendments shall commence on the day upon which the assent of Her Majesty to this Act is signified.

2. The Fire Brigades Act, 1909-1956, is amended—

Amendment
of Act No.
9, 1909.

Sec. 2.
(Division of
Act into
Parts.)

(a) (i) by omitting from the matter relating to Part IV in section two the figures "40" and by inserting in lieu thereof the figures and letter "40B";

(ii) by omitting from the matter relating to Part V in the same section the figures "53" and by inserting in lieu thereof the figures "54";

(b)

Fire Brigades and Bush Fires (Amendment).

(b) by inserting next after section four the following New sec. 4A.
new section:—

4A. This Act shall be read and construed sub- Construction
of Act.
ject to the Commonwealth of Australia Constitu-
tion Act and so as not to exceed the legislative
power of the State to the intent that where any
provision of this Act, or the application thereof
to any person or circumstance, is held invalid,
the remainder of this Act and the application
of such provision to other persons or circum-
stances shall not be affected.

(c) (i) by omitting from section five the definition Sec. 5.
of "Insurance company" and by inserting (Defini-
tions.)
in lieu thereof the following definition:—

"Insurance company" means any
corporate body, company, partner-
ship, association, underwriter or
person—

- (a) issuing, or undertaking
liability under, policies of
insurance against loss of
or damage to any property
situate within New South
Wales; or
- (b) receiving premiums in
respect of such policies of
insurance on behalf of or
for transmission to any
corporate body, company,
partnership, association,
underwriter or person
outside New South Wales.

(ii) by inserting in the same section after the
definition of "Permanent fire brigade" the
following new definition:—

"Policy of insurance" includes every
certificate or declaration as to the
existence of, and any agreement
for,

Fire Brigades and Bush Fires (Amendment).

for, any insurance or reinsurance, and any instrument or writing whereby any contract of insurance or reinsurance is made or agreed to be made or is evidenced.

Sec. 17.
(Power of board to borrow.)

- (d) by omitting from subsection three of section seventeen the words "five hundred thousand pounds" and by inserting in lieu thereof the words "one million pounds";

Sec. 36.
(Payment by insurance companies.)

- (e) by omitting subsection one of section thirty-six and by inserting in lieu thereof the following subsections:—

(1) (a) Every insurance company shall annually pay to the fund a sum equivalent to a percentage, to be fixed by the board, of the total amount of the premiums subject to contribution as hereinafter provided received by or due to the company during the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Four to this Act.

(b) The percentage to be fixed by the board pursuant to paragraph (a) of this subsection shall be such percentage as will provide the total amount to be contributed under section thirty-four of this Act by all insurance companies in respect of all fire districts in the year in respect of which such percentage is applicable.

(c) The amount of the premiums under any class of policies of insurance enumerated in Column 1 of Schedule Four to this Act which shall be subject to contribution under paragraph (a) of this subsection shall be as shown in Column 2 of Schedule Four to this Act opposite that class of policies of insurance.

(1A)

Fire Brigades and Bush Fires (Amendment).

(1A) Where the Minister is satisfied that at least two-thirds of the insurance companies liable to contribute to the fund as aforesaid desire that Schedule Four to this Act be varied, extended or amended in a certain manner and the board recommends such variation, extension or amendment the Minister may by notice published in the Gazette vary, extend or amend Schedule Four to this Act accordingly.

Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

- (f) by omitting section thirty-nine and by inserting in lieu thereof the following sections:—

Subst.
sec. 39
and new
secs. 39A,
39B.

39. (1) Every insurance company shall, in the month of February in each year, or at such other time as the board may notify, send to the board a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Four to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

Returns by
insurance
companies.

(2) If any such company fails to send to the board such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

Fire Brigades and Bush Fires (Amendment).

“Total amount of the premiums” defined.

39A. For the purposes of sections thirty-six and thirty-nine of this Act the expression “total amount of the premiums” includes any brokerage or commission paid or due to be paid or allowed on—

- (a) any such premium;
- (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or
- (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

- (i) stamp duty payable in respect of any policy of insurance the subject of any such premium;
- (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

Audit of accounts of insurance companies.

39B. (1) The Auditor-General shall at the request of the board examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts. Any examination

Fire Brigades and Bush Fires (Amendment).

examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

(2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the board a report of the result thereof.

(3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

(g) by omitting from section forty the word "July" and by inserting in lieu thereof the word "February";

Sec. 40.
(Returns by owners of property.)

(h) by inserting next after section forty the following new sections:—

New secs.
40A, 40B.

40A. (1) Where in any year ending the thirty-first day of December sixty-six and two-thirds per centum or more of the total amount of all premiums subject to contribution under section thirty-six of this Act and received by or due to an insurance company were received by or are due to such company in respect of insurances against loss of or damage to any property within New South Wales outside

Appeals by insurance companies against assessment of contributions.

the

Fire Brigades and Bush Fires (Amendment).

the Sydney and Newcastle Fire Districts constituted by or in pursuance of this Act, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

(2) Every such appeal shall be heard and determined by an Appeal Committee (hereinafter referred to as the Committee) which shall consist of five persons appointed by the Minister. Of such persons one shall be appointed as Chairman and the other four shall be appointed from persons nominated by the insurance companies.

Of the persons nominated by the insurance companies and appointed by the Minister one shall be a public accountant registered under the Public Accountants Registration Act, 1945, as amended by subsequent Acts, and not being an employee of an insurance company, one shall be a solicitor or barrister not being an employee of an insurance company and two shall be insurance officers.

(3) (a) Subject to the provisions of this Act the members of the Committee shall hold office for a term of five years and shall be eligible for re-appointment.

(b) If a member of the Committee is not nominated within the time fixed by the Minister and notified in the Gazette the Minister may appoint a fit person who shall hold office as if he had been nominated in accordance with subsection two of this section.

(c) The Minister may suspend or remove any member of the Committee from his office.

(d)

Fire Brigades and Bush Fires (Amendment).

(d) If any vacancy occurs in the office of any member of the Committee such vacancy shall be filled by the Minister by the appointment thereto of a person having the like qualification for such office as that of the member whose office has become vacant, and the person so appointed shall hold office for the residue of his predecessor's term and shall be eligible for re-appointment.

(4) (a) Upon the hearing of any appeal under this section, three members present shall constitute a quorum and if the Chairman be not present at any such hearing the members present shall choose one of their number as Chairman. The decision of the majority in number of the members of the Committee sitting upon such appeal shall be the decision of the Committee. The Chairman shall have a casting as well as a deliberative vote.

(b) The Committee shall sit at such places and times as the Chairman may direct.

(5) The decision of the Committee on any matter before it shall be final and conclusive and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(6) Regulations may be made under this Act for and with respect to—

- (a) the proceedings of the Committee;
- (b) the expenses payable to persons appearing before the Committee as witnesses and the expenses and fees payable to members of the Committee;
- (c) requiring persons to attend sittings of the Committee to give evidence and produce documents thereat and to supply information thereto;

(d)

Fire Brigades and Bush Fires (Amendment).

- (d) the times within which and the persons with whom appeals may be lodged;
- (e) all other matters pertinent to appeals under this section.

(7) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

A is the prescribed amount.

C is the contribution to the fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

P1 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year in respect of which the appeal has been lodged.

P2 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year one thousand nine hundred and fifty-eight. R1

Fire Brigades and Bush Fires (Amendment).

R1 is the total contributions paid or due to be paid under this Act by all insurance companies in the year in respect of which the appeal has been lodged.

R2 is the total contributions paid or due to be paid under this Act by all insurance companies in the year one thousand nine hundred and fifty-eight.

For the purposes of the application of the foregoing formula, fractions of pounds shall be disregarded.

Any adjustment in respect of the contribution paid or due to be paid by the appellant company shall be effected by the board as soon as practicable after the decision of the Committee has been given.

(8) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the board shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

40B.

Fire Brigades and Bush Fires (Amendment).

Recovery of contributions and increases thereof.

Sec. 48.
(Prosecution for breaches of Act or by-laws.)

New sec. 54.

Regulations.

40B. Any contribution or any increase thereof required to be paid by an insurance company under the provisions of this Act shall be a debt due by that company to the board and shall be recoverable from that company by the board in any court of competent jurisdiction.

(i) by inserting in section forty-eight after the words "this Act," the words "the regulations";

(j) by inserting next after section fifty-three the following heading and new section:—

Regulations.

54. (1) The Governor may make regulations not inconsistent with this Act for and with respect to—

(a) the form of return to be made by insurance companies under section thirty-nine of this Act;

(b) the form of auditor's certificate to be furnished with returns made by insurance companies under section thirty-nine of this Act;

(c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified in the regulations;

(c)

Fire Brigades and Bush Fires (Amendment).

(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(k) by inserting next after Schedule Three the following new Schedule:—

SCHEDULE FOUR.

New
Schedule
Four.

Secs. 36, 39.

| COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| Traders or Industrial Combined insurance however designated. | Eighty per cent. |
| Houseowner's and Householder's (Building and/or Contents). | Fifty per cent. |
| All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| Motor Vehicle (Comprehensive) including Motor Cycle. | Two and one-half per cent. |
| Combined Fire and Hail on Growing Crops. | One per cent. |
| Marine and Baggage | One per cent. |

Fire Brigades and Bush Fires (Amendment).

- 3.** The Bush Fires Act, 1949, is amended—
- Amendment of Act No. 31, 1949.
- Sec. 2. (Division into Parts.) (a) by omitting from section two the word “SCHEDULE” and by inserting in lieu thereof the word “SCHEDULES”;
- Sec. 4. (Repeal of Acts.) (b) by omitting from section four the words “the Schedule” and by inserting in lieu thereof the words “Schedule One”;
- New sec. 5A. (c) by inserting next after section five the following new section:—
- Construction of Act. 5A. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.
- Sec. 6. (Interpretation.) (d) (i) by omitting from section six the definition of “Insurance company” and by inserting in lieu thereof the following definition:—
- “Insurance company” means any corporate body, company, partnership, association, underwriter or person—
- (a) issuing, or undertaking liability under, policies of insurance against loss of or damage to any property situate within New South Wales; or
- (b)

Fire Brigades and Bush Fires (Amendment).

(b) receiving premiums in respect of such policies of insurance on behalf of or for transmission to any corporate body, company, partnership, association, underwriter or person outside New South Wales.

(ii) by inserting in the same section after the definition of "Owner" the following new definition:—

"Policy of insurance" includes every certificate or declaration as to the existence of, and any agreement for, any insurance or reinsurance, and any instrument or writing whereby any contract of insurance or reinsurance is made or agreed to be made or is evidenced.

(e) by omitting section thirty-four and by inserting in lieu thereof the following sections:—

Subst.
sec. 34, and
new sec. 34A.

34. (1) The contributions of the respective insurance companies shall be determined in accordance with the provisions of this section.

Determina-
tion of
contribu-
tions of
insurance
companies.

(2) Every insurance company shall, in the month of February in each year, or at such other time as the Minister for Local Government may notify, send to the Minister for Local Government a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

(3)

Fire Brigades and Bush Fires (Amendment).

(3) If any such company fails to send to the Minister for Local Government such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

(4) (a) The amount to be contributed in each financial year by each such company shall be a sum equivalent to a percentage, to be fixed by the Minister for Local Government, of the total amount of the premiums subject to contribution as hereinafter provided received by or due to the company during the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act.

(b) The percentage to be fixed by the Minister for Local Government pursuant to paragraph (a) of this subsection shall be such percentage as will provide the total amount to be contributed under section thirty-two of this Act by all insurance companies in the financial year in respect of which such percentage is applicable.

(c) The amount of the premiums under any class of policies of insurance enumerated in Column 1 of Schedule Two to this Act which shall be subject to contribution under paragraph (a) of this subsection shall be as shown in Column 2 of Schedule Two to this Act opposite that class of policies of insurance.

(5)

Fire Brigades and Bush Fires (Amendment).

(5) Where the Minister for Local Government is satisfied that at least two-thirds of the insurance companies liable to contribute to the Fund as aforesaid desire that Schedule Two to this Act be varied, extended or amended in a certain manner the Minister for Local Government may by notice published in the Gazette vary, extend or amend Schedule Two to this Act accordingly.

Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

(6) For the purposes of this section the expression "total amount of the premiums" includes any brokerage or commission paid or due to be paid or allowed on—

(a) any such premium;

(b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or

(c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

(i) stamp duty payable in respect of any policy of insurance the subject of any such premium;

(ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

Fire Brigades and Bush Fires (Amendment).

Audit of
accounts of
insurance
companies.

34A. (1) The Auditor-General shall at the request of the Minister for Local Government examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts.

Any examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

(2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the Minister for Local Government a report of the result thereof.

(3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

New sec.
36A.

(f) by inserting next after section thirty-six the following new section:—

Appeals by
insurance
companies
against
assessment
of contri-
butions.

36A. (1) Where in any year ending the thirty-first day of December eighty per centum or more of the total amount of all premiums subject to contribution under section thirty-four of this

Act

Fire Brigades and Bush Fires (Amendment).

Act and received by or due to an insurance company were received by or due to such company in respect of insurances against loss of or damage to any property within fire districts constituted by or in pursuance of the Fire Brigades Act, 1909-1958, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

(2) Every such appeal shall be heard and determined by the Appeal Committee (hereinafter referred to as the Committee) constituted under the provisions of section 40A of the Fire Brigades Act, 1909-1958, and the provisions of subsections four and five of that section and of any regulations made under that section shall apply mutatis mutandis to appeals under this section.

(3) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

A is the prescribed amount.

C is the contribution to the Fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

Fire Brigades and Bush Fires (Amendment).

P1 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1958, and subject to contribution under section thirty-four of this Act in the year in respect of which the appeal has been lodged.

P2 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1958, and subject to contribution under section thirty-four of this Act in the year one thousand nine hundred and fifty-eight.

R1 is the total contributions paid by or due to be paid under this Act by all insurance companies in the year in respect of which the appeal has been lodged.

R2 is the total contributions paid by or due to be paid under this Act by all insurance companies in the year one thousand nine hundred and fifty-eight.

For the purposes of the application of the foregoing formula, fractions of pounds shall be disregarded.

Any adjustment in respect of the contribution paid or due to be paid by the appellant company shall be effected by the Minister for Local Government as soon as practicable after the decision of the Committee has been given. (4)

Fire Brigades and Bush Fires (Amendment).

(4) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the Minister for Local Government shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the Fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

Any such increase shall be recoverable by the Minister for Local Government in like manner as contributions payable under this Part of this Act are recoverable.

(g) by inserting at the end of subsection two of section fifty-seven the following new paragraphs:— (Regulations.)

(u) the form of return to be made by insurance companies under section thirty-four of this Act;

(v) the form of auditor's certificate to be furnished with returns by insurance companies made under section thirty-four of this Act;

(h)

Fire Brigades and Bush Fires (Amendment).

Schedule.

(h) (i) by omitting the heading to the Schedule and by inserting in lieu thereof the following:—

SCHEDULES.

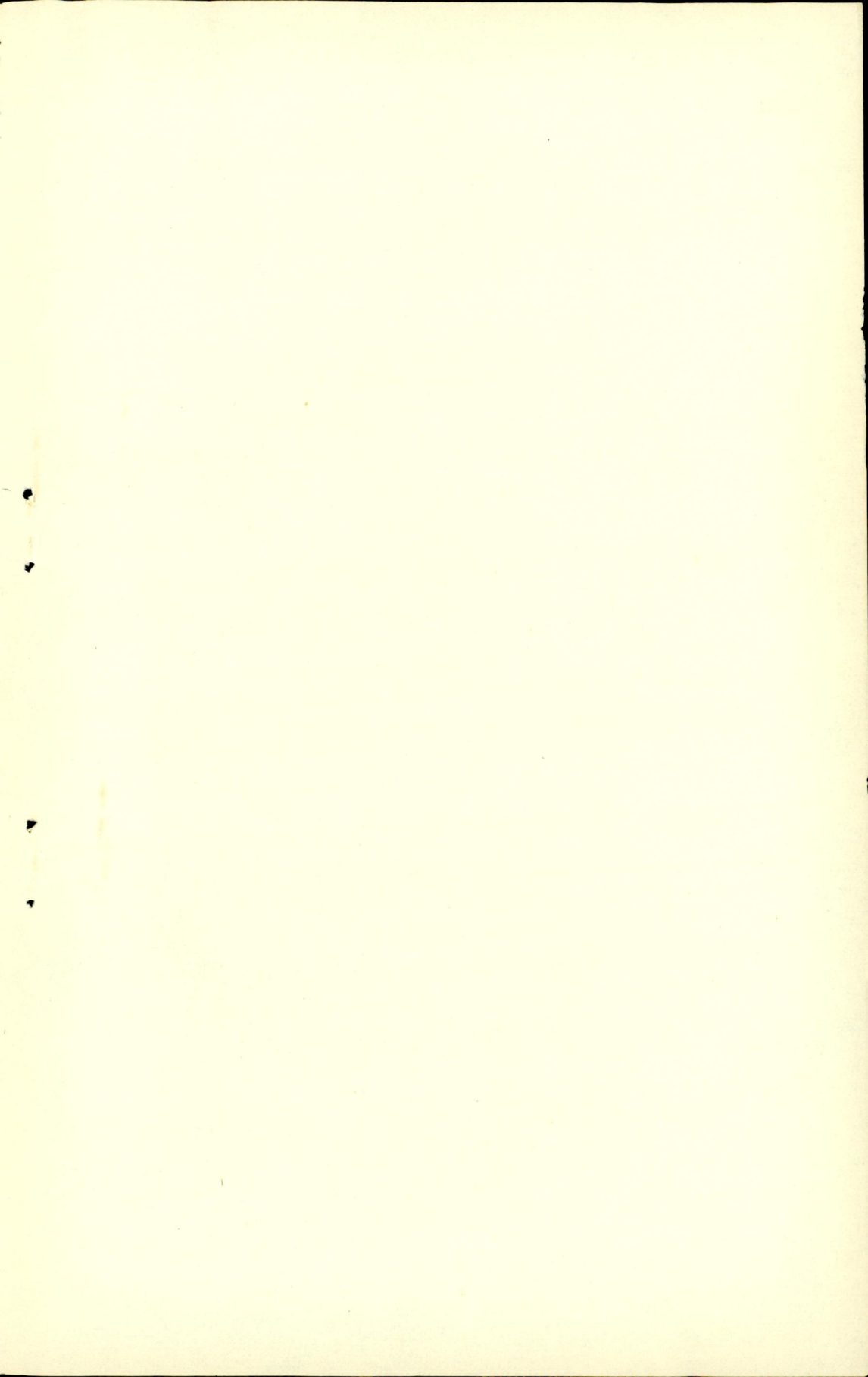
SCHEDULE ONE.

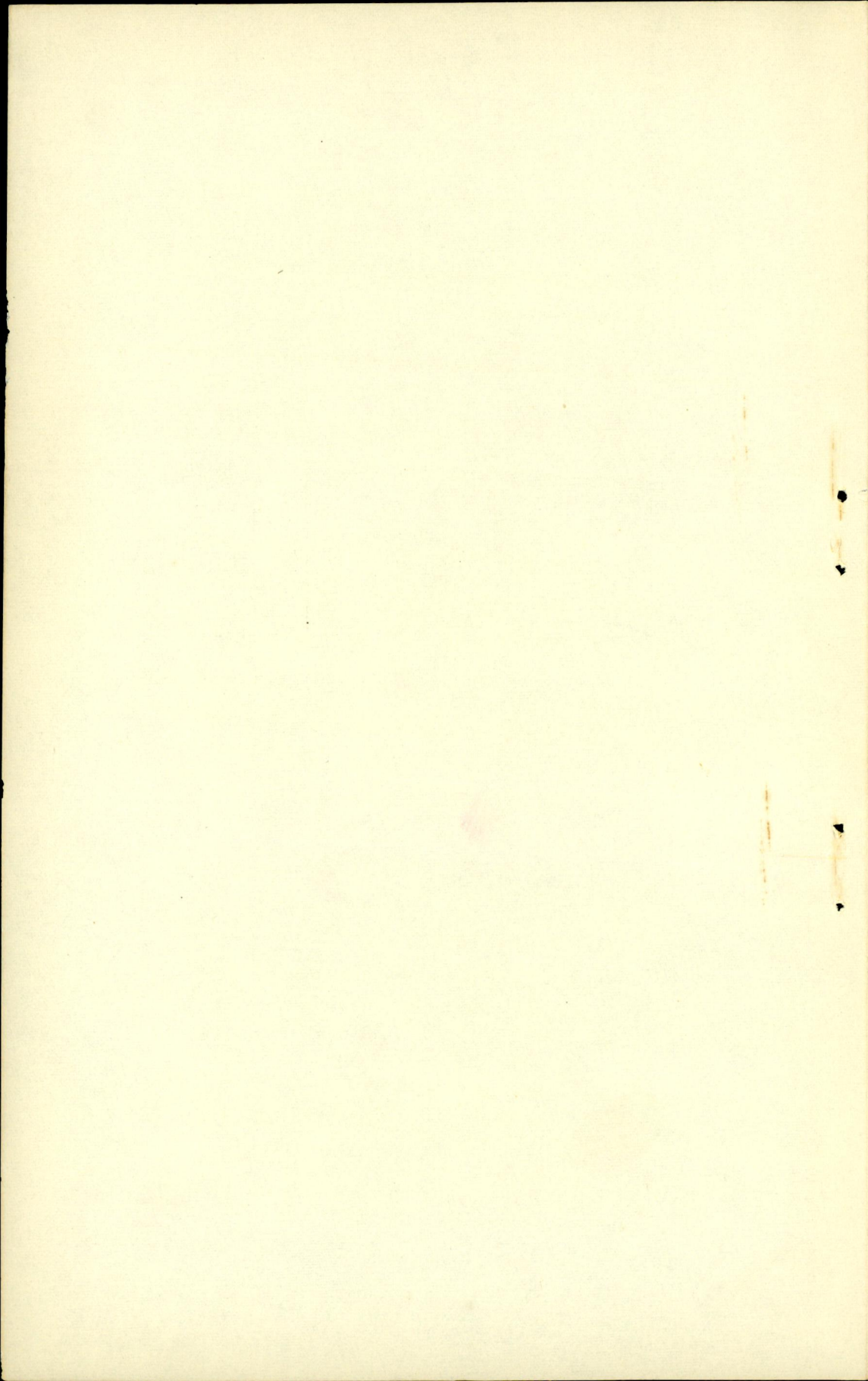
(ii) by inserting at the end of the Schedule the following new Schedule:—

Sec. 34.

SCHEDULE TWO.

| COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| Traders or Industrial Combined insurance however designated. | Eighty per cent. |
| Houseowner's and Householder's (Building and/or Contents). | Fifty per cent. |
| All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| Motor Vehicle (Comprehensive) including Motor Cycle. | Two and one-half per cent. |
| Combined Fire and Hail on Growing Crops. | One per cent. |
| Marine and Baggage | One per cent. |





I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 March, 1958.*

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 4, 1958.

An Act to make further provisions in relation to contributions to be paid by insurance companies to the fund established under the Fire Brigades Act, 1909-1956, and to the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949; to increase the amount that may be borrowed by the Board of Fire Commissioners of New South Wales; for these and other purposes to amend the said Acts; and for purposes connected therewith. [Assented to, 31st March, 1958.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Fire Brigades and Bush Fires (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Fire Brigades and Bush Fires (Amendment) Act, 1958".

(2) The Fire Brigades Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Fire Brigades Act, 1909-1958.

(3) The Bush Fires Act, 1949, as amended by this Act, may be cited as the Bush Fires Act, 1949-1958.

(4) This Act shall commence upon the first day of January, one thousand nine hundred and fifty-nine:

Provided that for the purposes only of the appointment of persons to be members of the Appeal Committee to be constituted under section 40A of the Fire Brigades Act, 1909-1958, and of matters necessary for or incidental to such appointment and of making any regulations necessary or expedient for the purpose of bringing the amendments effected by this Act into operation at the commencement of this Act the provisions of such amendments shall commence on the day upon which the assent of Her Majesty to this Act is signified.

Amendment
of Act No.
9, 1909.

Sec. 2.
(Division of
Act into
Parts.)

2. The Fire Brigades Act, 1909-1956, is amended—

(a) (i) by omitting from the matter relating to Part IV in section two the figures "40" and by inserting in lieu thereof the figures and letter "40B";

(ii) by omitting from the matter relating to Part V in the same section the figures "53" and by inserting in lieu thereof the figures "54";

(b)

Fire Brigades and Bush Fires (Amendment).

- (b) by inserting next after section four the following New sec. 4A.
new section:—

4A. This Act shall be read and construed sub- Construction
of Act.
ject to the Commonwealth of Australia Constitu-
tion Act and so as not to exceed the legislative
power of the State to the intent that where any
provision of this Act, or the application thereof
to any person or circumstance, is held invalid,
the remainder of this Act and the application
of such provision to other persons or circum-
stances shall not be affected.

- (c) (i) by omitting from section five the definition Sec. 5.
of "Insurance company" and by inserting (Defini-
tions.)
in lieu thereof the following definition:—

"Insurance company" means any
corporate body, company, partner-
ship, association, underwriter or
person—

- (a) issuing, or undertaking
liability under, policies of
insurance against loss of
or damage to any property
situate within New South
Wales; or
- (b) receiving premiums in
respect of such policies of
insurance on behalf of or
for transmission to any
corporate body, company,
partnership, association,
underwriter or person
outside New South Wales.

- (ii) by inserting in the same section after the
definition of "Permanent fire brigade" the
following new definition:—

"Policy of insurance" includes every
certificate or declaration as to the
existence of, and any agreement
for,

Fire Brigades and Bush Fires (Amendment).

for, any insurance or reinsurance, and any instrument or writing whereby any contract of insurance or reinsurance is made or agreed to be made or is evidenced.

Sec. 17.
(Power of
board to
borrow.)

(d) by omitting from subsection three of section seventeen the words "five hundred thousand pounds" and by inserting in lieu thereof the words "one million pounds";

Sec. 36.
(Payment by
insurance
companies.)

(e) by omitting subsection one of section thirty-six and by inserting in lieu thereof the following subsections:—

(1) (a) Every insurance company shall annually pay to the fund a sum equivalent to a percentage, to be fixed by the board, of the total amount of the premiums subject to contribution as hereinafter provided received by or due to the company during the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Four to this Act.

(b) The percentage to be fixed by the board pursuant to paragraph (a) of this subsection shall be such percentage as will provide the total amount to be contributed under section thirty-four of this Act by all insurance companies in respect of all fire districts in the year in respect of which such percentage is applicable.

(c) The amount of the premiums under any class of policies of insurance enumerated in Column 1 of Schedule Four to this Act which shall be subject to contribution under paragraph (a) of this subsection shall be as shown in Column 2 of Schedule Four to this Act opposite that class of policies of insurance.

(1A)

Fire Brigades and Bush Fires (Amendment).

(1A) Where the Minister is satisfied that at least two-thirds of the insurance companies liable to contribute to the fund as aforesaid desire that Schedule Four to this Act be varied, extended or amended in a certain manner and the board recommends such variation, extension or amendment the Minister may by notice published in the Gazette vary, extend or amend Schedule Four to this Act accordingly.

Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

(f) by omitting section thirty-nine and by inserting in lieu thereof the following sections:—

Subst.
sec. 39
and new
secs. 39A,
39B.

39. (1) Every insurance company shall, in the month of February in each year, or at such other time as the board may notify, send to the board a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Four to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

Returns by
insurance
companies.

(2) If any such company fails to send to the board such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

39A.

Fire Brigades and Bush Fires (Amendment).

“Total amount of the premiums” defined.

39A. For the purposes of sections thirty-six and thirty-nine of this Act the expression “total amount of the premiums” includes any brokerage or commission paid or due to be paid or allowed on—

- (a) any such premium;
- (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or
- (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

- (i) stamp duty payable in respect of any policy of insurance the subject of any such premium;
- (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

Audit of accounts of insurance companies.

39B. (1) The Auditor-General shall at the request of the board examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts. Any examination

Fire Brigades and Bush Fires (Amendment).

examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

(2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the board a report of the result thereof.

(3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

(g) by omitting from section forty the word "July" and by inserting in lieu thereof the word "February";

Sec. 40.
(Returns by owners of property.)

(h) by inserting next after section forty the following new sections:—

New secs. 40A, 40B.

40A. (1) Where in any year ending the thirty-first day of December sixty-six and two-thirds per centum or more of the total amount of all premiums subject to contribution under section thirty-six of this Act and received by or due to an insurance company were received by or are due to such company in respect of insurances against loss of or damage to any property within New South Wales outside the

Appeals by insurance companies against assessment of contributions.

Fire Brigades and Bush Fires (Amendment).

the Sydney and Newcastle Fire Districts constituted by or in pursuance of this Act, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

(2) Every such appeal shall be heard and determined by an Appeal Committee (hereinafter referred to as the Committee) which shall consist of five persons appointed by the Minister. Of such persons one shall be appointed as Chairman and the other four shall be appointed from persons nominated by the insurance companies.

Of the persons nominated by the insurance companies and appointed by the Minister one shall be a public accountant registered under the Public Accountants Registration Act, 1945, as amended by subsequent Acts, and not being an employee of an insurance company, one shall be a solicitor or barrister not being an employee of an insurance company and two shall be insurance officers.

(3) (a) Subject to the provisions of this Act the members of the Committee shall hold office for a term of five years and shall be eligible for re-appointment.

(b) If a member of the Committee is not nominated within the time fixed by the Minister and notified in the Gazette the Minister may appoint a fit person who shall hold office as if he had been nominated in accordance with subsection two of this section.

(c) The Minister may suspend or remove any member of the Committee from his office.

(d)

Fire Brigades and Bush Fires (Amendment).

(d) If any vacancy occurs in the office of any member of the Committee such vacancy shall be filled by the Minister by the appointment thereto of a person having the like qualification for such office as that of the member whose office has become vacant, and the person so appointed shall hold office for the residue of his predecessor's term and shall be eligible for re-appointment.

(4) (a) Upon the hearing of any appeal under this section, three members present shall constitute a quorum and if the Chairman be not present at any such hearing the members present shall choose one of their number as Chairman. The decision of the majority in number of the members of the Committee sitting upon such appeal shall be the decision of the Committee. The Chairman shall have a casting as well as a deliberative vote.

(b) The Committee shall sit at such places and times as the Chairman may direct.

(5) The decision of the Committee on any matter before it shall be final and conclusive and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(6) Regulations may be made under this Act for and with respect to—

- (a) the proceedings of the Committee;
- (b) the expenses payable to persons appearing before the Committee as witnesses and the expenses and fees payable to members of the Committee;
- (c) requiring persons to attend sittings of the Committee to give evidence and produce documents thereat and to supply information thereto;

(d)

Fire Brigades and Bush Fires (Amendment).

- (d) the times within which and the persons with whom appeals may be lodged;
- (e) all other matters pertinent to appeals under this section.

(7) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

A is the prescribed amount.

C is the contribution to the fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

P1 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year in respect of which the appeal has been lodged.

P2 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within fire districts and subject to contribution under section thirty-six of this Act in the year one thousand nine hundred and fifty-eight. R1

Fire Brigades and Bush Fires (Amendment).

R1 is the total contributions paid or due to be paid under this Act by all insurance companies in the year in respect of which the appeal has been lodged.

R2 is the total contributions paid or due to be paid under this Act by all insurance companies in the year one thousand nine hundred and fifty-eight.

For the purposes of the application of the foregoing formula, fractions of pounds shall be disregarded.

Any adjustment in respect of the contribution paid or due to be paid by the appellant company shall be effected by the board as soon as practicable after the decision of the Committee has been given.

(8) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the board shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

40B.

Fire Brigades and Bush Fires (Amendment).

Recovery of contributions and increases thereof.

40B. Any contribution or any increase thereof required to be paid by an insurance company under the provisions of this Act shall be a debt due by that company to the board and shall be recoverable from that company by the board in any court of competent jurisdiction.

Sec. 48.
(Prosecution for breaches of Act or by-laws.)

(i) by inserting in section forty-eight after the words "this Act," the words "the regulations";

New sec. 54.

(j) by inserting next after section fifty-three the following heading and new section:—

Regulations.

Regulations.

54. (1) The Governor may make regulations not inconsistent with this Act for and with respect to—

- (a) the form of return to be made by insurance companies under section thirty-nine of this Act;
- (b) the form of auditor's certificate to be furnished with returns made by insurance companies under section thirty-nine of this Act;
- (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;

(c)

Fire Brigades and Bush Fires (Amendment).

- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

- (k) by inserting next after Schedule Three the following new Schedule:—

SCHEDULE FOUR.

New
Schedule
Four.

Secs. 36, 39.

| COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| Traders or Industrial Combined insurance however designated. | Eighty per cent. |
| Houseowner's and Householder's (Building and/or Contents). | Fifty per cent. |
| All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| Motor Vehicle (Comprehensive) including Motor Cycle. | Two and one-half per cent. |
| Combined Fire and Hail on Growing Crops. | One per cent. |
| Marine and Baggage | One per cent. |

Fire Brigades and Bush Fires (Amendment).

- Amendment of Act No. 31, 1949.
- Sec. 2. (Division into Parts.)
- Sec. 4. (Repeal of Acts.)
- New sec. 5A.
- Construction of Act.
- Sec. 6. (Interpretation.)
- 3.** The Bush Fires Act, 1949, is amended—
- (a) by omitting from section two the word “SCHEDULE” and by inserting in lieu thereof the word “SCHEDULES”;
- (b) by omitting from section four the words “the Schedule” and by inserting in lieu thereof the words “Schedule One”;
- (c) by inserting next after section five the following new section:—
- 5A. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.
- (d) (i) by omitting from section six the definition of “Insurance company” and by inserting in lieu thereof the following definition:—
- “Insurance company” means any corporate body, company, partnership, association, underwriter or person—
- (a) issuing, or undertaking liability under, policies of insurance against loss of or damage to any property situate within New South Wales; or
- (b)

Fire Brigades and Bush Fires (Amendment).

(b) receiving premiums in respect of such policies of insurance on behalf of or for transmission to any corporate body, company, partnership, association, underwriter or person outside New South Wales.

(ii) by inserting in the same section after the definition of "Owner" the following new definition:—

"Policy of insurance" includes every certificate or declaration as to the existence of, and any agreement for, any insurance or reinsurance, and any instrument or writing whereby any contract of insurance or reinsurance is made or agreed to be made or is evidenced.

(e) by omitting section thirty-four and by inserting in lieu thereof the following sections:—

34. (1) The contributions of the respective insurance companies shall be determined in accordance with the provisions of this section.

(2) Every insurance company shall, in the month of February in each year, or at such other time as the Minister for Local Government may notify, send to the Minister for Local Government a return in the prescribed form showing the total amount of the premiums received by or due to the company for the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act. Such return shall be accompanied by a certificate in the prescribed form from an auditor.

Subst.
sec. 34, and
new sec. 34A.

Determina-
tion of
contribu-
tions of
insurance
companies.

(3)

Fire Brigades and Bush Fires (Amendment).

(3) If any such company fails to send to the Minister for Local Government such return or certificate within the time so prescribed or notified, such company shall be liable to a penalty not exceeding five pounds for every day during which such default continues. If any such return is false in any material particular, such company shall be liable to a penalty not exceeding one hundred pounds.

(4) (a) The amount to be contributed in each financial year by each such company shall be a sum equivalent to a percentage, to be fixed by the Minister for Local Government, of the total amount of the premiums subject to contribution as hereinafter provided received by or due to the company during the year ended the thirty-first day of December then last past in respect of insurances against loss of or damage to any property within the State of New South Wales under the classes of policies of insurance enumerated in Column 1 of Schedule Two to this Act.

(b) The percentage to be fixed by the Minister for Local Government pursuant to paragraph (a) of this subsection shall be such percentage as will provide the total amount to be contributed under section thirty-two of this Act by all insurance companies in the financial year in respect of which such percentage is applicable.

(c) The amount of the premiums under any class of policies of insurance enumerated in Column 1 of Schedule Two to this Act which shall be subject to contribution under paragraph (a) of this subsection shall be as shown in Column 2 of Schedule Two to this Act opposite that class of policies of insurance.

(5)

Fire Brigades and Bush Fires (Amendment).

(5) Where the Minister for Local Government is satisfied that at least two-thirds of the insurance companies liable to contribute to the Fund as aforesaid desire that Schedule Two to this Act be varied, extended or amended in a certain manner the Minister for Local Government may by notice published in the Gazette vary, extend or amend Schedule Two to this Act accordingly.

Any such variation, extension or amendment shall take effect from the first day of January next following publication of such notice.

(6) For the purposes of this section the expression "total amount of the premiums" includes any brokerage or commission paid or due to be paid or allowed on—

- (a) any such premium;
- (b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium; or
- (c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include—

- (i) stamp duty payable in respect of any policy of insurance the subject of any such premium;
- (ii) any such bonuses or return premiums or such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance as aforesaid.

Fire Brigades and Bush Fires (Amendment).

Audit of
accounts of
insurance
companies.

34A. (1) The Auditor-General shall at the request of the Minister for Local Government examine and audit, or cause any officer of the Public Service appointed by him in that behalf, to examine and audit the accounts of any insurance company liable to pay contributions under this Act, and for the purposes of such audit examine any books and documents relating to such accounts.

Any examination and audit pursuant to this section shall be in respect of matters relating to or arising out of the provisions of this Part of this Act.

(2) The Auditor-General shall, as soon as practicable after such examination and audit, make and sign and forward to the Minister for Local Government a report of the result thereof.

(3) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers or the performance of his duties under this section, or without lawful excuse refuses, when required to do so by the Auditor-General or such officer, to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding one hundred pounds.

New sec.
36A.

(f) by inserting next after section thirty-six the following new section:—

Appeals by
insurance
companies
against
assessment
of contri-
butions.

36A. (1) Where in any year ending the thirty-first day of December eighty per centum or more of the total amount of all premiums subject to contribution under section thirty-four of this

Act

Fire Brigades and Bush Fires (Amendment).

Act and received by or due to an insurance company were received by or due to such company in respect of insurances against loss of or damage to any property within fire districts constituted by or in pursuance of the Fire Brigades Act, 1909-1958, such company may appeal against the amount of the contribution payable by it in respect of those premiums under this Act in the manner hereinafter provided.

(2) Every such appeal shall be heard and determined by the Appeal Committee (hereinafter referred to as the Committee) constituted under the provisions of section 40A of the Fire Brigades Act, 1909-1958, and the provisions of subsections four and five of that section and of any regulations made under that section shall apply mutatis mutandis to appeals under this section.

(3) Where upon any appeal under this section the Committee is satisfied that the contribution, the subject of appeal, is in excess of the prescribed amount, the Committee shall reduce such contribution to such amount not being in excess of the prescribed amount as the Committee in the circumstances deems reasonable.

The prescribed amount shall be the amount ascertained in accordance with the following formula:—

$$A = C \times \frac{P1}{P2} \times \frac{R1}{R2} \times \frac{5}{4}$$

where—

A is the prescribed amount.

C is the contribution to the Fund paid under this Act by the appellant company in the year one thousand nine hundred and fifty-eight.

Fire Brigades and Bush Fires (Amendment).

P1 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1958, and subject to contribution under section thirty-four of this Act in the year in respect of which the appeal has been lodged.

P2 is the amount of the premiums received by or due to the appellant company in respect of insurances against loss of or damage to any property within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1958, and subject to contribution under section thirty-four of this Act in the year one thousand nine hundred and fifty-eight.

R1 is the total contributions paid by or due to be paid under this Act by all insurance companies in the year in respect of which the appeal has been lodged.

R2 is the total contributions paid by or due to be paid under this Act by all insurance companies in the year one thousand nine hundred and fifty-eight.

For the purposes of the application of the foregoing formula, fractions of pounds shall be disregarded.

Any adjustment in respect of the contribution paid or due to be paid by the appellant company shall be effected by the Minister for Local Government as soon as practicable after the decision of the Committee has been given. (4)

Fire Brigades and Bush Fires (Amendment).

(4) Within thirty days after the determination of the last of the appeals lodged in respect of any year, the Minister for Local Government shall, where such appeals or any of them have been successful, increase the amount of the contribution (hereinafter called the original contribution) payable in the year in respect of which the appeals have been lodged by each insurance company, not being a successful appellant company, by an amount which bears to the total amount of reductions in contributions made by the Committee pursuant to such appeals, the same proportion as the original contribution of that insurance company bears to the total amount of the original contributions of all insurance companies other than the successful appellant companies. Within thirty days after being notified of any such increase, each insurance company so notified shall pay to the Fund the amount of such increase. Any insurance company which fails to comply with the foregoing provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

Any such increase shall be recoverable by the Minister for Local Government in like manner as contributions payable under this Part of this Act are recoverable.

(g) by inserting at the end of subsection two of section fifty-seven the following new paragraphs:— Sec. 57.
(Regulations.)

(u) the form of return to be made by insurance companies under section thirty-four of this Act;

(v) the form of auditor's certificate to be furnished with returns by insurance companies made under section thirty-four of this Act;

(h)

Fire Brigades and Bush Fires (Amendment).

Schedule. (h) (i) by omitting the heading to the Schedule and by inserting in lieu thereof the following:—

SCHEDULES.

SCHEDULE ONE.

(ii) by inserting at the end of the Schedule the following new Schedule:—

Sec. 34.

SCHEDULE TWO.

| COLUMN 1. Classes of Policies of Insurance. | COLUMN 2. Amount of Premiums Subject to Contribution. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| Any insurance covering risks against fire (whether expressly or otherwise and whether or not extended to include other risks) and including Consequential Loss insurance, but not including any insurance of a class hereinafter specified. | Eighty per cent. |
| Traders or Industrial Combined insurance however designated. | Eighty per cent. |
| Houseowner's and Householder's (Building and/or Contents). | Fifty per cent. |
| All risks on personal jewellery and clothing, personal effects and works of art. | Ten per cent. |
| Motor Vehicle (Comprehensive) including Motor Cycle. | Two and one-half per cent. |
| Combined Fire and Hail on Growing Crops. | One per cent. |
| Marine and Baggage | One per cent. |

In the name and on behalf of Her Majesty I assent to this Act.

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 31st March, 1958.*

