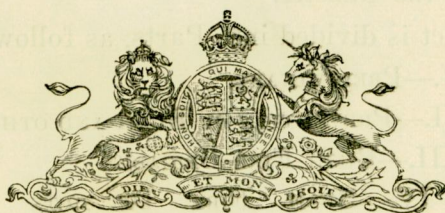


New South Wales.



ANNO TERTIO DECIMO

GEORGII VI REGIS.

Act No. 31, 1949.

An Act to make provision for the prevention, control and suppression of bush and other fires, and for the mitigation of dangers resulting from bush fires; to repeal the Careless Use of Fire Act, 1912-1946, and the Bush Fires Act, 1930; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 11th November, 1949.]

Bush Fires.

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

Short title
and
commence-
ment.

1. (1) This Act may be cited as the "Bush Fires Act, 1949."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
into Parts.

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY.

PART II.—PREVENTION OF BUSH AND OTHER FIRES.

PART III.—BUSH FIRE BRIGADES.

PART IV.—BUSH FIRE DISTRICTS AND FIRE
CONTROL OFFICERS.

PART V.—FIRE REGIONS.

PART VI.—EASTERN AND CENTRAL DIVISIONS BUSH
FIRE FIGHTING FUND.

PART VII.—GENERAL.

SCHEDULE.

Construc-
tion.

3. Unless otherwise expressly provided nothing in this Act shall affect any of the provisions of the Fire Brigades Act, 1909-1949, the Forestry Act, 1916-1949, or the Soil Conservation Act, 1938-1949, or any by-laws or regulations made thereunder.

Repeal of
Acts.

4. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Savings.

5. (1) All proclamations, permits, notifications, notices, or directions published, granted, made or given under any enactment repealed by this Act and in force immediately before the commencement of this Act, shall continue in force and shall be deemed to have been published, granted, made or given under this Act.

(2)

Bush Fires.

(2) All bush fire brigades organised under the Local Government Act, 1919, as amended by subsequent Acts, and in existence immediately before the commencement of this Act, shall continue in existence and shall be deemed to be bush fire brigades organised under this Act.

(3) A bush fire brigade captain, or deputy bush fire brigade captain holding office as such under the Local Government Act, 1919, as amended by subsequent Acts, immediately before the commencement of this Act, shall be deemed to have been appointed under this Act.

(4) All regulations made under the enactments repealed by this Act and in force immediately before the commencement of this Act shall, until repealed, replaced or amended by regulations under this Act, continue in force, and shall be deemed to have been made under this Act.

6. In the Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

“Area” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

“Bush fire” includes a grass fire.

“Bush fire danger period” means a period proclaimed as such under this Act.

“Bush fire district” means any part of New South Wales proclaimed as a bush fire district under this Act.

“Committee” means the Bush Fire Committee constituted under this Act.

“Council” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes a county council within the meaning of that Act, as so amended.

“Eastern and Central Divisions” means the Eastern and Central Divisions of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

“Financial year” means the year ending on the thirtieth day of June.

“Fire

Bush Fires.

“Fire control officer” means a fire control officer appointed under this Act.

“Fire fighting apparatus” includes all engines, vehicles, horses, reels, buckets, hoses, pumps, ladders, escapes, tanks, tools, radio equipment, implements and things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire.

“Fire patrol officer” means a fire patrol officer appointed under this Act.

“Fire region” means any part of New South Wales proclaimed as a fire region under this Act.

“Fund” means the Eastern and Central Divisions Bush Fire Fighting Fund established under Part VI of this Act.

“Inflammable matter” includes all substances or matter capable of ignition or combustion by the application of heat or fire or by means of sparks or flame or by spontaneous causes together with all substances which are classified as inflammable matter by any regulation made under this Act.

“Insurance company” means any corporate body, company, partnership, association, underwriters or persons insuring any property outside a fire district constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning.

“Occupier” in relation to land means the person who has the management or beneficial use of the land whether residing thereon or not and, in relation to a public reserve or park, means the trustees thereof or any person having the care, control and management thereof.

“Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity—

(a) is entitled to the land for any estate of freehold in possession; or

(b)

Bush Fires.

- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Consolidation Act, 1913, or any other Act relating to the alienation of lands of the Crown; or
- (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

“Prescribed” means prescribed by this Act or by the regulations.

“Public authority” means any board, commission, trust or other body, corporate or unincorporate, established or constituted by or under any Act for any public purpose, whether in respect of the whole or any part of New South Wales, but does not include a council.

“Regulations” means regulations made under this Act.

“Supervised park” means any public reserve or park proclaimed as a supervised park under this Act.

“Western Division” means the Western Division of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

PART II.

PREVENTION OF BUSH AND OTHER FIRES.

7. The Governor may from time to time by proclamation published in the Gazette declare any period to be a bush fire danger period.

Bush fire
danger
period.

Any

Bush Fires.

Any such proclamation may apply to the whole State or any part of the State specified therein and may declare different periods in respect of different parts.

Supervised
parks.

8. The Governor may from time to time by proclamation published in the Gazette declare any public reserve or park to be a supervised park for the purposes of this Act.

Proclama-
tions.

9. The Governor may from time to time by proclamation published in the Gazette revoke, amend or vary any proclamation made under this Act.

Require-
ments to be
complied
with by
persons
lighting
certain
classes
of fires.

10. (1) No person shall light, maintain, or use, or cause to be lit, maintained or used any fire for the purpose of clearing any land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break unless he gives the prescribed notices to the prescribed persons.

(2) (a) No person shall during the bush fire danger period light, maintain or use, or cause to be lit, maintained or used any fire, upon any land within any area in respect of which such bush fire danger period has been proclaimed, for the purpose of clearing such land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break, unless—

- (i) he gives the notices required to be given under subsection one of this section;
- (ii) he has obtained a permit from the council of such area or a person authorised in that behalf by such council authorising him to light, maintain or use such fire; and
- (iii) such fire is lit, maintained or used in accordance with the conditions (if any) attached to such permit.

(b) The provisions of paragraph (a) of this subsection relating to permits shall not apply to any fire lit, maintained, or used by or under the direction of a public authority.

(3) Any such permit shall be in writing and shall specify the duration thereof.

(4) Any such permit may be granted subject to such conditions as may be specified or referred to therein.

(5)

Bush Fires.

(5) (a) Such conditions may include a condition that any fire to be lit, maintained or used—

- (i) in a fire district constituted under the Fire Brigades Act, 1909-1949, shall be lit, maintained or used by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;
- (ii) outside any such fire district shall be lit, maintained or used by or under the supervision of the bush fire brigade specified in the permit or the captain or deputy captain of such bush fire brigade or any fire control officer.

(b) Such conditions shall include a condition that at least one person shall be present at the site of the fire from the time it is lit till such time as it is extinguished.

(6) Where any permit is granted under this section by a council or any person authorised in that behalf by a council for the lighting, maintenance or use of any fire and the land on which such fire is to be lit, maintained or used is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such permit shall, within twenty-four hours of the granting thereof, be forwarded by such council or such person to a forestry officer attached to such forest or reserve.

11. (1) A permit granted under section ten of this Act by a council or a person authorised in that behalf by a council may be revoked, suspended or varied by such council or such person and notification of such revocation, suspension or variation shall be given in writing to the holder of such permit and to the forestry officer to whom a copy of such permit has been forwarded in accordance with subsection six of section ten of this Act.

Revocation,
suspension
or variation
of permits.

(2) Where the council or any person authorised by the council to grant permits is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and

Bush Fires.

it is impracticable to give the notification under subsection one of this section in the manner prescribed by that subsection such notification may be given by or on behalf of such council or such person verbally or in such other manner including aerial broadcast as such council or such person deems expedient:

Provided that notification by aerial broadcast shall only be given when no other practicable method is available.

Offences.

12. (1) Any person who—

- (a) sets fire or causes fire to be set to the land or property of another person, the Crown or any public authority under such circumstances as to cause or be likely to cause injury or damage to such other person or his land or property or the land or property of the Crown or public authority;
- (b) permits a fire to escape from his own land under such circumstances as to cause or be likely to cause injury or damage to the person, land or property of another person or the land or property of the Crown or a public authority;
- (c) sells, offers for sale, distributes or uses any wax matches or any matches other than those so made as to strike only on a preparation attached to the containing box or a box containing the same description of matches;
- (d) leaves whether temporarily or otherwise any fire which he has lit or used in the open air before the same is thoroughly extinguished;

shall be guilty of an offence against this Part of this Act.

(2) (a) The Governor may by proclamation published in the Gazette suspend the operation of paragraph (c) of subsection one of this section in any locality or localities specified in the proclamation for such period or periods as may be specified in the proclamation.

(b) Nothing in paragraph (d) of subsection one of this section shall require any person to extinguish a fire in the open air which has been lit or used for the purpose of cooking, heating or preparing meals or boiling
water

Bush Fires.

water or for any like purpose in accordance with the regulations if, at the time of his leaving it, such fire continues to be used by some other person.

(3) Any person who in any part of the State in respect of which a bush fire danger period has been proclaimed and during such bush fire danger period—

- (a) ignites or uses or carries when ignited any cigarette, tobacco, cigar or match or any other burning or incandescent material within fifty feet of any stacks of grain, hay, corn or straw or any standing crops or stubble field;
- (b) throws down or drops any lighted cigarette, tobacco, cigar or match or any other burning or incandescent material on any land,

shall be guilty of an offence against this Part of this Act.

13. (1) The council of an area may, by notice in writing, require the occupier (or where there is no occupier, the owner) of any land within the area—

Power given
to councils
to require
fire breaks.

- (a) to plough, burn, clear or otherwise establish fire breaks on such land in the manner, within the time or at such times and at the places and to the widths specified in such notice, and thereafter to maintain such fire breaks;
- (b) to remove, burn or destroy any inflammable matter or other material upon such land where the council is satisfied that the removal, burning or destruction thereof is necessary for the prevention of the outbreak, spread or extension of a bush fire or other fire.

For the purposes of this section the expressions “occupier” and “owner” shall not include a public authority.

(2) (a) A notice under paragraph (a) of subsection one of this section shall not operate to require an occupier or owner to kill or remove any living trees which are reasonably necessary for shade, shelter, windbreak or fodder purposes.

(b) A notice under paragraph (b) of subsection one of this section shall specify the time or times
at

Bush Fires.

at which or the period within which such removal, burning or destruction shall be carried out and may also specify the circumstances in which and the conditions under which such removal, burning or destruction shall be carried out.

(3) An occupier or owner to whom a notice has been given under this section shall, notwithstanding the fact that a permit has not been granted under subsection two of section ten of this Act, comply with the requirements specified in the notice.

(4) The requirements and conditions so specified may include a requirement or condition that the burning of fire breaks or of inflammable matter or other material—

- (a) shall, in a fire district constituted under the Fire Brigades Act, 1909-1949, be carried out by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;
- (b) shall, outside any such fire district, be carried out by or under the supervision of the bush fire brigade specified in the notice or the captain or deputy captain of such bush fire brigade or any fire control officer.

(5) Where a council by notice in writing requires the occupier or owner of any land to burn fire breaks or inflammable matter or other material and the land on which such fire breaks or inflammable matter or other material are or is to be burnt is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such notice shall, within twenty-four hours after the same has been given, be sent by such council to a forestry officer attached to such forest or reserve.

14. (1) If within the time specified in any notice under section thirteen of this Act the owner or occupier to whom it is given fails to comply with any requirement thereof any servants, agents or workmen of the council

Councils
may
authorise
persons to
enter land
and make
fire breaks
or clear
inflammable
material.

or

Bush Fires.

or any officers or members of any fire brigade or bush fire brigade authorised by the council may, without prejudice to the liability of the owner or occupier, enter upon the land and do all such acts, matters and things as the owner or occupier was required to do, and the expenses of doing such acts, matters or things shall be borne by and may be recovered as a debt from such owner or occupier by the council in any court of competent jurisdiction.

(2) Where any servants, agents or workmen of a council or any officers or members of any fire brigade or bush fire brigade are authorised under subsection one of this section to enter any land and light any fire and the land on which such fire is to be lit is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a notification in writing stating the time at which or the period within which such fire is to be lit shall be sent by the council to a forestry officer attached to such forest or reserve.

15. (1) If the owner or occupier of any land clears the same of all inflammable matter for a space of not less than twenty feet wide from any fence dividing such land from the land of any other owner or occupier, and such other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence from such neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own expense cause such fence to be repaired or re-erected within one month after the same has been so damaged, or within such extended period as may be allowed by a stipendiary magistrate on application made to him in a summary way. Reasonable notice of any such application shall be given to the owner or occupier who has cleared his land.

Damage by
fire to
dividing
fence
caused by
negligence
of owner or
occupier of
land to be
made good
by him.

Act No. 28,
1912, s. 5.

(2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time as may be allowed in pursuance of subsection one of this section, the owner or occupier of the land contiguous to
the

Bush Fires.

the said fence who has cleared the same of inflammable matter as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended or laid out under the provisions of subsection two of this section shall be deemed to be money paid to the use of the owner or occupier in default.

(4) Any owner or occupier, who has cleared his land in the manner referred to in subsection one of this section, may enter the land of an adjoining owner or occupier, who has neglected or omitted so to clear his land, without any liability for trespass or action for compensation for any damage done by him, and take all necessary steps to extinguish any unattended fire which at its closest point has approached to within twenty chains of and endangers his land or any fence or property thereon.

Fire breaks
on Crown
lands.

(5) The owner or occupier of land which adjoins any Crown land not held under lease or license nor vested in nor under the control of trustees may enter upon such land for the purpose of clearing, making and maintaining thereon fire breaks not more than sixty-six feet wide along the boundary of such land.

Lighting
of fires
prohibited
in emergent
circum-
stances.
Act No. 28
1912, s. 4B.

16. (1) Where the Minister is of opinion that it is necessary or expedient in the interests of public safety so to do, he may by notification published in the Gazette or in a newspaper circulating in the area or areas to which the direction relates, direct that—

- (a) the lighting of any fire or class of fire in the open air is prohibited in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (b) such special conditions as may be specified in such notification be observed by persons lighting any fire or class of fire in the open air in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (c) such action as may be specified in such notification be taken in such area or areas or part or parts thereof and by such persons or class

Bush Fires.

class of persons as may be specified in such notification for preventing the outbreak or the spread of any bush fire or for controlling or extinguishing any bush fire.

(2) Where the Minister is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and that it is impracticable to give any directions under paragraph (a) of subsection one of this section in the manner prescribed by that subsection such directions may be given by or on behalf of the Minister verbally or in such other manner including aerial broadcast as the Minister deems expedient.

(3) The Minister may by writing under his hand delegate all or any of his powers or functions under this section (except this power of delegation) to the council of an area so that the delegated powers or functions with respect to the matters or class of matters specified in the instrument of delegation may be exercised by that council in respect of the area of which it is the council.

Every delegation under this subsection shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Minister.

Where in this section the exercise of any power or function by the Minister or the operation of any provision of this section is dependent upon the opinion of the Minister in relation to any matter that power or function may be exercised by the delegate or that provision may operate, as the case may be, upon the opinion of the delegate in relation to that matter.

(4) Any person who fails to comply with any direction given by the Minister or the council of an area under or pursuant to the provisions of this section shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(5)

Bush Fires.

(5) The provisions of this section shall have effect notwithstanding anything contained in this Act (section seventeen excepted) or any other Act to the contrary.

Minister
empowered
to appoint
any person
to take
charge of
bush fire
fighting
operations
when state
of emer-
gency
exists.

17. (1) Where the Minister is of opinion that a state of emergency exists and it is necessary or expedient in the interests of public safety so to do, he may authorise or direct the Commissioner of Police or any member of the Police Force or any officer or employee of the Board of Fire Commissioners of New South Wales or of the Forestry Commission of New South Wales or any officer or employee appointed or employed under the provisions of the Public Service Act, 1902, or any other person whomsoever to take charge of bush fire fighting operations in any area or locality.

Where any person is so authorised or directed by the Minister pursuant to this section all councils, captains, deputy captains, group captains and deputy group captains of bush fire brigades, fire control officers, fire patrol officers, officers and employees of the Board of Fire Commissioners of New South Wales and the Forestry Commission of New South Wales, members of the Police Force and other persons, shall comply with any direction given by such person in connection with the suppression or control of any fire which is burning in any area or locality in respect of which such person has been so authorised or directed.

A state of emergency may be deemed to exist where the Minister is of the opinion that any bush fire has assumed such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning.

(2) Any person failing to observe any direction given pursuant to this section by a person authorised or directed by the Minister shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(3)

Bush Fires.

(3) The provisions of this section shall have effect notwithstanding anything contained in this or any other Act to the contrary.

18. Any person who contravenes or fails to comply with any provision of this Part of this Act or with the conditions of any permit granted under this Part of this Act or with the requirements of any notice given by a council under section thirteen of this Act or is guilty of an offence against this Part of this Act shall, where no other penalty is expressly provided, be liable for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment and for any subsequent offence to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding two years or to both such penalty and imprisonment. Penalties.

PART III.

BUSH FIRE BRIGADES.

- 19.** Bush fire brigades may be formed or organised— Formation
of bush
fire
brigades.
- (a) by a council within its area or any part thereof not being within a fire district constituted under the Fire Brigades Act, 1909-1949;
 - (b) by two or more councils jointly within the areas of such councils or any parts thereof not being within a fire district so constituted;
 - (c) by the Minister where he is of the opinion that the formation of a bush fire brigade in any area or part thereof, not being within a fire district so constituted, is necessary and the council of such area has failed or refused to comply with a request by the Minister to form or organise a bush fire brigade;

(d)

Bush Fires.

- (d) by the Minister in any locality in the Western Division not being within a fire district so constituted;
- (e) by the Minister and one or more councils jointly in the areas of such councils or any parts thereof not being within a fire district so constituted and any locality in the Western Division adjoining such areas or parts thereof not being within a fire district so constituted.

Area of operations and appointment of personnel of bush fire brigades.

20. The council, or Minister, or the Minister and council or councils, as the case may be, by whom any bush fire brigades are formed or organised—

- (a) shall determine the territory in respect of which such bush fire brigades may operate, and
- (b) may appoint a captain and deputy captains of bush fire brigades so formed or organised and a group captain and deputy group captains of any two or more bush fire brigades formed or organised within an area.

Powers of captains, deputy captains, etc.

21. The captains, deputy captains, group captains and deputy group captains of bush fire brigades shall have and may exercise such powers, authorities, duties and functions as are conferred and imposed upon them under this Act or the regulations thereunder.

Powers of bush fire brigade captains, group captains and deputy captains.

22. (1) A bush fire brigade captain or group captain, or in the absence of the bush fire brigade captain or group captain the deputy bush fire brigade captain or deputy group captain or the senior deputy bush fire brigade captain or senior deputy group captain may, for the purpose of the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger—

- (a) enter any land or building of any person;
- (b) cause any road or public place in the vicinity of the bush fire to be closed to traffic, other than traffic of the Naval, Military or Air Forces of His Majesty, or of any power which is allied or associated with His Majesty in any war in which His Majesty is engaged;

(c)

Bush Fires.

- (c) pull down, cut and remove or cause to be pulled down, cut and removed, fences on any land;
- (d) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
- (e) destroy or remove or cause to be destroyed or removed any living or dead vegetation;
- (f) burn, plough or clear fire breaks on any land or cause fire breaks to be burnt, ploughed or cleared on any land;
- (g) take and use free of charge any water from any source whatsoever on any land;
- (h) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- (i) do any other act, matter or thing which is necessary for or incidental to the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger or the effective exercise of any of the powers conferred by this subsection.

(2) The powers conferred by subsection one of this section may, subject to sections sixteen and seventeen of this Act, be exercised notwithstanding any other provisions of this Act:

Provided that such powers shall not be exercised on or in connection with any land or property vested in or under the control of—

- (a) the Commissioner for Railways—unless permission has been granted by such Commissioner or some person authorised by him in that behalf;
- (b) the Forestry Commission of New South Wales—unless permission has been granted by a person authorised by such Commission in that behalf.

(3)

Limitation
of powers
of such
captains
on lands
controlled
by certain
public
authorities.

Bush Fires.

(3) The powers conferred by the foregoing provisions of this section on a person referred to in subsection one of this section may be exercised within the territory of the bush fire brigade or brigades to which such person has been appointed and may also be exercised outside such territory:—

- (a) in relation to a bush fire which has passed from or is approaching such territory and is not within the territory of any other bush fire brigade;
- (b) in relation to a bush fire which is within any area (whether or not such area is the area within which the bush fire brigade was formed or organised and whether or not the fire is within the territory of any other bush fire brigade) where the exercise of such powers is sanctioned by the mayor, president, or clerk of the council of such area;
- (c) in relation to a bush fire which is in any locality (whether or not such locality is within the territory of another bush fire brigade) where the exercise of such powers in such locality has been directed or sanctioned by the Minister;
- (d) in relation to a bush fire within the territory of any bush fire brigade (not being a bush fire brigade within the area of any council) where the exercise of such powers in such territory has been sanctioned by the captain of any such bush fire brigade;
- (e) in relation to a bush fire which is within any fire district constituted under the Fire Brigades Act, 1909-1949, where the exercise of such powers in such fire district is sanctioned by the officer or other person in charge of the fire brigade in such fire district;
- (f) in relation to a bush fire which is within a bush fire district where the exercise of such powers in such bush fire district is sanctioned by the fire control officer.

(4)

Bush Fires.

(4) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(5) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection four of this section shall be void and of no effect.

23. A captain, deputy captain, group captain or deputy group captain or any member of a bush fire brigade shall not, merely by reason of the authority granted him to exercise any powers or carry out any duties under this Act, be deemed to be a servant of a council or of the Minister, as the case may be.

Captains,
etc., not
to be
servants of
councils.

24. The powers and authorities conferred upon a captain, deputy captain, group captain or deputy group captain under this Act in respect of a bush fire may be exercised by a captain, deputy captain, group captain, or deputy group captain at any fire of any kind within the territory of the bush fire brigade if, in his opinion, the fire is out of control.

Powers of
captains
may be
exercised
at any fire
of any kind
which is
out of
control.

PART IV.

BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

25. The Governor may, from time to time, upon application by a council and upon the recommendation of the Committee, declare by proclamation published in the Gazette the area of such council or part thereof (not being within a fire district constituted under the Fire Brigades Act, 1909-1949, a national forest, State forest, timber reserve or flora reserve, under the Forestry Act, 1916-1949, or any other Act) to be a bush fire district for the purposes of this Act:

Proclama-
tion of bush
fire districts.

Provided

Bush Fires.

Provided that, in the event of any bush fire district or part thereof being constituted a fire district under the Fire Brigades Act, 1909-1949, such bush fire district or part thereof shall cease to be a bush fire district for the purposes of this Act.

Fire control
officer.

26. (1) Where any area has been proclaimed a bush fire district the Minister shall upon the recommendation of the Committee appoint a person as fire control officer for that district for such period or periods as he thinks fit.

(2) Where any area or part thereof has been proclaimed a bush fire district and such district adjoins a fire district constituted under the Fire Brigades Act, 1909-1949, the person to be appointed as fire control officer under this section shall where practicable be the officer-in-charge of such fire district.

Powers of
fire control
officers, etc.

27. A fire control officer appointed under this Part of this Act shall have all the powers and immunities conferred upon any captain of a bush fire brigade by Part III of this Act.

Notwithstanding anything contained in Part III of this Act a fire control officer—

- (a) shall have the supervision and direction of all bush fire brigades in the bush fire district to which he has been appointed and of the captains, deputy captains, group captains or deputy group captains of such brigades;
- (b) shall have the right to use any fire fighting apparatus in such bush fire district;
- (c) shall inspect all fire fighting apparatus in such bush fire district;
- (d) shall take all necessary measures for extinguishing fires in such bush fire district and protecting and saving life and property in case of fire.

Bush Fires.

PART V.

FIRE REGIONS.

28. (1) The Governor, upon the recommendation of the Minister for Local Government, may, from time to time, by proclamation published in the Gazette, proclaim parts of the Eastern and Central Divisions as fire regions for the purposes of this Act and may, in like manner—

Division of
State into
fire
regions.
cf. Act No.
5040 Vic.
s. 14.

(a) abolish any fire region; or

(b) alter any existing fire region.

(2) The boundaries of fire regions shall, as nearly as practicable, be coincident with the boundaries of areas.

(3) The sub-committee of the Committee may, and if requested by the Minister for Local Government so to do shall, prepare and submit to him proposals for the purpose of giving effect to this section.

PART VI.

EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

29. (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Eastern and Central Divisions Bush Fire Fighting Fund.

Eastern and
Central
Divisions
Bush Fire
Fighting
Fund.

(2) All moneys received under this Part of this Act shall be paid into such Fund and the cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act in addition to all expenditure on bush fire fighting in the Eastern and Central Divisions shall, subject to the provisions of this Act, be paid out of the said Fund.

(3)

Bush Fires.

(3) The cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act shall not, during any financial year, exceed ten per centum of the total expenditure from the Fund in respect of such financial year.

(4) The certificate of the Minister for Local Government shall be accepted as conclusive evidence as to the cost of administration of this Part of this Act and all expenses incurred by him in the exercise of his powers, authorities and functions pursuant to this Part of this Act.

Estimate
to be
prepared by
Minister
for Local
Government.

30. (1) (a) As soon as practicable after the commencement of this Act the Minister for Local Government shall prepare—

- (i) an estimate of the probable expenditure from the Fund during the period from the commencement of this Act to the thirtieth day of June then next ensuing, which period is hereinafter referred to as the first financial year;
- (ii) an estimate of the parts of such expenditure applicable to each fire region.

(b) Before the end of the first financial year and each succeeding financial year the Minister for Local Government shall prepare—

- (i) an estimate of the probable expenditure from the Fund during the then ensuing financial year;
- (ii) an estimate of the parts of such expenditure applicable to each fire region.

(2) The Minister for Local Government shall so prepare such estimate that the amount of the contribution to be paid by a council shall not exceed one-twentieth of a penny in the pound on the unimproved capital value of ratable land in the area of such council (not being land within a fire district constituted under the Fire Brigades Act, 1909-1949).

(3)

Bush Fires.

(3) Before preparing the estimate the Minister for Local Government shall consider the report and recommendation of the sub-committee of the Committee in respect of the matters referred to in subsection one of this section.

31. For the purpose of enabling the Minister for Local Government to prepare the estimates referred to in section thirty of this Act a council or bush fire brigade or the trustees of any supervised park or a fire control officer shall, at such times and in such manner as the Minister for Local Government may require, furnish to him such information relative to the bush fire brigades or other fire fighting personnel, the fire fighting apparatus of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as he may require.

Councils, etc., to furnish information to Minister for Local Government.

32. (1) Towards the estimate referred to in subsection one of section thirty of this Act—

- (a) the Colonial Treasurer shall contribute one-quarter;
- (b) councils the areas of which are situated in the Eastern and Central Divisions wholly or partly outside any fire district constituted under the Fire Brigades Act, 1909-1949, shall contribute one-quarter. Such contribution shall be paid out of the general funds of such councils;
- (c) insurance companies shall contribute one-half.

Contributions by the Colonial Treasurer, councils and insurance companies.

(2) The amounts to be so contributed shall be paid in equal quarterly instalments on the first day of July, the first day of October, the first day of January and the first day of April respectively in each financial year:

Contributions to be paid quarterly.

Provided that the Governor may by proclamation direct the manner and the times of payment in respect of the first financial year.

(3) The Colonial Treasurer may, in addition to the contribution to the Fund under subsection one of this section, from time to time advance such moneys to the Fund subject to such terms and conditions as he may determine.

Advances to Fund by Colonial Treasurer.

Bush Fires.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

Exemption
of council
from con-
tributing
to Fund.

(5) Where it is shown to the Governor that the danger from bush fires in an area is negligible he may exempt the council of that area from making contributions to the Fund:

Provided that no exemption shall be granted except upon the recommendation of the Committee.

Payments
not to be
made to any
council
exempted
from con-
tributing.

(6) Where the council of any area has been exempted under subsection five of this section from making contributions to the Fund no payment shall be made in or towards any of the purposes specified in section thirty-seven of this Act for the benefit of the area in respect of which such exemption has been granted.

Determina-
tion of con-
tributions
of councils.

33. (1) The contributions of councils shall be determined as follows:—

- (a) That part of the estimated expenditure applicable to any fire region which is to be contributed by councils shall be contributed by those councils the areas or any parts of which lie within the fire region.
- (b) The total amount of the contribution of any council shall be absolutely determined by the Minister for Local Government.

(2) The amount of the contribution payable by any council may be raised if necessary, and notwithstanding any statutory limit of such rates, by an increase of the general rate by such a sum in the pound as will be sufficient to provide the amount of the contribution, and such increase shall for all purposes be deemed to form part of such general rate.

(3) Every council and every officer thereof shall, when so required by the Minister for Local Government, furnish him with all such documents, papers and information as he may require to determine the contribution of the council.

Bush Fires.

34. The contributions of the respective insurance companies shall be determined as follows:—

Determina-
tion of con-
tributions of
insurance
companies.

- (a) Every insurance company shall, before the last day 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 showing the total amount of the premium income received by or due to such company during the year ending the thirty-first day of December then last past in respect of insurance of any property whatsoever situated within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning less any part of such premium income actually paid by way of re-insurance to any other companies contributing under this Part of this Act together with a statutory declaration by the manager, secretary or agent in the State of such company that to the best of his knowledge, information and belief, such return is a true return of such amount. If any such company fails to send such return 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.
- (b) The amount to be contributed by each such company shall bear the same proportion to the whole contribution by insurance companies as the amount of premium income shown in the company's return bears to the aggregate amount of premium income shown in all such returns.

35. (1) If, in any financial year, the amount received by the Minister for Local Government from contributions under this Part of this Act falls short of the expenditure based on the estimate for that financial year, the deficit shall be added to the estimate of expenditure for the ensuing

Deficits, etc.
cf. Act No.
5040 Vic.
s. 57.

Bush Fires.

ensuing year and, subject to subsection two of section thirty of this Act, the contributions shall be increased accordingly, but if the amount received by the Minister for Local Government in any financial year, from contributions under this Part of this Act exceeds the expenditure based on the estimate for that financial year, then the excess shall be treated as a credit in favour of the estimated income of the ensuing year and the contributions reduced accordingly.

(2) For the purposes of subsection one of this section any deficit or excess in respect of any financial year shall be the deficit or excess as certified by the Auditor-General.

Contributions due and payable within sixty days of assessment.

36. (1) Contributions payable under this Part of this Act shall become due and payable upon assessment by the Minister for Local Government and any such contribution not paid within sixty days of the date of assessment shown on the assessment notice shall, unless the Minister for Local Government otherwise determines, be increased by ten per centum of the amount of the contribution payable.

(2) Contributions or any part thereof not paid by any insurance company or council within ninety days of the date of assessment and all penalties incurred in respect thereof shall constitute a debt due and payable to the Minister for Local Government and shall be recoverable in any court of competent jurisdiction by the Minister for Local Government.

Application of moneys to credit of Fund.

37. (1) Moneys to the credit of the Fund may be applied in the Eastern and Central Divisions by the Colonial Treasurer in or towards—

- (a) the purchase of fire fighting apparatus of all kinds for bush fire brigades formed or organised under this Act, fire control officers or the trustees of supervised parks;
- (b) the maintenance of fire fighting apparatus in the possession of or available to such bush fire brigades, fire control officers or trustees of supervised parks;

(c)

Bush Fires.

- (c) the erection and maintenance of buildings for the storage of fire fighting apparatus of such bush fire brigades, fire control officers or trustees of supervised parks;
- (d) the construction and maintenance of water storage tanks and lookout towers;
- (e) the purchase, maintenance and storage of reserves of fire fighting apparatus for use in any emergency;
- (f) the payment of salaries or allowances of fire control officers or inspectors appointed under this Act;
- (g) the payment of such expenditure by or on behalf of councils, bush fire brigades, fire control officers or the trustees of supervised parks for or in connection with the prevention, control or suppression of bush fires as is approved by the Minister for Local Government;
- (h) any measures generally for the prevention, detection, control and suppression of bush fires including aerial reconnaissance.

(2) The Colonial Treasurer may pay such moneys out of the Fund upon the certificate of the Minister for Local Government.

(3) All fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be vested in the council of the area for or on behalf of which such apparatus, buildings, water storage tanks or lookout towers have been purchased or constructed as the case may be:

Provided that, in the case of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed on behalf of the trustees of any supervised park such apparatus, buildings, water storage tanks or lookout towers shall be vested in the trustees of such supervised park.

(4)

Bush Fires.

(4) A council or the trustees of any supervised park shall not sell or otherwise dispose of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund without the consent in writing of the Minister for Local Government having been first obtained.

(5) The proceeds of the sale of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be paid to the credit of the Fund.

Financial statements.

38. (1) The Minister for Local Government shall, as soon as practicable after the end of each financial year, furnish to both Houses of Parliament a report upon the administration of the Fund during that financial year together with a balance-sheet and statement of receipts and expenditure during that financial year duly audited by the Auditor-General.

(2) The Minister for Local Government shall as soon as practicable after such report, balance-sheet and statement have been furnished to Parliament as afore-said, furnish to each council and each insurance company contributing to the Fund a true copy of such report, balance-sheet and statement.

PART VII.**GENERAL.****Constitution of Bush Fire Committee.**

39. (1) There shall be constituted a Bush Fire Committee consisting of twenty persons which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Committee by this Act.

(2) The members of the Committee and the chairman thereof shall be appointed by the Governor.

Of the members so appointed:—

- (i) one shall be a person nominated by the Fire and Accident Underwriters' Association of New South Wales as representative of such Association;

(ii)

Bush Fires.

- (ii) at least one shall be an officer of the Chief Secretary's Department;
- (iii) one shall be an officer of the Department of Local Government;
- (iv) one shall be a person nominated by the Shires Association of New South Wales as representative of such Association;
- (v) one shall be a person nominated by the Association of Local Government Clerks of New South Wales as representative of such Association.

(3) The persons who, immediately before the commencement of this Act, were the members of the Bush Fires Advisory Committee shall, upon such commencement, be deemed to have been appointed under this Act as members of the Committee.

(4) Any member of the Committee may resign his office by writing under his hand addressed to the Governor.

(5) Meetings of the Committee shall be held from time to time on the requisition of the chairman. Meetings.

(6) There shall be a Standing Committee of the Committee consisting of the chairman of the Committee and five other members elected by the Committee from among its members. The Standing Committee shall meet at least once each month. The chairman of the Committee shall be the chairman of the Standing Committee. Standing Committee.

(7) For the purposes of sections twenty-eight and thirty of this Act there shall be constituted a sub-committee of the Committee consisting of the chairman and the members referred to in paragraphs (i) (iii) and (iv) of subsection two of this section and where one member is appointed under paragraph (ii) of the said subsection such member or where more than one member is so appointed such member as the Minister selects. The chairman of the Committee shall be the chairman of the sub-committee. Sub-committee for purposes of ss. 28 and 30.

(8) Five members shall constitute a quorum of the Committee, four members shall constitute a quorum of the Standing Committee and three members shall constitute a quorum of the sub-committee.

(9)

Bush Fires.

(9) Each member of the Committee shall be entitled to receive such travelling or other expenses as the Minister may determine and such other fees as may be prescribed.

(10) Any moneys payable under subsection nine of this section shall be paid out of moneys provided by Parliament.

(11) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(12) The office of a member of the Committee shall not for the purposes of the Constitution Act, 1902, or any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

Functions
of
Committee

40. (1) The Committee shall—

- (a) furnish reports and recommendations upon any matter referred to it by the Minister or the Minister for Local Government pursuant to this Act;
- (b) carry out such functions of an advisory or educational character as the Minister may direct;
- (c) before the thirtieth day of April in each year furnish a report to the Minister and the Minister for Local Government of the estimated damage from bush fires in New South Wales during the preceding twelve months together with recommendations as to any special measures which should be adopted for the purpose of preventing, controlling or suppressing bush fires during the year next ensuing;
- (d) in conjunction with councils foster and encourage the formation or organisation of bush fire brigades and assist the Minister in the formation or organisation of bush fire brigades in the Western Division;

(e)

Bush Fires.

- (e) generally take all practicable measures to educate persons in the need for preventing, suppressing and controlling bush fires and make recommendations to the Minister, councils and other persons as to the best measures to be taken for preventing or extinguishing fires.

(2) The Committee may—

- (a) subject to the approval of the Minister, contract for the carrying out of aerial reconnaissance of the State or part or parts thereof for the detection of fire;
- (b) for the purpose of improving the efficiency of bush fire brigades and other fire fighting personnel, organise or conduct competitions and provide prizes and certificates for presentation to brigades and competitors thereat.

(3) Any moneys payable under this section shall be paid out of moneys provided by Parliament.

41. Any council, bush fire brigade formed or organised by the Minister, fire control officer, or trustees of any public reserve or park, shall, at such times and in such manner as the Committee may require, furnish to the Committee such information relating to bush fire brigades or other fire fighting personnel, fire fighting apparatus of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as the Committee may require.

Councils and other bodies to furnish information to Committee.

42. (1) Members of the police force, public school teachers, field officers of the Departments of Lands, Agriculture and Conservation, the Forestry Commission of New South Wales and of all Pastures Protection Boards, members and officers of councils, members of the Committee, inspectors of fisheries, and rangers appointed under the Metropolitan Water, Sewerage, and Drainage Act, 1924-1949, shall, by virtue of their office, be fire patrol officers and have the powers and authorities prescribed by this Act or by the regulations.

Appointment of fire patrol officers and honorary fire patrol officers.

(2)

Bush Fires.

(2) The Minister may by notice in the Gazette appoint honorary fire patrol officers who shall have the powers and perform the duties of fire patrol officers.

(3) All honorary rangers appointed under the Careless Use of Fire Act, 1912-1946, and holding office immediately before the commencement of this Act shall be deemed to be honorary fire patrol officers under this Act and shall have the powers and perform the duties of fire patrol officers.

Fire patrol officers empowered to enter land.

43. Every fire patrol officer is hereby empowered without any let or hindrance whatsoever to enter at any time any land and examine any fire in the open air which he has reason to believe has been lit or maintained or used in contravention of this Act or the regulations and do all other such acts and things as he is required to do by this Act and the regulations.

Powers of fire patrol officers.

44. (1) Any fire patrol officer may require any person—

- (a) reasonably suspected to be offending against any of the provisions of this Act or the regulations to give his name in full and place of abode;
- (b) reasonably suspected to be offending against any of the provisions of this Act or the regulations to produce any permit notice or other document by or under the authority of which it is claimed by such person that any fire has been lit maintained or used;
- (c) who has lit a fire in contravention of the provisions of this Act or the regulations to extinguish such fire;
- (d) who has lit or used a fire in the open air to extinguish such fire before leaving it.

(2) If such person, after being so required, refuses to give his real name or place of abode or gives a false or fictitious name or place of abode or refuses to produce any permit notice or other document or refuses to extinguish any fire, he shall be guilty of an offence against this Act and be liable for every such offence to a penalty not exceeding five pounds.

Bush Fires.

45. A fire patrol officer shall promptly notify any outbreak of fire which comes to his notice to—

Fire patrol officers to notify outbreaks of fire.

- (a) the owner or occupier of the land upon which such outbreak occurs;
- (b) the owners or occupiers of any lands which may be threatened or endangered by the spread of fire;
- (c) the nearest member of the police force or any fire brigade or bush fire brigade or other authority whose duty it may be to control or extinguish fires in the district in which the outbreak occurs.

46. (1) The Governor may appoint inspectors for the purposes of this Act.

Inspectors.

(2) The duties of an inspector shall include—

- (a) inspecting and reporting to the Minister and the Minister for Local Government upon the fire fighting apparatus of councils, bush fire brigades, fire control officers and the trustees of supervised parks;
- (b) investigating and verifying claims by councils, bush fire brigades, fire control officers and the trustees of supervised parks for payments from the Fund;
- (c) reporting from time to time to the Committee upon conditions of fire risk in any part of the State;
- (d) submitting to the Committee recommendations as to any special measures which, in the opinion of the inspector, should be adopted for the purpose of preventing, controlling or suppressing bush fires.

47. Except as in this Act otherwise expressly provided nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by any bush or other fire to which this Act relates or for any trespass committed.

Liability of persons in respect of loss or damage caused by bush or other fires.

Bush Fires.

Proceedings
not to lie
against
persons
acting
bona fide
under and
for the
purposes
of Act.

48. No proceedings whether at law or in equity shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Minister for Local Government, a member of the Committee, a council, an officer or employee of the Board of Fire Commissioners of New South Wales or the Forestry Commission of New South Wales, a fire control officer, a fire patrol officer, a captain, deputy captain, group captain or deputy group captain of a bush fire brigade, or any person acting in the execution or intended execution of this Act in respect of anything done bona fide under and for the purposes of this Act.

Penalties.

49. Whosoever fails to do any act directed to be done or does any act forbidden to be done by or under this Act or any regulation shall be guilty of an offence against this Act.

Any person who is guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

Destruc-
tion, etc.,
of notices.

50. Whosoever, without lawful authority, destroys, defaces or removes any notice displayed under this Act or the regulations or under the authority of the Minister or the Committee or a council or any public authority in pursuance of this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding ten pounds.

Powers of
officers of
Forestry
Commission
where a
bush fire
is burning
on any
land within
five miles
of a State
forest, etc.

51. (1) Where a bush fire is burning on any land and such bush fire or any part thereof is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, any officer of the Forestry Commission of New South Wales or any person or persons authorised by that Commission in that behalf may enter upon such land or upon any land situated between such land and such national forest, State forest, timber reserve or
flora

Bush Fires.

flora reserve, with such vehicles and fire fighting apparatus as may be reasonably necessary for the purpose of extinguishing or assisting to extinguish such fire, and may do all such acts, matters and things as are reasonably necessary to extinguish such fire or to prevent the spread thereof.

(2) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(3) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection two of this section shall be void and of no effect.

52. Where a fire (not being a fire or part of a fire lit under the authority of this Act or any other Act) is burning on any land at any time during a bush fire danger period applicable to such land the occupier of such land shall, immediately upon becoming aware of such fire and whether he has lit or caused the same to be lit or not, take all possible steps to extinguish such fire and, if he is unable without assistance to extinguish the same and any practicable means of communication are available, shall, where practicable without leaving the fire unattended, inform or cause to be informed—

Responsi-
bility of
occupiers to
extinguish
fires or
notify them
to fire
fighting
authorities.
cf. Act No.
5040 Vic.,
s.35.

- (a) where the fire is burning within any fire district constituted under the Fire Brigades Act, 1909-1949,—the nearest available officer or fireman of the fire brigades in such district;
- (b) where the fire is burning outside any such fire district—the nearest available captain or deputy captain or member of a bush fire brigade or fire control officer or fire patrol officer or officer of the Forestry Commission of New South Wales,

of the existence and locality of such fire.

Bush Fires.

General
fund of
councils.

53. (1) Any of the following purposes shall be deemed to be a general purpose within the meaning of subsection two of section one hundred and seven of the Local Government Act, 1919, as amended by subsequent Acts—

- (a) the purchase, distribution, maintenance and storage of fire fighting apparatus for the prevention, control and suppression of bush and other fires;
- (b) the organising of bush fire brigades and such matters as are relevant thereto, including the establishment of fire stations and fire control centres;
- (c) the establishment and maintenance of fire breaks;
- (d) the removal or destruction of inflammable matter;
- (e) the taking of measures generally for the prevention, control or suppression of bush fires.

(2) For the purposes of section one hundred and twenty of the Local Government Act, 1919, as amended by subsequent Acts, any work relating to the prevention and suppression of bush and other fires shall be deemed to be a purpose which may be lawfully undertaken by a council and in respect of which special rates may be made and levied by a council.

Duty of
councils
and public
authorities
to prevent
fires.

54. It shall be the duty of the council of any area or any public authority to take all practicable steps to prevent the occurrence of fires on and to minimise the danger of the spread of fires on or from—

- (a) any land vested in or under its control or management; or
- (b) any highway, road, street, lane or thoroughfare, the maintenance of which is charged upon such authority or council.

Bush Fires.

55. (1) It shall be the duty of officers and members of the police force to support the authority of a captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer and to assist him and any person acting under his directions in enforcing compliance with any directions given in pursuance of this Act or any regulation.

Duty of officers and members of police force to support authority of captains, etc., of bush fire brigades and fire control officers.

(2) Any person who obstructs any captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer or a person acting under his directions shall be liable to a penalty not exceeding ten pounds.

56. (1) Except where otherwise expressly provided or allowed any notice or direction required by this Act to be given to any owner, occupier, or other person may be given as provided in this section.

Giving of notices.

(2) The notice or direction may be given—

(a) personally; or

(b) by delivering the same at or on the premises at which the person to whom the notice or direction is to be given lives or carries on business, and leaving the same with any person apparently above the age of fourteen years resident or employed thereat; or

(c) by posting the notice or direction by prepaid letter addressed to the last known place of abode or business of the person to whom the notice or direction is to be given.

57. (1) The Governor may make regulations not inconsistent with this Act 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

Regulations.

(2)

Bush Fires.

(2) In particular and without limiting the generality of the power conferred by subsection one of this section the Governor may make regulations with respect to:—

- (a) the method of establishing fire breaks on railway lands and, if such breaks are to be established by burning, the times at which and the conditions under which such breaks may be burned;
- (b) the conditions under which fires for or in connection with charcoal or lime burning or for the distillation of eucalyptus or other oils or for the destruction of the waste products of such operations may be lit, maintained or used;
- (c) the conditions under which fires for the purpose of cooking, heating or preparing meals or boiling water or for any like purpose may be lit, maintained or used;
- (d) the use of phosphorus or other preparations for the extermination or suppression of noxious weeds or animals;
- (e) the conditions under which fires may be lit, maintained or used for or in connection with the taking of honey from beehives or in honey houses or apiaries;
- (f) the conditions under which fires may be lit, maintained or used for or in connection with saw-mill operations;
- (g) the use or operation of producer-gas units and the precautionary measures to be taken to prevent fires resulting from the use or operation of the same;
- (h) the use of appliances on and the precautionary measures to be adopted by persons driving or controlling—
 - (i) a traction engine; or
 - (ii) an engine used for any agricultural purpose and in which wood, coal or coke fuel is burned;
 - (iii)

Bush Fires.

- (iii) a motor tractor, steam tractor or power driven harvester or portable or other engine;
- (iv) an engine used on any railway line or tram line,
in order to prevent the escape of dangerous sparks or burning or incandescent material from any such engines;
- (i) approved fire appliances for use in connection with any traction engine or engine used for any agricultural purposes and in which wood, coal or coke fuel is burned or any motor tractor, steam tractor, power driven harvester or portable or other engine or any engine used on any railway line or tram line;
- (j) the terms and conditions of employment of any fire control officer;
- (k) the storage in areas outside fire districts of any inflammable matter;
- (l) the records to be kept and the procedure to be followed at meetings of the Committee;
- (m) the powers, authorities, duties and functions of captains, deputy captains, group captains or deputy group captains of bush fire brigades, fire control officers, or fire patrol officers;
- (n) conditions under which fires may be lit, maintained or used for the destruction of any household or garden refuse or rubbish or for any like purpose;
- (o) conditions under which fires may be lit, maintained or used for the destruction of the carcasses of animals;
- (p) the form of permits, notices, advertisements and notifications, issued by councils under this Act;
- (q) the registration by councils of bush fire brigades and the members of such brigades;

(r)

Bush Fires.

- (r) the keeping by councils and the trustees of supervised parks of records of the fire fighting apparatus of such councils or trustees;
- (s) the prescribing of constitutions and rules for bush fire brigades;
- (t) the classification of substances as inflammable matter.

(3) A regulation may be made to apply or to have operation throughout the whole or any part of the State, may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

(4) Such 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 such regulations;
- (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.

Amendment of
Act No. 41,
1919.
Sec. 495A.
(Conse-
quential.)

58. (1) The Local Government Act, 1919, as amended by subsequent Acts, is amended by omitting from subsection one of section 495A the words “or a dangerous menace from fire.”

Amendment
of Workers’
Compensation
Act, 1926-
1948.
Sec. 17B.
(Conse-
quential.)

(2) The Workers’ Compensation Act, 1926-1948, is amended by omitting from section 17B the definition of “Bush fire brigade” and by inserting in lieu thereof the following definition:—

“Bush fire brigade” means any bush fire brigade formed or organised under the Bush Fires Act, 1949.

SCHEDULE.

*Bush Fires.*SCHEDULE. *II*

Sec. 4.

Number of Act.	Name of Act.	Extent of repeal.
No. 28, 1912 ..	Careless Use of Fire Act, 1912.	The whole.
No. 41, 1919 ..	Local Government Act, 1919.	Paragraph (a) of subsection one and subsections four, five, six, seven and eight of section 494. Section 495. Paragraphs (r) and (s) of section 513.
No. 14, 1930 ..	Bush Fires Act, 1930 ..	The unrepealed portion.
No. 41, 1932 ..	Local Government (Bush Fires) Amendment Act, 1932.	The whole except so much of paragraph (c) of subsection one of section 2 as inserts paragraph (t) in section 513 of the Local Government Act, 1919.
No. 54, 1946 ..	Economic Stability and War-time Provisions Continuance Act, 1946.	Part VI.

Sched II

By Authority:

ALFRED HENRY PETTIFER, Government Printer, Sydney, 1949.

[1s. 6d.]

Check List

SCOTT DATA

See 4

Project, etc.	Name of Act	Location of report
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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.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 26 October, 1949.

New South Wales.



ANNO TERTIO DECIMO

GEORGII VI REGIS.

Act No. 31, 1949.

An Act to make provision for the prevention, control and suppression of bush and other fires, and for the mitigation of dangers resulting from bush fires; to repeal the Careless Use of Fire Act, 1912-1946, and the Bush Fires Act, 1930; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 11th November, 1949.]

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.

Bush Fires.

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

Short title
and
commence-
ment.

1. (1) This Act may be cited as the "Bush Fires Act, 1949."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
into Parts.

2. This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY.

PART II.—PREVENTION OF BUSH AND OTHER FIRES.

PART III.—BUSH FIRE BRIGADES.

PART IV.—BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

PART V.—FIRE REGIONS.

PART VI.—EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

PART VII.—GENERAL.

SCHEDULE.

Construc-
tion.

3. Unless otherwise expressly provided nothing in this Act shall affect any of the provisions of the Fire Brigades Act, 1909-1949, the Forestry Act, 1916-1949, or the Soil Conservation Act, 1938-1949, or any by-laws or regulations made thereunder.

Repeal of
Acts.

4. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Savings.

5. (1) All proclamations, permits, notifications, notices, or directions published, granted, made or given under any enactment repealed by this Act and in force immediately before the commencement of this Act, shall continue in force and shall be deemed to have been published, granted, made or given under this Act.

(2)

Bush Fires.

(2) All bush fire brigades organised under the Local Government Act, 1919, as amended by subsequent Acts, and in existence immediately before the commencement of this Act, shall continue in existence and shall be deemed to be bush fire brigades organised under this Act.

(3) A bush fire brigade captain, or deputy bush fire brigade captain holding office as such under the Local Government Act, 1919, as amended by subsequent Acts, immediately before the commencement of this Act, shall be deemed to have been appointed under this Act.

(4) All regulations made under the enactments repealed by this Act and in force immediately before the commencement of this Act shall, until repealed, replaced or amended by regulations under this Act, continue in force, and shall be deemed to have been made under this Act.

6. In the Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

“Area” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

“Bush fire” includes a grass fire.

“Bush fire danger period” means a period proclaimed as such under this Act.

“Bush fire district” means any part of New South Wales proclaimed as a bush fire district under this Act.

“Committee” means the Bush Fire Committee constituted under this Act.

“Council” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes a county council within the meaning of that Act, as so amended.

“Eastern and Central Divisions” means the Eastern and Central Divisions of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

“Financial year” means the year ending on the thirtieth day of June.

“Fire

Bush Fires.

“Fire control officer” means a fire control officer appointed under this Act.

“Fire fighting apparatus” includes all engines, vehicles, horses, reels, buckets, hoses, pumps, ladders, escapes, tanks, tools, radio equipment, implements and things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire.

“Fire patrol officer” means a fire patrol officer appointed under this Act.

“Fire region” means any part of New South Wales proclaimed as a fire region under this Act.

“Fund” means the Eastern and Central Divisions Bush Fire Fighting Fund established under Part VI of this Act.

“Inflammable matter” includes all substances or matter capable of ignition or combustion by the application of heat or fire or by means of sparks or flame or by spontaneous causes together with all substances which are classified as inflammable matter by any regulation made under this Act.

“Insurance company” means any corporate body, company, partnership, association, underwriters or persons insuring any property outside a fire district constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning.

“Occupier” in relation to land means the person who has the management or beneficial use of the land whether residing thereon or not and, in relation to a public reserve or park, means the trustees thereof or any person having the care, control and management thereof.

“Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity—

(a) is entitled to the land for any estate of freehold in possession; or

(b)

Bush Fires.

- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Consolidation Act, 1913, or any other Act relating to the alienation of lands of the Crown; or
- (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

“Prescribed” means prescribed by this Act or by the regulations.

“Public authority” means any board, commission, trust or other body, corporate or unincorporate, established or constituted by or under any Act for any public purpose, whether in respect of the whole or any part of New South Wales, but does not include a council.

“Regulations” means regulations made under this Act.

“Supervised park” means any public reserve or park proclaimed as a supervised park under this Act.

“Western Division” means the Western Division of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

PART II.

PREVENTION OF BUSH AND OTHER FIRES.

7. The Governor may from time to time by proclamation published in the Gazette declare any period to be a bush fire danger period.

Bush fire
danger
period.

Any

Bush Fires.

Any such proclamation may apply to the whole State or any part of the State specified therein and may declare different periods in respect of different parts.

Supervised
parks.

8. The Governor may from time to time by proclamation published in the Gazette declare any public reserve or park to be a supervised park for the purposes of this Act.

Proclama-
tions.

9. The Governor may from time to time by proclamation published in the Gazette revoke, amend or vary any proclamation made under this Act.

Require-
ments to be
complied
with by
persons
lighting
certain
classes
of fires.

10. (1) No person shall light, maintain, or use, or cause to be lit, maintained or used any fire for the purpose of clearing any land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break unless he gives the prescribed notices to the prescribed persons.

(2) (a) No person shall during the bush fire danger period light, maintain or use, or cause to be lit, maintained or used any fire, upon any land within any area in respect of which such bush fire danger period has been proclaimed, for the purpose of clearing such land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break, unless—

- (i) he gives the notices required to be given under subsection one of this section;
- (ii) he has obtained a permit from the council of such area or a person authorised in that behalf by such council authorising him to light, maintain or use such fire; and
- (iii) such fire is lit, maintained or used in accordance with the conditions (if any) attached to such permit.

(b) The provisions of paragraph (a) of this subsection relating to permits shall not apply to any fire lit, maintained, or used by or under the direction of a public authority.

(3) Any such permit shall be in writing and shall specify the duration thereof.

(4) Any such permit may be granted subject to such conditions as may be specified or referred to therein.

(5)

Bush Fires.

(5) (a) Such conditions may include a condition that any fire to be lit, maintained or used—

- (i) in a fire district constituted under the Fire Brigades Act, 1909-1949, shall be lit, maintained or used by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;
- (ii) outside any such fire district shall be lit, maintained or used by or under the supervision of the bush fire brigade specified in the permit or the captain or deputy captain of such bush fire brigade or any fire control officer.

(b) Such conditions shall include a condition that at least one person shall be present at the site of the fire from the time it is lit till such time as it is extinguished.

(6) Where any permit is granted under this section by a council or any person authorised in that behalf by a council for the lighting, maintenance or use of any fire and the land on which such fire is to be lit, maintained or used is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such permit shall, within twenty-four hours of the granting thereof, be forwarded by such council or such person to a forestry officer attached to such forest or reserve.

11. (1) A permit granted under section ten of this Act by a council or a person authorised in that behalf by a council may be revoked, suspended or varied by such council or such person and notification of such revocation, suspension or variation shall be given in writing to the holder of such permit and to the forestry officer to whom a copy of such permit has been forwarded in accordance with subsection six of section ten of this Act.

Revocation,
suspension
or variation
of permits.

(2) Where the council or any person authorised by the council to grant permits is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and

it

Bush Fires.

it is impracticable to give the notification under subsection one of this section in the manner prescribed by that subsection such notification may be given by or on behalf of such council or such person verbally or in such other manner including aerial broadcast as such council or such person deems expedient:

Provided that notification by aerial broadcast shall only be given when no other practicable method is available.

Offences.**12. (1) Any person who—**

- (a) sets fire or causes fire to be set to the land or property of another person, the Crown or any public authority under such circumstances as to cause or be likely to cause injury or damage to such other person or his land or property or the land or property of the Crown or public authority;
- (b) permits a fire to escape from his own land under such circumstances as to cause or be likely to cause injury or damage to the person, land or property of another person or the land or property of the Crown or a public authority;
- (c) sells, offers for sale, distributes or uses any wax matches or any matches other than those so made as to strike only on a preparation attached to the containing box or a box containing the same description of matches;
- (d) leaves whether temporarily or otherwise any fire which he has lit or used in the open air before the same is thoroughly extinguished;

shall be guilty of an offence against this Part of this Act.

(2) (a) The Governor may by proclamation published in the Gazette suspend the operation of paragraph (c) of subsection one of this section in any locality or localities specified in the proclamation for such period or periods as may be specified in the proclamation.

(b) Nothing in paragraph (d) of subsection one of this section shall require any person to extinguish a fire in the open air which has been lit or used for the purpose of cooking, heating or preparing meals or boiling water

Bush Fires.

water or for any like purpose in accordance with the regulations if, at the time of his leaving it, such fire continues to be used by some other person.

(3) Any person who in any part of the State in respect of which a bush fire danger period has been proclaimed and during such bush fire danger period—

- (a) ignites or uses or carries when ignited any cigarette, tobacco, cigar or match or any other burning or incandescent material within fifty feet of any stacks of grain, hay, corn or straw or any standing crops or stubble field;
- (b) throws down or drops any lighted cigarette, tobacco, cigar or match or any other burning or incandescent material on any land,

shall be guilty of an offence against this Part of this Act.

13. (1) The council of an area may, by notice in writing, require the occupier (or where there is no occupier, the owner) of any land within the area—

Power given
to councils
to require
fire breaks.

- (a) to plough, burn, clear or otherwise establish fire breaks on such land in the manner, within the time or at such times and at the places and to the widths specified in such notice, and thereafter to maintain such fire breaks;
- (b) to remove, burn or destroy any inflammable matter or other material upon such land where the council is satisfied that the removal, burning or destruction thereof is necessary for the prevention of the outbreak, spread or extension of a bush fire or other fire.

For the purposes of this section the expressions “occupier” and “owner” shall not include a public authority.

(2) (a) A notice under paragraph (a) of subsection one of this section shall not operate to require an occupier or owner to kill or remove any living trees which are reasonably necessary for shade, shelter, windbreak or fodder purposes.

(b) A notice under paragraph (b) of subsection one of this section shall specify the time or times
at

Bush Fires.

at which or the period within which such removal, burning or destruction shall be carried out and may also specify the circumstances in which and the conditions under which such removal, burning or destruction shall be carried out.

(3) An occupier or owner to whom a notice has been given under this section shall, notwithstanding the fact that a permit has not been granted under subsection two of section ten of this Act, comply with the requirements specified in the notice.

(4) The requirements and conditions so specified may include a requirement or condition that the burning of fire breaks or of inflammable matter or other material—

- (a) shall, in a fire district constituted under the Fire Brigades Act, 1909-1949, be carried out by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;
- (b) shall, outside any such fire district, be carried out by or under the supervision of the bush fire brigade specified in the notice or the captain or deputy captain of such bush fire brigade or any fire control officer.

(5) Where a council by notice in writing requires the occupier or owner of any land to burn fire breaks or inflammable matter or other material and the land on which such fire breaks or inflammable matter or other material are or is to be burnt is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such notice shall, within twenty-four hours after the same has been given, be sent by such council to a forestry officer attached to such forest or reserve.

Councils
may
authorise
persons to
enter land
and make
fire breaks
or clear
inflammable
material.

14. (1) If within the time specified in any notice under section thirteen of this Act the owner or occupier to whom it is given fails to comply with any requirement thereof any servants, agents or workmen of the council

or

Bush Fires.

or any officers or members of any fire brigade or bush fire brigade authorised by the council may, without prejudice to the liability of the owner or occupier, enter upon the land and do all such acts, matters and things as the owner or occupier was required to do, and the expenses of doing such acts, matters or things shall be borne by and may be recovered as a debt from such owner or occupier by the council in any court of competent jurisdiction.

(2) Where any servants, agents or workmen of a council or any officers or members of any fire brigade or bush fire brigade are authorised under subsection one of this section to enter any land and light any fire and the land on which such fire is to be lit is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a notification in writing stating the time at which or the period within which such fire is to be lit shall be sent by the council to a forestry officer attached to such forest or reserve.

15. (1) If the owner or occupier of any land clears the same of all inflammable matter for a space of not less than twenty feet wide from any fence dividing such land from the land of any other owner or occupier, and such other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence from such neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own expense cause such fence to be repaired or re-erected within one month after the same has been so damaged, or within such extended period as may be allowed by a stipendiary magistrate on application made to him in a summary way. Reasonable notice of any such application shall be given to the owner or occupier who has cleared his land.

Damage by
fire to
dividing
fence
caused by
negligence
of owner or
occupier of
land to be
made good
by him.

Act No. 28,
1912, s. 5.

(2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time as may be allowed in pursuance of subsection one of this section, the owner or occupier of the land contiguous to
the

Bush Fires.

the said fence who has cleared the same of inflammable matter as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended or laid out under the provisions of subsection two of this section shall be deemed to be money paid to the use of the owner or occupier in default.

(4) Any owner or occupier, who has cleared his land in the manner referred to in subsection one of this section, may enter the land of an adjoining owner or occupier, who has neglected or omitted so to clear his land, without any liability for trespass or action for compensation for any damage done by him, and take all necessary steps to extinguish any unattended fire which at its closest point has approached to within twenty chains of and endangers his land or any fence or property thereon.

Fire breaks
on Crown
lands.

(5) The owner or occupier of land which adjoins any Crown land not held under lease or license nor vested in nor under the control of trustees may enter upon such land for the purpose of clearing, making and maintaining thereon fire breaks not more than sixty-six feet wide along the boundary of such land.

Lighting
of fires
prohibited
in emergent
circum-
stances.

Act No. 28
1912, s. 4B.

16. (1) Where the Minister is of opinion that it is necessary or expedient in the interests of public safety so to do, he may by notification published in the Gazette or in a newspaper circulating in the area or areas to which the direction relates, direct that—

- (a) the lighting of any fire or class of fire in the open air is prohibited in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (b) such special conditions as may be specified in such notification be observed by persons lighting any fire or class of fire in the open air in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (c) such action as may be specified in such notification be taken in such area or areas or part or parts thereof and by such persons or class

Bush Fires.

class of persons as may be specified in such notification for preventing the outbreak or the spread of any bush fire or for controlling or extinguishing any bush fire.

(2) Where the Minister is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and that it is impracticable to give any directions under paragraph (a) of subsection one of this section in the manner prescribed by that subsection such directions may be given by or on behalf of the Minister verbally or in such other manner including aerial broadcast as the Minister deems expedient.

(3) The Minister may by writing under his hand delegate all or any of his powers or functions under this section (except this power of delegation) to the council of an area so that the delegated powers or functions with respect to the matters or class of matters specified in the instrument of delegation may be exercised by that council in respect of the area of which it is the council.

Every delegation under this subsection shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Minister.

Where in this section the exercise of any power or function by the Minister or the operation of any provision of this section is dependent upon the opinion of the Minister in relation to any matter that power or function may be exercised by the delegate or that provision may operate, as the case may be, upon the opinion of the delegate in relation to that matter.

(4) Any person who fails to comply with any direction given by the Minister or the council of an area under or pursuant to the provisions of this section shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(5)

Bush Fires.

(5) The provisions of this section shall have effect notwithstanding anything contained in this Act (section seventeen excepted) or any other Act to the contrary.

Minister
empowered
to appoint
any person
to take
charge of
bush fire
fighting
operations
when state
of emer-
gency
exists.

17. (1) Where the Minister is of opinion that a state of emergency exists and it is necessary or expedient in the interests of public safety so to do, he may authorise or direct the Commissioner of Police or any member of the Police Force or any officer or employee of the Board of Fire Commissioners of New South Wales or of the Forestry Commission of New South Wales or any officer or employee appointed or employed under the provisions of the Public Service Act, 1902, or any other person whomsoever to take charge of bush fire fighting operations in any area or locality.

Where any person is so authorised or directed by the Minister pursuant to this section all councils, captains, deputy captains, group captains and deputy group captains of bush fire brigades, fire control officers, fire patrol officers, officers and employees of the Board of Fire Commissioners of New South Wales and the Forestry Commission of New South Wales, members of the Police Force and other persons, shall comply with any direction given by such person in connection with the suppression or control of any fire which is burning in any area or locality in respect of which such person has been so authorised or directed.

A state of emergency may be deemed to exist where the Minister is of the opinion that any bush fire has assumed such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning.

(2) Any person failing to observe any direction given pursuant to this section by a person authorised or directed by the Minister shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(3)

Bush Fires.

(3) The provisions of this section shall have effect notwithstanding anything contained in this or any other Act to the contrary.

18. Any person who contravenes or fails to comply with any provision of this Part of this Act or with the conditions of any permit granted under this Part of this Act or with the requirements of any notice given by a council under section thirteen of this Act or is guilty of an offence against this Part of this Act shall, where no other penalty is expressly provided, be liable for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment and for any subsequent offence to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding two years or to both such penalty and imprisonment. Penalties.

PART III.

BUSH FIRE BRIGADES.

- 19.** Bush fire brigades may be formed or organised— Formation
of bush
fire
brigades.
- (a) by a council within its area or any part thereof not being within a fire district constituted under the Fire Brigades Act, 1909-1949;
 - (b) by two or more councils jointly within the areas of such councils or any parts thereof not being within a fire district so constituted;
 - (c) by the Minister where he is of the opinion that the formation of a bush fire brigade in any area or part thereof, not being within a fire district so constituted, is necessary and the council of such area has failed or refused to comply with a request by the Minister to form or organise a bush fire brigade;

(d)

Bush Fires.

- (d) by the Minister in any locality in the Western Division not being within a fire district so constituted;
- (e) by the Minister and one or more councils jointly in the areas of such councils or any parts thereof not being within a fire district so constituted and any locality in the Western Division adjoining such areas or parts thereof not being within a fire district so constituted.

Area of operations and appointment of personnel of bush fire brigades.

20. The council, or Minister, or the Minister and council or councils, as the case may be, by whom any bush fire brigades are formed or organised—

- (a) shall determine the territory in respect of which such bush fire brigades may operate, and
- (b) may appoint a captain and deputy captains of bush fire brigades so formed or organised and a group captain and deputy group captains of any two or more bush fire brigades formed or organised within an area.

Powers of captains, deputy captains, etc.

21. The captains, deputy captains, group captains and deputy group captains of bush fire brigades shall have and may exercise such powers, authorities, duties and functions as are conferred and imposed upon them under this Act or the regulations thereunder.

Powers of bush fire brigade captains, group captains and deputy captains.

22. (1) A bush fire brigade captain or group captain, or in the absence of the bush fire brigade captain or group captain the deputy bush fire brigade captain or deputy group captain or the senior deputy bush fire brigade captain or senior deputy group captain may, for the purpose of the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger—

- (a) enter any land or building of any person;
- (b) cause any road or public place in the vicinity of the bush fire to be closed to traffic, other than traffic of the Naval, Military or Air Forces of His Majesty, or of any power which is allied or associated with His Majesty in any war in which His Majesty is engaged;
- (c)

Bush Fires.

- (c) pull down, cut and remove or cause to be pulled down, cut and removed, fences on any land;
- (d) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
- (e) destroy or remove or cause to be destroyed or removed any living or dead vegetation;
- (f) burn, plough or clear fire breaks on any land or cause fire breaks to be burnt, ploughed or cleared on any land;
- (g) take and use free of charge any water from any source whatsoever on any land;
- (h) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- (i) do any other act, matter or thing which is necessary for or incidental to the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger or the effective exercise of any of the powers conferred by this subsection.

(2) The powers conferred by subsection one of this section may, subject to sections sixteen and seventeen of this Act, be exercised notwithstanding any other provisions of this Act:

Limitation
of powers
of such
captains
on lands
controlled
by certain
public
authorities.

Provided that such powers shall not be exercised on or in connection with any land or property vested in or under the control of—

- (a) the Commissioner for Railways—unless permission has been granted by such Commissioner or some person authorised by him in that behalf;
- (b) the Forestry Commission of New South Wales—unless permission has been granted by a person authorised by such Commission in that behalf.

(3).

Bush Fires.

(3) The powers conferred by the foregoing provisions of this section on a person referred to in subsection one of this section may be exercised within the territory of the bush fire brigade or brigades to which such person has been appointed and may also be exercised outside such territory:—

- (a) in relation to a bush fire which has passed from or is approaching such territory and is not within the territory of any other bush fire brigade;
- (b) in relation to a bush fire which is within any area (whether or not such area is the area within which the bush fire brigade was formed or organised and whether or not the fire is within the territory of any other bush fire brigade) where the exercise of such powers is sanctioned by the mayor, president, or clerk of the council of such area;
- (c) in relation to a bush fire which is in any locality (whether or not such locality is within the territory of another bush fire brigade) where the exercise of such powers in such locality has been directed or sanctioned by the Minister;
- (d) in relation to a bush fire within the territory of any bush fire brigade (not being a bush fire brigade within the area of any council) where the exercise of such powers in such territory has been sanctioned by the captain of any such bush fire brigade;
- (e) in relation to a bush fire which is within any fire district constituted under the Fire Brigades Act, 1909-1949, where the exercise of such powers in such fire district is sanctioned by the officer or other person in charge of the fire brigade in such fire district;
- (f) in relation to a bush fire which is within a bush fire district where the exercise of such powers in such bush fire district is sanctioned by the fire control officer.

Bush Fires.

(4) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(5) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection four of this section shall be void and of no effect.

23. A captain, deputy captain, group captain or deputy group captain or any member of a bush fire brigade shall not, merely by reason of the authority granted him to exercise any powers or carry out any duties under this Act, be deemed to be a servant of a council or of the Minister, as the case may be.

Captains,
etc., not
to be
servants of
councils.

24. The powers and authorities conferred upon a captain, deputy captain, group captain or deputy group captain under this Act in respect of a bush fire may be exercised by a captain, deputy captain, group captain, or deputy group captain at any fire of any kind within the territory of the bush fire brigade if, in his opinion, the fire is out of control.

Powers of
captains
may be
exercised
at any fire
of any kind
which is
out of
control.

PART IV.

BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

25. The Governor may, from time to time, upon application by a council and upon the recommendation of the Committee, declare by proclamation published in the Gazette the area of such council or part thereof (not being within a fire district constituted under the Fire Brigades Act, 1909-1949, a national forest, State forest, timber reserve or flora reserve, under the Forestry Act, 1916-1949, or any other Act) to be a bush fire district for the purposes of this Act:

Proclama-
tion of bush
fire districts.

Provided

Bush Fires.

Provided that, in the event of any bush fire district or part thereof being constituted a fire district under the Fire Brigades Act, 1909-1949, such bush fire district or part thereof shall cease to be a bush fire district for the purposes of this Act.

Fire control
officer.

26. (1) Where any area has been proclaimed a bush fire district the Minister shall upon the recommendation of the Committee appoint a person as fire control officer for that district for such period or periods as he thinks fit.

(2) Where any area or part thereof has been proclaimed a bush fire district and such district adjoins a fire district constituted under the Fire Brigades Act, 1909-1949, the person to be appointed as fire control officer under this section shall where practicable be the officer-in-charge of such fire district.

Powers of
fire control
officers, etc.

27. A fire control officer appointed under this Part of this Act shall have all the powers and immunities conferred upon any captain of a bush fire brigade by Part III of this Act.

Notwithstanding anything contained in Part III of this Act a fire control officer—

- (a) shall have the supervision and direction of all bush fire brigades in the bush fire district to which he has been appointed and of the captains, deputy captains, group captains or deputy group captains of such brigades;
- (b) shall have the right to use any fire fighting apparatus in such bush fire district;
- (c) shall inspect all fire fighting apparatus in such bush fire district;
- (d) shall take all necessary measures for extinguishing fires in such bush fire district and protecting and saving life and property in case of fire.

PART

Bush Fires.

PART V.

FIRE REGIONS.

28. (1) The Governor, upon the recommendation of the Minister for Local Government, may, from time to time, by proclamation published in the Gazette, proclaim parts of the Eastern and Central Divisions as fire regions for the purposes of this Act and may, in like manner—

Division of
State into
fire
regions.
cf. Act No.
5040 Vic.
s. 14.

(a) abolish any fire region; or

(b) alter any existing fire region.

(2) The boundaries of fire regions shall, as nearly as practicable, be coincident with the boundaries of areas.

(3) The sub-committee of the Committee may, and if requested by the Minister for Local Government so to do shall, prepare and submit to him proposals for the purpose of giving effect to this section.

PART VI.

EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING
FUND.

29. (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Eastern and Central Divisions Bush Fire Fighting Fund.

Eastern and
Central
Divisions
Bush Fire
Fighting
Fund.

(2) All moneys received under this Part of this Act shall be paid into such Fund and the cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act in addition to all expenditure on bush fire fighting in the Eastern and Central Divisions shall, subject to the provisions of this Act, be paid out of the said Fund.

(3)

Bush Fires.

(3) The cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act shall not, during any financial year, exceed ten per centum of the total expenditure from the Fund in respect of such financial year.

(4) The certificate of the Minister for Local Government shall be accepted as conclusive evidence as to the cost of administration of this Part of this Act and all expenses incurred by him in the exercise of his powers, authorities and functions pursuant to this Part of this Act.

Estimate
to be
prepared by
Minister
for Local
Government.

30. (1) (a) As soon as practicable after the commencement of this Act the Minister for Local Government shall prepare—

- (i) an estimate of the probable expenditure from the Fund during the period from the commencement of this Act to the thirtieth day of June then next ensuing, which period is hereinafter referred to as the first financial year;
- (ii) an estimate of the parts of such expenditure applicable to each fire region.

(b) Before the end of the first financial year and each succeeding financial year the Minister for Local Government shall prepare—

- (i) an estimate of the probable expenditure from the Fund during the then ensuing financial year;
- (ii) an estimate of the parts of such expenditure applicable to each fire region.

(2) The Minister for Local Government shall so prepare such estimate that the amount of the contribution to be paid by a council shall not exceed one-twentieth of a penny in the pound on the unimproved capital value of ratable land in the area of such council (not being land within a fire district constituted under the Fire Brigades Act, 1909-1949).

[[(3)

Bush Fires.

(3) Before preparing the estimate the Minister for Local Government shall consider the report and recommendation of the sub-committee of the Committee in respect of the matters referred to in subsection one of this section.

31. For the purpose of enabling the Minister for Local Government to prepare the estimates referred to in section thirty of this Act a council or bush fire brigade or the trustees of any supervised park or a fire control officer shall, at such times and in such manner as the Minister for Local Government may require, furnish to him such information relative to the bush fire brigades or other fire fighting personnel, the fire fighting apparatus of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as he may require.

Councils, etc., to furnish information to Minister for Local Government.

32. (1) Towards the estimate referred to in subsection one of section thirty of this Act—

Contributions by the Colonial Treasurer, councils and insurance companies.

- (a) the Colonial Treasurer shall contribute one-quarter;
- (b) councils the areas of which are situated in the Eastern and Central Divisions wholly or partly outside any fire district constituted under the Fire Brigades Act, 1909-1949, shall contribute one-quarter. Such contribution shall be paid out of the general funds of such councils;
- (c) insurance companies shall contribute one-half.

(2) The amounts to be so contributed shall be paid in equal quarterly instalments on the first day of July, the first day of October, the first day of January and the first day of April respectively in each financial year:

Contributions to be paid quarterly.

Provided that the Governor may by proclamation direct the manner and the times of payment in respect of the first financial year.

(3) The Colonial Treasurer may, in addition to the contribution to the Fund under subsection one of this section, from time to time advance such moneys to the Fund subject to such terms and conditions as he may determine.

Advances to Fund by Colonial Treasurer.

Bush Fires.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

Exemption
of council
from con-
tributing
to Fund.

(5) Where it is shown to the Governor that the danger from bush fires in an area is negligible he may exempt the council of that area from making contributions to the Fund:

Provided that no exemption shall be granted except upon the recommendation of the Committee.

Payments
not to be
made to any
council
exempted
from con-
tributing.

(6) Where the council of any area has been exempted under subsection five of this section from making contributions to the Fund no payment shall be made in or towards any of the purposes specified in section thirty-seven of this Act for the benefit of the area in respect of which such exemption has been granted.

Determina-
tion of con-
tributions
of councils.

33. (1) The contributions of councils shall be determined as follows:—

(a) That part of the estimated expenditure applicable to any fire region which is to be contributed by councils shall be contributed by those councils the areas or any parts of which lie within the fire region.

(b) The total amount of the contribution of any council shall be absolutely determined by the Minister for Local Government.

(2) The amount of the contribution payable by any council may be raised if necessary, and notwithstanding any statutory limit of such rates, by an increase of the general rate by such a sum in the pound as will be sufficient to provide the amount of the contribution, and such increase shall for all purposes be deemed to form part of such general rate.

(3) Every council and every officer thereof shall, when so required by the Minister for Local Government, furnish him with all such documents, papers and information as he may require to determine the contribution of the council.

Bush Fires.

34. The contributions of the respective insurance companies shall be determined as follows:—

Determina-
tion of con-
tributions of
insurance
companies.

- (a) Every insurance company shall, before the last day 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 showing the total amount of the premium income received by or due to such company during the year ending the thirty-first day of December then last past in respect of insurance of any property whatsoever situated within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning less any part of such premium income actually paid by way of re-insurance to any other companies contributing under this Part of this Act together with a statutory declaration by the manager, secretary or agent in the State of such company that to the best of his knowledge, information and belief, such return is a true return of such amount. If any such company fails to send such return 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.
- (b) The amount to be contributed by each such company shall bear the same proportion to the whole contribution by insurance companies as the amount of premium income shown in the company's return bears to the aggregate amount of premium income shown in all such returns.

35. (1) If, in any financial year, the amount received by the Minister for Local Government from contributions under this Part of this Act falls short of the expenditure based on the estimate for that financial year, the deficit shall be added to the estimate of expenditure for the ensuing

Deficits, etc.
cf. Act No.
5040 Vic.
s. 57.

Bush Fires.

ensuing year and, subject to subsection two of section thirty of this Act, the contributions shall be increased accordingly, but if the amount received by the Minister for Local Government in any financial year, from contributions under this Part of this Act exceeds the expenditure based on the estimate for that financial year, then the excess shall be treated as a credit in favour of the estimated income of the ensuing year and the contributions reduced accordingly.

(2) For the purposes of subsection one of this section any deficit or excess in respect of any financial year shall be the deficit or excess as certified by the Auditor-General.

Contributions due and payable within sixty days of assessment.

36. (1) Contributions payable under this Part of this Act shall become due and payable upon assessment by the Minister for Local Government and any such contribution not paid within sixty days of the date of assessment shown on the assessment notice shall, unless the Minister for Local Government otherwise determines, be increased by ten per centum of the amount of the contribution payable.

(2) Contributions or any part thereof not paid by any insurance company or council within ninety days of the date of assessment and all penalties incurred in respect thereof shall constitute a debt due and payable to the Minister for Local Government and shall be recoverable in any court of competent jurisdiction by the Minister for Local Government.

Application of moneys to credit of Fund.

37. (1) Moneys to the credit of the Fund may be applied in the Eastern and Central Divisions by the Colonial Treasurer in or towards—

- (a) the purchase of fire fighting apparatus of all kinds for bush fire brigades formed or organised under this Act, fire control officers or the trustees of supervised parks;
- (b) the maintenance of fire fighting apparatus in the possession of or available to such bush fire brigades, fire control officers or trustees of supervised parks;

(c)

Bush Fires.

- (c) the erection and maintenance of buildings for the storage of fire fighting apparatus of such bush fire brigades, fire control officers or trustees of supervised parks;
- (d) the construction and maintenance of water storage tanks and lookout towers;
- (e) the purchase, maintenance and storage of reserves of fire fighting apparatus for use in any emergency;
- (f) the payment of salaries or allowances of fire control officers or inspectors appointed under this Act;
- (g) the payment of such expenditure by or on behalf of councils, bush fire brigades, fire control officers or the trustees of supervised parks for or in connection with the prevention, control or suppression of bush fires as is approved by the Minister for Local Government;
- (h) any measures generally for the prevention, detection, control and suppression of bush fires including aerial reconnaissance.

(2) The Colonial Treasurer may pay such moneys out of the Fund upon the certificate of the Minister for Local Government.

(3) All fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be vested in the council of the area for or on behalf of which such apparatus, buildings, water storage tanks or lookout towers have been purchased or constructed as the case may be:

Provided that, in the case of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed on behalf of the trustees of any supervised park such apparatus, buildings, water storage tanks or lookout towers shall be vested in the trustees of such supervised park.

(4)

Bush Fires.

(4) A council or the trustees of any supervised park shall not sell or otherwise dispose of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund without the consent in writing of the Minister for Local Government having been first obtained.

(5) The proceeds of the sale of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be paid to the credit of the Fund.

Financial
statements.

38. (1) The Minister for Local Government shall, as soon as practicable after the end of each financial year, furnish to both Houses of Parliament a report upon the administration of the Fund during that financial year together with a balance-sheet and statement of receipts and expenditure during that financial year duly audited by the Auditor-General.

(2) The Minister for Local Government shall as soon as practicable after such report, balance-sheet and statement have been furnished to Parliament as afore-said, furnish to each council and each insurance company contributing to the Fund a true copy of such report, balance-sheet and statement.

PART VII.

GENERAL.

Constitution
of Bush Fire
Committee.

39. (1) There shall be constituted a Bush Fire Committee consisting of twenty persons which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Committee by this Act.

(2) The members of the Committee and the chairman thereof shall be appointed by the Governor.

Of the members so appointed:—

(i) one shall be a person nominated by the Fire and Accident Underwriters' Association of New South Wales as representative of such Association;

(ii)

Bush Fires.

- (ii) at least one shall be an officer of the Chief Secretary's Department;
- (iii) one shall be an officer of the Department of Local Government;
- (iv) one shall be a person nominated by the Shires Association of New South Wales as representative of such Association;
- (v) one shall be a person nominated by the Association of Local Government Clerks of New South Wales as representative of such Association.

(3) The persons who, immediately before the commencement of this Act, were the members of the Bush Fires Advisory Committee shall, upon such commencement, be deemed to have been appointed under this Act as members of the Committee.

(4) Any member of the Committee may resign his office by writing under his hand addressed to the Governor.

(5) Meetings of the Committee shall be held from time to time on the requisition of the chairman. Meetings.

(6) There shall be a Standing Committee of the Committee consisting of the chairman of the Committee and five other members elected by the Committee from among its members. The Standing Committee shall meet at least once each month. The chairman of the Committee shall be the chairman of the Standing Committee. Standing Committee.

(7) For the purposes of sections twenty-eight and thirty of this Act there shall be constituted a sub-committee of the Committee consisting of the chairman and the members referred to in paragraphs (i) (iii) and (iv) of subsection two of this section and where one member is appointed under paragraph (ii) of the said subsection such member or where more than one member is so appointed such member as the Minister selects. The chairman of the Committee shall be the chairman of the sub-committee. Sub-committee for purposes of ss. 28 and 30.

(8) Five members shall constitute a quorum of the Committee, four members shall constitute a quorum of the Standing Committee and three members shall constitute a quorum of the sub-committee.

(9)

Bush Fires.

(9) Each member of the Committee shall be entitled to receive such travelling or other expenses as the Minister may determine and such other fees as may be prescribed.

(10) Any moneys payable under subsection nine of this section shall be paid out of moneys provided by Parliament.

(11) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(12) The office of a member of the Committee shall not for the purposes of the Constitution Act, 1902, or any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

Functions
of
Committee

40. (1) The Committee shall—

- (a) furnish reports and recommendations upon any matter referred to it by the Minister or the Minister for Local Government pursuant to this Act;
- (b) carry out such functions of an advisory or educational character as the Minister may direct;
- (c) before the thirtieth day of April in each year furnish a report to the Minister and the Minister for Local Government of the estimated damage from bush fires in New South Wales during the preceding twelve months together with recommendations as to any special measures which should be adopted for the purpose of preventing, controlling or suppressing bush fires during the year next ensuing;
- (d) in conjunction with councils foster and encourage the formation or organisation of bush fire brigades and assist the Minister in the formation or organisation of bush fire brigades in the Western Division;

(e)

Bush Fires.

(e) generally take all practicable measures to educate persons in the need for preventing, suppressing and controlling bush fires and make recommendations to the Minister, councils and other persons as to the best measures to be taken for preventing or extinguishing fires.

(2) The Committee may—

(a) subject to the approval of the Minister, contract for the carrying out of aerial reconnaissance of the State or part or parts thereof for the detection of fire;

(b) for the purpose of improving the efficiency of bush fire brigades and other fire fighting personnel, organise or conduct competitions and provide prizes and certificates for presentation to brigades and competitors thereat.

(3) Any moneys payable under this section shall be paid out of moneys provided by Parliament.

41. Any council, bush fire brigade formed or organised by the Minister, fire control officer, or trustees of any public reserve or park, shall, at such times and in such manner as the Committee may require, furnish to the Committee such information relating to bush fire brigades or other fire fighting personnel, fire fighting apparatus of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as the Committee may require.

Councils and other bodies to furnish information to Committee.

42. (1) Members of the police force, public school teachers, field officers of the Departments of Lands, Agriculture and Conservation, the Forestry Commission of New South Wales and of all Pastures Protection Boards, members and officers of councils, members of the Committee, inspectors of fisheries, and rangers appointed under the Metropolitan Water, Sewerage, and Drainage Act, 1924-1949, shall, by virtue of their office, be fire patrol officers and have the powers and authorities prescribed by this Act or by the regulations.

Appointment of fire patrol officers and honorary fire patrol officers.

(2)

Bush Fires.

(2) The Minister may by notice in the Gazette appoint honorary fire patrol officers who shall have the powers and perform the duties of fire patrol officers.

(3) All honorary rangers appointed under the Careless Use of Fire Act, 1912-1946, and holding office immediately before the commencement of this Act shall be deemed to be honorary fire patrol officers under this Act and shall have the powers and perform the duties of fire patrol officers.

Fire patrol
officers
empowered
to enter
land.

43. Every fire patrol officer is hereby empowered without any let or hindrance whatsoever to enter at any time any land and examine any fire in the open air which he has reason to believe has been lit or maintained or used in contravention of this Act or the regulations and do all other such acts and things as he is required to do by this Act and the regulations.

Powers of
fire patrol
officers.

44. (1) Any fire patrol officer may require any person—

- (a) reasonably suspected to be offending against any of the provisions of this Act or the regulations to give his name in full and place of abode;
- (b) reasonably suspected to be offending against any of the provisions of this Act or the regulations to produce any permit notice or other document by or under the authority of which it is claimed by such person that any fire has been lit maintained or used;
- (c) who has lit a fire in contravention of the provisions of this Act or the regulations to extinguish such fire;
- (d) who has lit or used a fire in the open air to extinguish such fire before leaving it.

(2) If such person, after being so required, refuses to give his real name or place of abode or gives a false or fictitious name or place of abode or refuses to produce any permit notice or other document or refuses to extinguish any fire, he shall be guilty of an offence against this Act and be liable for every such offence to a penalty not exceeding five pounds.

45.

Bush Fires.

45. A fire patrol officer shall promptly notify any outbreak of fire which comes to his notice to—

Fire patrol officers to notify outbreaks of fire.

- (a) the owner or occupier of the land upon which such outbreak occurs;
- (b) the owners or occupiers of any lands which may be threatened or endangered by the spread of fire;
- (c) the nearest member of the police force or any fire brigade or bush fire brigade or other authority whose duty it may be to control or extinguish fires in the district in which the outbreak occurs.

46. (1) The Governor may appoint inspectors for the purposes of this Act. Inspectors.

(2) The duties of an inspector shall include—

- (a) inspecting and reporting to the Minister and the Minister for Local Government upon the fire fighting apparatus of councils, bush fire brigades, fire control officers and the trustees of supervised parks;
- (b) investigating and verifying claims by councils, bush fire brigades, fire control officers and the trustees of supervised parks for payments from the Fund;
- (c) reporting from time to time to the Committee upon conditions of fire risk in any part of the State;
- (d) submitting to the Committee recommendations as to any special measures which, in the opinion of the inspector, should be adopted for the purpose of preventing, controlling or suppressing bush fires.

47. Except as in this Act otherwise expressly provided nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by any bush or other fire to which this Act relates or for any trespass committed.

Liability of persons in respect of loss or damage caused by bush or other fires.

48.

Bush Fires.

Proceedings
not to lie
against
persons
acting
bona fide
under and
for the
purposes
of Act.

48. No proceedings whether at law or in equity shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Minister for Local Government, a member of the Committee, a council, an officer or employee of the Board of Fire Commissioners of New South Wales or the Forestry Commission of New South Wales, a fire control officer, a fire patrol officer, a captain, deputy captain, group captain or deputy group captain of a bush fire brigade, or any person acting in the execution or intended execution of this Act in respect of anything done bona fide under and for the purposes of this Act.

Penalties.

49. Whosoever fails to do any act directed to be done or does any act forbidden to be done by or under this Act or any regulation shall be guilty of an offence against this Act.

Any person who is guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

Destruc-
tion, etc.,
of notices.

50. Whosoever, without lawful authority, destroys, defaces or removes any notice displayed under this Act or the regulations or under the authority of the Minister or the Committee or a council or any public authority in pursuance of this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding ten pounds.

Powers of
officers of
Forestry
Commission
where a
bush fire
is burning
on any
land within
five miles
of a State
forest, etc.

51. (1) Where a bush fire is burning on any land and such bush fire or any part thereof is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, any officer of the Forestry Commission of New South Wales or any person or persons authorised by that Commission in that behalf may enter upon such land or upon any land situated between such land and such national forest, State forest, timber reserve or

flora

Bush Fires.

flora reserve, with such vehicles and fire fighting apparatus as may be reasonably necessary for the purpose of extinguishing or assisting to extinguish such fire, and may do all such acts, matters and things as are reasonably necessary to extinguish such fire or to prevent the spread thereof.

(2) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(3) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection two of this section shall be void and of no effect.

52. Where a fire (not being a fire or part of a fire lit under the authority of this Act or any other Act) is burning on any land at any time during a bush fire danger period applicable to such land the occupier of such land shall, immediately upon becoming aware of such fire and whether he has lit or caused the same to be lit or not, take all possible steps to extinguish such fire and, if he is unable without assistance to extinguish the same and any practicable means of communication are available, shall, where practicable without leaving the fire unattended, inform or cause to be informed—

Responsi-
bility of
occupiers to
extinguish
fires or
notify them
to fire
fighting
authorities.
cf. Act No.
5040 Vic.,
s.35.

- (a) where the fire is burning within any fire district constituted under the Fire Brigades Act, 1909-1949,—the nearest available officer or fireman of the fire brigades in such district;
- (b) where the fire is burning outside any such fire district—the nearest available captain or deputy captain or member of a bush fire brigade or fire control officer or fire patrol officer or officer of the Forestry Commission of New South Wales,

of the existence and locality of such fire.

Bush Fires.

General
fund of
councils.

53. (1) Any of the following purposes shall be deemed to be a general purpose within the meaning of subsection two of section one hundred and seven of the Local Government Act, 1919, as amended by subsequent Acts—

- (a) the purchase, distribution, maintenance and storage of fire fighting apparatus for the prevention, control and suppression of bush and other fires;
- (b) the organising of bush fire brigades and such matters as are relevant thereto, including the establishment of fire stations and fire control centres;
- (c) the establishment and maintenance of fire breaks;
- (d) the removal or destruction of inflammable matter;
- (e) the taking of measures generally for the prevention, control or suppression of bush fires.

(2) For the purposes of section one hundred and twenty of the Local Government Act, 1919, as amended by subsequent Acts, any work relating to the prevention and suppression of bush and other fires shall be deemed to be a purpose which may be lawfully undertaken by a council and in respect of which special rates may be made and levied by a council.

Duty of
councils
and public
authorities
to prevent
fires.

54. It shall be the duty of the council of any area or any public authority to take all practicable steps to prevent the occurrence of fires on and to minimise the danger of the spread of fires on or from—

- (a) any land vested in or under its control or management; or
- (b) any highway, road, street, lane or thoroughfare, the maintenance of which is charged upon such authority or council.

55.

Bush Fires.

55. (1) It shall be the duty of officers and members of the police force to support the authority of a captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer and to assist him and any person acting under his directions in enforcing compliance with any directions given in pursuance of this Act or any regulation.

Duty of officers and members of police force to support authority of captains, etc., of bush fire brigades and fire control officers.

(2) Any person who obstructs any captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer or a person acting under his directions shall be liable to a penalty not exceeding ten pounds.

56. (1) Except where otherwise expressly provided or allowed any notice or direction required by this Act to be given to any owner, occupier, or other person may be given as provided in this section.

Giving of notices.

(2) The notice or direction may be given—

- (a) personally; or
- (b) by delivering the same at or on the premises at which the person to whom the notice or direction is to be given lives or carries on business, and leaving the same with any person apparently above the age of fourteen years resident or employed thereat; or
- (c) by posting the notice or direction by prepaid letter addressed to the last known place of abode or business of the person to whom the notice or direction is to be given.

57. (1) The Governor may make regulations not inconsistent with this Act 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.

Regulations.

(2)

Bush Fires.

(2) In particular and without limiting the generality of the power conferred by subsection one of this section the Governor may make regulations with respect to:—

- (a) the method of establishing fire breaks on railway lands and, if such breaks are to be established by burning, the times at which and the conditions under which such breaks may be burned;
- (b) the conditions under which fires for or in connection with charcoal or lime burning or for the distillation of eucalyptus or other oils or for the destruction of the waste products of such operations may be lit, maintained or used;
- (c) the conditions under which fires for the purpose of cooking, heating or preparing meals or boiling water or for any like purpose may be lit, maintained or used;
- (d) the use of phosphorus or other preparations for the extermination or suppression of noxious weeds or animals;
- (e) the conditions under which fires may be lit, maintained or used for or in connection with the taking of honey from beehives or in honey houses or apiaries;
- (f) the conditions under which fires may be lit, maintained or used for or in connection with saw-mill operations;
- (g) the use or operation of producer-gas units and the precautionary measures to be taken to prevent fires resulting from the use or operation of the same;
- (h) the use of appliances on and the precautionary measures to be adopted by persons driving or controlling—
 - (i) a traction engine; or
 - (ii) an engine used for any agricultural purpose and in which wood, coal or coke fuel is burned;
 - (iii)

Bush Fires.

- (iii) a motor tractor, steam tractor or power driven harvester or portable or other engine;
- (iv) an engine used on any railway line or tram line,
in order to prevent the escape of dangerous sparks or burning or incandescent material from any such engines;
- (i) approved fire appliances for use in connection with any traction engine or engine used for any agricultural purposes and in which wood, coal or coke fuel is burned or any motor tractor, steam tractor, power driven harvester or portable or other engine or any engine used on any railway line or tram line;
- (j) the terms and conditions of employment of any fire control officer;
- (k) the storage in areas outside fire districts of any inflammable matter;
- (l) the records to be kept and the procedure to be followed at meetings of the Committee;
- (m) the powers, authorities, duties and functions of captains, deputy captains, group captains or deputy group captains of bush fire brigades, fire control officers, or fire patrol officers;
- (n) conditions under which fires may be lit, maintained or used for the destruction of any household or garden refuse or rubbish or for any like purpose;
- (o) conditions under which fires may be lit, maintained or used for the destruction of the carcasses of animals;
- (p) the form of permits, notices, advertisements and notifications, issued by councils under this Act;
- (q) the registration by councils of bush fire brigades and the members of such brigades;

(r)

Bush Fires.

- (r) the keeping by councils and the trustees of supervised parks of records of the fire fighting apparatus of such councils or trustees;
- (s) the prescribing of constitutions and rules for bush fire brigades;
- (t) the classification of substances as inflammable matter.

(3) A regulation may be made to apply or to have operation throughout the whole or any part of the State, may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

(4) Such 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 such regulations;
- (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.

Amendment of
Act No. 41,
1919.
Sec. 495A.
(Conse-
quential.)

58. (1) The Local Government Act, 1919, as amended by subsequent Acts, is amended by omitting from subsection one of section 495A the words “or a dangerous menace from fire.”

Amendment
of Workers’
Compensation
Act, 1926-
1948.
Sec. 17B.
(Conse-
quential.)

(2) The Workers’ Compensation Act, 1926-1948, is amended by omitting from section 17B the definition of “Bush fire brigade” and by inserting in lieu thereof the following definition:—

“Bush fire brigade” means any bush fire brigade formed or organised under the Bush Fires Act, 1949.

SCHEDULE.

Bush Fires.

SCHEDULE.

Sec. 4.

Number of Act.	Name of Act.	Extent of repeal.
No. 28, 1912 ..	Careless Use of Fire Act, 1912.	The whole.
No. 41, 1919 ..	Local Government Act, 1919.	Paragraph (a) of subsection one and subsections four, five, six, seven and eight of section 494. Section 495. Paragraphs (r) and (s) of section 513.
No. 14, 1930 ..	Bush Fires Act, 1930 ..	The unrepealed portion.
No. 41, 1932 ..	Local Government (Bush Fires) Amendment Act, 1932.	The whole except so much of paragraph (c) of subsection one of section 2 as inserts paragraph (t) in section 513 of the Local Government Act, 1919.
No. 54, 1946 ..	Economic Stability and War-time Provisions Continuance Act, 1946.	Part VI.

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

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 11th November, 1949.*

When first

REQUIREMENTS

Name of person	Age	Sex
John Doe	25	Male
Jane Doe	22	Female
Robert Doe	28	Male
Mary Doe	20	Female
William Doe	30	Male
Elizabeth Doe	18	Female
James Doe	24	Male
Sarah Doe	19	Female
Charles Doe	26	Male
Anna Doe	17	Female
Thomas Doe	23	Male
Margaret Doe	16	Female
Henry Doe	21	Male
Emily Doe	15	Female
Frank Doe	27	Male

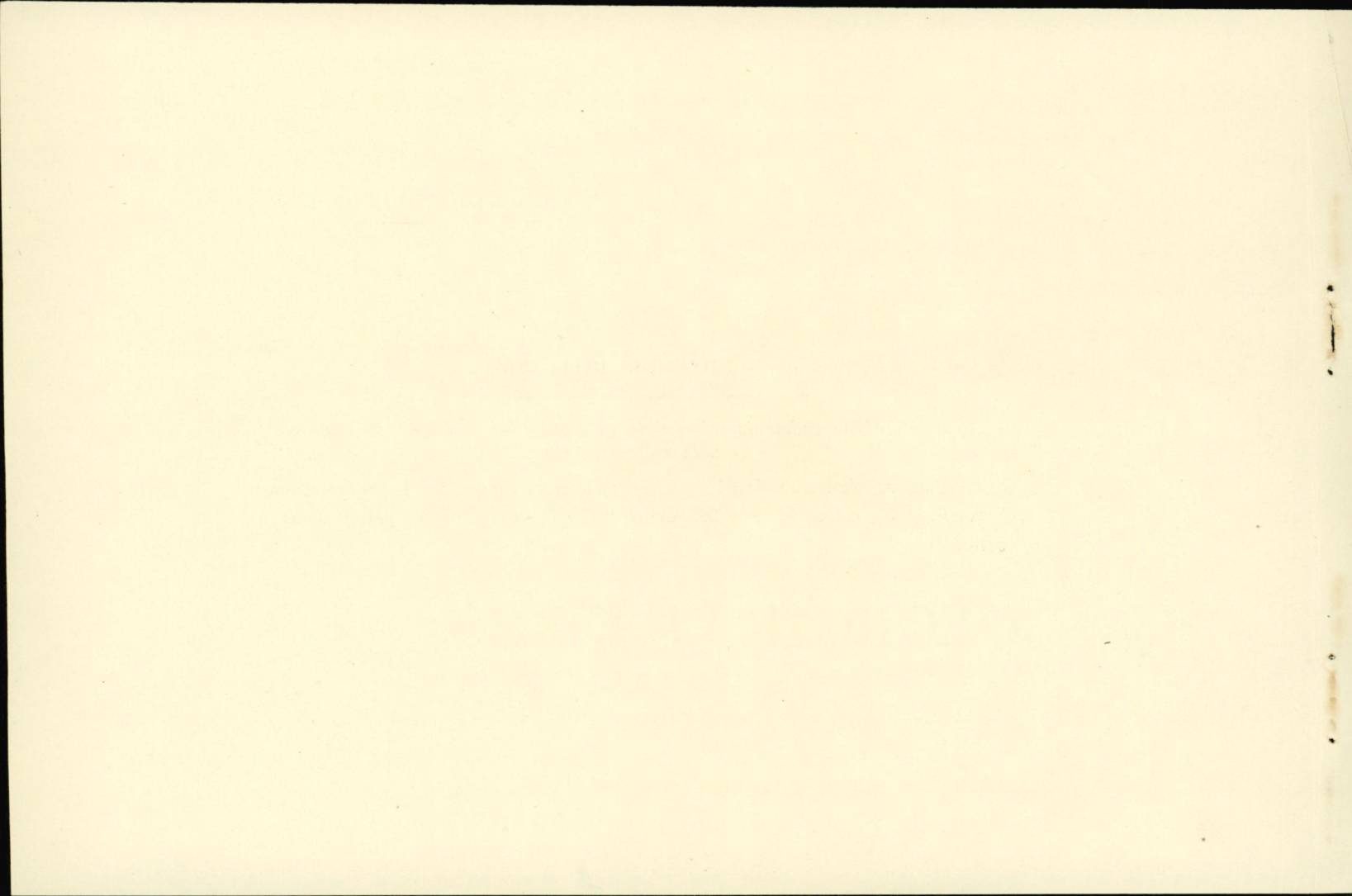
Table showing the names and ages of the persons who have been admitted to the school since the first of January, 1900.

BUSH FIRES BILL, 1949.

*Schedule of Amendments referred to in Legislative Council's Message of
25th October, 1949.*

No. 1.—Page 22, clause 30, line 15. After “Minister” insert **“for Local Government”**.

No. 2.—Page 35, clause 52, line 35. After “officer” insert **“or fire patrol officer”**.



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.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 18 October, 1949.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. K. CHARLTON,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 25th October, 1949.

New South Wales.



ANNO TERTIO DECIMO

GEORGII VI REGIS.

Act No. , 1949.

An Act to make provision for the prevention, control and suppression of bush and other fires, and for the mitigation of dangers resulting from bush fires; to repeal the Careless Use of Fire Act, 1912-1946, and the Bush Fires Act, 1930; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

Bush Fires.

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Bush Fires Act, 1949." Short title and commencement.
- 10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
2. This Act is divided into Parts, as follows :— Division into Parts.
- PART I.—PRELIMINARY.
- 15 PART II.—PREVENTION OF BUSH AND OTHER FIRES.
- PART III.—BUSH FIRE BRIGADES.
- PART IV.—BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.
- PART V.—FIRE REGIONS.
- 20 PART VI.—EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.
- PART VII.—GENERAL.
- SCHEDULE.
3. Unless otherwise expressly provided nothing in Construction.
- 25 this Act shall affect any of the provisions of the Fire Brigades Act, 1909-1949, the Forestry Act, 1916-1949, or the Soil Conservation Act, 1938-1949, or any by-laws or regulations made thereunder.
4. The Acts mentioned in the Schedule to this Act Repeal of Acts.
- 30 are, to the extent therein expressed, hereby repealed.
5. (1) All proclamations, permits, notifications, Savings.
- 35 notices, or directions published, granted, made or given under any enactment repealed by this Act and in force immediately before the commencement of this Act, shall continue in force and shall be deemed to have been published, granted, made or given under this Act.

(2)

Bush Fires.

(2) All bush fire brigades organised under the Local Government Act, 1919, as amended by subsequent Acts, and in existence immediately before the commencement of this Act, shall continue in existence and shall be
 5 deemed to be bush fire brigades organised under this Act.

(3) A bush fire brigade captain, or deputy bush fire brigade captain holding office as such under the Local Government Act, 1919, as amended by subsequent Acts,
 10 immediately before the commencement of this Act, shall be deemed to have been appointed under this Act.

(4) All regulations made under the enactments repealed by this Act and in force immediately before the commencement of this Act shall, until repealed, replaced
 15 or amended by regulations under this Act, continue in force, and shall be deemed to have been made under this Act.

6. In the Act, unless the context or subject matter otherwise indicates or requires— Interpreta-
tion.

20 "Area" has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

"Bush fire" includes a grass fire.

25 "Bush fire danger period" means a period proclaimed as such under this Act.

"Bush fire district" means any part of New South Wales proclaimed as a bush fire district under this Act.

30 "Committee" means the Bush Fire Committee constituted under this Act.

"Council" has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes a county council within the meaning of that Act, as so amended.

35 "Eastern and Central Divisions" means the Eastern and Central Divisions of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

40 "Financial year" means the year ending on the thirtieth day of June.

"Fire

Bush Fires.

- “Fire control officer” means a fire control officer appointed under this Act.
- 5 “Fire fighting apparatus” includes all engines, vehicles, horses, reels, buckets, hoses, pumps, ladders, escapes, tanks, tools, radio equipment, implements and things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire.
- 10 “Fire patrol officer” means a fire patrol officer appointed under this Act.
- “Fire region” means any part of New South Wales proclaimed as a fire region under this Act.
- 15 “Fund” means the Eastern and Central Divisions Bush Fire Fighting Fund established under Part VI of this Act.
- 20 “Inflammable matter” includes all substances or matter capable of ignition or combustion by the application of heat or fire or by means of sparks or flame or by spontaneous causes together with all substances which are classified as inflammable matter by any regulation made under this Act.
- 25 “Insurance company” means any corporate body, company, partnership, association, underwriters or persons insuring any property outside a fire district constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning.
- 30 “Occupier” in relation to land means the person who has the management or beneficial use of the land whether residing thereon or not and, in relation to a public reserve or park, means the trustees thereof or any person having the care, control and management thereof.
- 35 “Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity—
- (a) is entitled to the land for any estate of freehold in possession; or
- (b)

Bush Fires.

- 5 (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Consolidation Act, 1913, or any other Act relating to the alienation of lands of the Crown; or
- 10 (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.
- 15 "Prescribed" means prescribed by this Act or by the regulations.
- 20 "Public authority" means any board, commission, trust or other body, corporate or unincorporate, established or constituted by or under any Act for any public purpose, whether in respect of the whole or any part of New South Wales, but does not include a council.
- "Regulations" means regulations made under this Act.
- 25 "Supervised park" means any public reserve or park proclaimed as a supervised park under this Act.
- "Western Division" means the Western Division of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

30

PART II.

PREVENTION OF BUSH AND OTHER FIRES.

7. The Governor may from time to time by proclamation published in the Gazette declare any period to be a bush fire danger period.

Bush fire
danger
period.

Any

Bush Fires.

Any such proclamation may apply to the whole State or any part of the State specified therein and may declare different periods in respect of different parts.

5 8. The Governor may from time to time by proclamation published in the Gazette declare any public reserve or park to be a supervised park for the purposes of this Act. Supervised parks.

9. The Governor may from time to time by proclamation published in the Gazette revoke, amend or vary any proclamation made under this Act. Proclamations.

10. (1) No person shall light, maintain, or use, or cause to be lit, maintained or used any fire for the purpose of clearing any land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break unless he gives the prescribed notices to the prescribed persons. Requirements to be complied with by persons lighting certain classes of fires.

(2) (a) No person shall during the bush fire danger period light, maintain or use, or cause to be lit, maintained or used any fire, upon any land within any area in respect of which such bush fire danger period has been proclaimed, for the purpose of clearing such land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break, unless—

25 (i) he gives the notices required to be given under subsection one of this section;

(ii) he has obtained a permit from the council of such area or a person authorised in that behalf by such council authorising him to light, maintain or use such fire; and

30 (iii) such fire is lit, maintained or used in accordance with the conditions (if any) attached to such permit.

(b) The provisions of paragraph (a) of this subsection relating to permits shall not apply to any fire lit, maintained, or used by or under the direction of a public authority.

(3) Any such permit shall be in writing and shall specify the duration thereof.

(4) Any such permit may be granted subject to such conditions as may be specified or referred to therein.

(5)

Bush Fires.

(5) (a) Such conditions may include a condition that any fire to be lit, maintained or used—

5 (i) in a fire district constituted under the Fire Brigades Act, 1909-1949, shall be lit, maintained or used by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;

10 (ii) outside any such fire district shall be lit, maintained or used by or under the supervision of the bush fire brigade specified in the permit or the captain or deputy captain of such bush fire brigade or any fire control officer.

(b) Such conditions shall include a condition that at least one person shall be present at the site of
15 the fire from the time it is lit till such time as it is extinguished.

(6) Where any permit is granted under this section by a council or any person authorised in that behalf by a council for the lighting, maintenance or use
20 of any fire and the land on which such fire is to be lit, maintained or used is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such permit shall, within twenty-four hours of the
25 granting thereof, be forwarded by such council or such person to a forestry officer attached to such forest or reserve.

30 **11.** (1) A permit granted under section ten of this Act by a council or a person authorised in that behalf by a council may be revoked, suspended or varied by such council or such person and notification of such revocation, suspension or variation shall be given in writing to the holder of such permit and to the forestry officer to whom a copy of such permit has been forwarded in accordance
35 with subsection six of section ten of this Act.

Revocation,
suspension
or variation
of permits.

(2) Where the council or any person authorised by the council to grant permits is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive
40 to the outbreak or spread of bush fires are imminent and

it

Bush Fires.

it is impracticable to give the notification under subsection one of this section in the manner prescribed by that subsection such notification may be given by or on behalf of such council or such person verbally or in such other
5 manner including aerial broadcast as such council or such person deems expedient:

Provided that notification by aerial broadcast shall only be given when no other practicable method is available.

12. (1) Any person who—

Offences.

- 10 (a) sets fire or causes fire to be set to the land or property of another person, the Crown or any public authority under such circumstances as to cause or be likely to cause injury or damage to such other person or his land or property or
15 the land or property of the Crown or public authority;
- (b) permits a fire to escape from his own land under such circumstances as to cause or be likely to cause injury or damage to the person, land or
20 property of another person or the land or property of the Crown or a public authority;
- (c) sells, offers for sale, distributes or uses any wax matches or any matches other than those so made as to strike only on a preparation attached to
25 the containing box or a box containing the same description of matches;
- (d) leaves whether temporarily or otherwise any fire which he has lit or used in the open air before the same is thoroughly extinguished;

30 shall be guilty of an offence against this Part of this Act.

(2) (a) The Governor may by proclamation published in the Gazette suspend the operation of paragraph (c) of subsection one of this section in any locality or localities specified in the proclamation for
35 such period or periods as may be specified in the proclamation.

(b) Nothing in paragraph (d) of subsection one of this section shall require any person to extinguish a fire in the open air which has been lit or used for the
40 purpose of cooking, heating or preparing meals or boiling water

Bush Fires.

water or for any like purpose in accordance with the regulations if, at the time of his leaving it, such fire continues to be used by some other person.

(3) Any person who in any part of the State in respect of which a bush fire danger period has been proclaimed and during such bush fire danger period—

- (a) ignites or uses or carries when ignited any cigarette, tobacco, cigar or match or any other burning or incandescent material within fifty feet of any stacks of grain, hay, corn or straw or any standing crops or stubble field;
- (b) throws down or drops any lighted cigarette, tobacco, cigar or match or any other burning or incandescent material on any land,

shall be guilty of an offence against this Part of this Act.

13. (1) The council of an area may, by notice in writing, require the occupier (or where there is no occupier, the owner) of any land within the area—

Power given to councils to require fire breaks.

- (a) to plough, burn, clear or otherwise establish fire breaks on such land in the manner, within the time or at such times and at the places and to the widths specified in such notice, and thereafter to maintain such fire breaks;
- (b) to remove, burn or destroy any inflammable matter or other material upon such land where the council is satisfied that the removal, burning or destruction thereof is necessary for the prevention of the outbreak, spread or extension of a bush fire or other fire.

For the purposes of this section the expressions "occupier" and "owner" shall not include a public authority.

(2) (a) A notice under paragraph (a) of subsection one of this section shall not operate to require an occupier or owner to kill or remove any living trees which are reasonably necessary for shade, shelter, windbreak or fodder purposes.

(b) A notice under paragraph (b) of subsection one of this section shall specify the time or times at

Bush Fires.

at which or the period within which such removal, burning or destruction shall be carried out and may also specify the circumstances in which and the conditions under which such removal, burning or destruction shall
5 be carried out.

(3) An occupier or owner to whom a notice has been given under this section shall, notwithstanding the fact that a permit has not been granted under subsection two of section ten of this Act, comply with the require-
10 ments specified in the notice.

(4) The requirements and conditions so specified may include a requirement or condition that the burning of fire breaks or of inflammable matter or other material—

15 (a) shall, in a fire district constituted under the Fire Brigades Act, 1909-1949, be carried out by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;

20 (b) shall, outside any such fire district, be carried out by or under the supervision of the bush fire brigade specified in the notice or the captain or deputy captain of such bush fire brigade or any fire control officer.

25 (5) Where a council by notice in writing requires the occupier or owner of any land to burn fire breaks or inflammable matter or other material and the land on which such fire breaks or inflammable matter or other material are or is to be burnt is within five miles of any
30 national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such notice shall, within twenty-four hours after the same has been given, be sent by such council to a forestry officer attached to such forest or reserve.

35 **14.** (1) If within the time specified in any notice under section thirteen of this Act the owner or occupier to whom it is given fails to comply with any requirement thereof any servants, agents or workmen of the council
Councils may authorise persons to enter land and make fire breaks or clear inflammable
OR material.

Bush Fires.

or any officers or members of any fire brigade or bush fire brigade authorised by the council may, without prejudice to the liability of the owner or occupier, enter upon the land and do all such acts, matters and things
 5 as the owner or occupier was required to do, and the expenses of doing such acts, matters or things shall be borne by and may be recovered as a debt from such owner or occupier by the council in any court of competent jurisdiction.

10 (2) Where any servants, agents or workmen of a council or any officers or members of any fire brigade or bush fire brigade are authorised under subsection one of this section to enter any land and light any fire and the land on which such fire is to be lit is within
 15 five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a notification in writing stating the time at which or the period within which such fire is to be lit shall be sent by the council to a forestry officer
 20 attached to such forest or reserve.

15. (1) If the owner or occupier of any land clears the same of all inflammable matter for a space of not less than twenty feet wide from any fence dividing such land from the land of any other owner or occupier, and such
 25 other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence from such neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own expense cause such fence to be repaired or
 30 re-erected within one month after the same has been so damaged, or within such extended period as may be allowed by a stipendiary magistrate on application made to him in a summary way. Reasonable notice of any such application shall be given to the owner or occupier
 35 who has cleared his land.

Damage by fire to dividing fence caused by negligence of owner or occupier of land to be made good by him.

Act No. 28, 1912, s. 5.

(2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time as may be allowed in pursuance of subsection one of this
 40 section, the owner or occupier of the land contiguous to
 the

Bush Fires.

the said fence who has cleared the same of inflammable matter as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended
5 or laid out under the provisions of subsection two of this section shall be deemed to be money paid to the use of the owner or occupier in default.

(4) Any owner or occupier, who has cleared his land in the manner referred to in subsection one of this
10 section, may enter the land of an adjoining owner or occupier, who has neglected or omitted so to clear his land, without any liability for trespass or action for compensation for any damage done by him, and take all necessary steps to extinguish any unattended fire which
15 at its closest point has approached to within twenty chains of and endangers his land or any fence or property thereon.

(5) The owner or occupier of land which
adjoins any Crown land not held under lease or license
20 nor vested in nor under the control of trustees may enter upon such land for the purpose of clearing, making and maintaining thereon fire breaks not more than sixty-six feet wide along the boundary of such land.

Fire breaks
on Crown
lands.

16. (1) Where the Minister is of opinion that it is
25 necessary or expedient in the interests of public safety so to do, he may by notification published in the Gazette or in a newspaper circulating in the area or areas to which the direction relates, direct that—

Lighting
of fires
prohibited
in emergent
circum-
stances.

Act No. 28,
1912, s. 4B.

- (a) the lighting of any fire or class of fire in the
30 open air is prohibited in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (b) such special conditions as may be specified in such notification be observed by persons light-
35 ing any fire or class of fire in the open air in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (c) such action as may be specified in such notifica-
40 tion be taken in such area or areas or part or parts thereof and by such persons or class

Bush Fires.

class of persons as may be specified in such notification for preventing the outbreak or the spread of any bush fire or for controlling or extinguishing any bush fire.

- 5 (2) Where the Minister is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and that it is impracticable to give any directions under
10 paragraph (a) of subsection one of this section in the manner prescribed by that subsection such directions may be given by or on behalf of the Minister verbally or in such other manner including aerial broadcast as the Minister deems expedient.
- 15 (3) The Minister may by writing under his hand delegate all or any of his powers or functions under this section (except this power of delegation) to the council of an area so that the delegated powers or functions with respect to the matters or class of matters
20 specified in the instrument of delegation may be exercised by that council in respect of the area of which it is the council.

Every delegation under this subsection shall be revocable at will and no delegation shall prevent the
25 exercise of any power or function by the Minister.

Where in this section the exercise of any power or function by the Minister or the operation of any provision of this section is dependent upon the opinion of the Minister in relation to any matter that power or
30 function may be exercised by the delegate or that provision may operate, as the case may be, upon the opinion of the delegate in relation to that matter.

- (4) Any person who fails to comply with any direction given by the Minister or the council of an
35 area under or pursuant to the provisions of this section shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(5)

Bush Fires.

(5) The provisions of this section shall have effect notwithstanding anything contained in this Act (section seventeen excepted) or any other Act to the contrary.

- 5 **17.** (1) Where the Minister is of opinion that a state of emergency exists and it is necessary or expedient in the interests of public safety so to do, he may authorise or direct the Commissioner of Police or any member of the Police Force or any officer or employee of the Board
10 of Fire Commissioners of New South Wales or of the Forestry Commission of New South Wales or any officer or employee appointed or employed under the provisions of the Public Service Act, 1902, or any other person whomsoever to take charge of bush fire fighting
15 operations in any area or locality.
- Minister empowered to appoint any person to take charge of bush fire fighting operations when state of emergency exists.

Where any person is so authorised or directed by the Minister pursuant to this section all councils, captains, deputy captains, group captains and deputy group captains of bush fire brigades, fire control officers,
20 fire patrol officers, officers and employees of the Board of Fire Commissioners of New South Wales and the Forestry Commission of New South Wales, members of the Police Force and other persons, shall comply with any direction given by such person in connection with the
25 suppression or control of any fire which is burning in any area or locality in respect of which such person has been so authorised or directed.

A state of emergency may be deemed to exist where the Minister is of the opinion that any bush fire has
30 assumed such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning.

(2) Any person failing to observe any direction given pursuant to this section by a person authorised or
35 directed by the Minister shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(3)

Bush Fires.

(3) The provisions of this section shall have effect notwithstanding anything contained in this or any other Act to the contrary.

- 18.** Any person who contravenes or fails to comply Penalties.
5 with any provision of this Part of this Act or with the conditions of any permit granted under this Part of this Act or with the requirements of any notice given by a council under section thirteen of this Act or is guilty of an offence against this Part of this Act shall, where no
10 other penalty is expressly provided, be liable for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment and for any subsequent offence to a penalty not exceeding
15 two hundred pounds or to imprisonment for a term not exceeding two years or to both such penalty and imprisonment.

PART III.

BUSH FIRE BRIGADES.

- 20 **19.** Bush fire brigades may be formed or organised— Formation
of bush
fire
brigades.
(a) by a council within its area or any part thereof not being within a fire district constituted under the Fire Brigades Act, 1909-1949;
(b) by two or more councils jointly within the areas
25 of such councils or any parts thereof not being within a fire district so constituted;
(c) by the Minister where he is of the opinion that the formation of a bush fire brigade in any area or part thereof, not being within a fire district so
30 constituted, is necessary and the council of such area has failed or refused to comply with a request by the Minister to form or organise a bush fire brigade;

(d)

Bush Fires.

- (d) by the Minister in any locality in the Western Division not being within a fire district so constituted;
- 5 (e) by the Minister and one or more councils jointly in the areas of such councils or any parts thereof not being within a fire district so constituted and any locality in the Western Division adjoining such areas or parts thereof not being within a fire district so constituted.
- 10 **20.** The council, or Minister, or the Minister and council or councils, as the case may be, by whom any bush fire brigades are formed or organised—
- (a) shall determine the territory in respect of which such bush fire brigades may operate, and
- 15 (b) may appoint a captain and deputy captains of bush fire brigades so formed or organised and a group captain and deputy group captains of any two or more bush fire brigades formed or organised within an area.
- 20 **21.** The captains, deputy captains, group captains and deputy group captains of bush fire brigades shall have and may exercise such powers, authorities, duties and functions as are conferred and imposed upon them under this Act or the regulations thereunder.
- 25 **22.** (1) A bush fire brigade captain or group captain, or in the absence of the bush fire brigade captain or group captain the deputy bush fire brigade captain or deputy group captain or the senior deputy bush fire brigade captain or senior deputy group captain may,
- 30 for the purpose of the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger—
- (a) enter any land or building of any person;
- 35 (b) cause any road or public place in the vicinity of the bush fire to be closed to traffic, other than traffic of the Naval, Military or Air Forces of His Majesty, or of any power which is allied or associated with His Majesty in any war in which His Majesty is engaged;
- (c)

Area of operations and appointment of personnel of bush fire brigades.

Powers of captains, deputy captains, etc.

Powers of bush fire brigade captains, group captains and deputy captains.

Bush Fires.

- (c) pull down, cut and remove or cause to be pulled down, cut and removed, fences on any land;
- (d) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
- (e) destroy or remove or cause to be destroyed or removed any living or dead vegetation;
- (f) burn, plough or clear fire breaks on any land or cause fire breaks to be burnt, ploughed or cleared on any land;
- (g) take and use free of charge any water from any source whatsoever on any land;
- (h) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- (i) do any other act, matter or thing which is necessary for or incidental to the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger or the effective exercise of any of the powers conferred by this subsection.

(2) The powers conferred by subsection one of this section may, subject to sections sixteen and seventeen of this Act, be exercised notwithstanding any other provisions of this Act:

Provided that such powers shall not be exercised on or in connection with any land or property vested in or under the control of—

- (a) the Commissioner for Railways—unless permission has been granted by such Commissioner or some person authorised by him in that behalf;
- (b) the Forestry Commission of New South Wales—unless permission has been granted by a person authorised by such Commission in that behalf.

417—B

(3)

Limitation
of powers
of such
captains
on lands
controlled
by certain
public
authorities.

Bush Fires.

(3) The powers conferred by the foregoing provisions of this section on a person referred to in subsection one of this section may be exercised within the territory of the bush fire brigade or brigades to which
5 such person has been appointed and may also be exercised outside such territory:—

- 10 (a) in relation to a bush fire which has passed from or is approaching such territory and is not within the territory of any other bush fire brigade;
- 15 (b) in relation to a bush fire which is within any area (whether or not such area is the area within which the bush fire brigade was formed or organised and whether or not the fire is within the territory of any other bush fire brigade)
where the exercise of such powers is sanctioned by the mayor, president, or clerk of the council of such area;
- 20 (c) in relation to a bush fire which is in any locality (whether or not such locality is within the territory of another bush fire brigade) where the exercise of such powers in such locality has been directed or sanctioned by the Minister;
- 25 (d) in relation to a bush fire within the territory of any bush fire brigade (not being a bush fire brigade within the area of any council) where the exercise of such powers in such territory has been sanctioned by the captain of any such bush fire brigade;
- 30 (e) in relation to a bush fire which is within any fire district constituted under the Fire Brigades Act, 1909-1949, where the exercise of such powers in such fire district is sanctioned by the officer or other person in charge of the fire
35 brigade in such fire district;
- (f) in relation to a bush fire which is within a bush fire district where the exercise of such powers in such bush fire district is sanctioned by the fire control officer.

(4)

Bush Fires.

(4) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(5) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection four of this section shall be void and of no effect.

23. A captain, deputy captain, group captain or deputy group captain or any member of a bush fire brigade shall not, merely by reason of the authority granted him to exercise any powers or carry out any duties under this Act, be deemed to be a servant of a council or of the Minister, as the case may be.

Captains, etc., not to be servants of councils.

24. The powers and authorities conferred upon a captain, deputy captain, group captain or deputy group captain under this Act in respect of a bush fire may be exercised by a captain, deputy captain, group captain, or deputy group captain at any fire of any kind within the territory of the bush fire brigade if, in his opinion, the fire is out of control.

Powers of captains may be exercised at any fire of any kind which is out of control.

PART IV.

25 BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

25. The Governor may, from time to time, upon application by a council and upon the recommendation of the Committee, declare by proclamation published in the Gazette the area of such council or part thereof (not being within a fire district constituted under the Fire Brigades Act, 1909-1949, a national forest, State forest, timber reserve or flora reserve, under the Forestry Act, 1916-1949, or any other Act) to be a bush fire district for the purposes of this Act:

Proclamation of bush fire districts.

Provided

Bush Fires.

Provided that, in the event of any bush fire district or part thereof being constituted a fire district under the Fire Brigades Act, 1909-1949, such bush fire district or part thereof shall cease to be a bush fire district for
5 the purposes of this Act.

26. (1) Where any area has been proclaimed a bush fire district the Minister shall upon the recommendation of the Committee appoint a person as fire control officer for that district for such period or periods as he thinks
10 fit.

(2) Where any area or part thereof has been proclaimed a bush fire district and such district adjoins a fire district constituted under the Fire Brigades Act, 1909-1949, the person to be appointed as fire control
15 officer under this section shall where practicable be the officer-in-charge of such fire district.

27. A fire control officer appointed under this Part of this Act shall have all the powers and immunities conferred upon any captain of a bush fire brigade by
20 Part III of this Act.

Notwithstanding anything contained in Part III of this Act a fire control officer—

- 25 (a) shall have the supervision and direction of all bush fire brigades in the bush fire district to which he has been appointed and of the captains, deputy captains, group captains or deputy group captains of such brigades;
- (b) shall have the right to use any fire fighting apparatus in such bush fire district;
- 30 (c) shall inspect all fire fighting apparatus in such bush fire district;
- (d) shall take all necessary measures for
35 extinguishing fires in such bush fire district and protecting and saving life and property in case of fire.

PART

Bush Fires.

PART V.

FIRE REGIONS.

28. (1) The Governor, upon the recommendation of the Minister for Local Government, may, from time to time, by proclamation published in the Gazette, proclaim parts of the Eastern and Central Divisions as fire regions for the purposes of this Act and may, in like manner—
- (a) abolish any fire region; or
- (b) alter any existing fire region.
- 10 (2) The boundaries of fire regions shall, as nearly as practicable, be coincident with the boundaries of areas.
- (3) The sub-committee of the Committee may, and if requested by the Minister for Local Government so to do shall, prepare and submit to him proposals for the purpose of giving effect to this section.

Division of
State into
fire
regions.
cf. Act No.
5040 Vic.
s. 14.

PART VI.

EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

- 20 29. (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Eastern and Central Divisions Bush Fire Fighting Fund.
- (2) All moneys received under this Part of this Act shall be paid into such Fund and the cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act in addition to all expenditure on bush fire fighting in the Eastern and Central Divisions shall, subject to the provisions of this Act, be paid out of the said Fund.

Eastern and
Central
Divisions
Bush Fire
Fighting
Fund.

Bush Fires.

(3) The cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act shall
5 not, during any financial year, exceed ten per centum of the total expenditure from the Fund in respect of such financial year.

(4) The certificate of the Minister for Local Government shall be accepted as conclusive evidence as
10 to the cost of administration of this Part of this Act and all expenses incurred by him in the exercise of his powers, authorities and functions pursuant to this Part of this Act.

30. (1) (a) As soon as practicable after the com-
15 mencement of this Act the Minister for Local Govern-
ment shall prepare—

Estimate
to be
prepared by
Minister
for Local
Government.

(i) an estimate of the probable expenditure from
the Fund during the period from the commence-
ment of this Act to the thirtieth day of June
then next ensuing, which period is hereinafter
20 referred to as the first financial year;

(ii) an estimate of the parts of such expenditure
applicable to each fire region.

(b) Before the end of the first financial year
25 and each succeeding financial year the Minister for Local
Government shall prepare—

(i) an estimate of the probable expenditure from
the Fund during the then ensuing financial year;

(ii) an estimate of the parts of such expenditure
30 applicable to each fire region.

(2) The Minister for Local Government shall so
prepare such estimate that the amount of the contribution
to be paid by a council shall not exceed one-twentieth of
a penny in the pound on the unimproved capital value
35 of ratable land in the area of such council (not being land
within a fire district constituted under the Fire Brigades
Act, 1909-1949).

Bush Fires.

(3) Before preparing the estimate the Minister for Local Government shall consider the report and recommendation of the sub-committee of the Committee in respect of the matters referred to in subsection one
5 of this section.

31. For the purpose of enabling the Minister for Local Government to prepare the estimates referred to in section thirty of this Act a council or bush fire brigade or the trustees of any supervised park or a fire control
10 officer shall, at such times and in such manner as the Minister for Local Government may require, furnish to him such information relative to the bush fire brigades or other fire fighting personnel, the fire fighting apparatus of such bush fire brigades or personnel and such other
15 matters relating to the organisation of such bush fire brigades or personnel as he may require.

Councils,
etc., to
furnish
information
to Minister
for Local
Government.

32. (1) Towards the estimate referred to in subsection one of section thirty of this Act—

- 20 (a) the Colonial Treasurer shall contribute one-quarter;
- (b) councils the areas of which are situated in the Eastern and Central Divisions wholly or partly outside any fire district constituted under the Fire Brigades Act, 1909-1949, shall contribute
25 one-quarter. Such contribution shall be paid out of the general funds of such councils;
- (c) insurance companies shall contribute one-half.

Contribu-
tions by the
Colonial
Treasurer,
councils and
insurance
companies.

(2) The amounts to be so contributed shall be paid in equal quarterly instalments on the first day of
30 July, the first day of October, the first day of January and the first day of April respectively in each financial year:

Contribu-
tions to be
paid
quarterly.

Provided that the Governor may by proclamation direct the manner and the times of payment in respect
35 of the first financial year.

(3) The Colonial Treasurer may, in addition to the contribution to the Fund under subsection one of this section, from time to time advance such moneys to the Fund subject to such terms and conditions as he may
40 determine.

Advances to
Fund by
Colonial
Treasurer.

Bush Fires.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

(5) Where it is shown to the Governor that the
5 danger from bush fires in an area is negligible he may exempt the council of that area from making contributions to the Fund:

Exemption
of council
from con-
tributing
to Fund.

Provided that no exemption shall be granted except upon the recommendation of the Committee.

10 (6) Where the council of any area has been exempted under subsection five of this section from making contributions to the Fund no payment shall be made in or towards any of the purposes specified in section thirty-seven of this Act for the benefit of the area
15 in respect of which such exemption has been granted.

Payments
not to be
made to any
council
exempted
from con-
tributing.

33. (1) The contributions of councils shall be determined as follows:—

Determina-
tion of con-
tributions
of councils.

(a) That part of the estimated expenditure applicable to any fire region which is to be contributed
20 by councils shall be contributed by those councils the areas or any parts of which lie within the fire region.

(b) The total amount of the contribution of any
25 council shall be absolutely determined by the Minister for Local Government.

(2) The amount of the contribution payable by any council may be raised if necessary, and notwithstanding any statutory limit of such rates, by an increase of the general rate by such a sum in the pound as will be
30 sufficient to provide the amount of the contribution, and such increase shall for all purposes be deemed to form part of such general rate.

(3) Every council and every officer thereof shall, when so required by the Minister for Local Government,
35 furnish him with all such documents, papers and information as he may require to determine the contribution of the council.

Bush Fires.

34. The contributions of the respective insurance companies shall be determined as follows:—

Determina-
tion of con-
tributions of
insurance
companies.

- 5 (a) Every insurance company shall, before the last day 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 showing the total amount of the premium income received by or due to such company during the year ending the thirty-first day of December then last past in respect of insurance of any property whatsoever situated within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning less any part of such premium income actually paid by way of re-insurance to any other companies contributing under this Part of this Act together with a statutory declaration by the manager, secretary or agent in the State of such company that to the best of his knowledge, information and belief, such return is a true return of such amount. If any such company fails to send such return 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.
- 20
- 25
- 30 (b) The amount to be contributed by each such company shall bear the same proportion to the whole contribution by insurance companies as the amount of premium income shown in the company's return bears to the aggregate amount of premium income shown in all such returns.
- 35

35. (1) If, in any financial year, the amount received by the Minister for Local Government from contributions under this Part of this Act falls short of the expenditure based on the estimate for that financial year, the deficit shall be added to the estimate of expenditure for the ensuing

Deficits, etc.
cf. Act No.
5040 Vic.
s. 57.

Bush Fires.

ensuing year and, subject to subsection two of section thirty of this Act, the contributions shall be increased accordingly, but if the amount received by the Minister for Local Government in any financial year, from contributions under this Part of this Act exceeds the expenditure based on the estimate for that financial year, then the excess shall be treated as a credit in favour of the estimated income of the ensuing year and the contributions reduced accordingly.

10 (2) For the purposes of subsection one of this section any deficit or excess in respect of any financial year shall be the deficit or excess as certified by the Auditor-General.

15 **36.** (1) Contributions payable under this Part of this Act shall become due and payable upon assessment by the Minister for Local Government and any such contribution not paid within sixty days of the date of assessment shown on the assessment notice shall, unless the Minister for Local Government otherwise determines, be increased by ten per centum of the amount of the contribution payable.

Contributions due and payable within sixty days of assessment.

25 (2) Contributions or any part thereof not paid by any insurance company or council within ninety days of the date of assessment and all penalties incurred in respect thereof shall constitute a debt due and payable to the Minister for Local Government and shall be recoverable in any court of competent jurisdiction by the Minister for Local Government.

30 **37.** (1) Moneys to the credit of the Fund may be applied in the Eastern and Central Divisions by the Colonial Treasurer in or towards—

Application of moneys to credit of Fund.

- 35 (a) the purchase of fire fighting apparatus of all kinds for bush fire brigades formed or organised under this Act, fire control officers or the trustees of supervised parks;
- (b) the maintenance of fire fighting apparatus in the possession of or available to such bush fire brigades, fire control officers or trustees of supervised parks;

(c)

Bush Fires.

- (c) the erection and maintenance of buildings for the storage of fire fighting apparatus of such bush fire brigades, fire control officers or trustees of supervised parks;
- 5 (d) the construction and maintenance of water storage tanks and lookout towers;
- (e) the purchase, maintenance and storage of reserves of fire fighting apparatus for use in any emergency;
- 10 (f) the payment of salaries or allowances of fire control officers or inspectors appointed under this Act;
- (g) the payment of such expenditure by or on behalf of councils, bush fire brigades, fire control officers or the trustees of supervised parks for or in connection with the prevention, control or suppression of bush fires as is approved by the Minister for Local Govern-
15 ment;
- 20 (h) any measures generally for the prevention, detection, control and suppression of bush fires including aerial reconnaissance.

(2) The Colonial Treasurer may pay such moneys out of the Fund upon the certificate of the Minister for
25 Local Government.

(3) All fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be vested in the council of the area for or on behalf of which such
30 apparatus, buildings, water storage tanks or lookout towers have been purchased or constructed as the case may be:

Provided that, in the case of any fire fighting apparatus, buildings, water storage tanks or lookout towers
35 purchased or constructed on behalf of the trustees of any supervised park such apparatus, buildings, water storage tanks or lookout towers shall be vested in the trustees of such supervised park.

(4)

Bush Fires.

(4) A council or the trustees of any supervised park shall not sell or otherwise dispose of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund without the consent in writing of the Minister for Local Government having been first obtained.

(5) The proceeds of the sale of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be paid to the credit of the Fund.

38. (1) The Minister for Local Government shall, as soon as practicable after the end of each financial year, furnish to both Houses of Parliament a report upon the administration of the Fund during that financial year together with a balance-sheet and statement of receipts and expenditure during that financial year duly audited by the Auditor-General.

Financial statements.

(2) The Minister for Local Government shall as soon as practicable after such report, balance-sheet and statement have been furnished to Parliament as aforesaid, furnish to each council and each insurance company contributing to the Fund a true copy of such report, balance-sheet and statement.

25

PART VII.

GENERAL.

39. (1) There shall be constituted a Bush Fire Committee consisting of twenty persons which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Committee by this Act.

Constitution of Bush Fire Committee.

(2) The members of the Committee and the chairman thereof shall be appointed by the Governor.

Of the members so appointed:—

35 (i) one shall be a person nominated by the Fire and Accident Underwriters' Association of New South Wales as representative of such Association;

(ii)

Bush Fires.

- (ii) at least one shall be an officer of the Chief Secretary's Department;
- (iii) one shall be an officer of the Department of Local Government;
- 5 (iv) one shall be a person nominated by the Shires Association of New South Wales as representative of such Association;
- (v) one shall be a person nominated by the Association of Local Government Clerks of New South Wales as representative of such Association.

10 (3) The persons who, immediately before the commencement of this Act, were the members of the Bush Fires Advisory Committee shall, upon such commencement, be deemed to have been appointed under
15 this Act as members of the Committee.

(4) Any member of the Committee may resign his office by writing under his hand addressed to the Governor.

(5) Meetings of the Committee shall be held
20 from time to time on the requisition of the chairman. Meetings.

(6) There shall be a Standing Committee of the Committee consisting of the chairman of the Committee and five other members elected by the Committee from among its members. The Standing Committee shall meet
25 at least once each month. The chairman of the Committee shall be the chairman of the Standing Committee. Standing Committee.

(7) For the purposes of sections twenty-eight and thirty of this Act there shall be constituted a sub-committee of the Committee consisting of the chairman
30 and the members referred to in paragraphs (i) (iii) and (iv) of subsection two of this section and where one member is appointed under paragraph (ii) of the said subsection such member or where more than one member is so appointed such member as the Minister selects. The
35 chairman of the Committee shall be the chairman of the sub-committee. Sub-committee for purposes of ss. 28 and 30.

(8) Five members shall constitute a quorum of the Committee, four members shall constitute a quorum of the Standing Committee and three members shall
40 constitute a quorum of the sub-committee.

(9)

Bush Fires.

(9) Each member of the Committee shall be entitled to receive such travelling or other expenses as the Minister may determine and such other fees as may be prescribed.

5 (10) Any moneys payable under subsection nine of this section shall be paid out of moneys provided by Parliament.

(11) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to
10 or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(12) The office of a member of the Committee shall
15 not for the purposes of the Constitution Act, 1902, or any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

40. (1) The Committee shall—

Functions
of
Committee

20 (a) furnish reports and recommendations upon any matter referred to it by the Minister or the Minister for Local Government pursuant to this Act;

25 (b) carry out such functions of an advisory or educational character as the Minister may direct;

30 (c) before the thirtieth day of April in each year furnish a report to the Minister and the Minister for Local Government of the estimated damage from bush fires in New South Wales during the preceding twelve months together with recommendations as to any special measures which should be adopted for the purpose of preventing, controlling or suppressing bush fires during the year next ensuing;

35 (d) in conjunction with councils foster and encourage the formation or organisation of bush fire brigades and assist the Minister in the formation or organisation of bush fire brigades in the Western Division;

(e)

Bush Fires.

5 (e) generally take all practicable measures to educate persons in the need for preventing, suppressing and controlling bush fires and make recommendations to the Minister, councils and other persons as to the best measures to be taken for preventing or extinguishing fires.

(2) The Committee may—

10 (a) subject to the approval of the Minister, contract for the carrying out of aerial reconnaissance of the State or part or parts thereof for the detection of fire;

15 (b) for the purpose of improving the efficiency of bush fire brigades and other fire fighting personnel, organise or conduct competitions and provide prizes and certificates for presentation to brigades and competitors thereat.

(3) Any moneys payable under this section shall be paid out of moneys provided by Parliament.

20 **41.** Any council, bush fire brigade formed or organised by the Minister, fire control officer, or trustees of any public reserve or park, shall, at such times and in such manner as the Committee may require, furnish to the Committee such information relating to bush fire brigades or other fire fighting personnel, fire fighting apparatus
25 of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as the Committee may require.

Councils and other bodies to furnish information to Committee.

42. (1) Members of the police force, public school teachers, field officers of the Departments of Lands, Agriculture and Conservation, the Forestry Commission of New South Wales and of all Pastures Protection Boards, members and officers of councils, members of the Committee, inspectors of fisheries, and rangers appointed under the Metropolitan Water, Sewerage, and
30 Drainage Act, 1924-1949, shall, by virtue of their office, be fire patrol officers and have the powers and authorities prescribed by this Act or by the regulations.

Appoint-ment of fire patrol officers and honorary fire patrol officers.

(2)

Bush Fires.

(2) The Minister may by notice in the Gazette appoint honorary fire patrol officers who shall have the powers and perform the duties of fire patrol officers.

(3) All honorary rangers appointed under the
5 Careless Use of Fire Act, 1912-1946, and holding office immediately before the commencement of this Act shall be deemed to be honorary fire patrol officers under this Act and shall have the powers and perform the duties of fire patrol officers.

10 **43.** Every fire patrol officer is hereby empowered without any let or hindrance whatsoever to enter at any time any land and examine any fire in the open air which he has reason to believe has been lit or maintained or
15 do all other such acts and things as he is required to do by this Act and the regulations.

Fire patrol
officers
empowered
to enter
land.

44. (1) Any fire patrol officer may require any person—

Powers of
fire patrol
officers.

20 (a) reasonably suspected to be offending against any of the provisions of this Act or the regulations to give his name in full and place of abode;

(b) reasonably suspected to be offending against any of the provisions of this Act or the regulations to produce any permit notice or other document
25 by or under the authority of which it is claimed by such person that any fire has been lit maintained or used;

(c) who has lit a fire in contravention of the provisions of this Act or the regulations to
30 extinguish such fire;

(d) who has lit or used a fire in the open air to extinguish such fire before leaving it.

(2) If such person, after being so required, refuses to give his real name or place of abode or gives
35 a false or fictitious name or place of abode or refuses to produce any permit notice or other document or refuses to extinguish any fire, he shall be guilty of an offence against this Act and be liable for every such offence to a penalty not exceeding five pounds.

45.

Bush Fires.

45. A fire patrol officer shall promptly notify any outbreak of fire which comes to his notice to—

Fire patrol officers to notify outbreaks of fire.

- (a) the owner or occupier of the land upon which such outbreak occurs;
- 5 (b) the owners or occupiers of any lands which may be threatened or endangered by the spread of fire;
- (c) the nearest member of the police force or any fire brigade or bush fire brigade or other
- 10 authority whose duty it may be to control or extinguish fires in the district in which the outbreak occurs.

46. (1) The Governor may appoint inspectors for the purposes of this Act. Inspectors.

- 15 (2) The duties of an inspector shall include—
- (a) inspecting and reporting to the Minister and the Minister for Local Government upon the fire fighting apparatus of councils, bush fire brigades, fire control officers and the trustees of supervised parks;
- 20 (b) investigating and verifying claims by councils, bush fire brigades, fire control officers and the trustees of supervised parks for payments from the Fund;
- 25 (c) reporting from time to time to the Committee upon conditions of fire risk in any part of the State;
- (d) submitting to the Committee recommendations as to any special measures which, in the opinion
- 30 of the inspector, should be adopted for the purpose of preventing, controlling or suppressing bush fires.

47. Except as in this Act otherwise expressly provided nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by any bush or other fire to which this Act relates or for any trespass committed.

Liability of persons in respect of loss or damage caused by bush or other fires.

Bush Fires.

48. No proceedings whether at law or in equity shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Minister for Local Government, a member of the Committee, a council, an officer or employee of the Board of Fire Commissioners of New South Wales or the Forestry Commission of New South Wales, a fire control officer, a fire patrol officer, a captain, deputy captain, group captain or deputy group captain of a bush fire brigade, or any person acting in the execution or intended execution of this Act in respect of anything done bona fide under and for the purposes of this Act.

Proceedings
not to lie
against
persons
acting
bona fide
under and
for the
purposes
of Act.

49. Whosoever fails to do any act directed to be done or does any act forbidden to be done by or under this Act or any regulation shall be guilty of an offence against this Act.

Penalties.

Any person who is guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

50. Whosoever, without lawful authority, destroys, defaces or removes any notice displayed under this Act or the regulations or under the authority of the Minister or the Committee or a council or any public authority in pursuance of this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding ten pounds.

Destruc-
tion, etc.,
of notices.

51. (1) Where a bush fire is burning on any land and such bush fire or any part thereof is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, any officer of the Forestry Commission of New South Wales or any person or persons authorised by that Commission in that behalf may enter upon such land or upon any land situated between such land and such national forest, State forest, timber reserve or

Powers of
officers of
Forestry
Commission
where a
bush fire
is burning
on any
land within
five miles
of a State
forest, etc.

flora

Bush Fires.

flora reserve, with such vehicles and fire fighting apparatus as may be reasonably necessary for the purpose of extinguishing or assisting to extinguish such fire, and may do all such acts, matters and things as are
 5 reasonably necessary to extinguish such fire or to prevent the spread thereof.

(2) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be
 10 damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(3) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the
 15 operation of subsection two of this section shall be void and of no effect.

52. Where a fire (not being a fire or part of a fire lit under the authority of this Act or any other Act) is burning on any land at any time during a bush fire
 20 danger period applicable to such land the occupier of such land shall, immediately upon becoming aware of such fire and whether he has lit or caused the same to be lit or not, take all possible steps to extinguish such fire and, if he is unable without assistance to extinguish
 25 the same and any practicable means of communication are available, shall, where practicable without leaving the fire unattended, inform or cause to be informed—

Responsi-
 bility of
 occupiers to
 extinguish
 fires or
 notify them
 to fire
 fighting
 authorities.
 cf. Act No.
 5040 Vic.,
 s.35.

(a) where the fire is burning within any fire district constituted under the Fire Brigades Act, 1909-
 30 1949,—the nearest available officer or fireman of the fire brigades in such district;

(b) where the fire is burning outside any such fire district—the nearest available captain or deputy captain or member of a bush fire brigade or
 35 fire control officer or fire patrol officer or officer of the Forestry Commission of New South Wales,

of the existence and locality of such fire.

417—D

53.

Bush Fires.

53. (1) Any of the following purposes shall be deemed to be a general purpose within the meaning of subsection two of section one hundred and seven of the Local Government Act, 1919, as amended by subsequent Acts—

General
fund of
councils.

- (a) the purchase, distribution, maintenance and storage of fire fighting apparatus for the prevention, control and suppression of bush and other fires;
- 10 (b) the organising of bush fire brigades and such matters as are relevant thereto, including the establishment of fire stations and fire control centres;
- 15 (c) the establishment and maintenance of fire breaks;
- (d) the removal or destruction of inflammable matter;
- (e) the taking of measures generally for the prevention, control or suppression of bush fires.

20 (2) For the purposes of section one hundred and twenty of the Local Government Act, 1919, as amended by subsequent Acts, any work relating to the prevention and suppression of bush and other fires shall be deemed to be a purpose which may be lawfully undertaken by
25 a council and in respect of which special rates may be made and levied by a council.

54. It shall be the duty of the council of any area or any public authority to take all practicable steps to prevent the occurrence of fires on and to minimise the
30 danger of the spread of fires on or from—

Duty of
councils
and public
authorities
to prevent
fires.

- (a) any land vested in or under its control or management; or
- 35 (b) any highway, road, street, lane or thoroughfare, the maintenance of which is charged upon such authority or council.

Bush Fires.

55. (1) It shall be the duty of officers and members of the police force to support the authority of a captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or
5 a fire control officer and to assist him and any person acting under his directions in enforcing compliance with any directions given in pursuance of this Act or any regulation.

Duty of officers and members of police force to support authority of captains, etc., of bush fire brigades and fire control officers.

(2) Any person who obstructs any captain or
10 deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer or a person acting under his directions shall be liable to a penalty not exceeding ten pounds.

56. (1) Except where otherwise expressly provided
15 or allowed any notice or direction required by this Act to be given to any owner, occupier, or other person may be given as provided in this section.

Giving of notices.

(2) The notice or direction may be given—

(a) personally; or

20 (b) by delivering the same at or on the premises at which the person to whom the notice or direction is to be given lives or carries on business, and leaving the same with any person apparently above the age of fourteen years
25 resident or employed thereat; or

(c) by posting the notice or direction by prepaid letter addressed to the last known place of abode or business of the person to whom the notice or direction is to be given.

30 57. (1) The Governor may make regulations not inconsistent with this Act 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

Regulations.

(2)

Bush Fires.

(2) In particular and without limiting the generality of the power conferred by subsection one of this section the Governor may make regulations with respect to:—

- 5 (a) the method of establishing fire breaks on railway lands and, if such breaks are to be established by burning, the times at which and the conditions under which such breaks may be burned;
- 10 (b) the conditions under which fires for or in connection with charcoal or lime burning or for the distillation of eucalyptus or other oils or for the destruction of the waste products of such operations may be lit, maintained or used;
- 15 (c) the conditions under which fires for the purpose of cooking, heating or preparing meals or boiling water or for any like purpose may be lit, maintained or used;
- 20 (d) the use of phosphorus or other preparations for the extermination or suppression of noxious weeds or animals;
- (e) the conditions under which fires may be lit, maintained or used for or in connection with the taking of honey from beehives or in honey houses or apiaries;
- 25 (f) the conditions under which fires may be lit, maintained or used for or in connection with saw-mill operations;
- 30 (g) the use or operation of producer-gas units and the precautionary measures to be taken to prevent fires resulting from the use or operation of the same;
- (h) the use of appliances on and the precautionary measures to be adopted by persons driving or
- 35 controlling—
 - (i) a traction engine; or
 - (ii) an engine used for any agricultural purpose and in which wood, coal or coke fuel is burned;

(iii)

Bush Fires.

- 5

- (iii) a motor tractor, steam tractor or power driven harvester or portable or other engine;
 - (iv) an engine used on any railway line or tram line,
- 10

in order to prevent the escape of dangerous sparks or burning or incandescent material from any such engines;

 - (i) approved fire appliances for use in connection with any traction engine or engine used for any agricultural purposes and in which wood, coal or coke fuel is burned or any motor tractor, steam tractor, power driven harvester or portable or other engine or any engine used on any railway line or tram line;
- 15

- (j) the terms and conditions of employment of any fire control officer;
 - (k) the storage in areas outside fire districts of any inflammable matter;
- 20

- (l) the records to be kept and the procedure to be followed at meetings of the Committee;
 - (m) the powers, authorities, duties and functions of captains, deputy captains, group captains or deputy group captains of bush fire brigades, fire control officers, or fire patrol officers;
- 25

- (n) conditions under which fires may be lit, maintained or used for the destruction of any household or garden refuse or rubbish or for any like purpose;
- 30

- (o) conditions under which fires may be lit, maintained or used for the destruction of the carcasses of animals;
 - (p) the form of permits, notices, advertisements and notifications, issued by councils under this Act;
- 35

- (q) the registration by councils of bush fire brigades and the members of such brigades;

(r)

Bush Fires.

- (r) the keeping by councils and the trustees of supervised parks of records of the fire fighting apparatus of such councils or trustees;
- 5 (s) the prescribing of constitutions and rules for bush fire brigades;
- (t) the classification of substances as inflammable matter.

(3) A regulation may be made to apply or to have operation throughout the whole or any part of the State,
 10 may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

(4) Such regulations shall—

- (a) be published in the Gazette;
- 15 (b) take effect from the date of publication or from a later date to be specified in such regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within four-
 20 teen 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
 25 such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

58. (1) The Local Government Act, 1919, as amended
 by subsequent Acts, is amended by omitting from sub-
 30 section one of section 495A the words "or a dangerous menace from fire."

Amendment of Act No. 41, 1919. Sec. 495A. (Consequential.)

(2) The Workers' Compensation Act, 1926-1948, is amended by omitting from section 17B the definition of "Bush fire brigade" and by inserting in lieu thereof the
 35 following definition:—

Amendment of Workers' Compensation Act, 1926-1948. Sec. 17B. (Consequential.)

"Bush fire brigade" means any bush fire brigade formed or organised under the Bush Fires Act, 1949.

SCHEDULE.

Bush Fires.

SCHEDULE.

Sec. 4.

Number of Act.	Name of Act.	Extent of repeal.
No. 28, 1912 ..	Careless Use of Fire Act, 1912.	The whole.
5 No. 41, 1919 ..	Local Government Act, 1919.	Paragraph (a) of subsection one and subsections four, five, six, seven and eight of section 494.
10		Section 495.
		Paragraphs (r) and (s) of section 513.
No. 14, 1930 ..	Bush Fires Act, 1930 ..	The unrepealed portion.
15 No. 41, 1932 ..	Local Government (Bush Fires) Amendment Act, 1932.	The whole except so much of paragraph (c) of subsection one of section 2 as inserts paragraph (t) in section 513 of the Local Government Act, 1919.
20		
No. 54, 1946 ..	Economic Stability and War-time Provisions Continuance Act, 1946.	Part VI.
25		

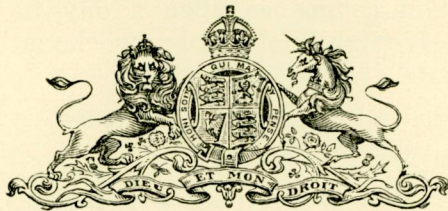
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

*H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 18 October, 1949.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

*Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, October, 1949.*

New South Wales.



ANNO TERTIO DECIMO

GEORGII VI REGIS.

Act No. , 1949.

An Act to make provision for the prevention,
control and suppression of bush and other
fires, and for the mitigation of dangers
resulting from bush fires; to repeal the
Careless Use of Fire Act, 1912-1946, and
the Bush Fires Act, 1930; to amend the
Local Government Act, 1919, and certain
other Acts in certain respects; and for
purposes connected therewith.

Bush Fires.

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Bush Fires Act, 1949." Short title and commencement.
- 10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts, as follows :—

Division into Parts.

PART I.—PRELIMINARY.

15 PART II.—PREVENTION OF BUSH AND OTHER FIRES.

PART III.—BUSH FIRE BRIGADES.

PART IV.—BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

PART V.—FIRE REGIONS.

20 PART VI.—EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

PART VII.—GENERAL.

SCHEDULE.

3. Unless otherwise expressly provided nothing in this Act shall affect any of the provisions of the Fire Brigades Act, 1909-1949, the Forestry Act, 1916-1949, or the Soil Conservation Act, 1938-1949, or any by-laws or regulations made thereunder. Construction.

4. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed. Repeal of Acts.

5. (1) All proclamations, permits, notifications, notices, or directions published, granted, made or given under any enactment repealed by this Act and in force immediately before the commencement of this Act, shall continue in force and shall be deemed to have been published, granted, made or given under this Act. Savings.

(2)

Bush Fires.

(2) All bush fire brigades organised under the Local Government Act, 1919, as amended by subsequent Acts, and in existence immediately before the commencement of this Act, shall continue in existence and shall be
5 deemed to be bush fire brigades organised under this Act.

(3) A bush fire brigade captain, or deputy bush fire brigade captain holding office as such under the Local Government Act, 1919, as amended by subsequent Acts,
10 immediately before the commencement of this Act, shall be deemed to have been appointed under this Act.

(4) All regulations made under the enactments repealed by this Act and in force immediately before the commencement of this Act shall, until repealed, replaced
15 or amended by regulations under this Act, continue in force, and shall be deemed to have been made under this Act.

6. In the Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

20 "Area" has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

"Bush fire" includes a grass fire.

25 "Bush fire danger period" means a period proclaimed as such under this Act.

"Bush fire district" means any part of New South Wales proclaimed as a bush fire district under this Act.

30 "Committee" means the Bush Fire Committee constituted under this Act.

"Council" has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes a county council within the meaning of that Act, as so amended.

35 "Eastern and Central Divisions" means the Eastern and Central Divisions of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

40 "Financial year" means the year ending on the thirtieth day of June,

"Fire

Bush Fires.

- “Fire control officer” means a fire control officer appointed under this Act.
- 5 “Fire fighting apparatus” includes all engines, vehicles, horses, reels, buckets, hoses, pumps, ladders, escapes, tanks, tools, radio equipment, implements and things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire.
- 10 “Fire patrol officer” means a fire patrol officer appointed under this Act.
- “Fire region” means any part of New South Wales proclaimed as a fire region under this Act.
- 15 “Fund” means the Eastern and Central Divisions Bush Fire Fighting Fund established under Part VI of this Act.
- 20 “Inflammable matter” includes all substances or matter capable of ignition or combustion by the application of heat or fire or by means of sparks or flame or by spontaneous causes together with all substances which are classified as inflammable matter by any regulation made under this Act.
- 25 “Insurance company” means any corporate body, company, partnership, association, underwriters or persons insuring any property outside a fire district constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning.
- 30 “Occupier” in relation to land means the person who has the management or beneficial use of the land whether residing thereon or not and, in relation to a public reserve or park, means the trustees thereof or any person having the care, control and management thereof.
- 35 “Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity—
- (a) is entitled to the land for any estate of freehold in possession; or
- (b)

Bush Fires.

- 5 (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Consolidation Act, 1913, or any other Act relating to the alienation of lands of the Crown; or
- 10 (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.
- "Prescribed" means prescribed by this Act or by the regulations.
- 15 "Public authority" means any board, commission, trust or other body, corporate or unincorporate, established or constituted by or under any Act for any public purpose, whether in respect of the whole or any part of New South Wales, but
- 20 does not include a council.
- "Regulations" means regulations made under this Act.
- "Supervised park" means any public reserve or park proclaimed as a supervised park under
- 25 this Act.
- "Western Division" means the Western Division of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

30

PART II.

PREVENTION OF BUSH AND OTHER FIRES.

7. The Governor may from time to time by proclamation published in the Gazette declare any period to be a bush fire danger period.

Any

Bush Fires.

Any such proclamation may apply to the whole State or any part of the State specified therein and may declare different periods in respect of different parts.

5 8. The Governor may from time to time by proclamation published in the Gazette declare any public reserve or park to be a supervised park for the purposes of this Act. Supervised parks.

9. The Governor may from time to time by proclamation published in the Gazette revoke, amend or vary any proclamation made under this Act. Proclamations.

10. (1) No person shall light, maintain, or use, or cause to be lit, maintained or used any fire for the purpose of clearing any land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break unless he gives the prescribed notices to the prescribed persons. Requirements to be complied with by persons lighting certain classes of fires.

(2) (a) No person shall during the bush fire danger period light, maintain or use, or cause to be lit, maintained or used any fire, upon any land within any area in respect of which such bush fire danger period has been proclaimed, for the purpose of clearing such land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break, unless—

(i) he gives the notices required to be given under subsection one of this section;

(ii) he has obtained a permit from the council of such area or a person authorised in that behalf by such council authorising him to light, maintain or use such fire; and

(iii) such fire is lit, maintained or used in accordance with the conditions (if any) attached to such permit.

(b) The provisions of paragraph (a) of this subsection relating to permits shall not apply to any fire lit, maintained, or used by or under the direction of a public authority.

(3) Any such permit shall be in writing and shall specify the duration thereof.

(4) Any such permit may be granted subject to such conditions as may be specified or referred to therein.

(5)

Bush Fires.

(5) (a) Such conditions may include a condition that any fire to be lit, maintained or used—

5 (i) in a fire district constituted under the Fire Brigades Act, 1909-1949, shall be lit, maintained or used by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;

10 (ii) outside any such fire district shall be lit, maintained or used by or under the supervision of the bush fire brigade specified in the permit or the captain or deputy captain of such bush fire brigade or any fire control officer.

(b) Such conditions shall include a condition that at least one person shall be present at the site of
15 the fire from the time it is lit till such time as it is extinguished.

(6) Where any permit is granted under this section by a council or any person authorised in that behalf by a council for the lighting, maintenance or use
20 of any fire and the land on which such fire is to be lit, maintained or used is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such permit shall, within twenty-four hours of the
25 granting thereof, be forwarded by such council or such person to a forestry officer attached to such forest or reserve.

11. (1) A permit granted under section ten of this Act by a council or a person authorised in that behalf by
30 a council may be revoked, suspended or varied by such council or such person and notification of such revocation, suspension or variation shall be given in writing to the holder of such permit and to the forestry officer to whom a copy of such permit has been forwarded in accordance
35 with subsection six of section ten of this Act.

Revocation,
suspension
or variation
of permits.

(2) Where the council or any person authorised by the council to grant permits is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive
40 to the outbreak or spread of bush fires are imminent and

it

Bush Fires.

it is impracticable to give the notification under subsection one of this section in the manner prescribed by that subsection such notification may be given by or on behalf of such council or such person verbally or in such other
5 manner including aerial broadcast as such council or such person deems expedient:

Provided that notification by aerial broadcast shall only be given when no other practicable method is available.

12. (1) Any person who—

Offences.

- 10 (a) sets fire or causes fire to be set to the land or property of another person, the Crown or any public authority under such circumstances as to cause or be likely to cause injury or damage to
15 such other person or his land or property or the land or property of the Crown or public authority;
- (b) permits a fire to escape from his own land under such circumstances as to cause or be likely to cause injury or damage to the person, land or
20 property of another person or the land or property of the Crown or a public authority;
- (c) sells, offers for sale, distributes or uses any wax matches or any matches other than those so made as to strike only on a preparation attached to
25 the containing box or a box containing the same description of matches;
- (d) leaves whether temporarily or otherwise any fire which he has lit or used in the open air before the same is thoroughly extinguished;

30 shall be guilty of an offence against this Part of this Act.

(2) (a) The Governor may by proclamation published in the Gazette suspend the operation of paragraph (c) of subsection one of this section in any locality or localities specified in the proclamation for
35 such period or periods as may be specified in the proclamation.

(b) Nothing in paragraph (d) of subsection one of this section shall require any person to extinguish a fire in the open air which has been lit or used for the
40 purpose of cooking, heating or preparing meals or boiling water

Bush Fires.

water or for any like purpose in accordance with the regulations if, at the time of his leaving it, such fire continues to be used by some other person.

(3) Any person who in any part of the State in respect of which a bush fire danger period has been proclaimed and during such bush fire danger period—

- (a) ignites or uses or carries when ignited any cigarette, tobacco, cigar or match or any other burning or incandescent material within fifty feet of any stacks of grain, hay, corn or straw or any standing crops or stubble field;
- (b) throws down or drops any lighted cigarette, tobacco, cigar or match or any other burning or incandescent material on any land,

shall be guilty of an offence against this Part of this Act.

13. (1) The council of an area may, by notice in writing, require the occupier (or where there is no occupier, the owner) of any land within the area—

Power given
to councils
to require
fire breaks.

- (a) to plough, burn, clear or otherwise establish fire breaks on such land in the manner, within the time or at such times and at the places and to the widths specified in such notice, and thereafter to maintain such fire breaks;
- (b) to remove, burn or destroy any inflammable matter or other material upon such land where the council is satisfied that the removal, burning or destruction thereof is necessary for the prevention of the outbreak, spread or extension of a bush fire or other fire.

For the purposes of this section the expressions “occupier” and “owner” shall not include a public authority.

(2) (a) A notice under paragraph (a) of subsection one of this section shall not operate to require an occupier or owner to kill or remove any living trees which are reasonably necessary for shade, shelter, windbreak or fodder purposes.

(b) A notice under paragraph (b) of subsection one of this section shall specify the time or times at

Bush Fires.

at which or the period within which such removal, burning or destruction shall be carried out and may also specify the circumstances in which and the conditions under which such removal, burning or destruction shall
5 be carried out.

(3) An occupier or owner to whom a notice has been given under this section shall, notwithstanding the fact that a permit has not been granted under subsection two of section ten of this Act, comply with the require-
10 ments specified in the notice.

(4) The requirements and conditions so specified may include a requirement or condition that the burning of fire breaks or of inflammable matter or other material—

15 (a) shall, in a fire district constituted under the Fire Brigades Act, 1909-1949, be carried out by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;

20 (b) shall, outside any such fire district, be carried out by or under the supervision of the bush fire brigade specified in the notice or the captain or deputy captain of such bush fire brigade or any fire control officer.

25 (5) Where a council by notice in writing requires the occupier or owner of any land to burn fire breaks or inflammable matter or other material and the land on which such fire breaks or inflammable matter or other material are or is to be burnt is within five miles of any
30 national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such notice shall, within twenty-four hours after the same has been given, be sent by such council to a forestry officer attached to such forest or reserve.

35 14. (1) If within the time specified in any notice under section thirteen of this Act the owner or occupier to whom it is given fails to comply with any requirement thereof any servants, agents or workmen of the council
Councils may authorise persons to enter land and make fire breaks or clear inflammable material.
OR material.

Bush Fires.

or any officers or members of any fire brigade or bush fire brigade authorised by the council may, without prejudice to the liability of the owner or occupier, enter upon the land and do all such acts, matters and things
5 as the owner or occupier was required to do, and the expenses of doing such acts, matters or things shall be borne by and may be recovered as a debt from such owner or occupier by the council in any court of competent jurisdiction.

10 (2) Where any servants, agents or workmen of a council or any officers or members of any fire brigade or bush fire brigade are authorised under subsection one of this section to enter any land and light any fire and the land on which such fire is to be lit is within
15 five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a notification in writing stating the time at which or the period within which such fire is to be lit shall be sent by the council to a forestry officer
20 attached to such forest or reserve.

15. (1) If the owner or occupier of any land clears the same of all inflammable matter for a space of not less than twenty feet wide from any fence dividing such land from the land of any other owner or occupier, and such
25 other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence from such neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own expense cause such fence to be repaired or
30 re-erected within one month after the same has been so damaged, or within such extended period as may be allowed by a stipendiary magistrate on application made to him in a summary way. Reasonable notice of any such application shall be given to the owner or occupier
35 who has cleared his land.

Damage by fire to dividing fence caused by negligence of owner or occupier of land to be made good by him.

Act No. 28, 1912, s. 5.

(2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time as may be allowed in pursuance of subsection one of this
40 section, the owner or occupier of the land contiguous to the

Bush Fires.

the said fence who has cleared the same of inflammable matter as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended or laid out under the provisions of subsection two of this section shall be deemed to be money paid to the use of the owner or occupier in default.

(4) Any owner or occupier, who has cleared his land in the manner referred to in subsection one of this section, may enter the land of an adjoining owner or occupier, who has neglected or omitted so to clear his land, without any liability for trespass or action for compensation for any damage done by him, and take all necessary steps to extinguish any unattended fire which at its closest point has approached to within twenty chains of and endangers his land or any fence or property thereon.

(5) The owner or occupier of land which adjoins any Crown land not held under lease or license nor vested in nor under the control of trustees may enter upon such land for the purpose of clearing, making and maintaining thereon fire breaks not more than sixty-six feet wide along the boundary of such land.

Fire breaks
on Crown
lands.

16. (1) Where the Minister is of opinion that it is necessary or expedient in the interests of public safety so to do, he may by notification published in the Gazette or in a newspaper circulating in the area or areas to which the direction relates, direct that—

Lighting
of fires
prohibited
in emergent
circum-
stances.

Act No. 28,
1912, s. 4B.

- (a) the lighting of any fire or class of fire in the open air is prohibited in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (b) such special conditions as may be specified in such notification be observed by persons lighting any fire or class of fire in the open air in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (c) such action as may be specified in such notification be taken in such area or areas or part or parts thereof and by such persons or class

Bush Fires.

class of persons as may be specified in such notification for preventing the outbreak or the spread of any bush fire or for controlling or extinguishing any bush fire.

5 (2) Where the Minister is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and that it is impracticable to give any directions under
10 paragraph (a) of subsection one of this section in the manner prescribed by that subsection such directions may be given by or on behalf of the Minister verbally or in such other manner including aerial broadcast as the Minister deems expedient.

15 (3) The Minister may by writing under his hand delegate all or any of his powers or functions under this section (except this power of delegation) to the council of an area so that the delegated powers or functions with respect to the matters or class of matters
20 specified in the instrument of delegation may be exercised by that council in respect of the area of which it is the council.

Every delegation under this subsection shall be revocable at will and no delegation shall prevent the
25 exercise of any power or function by the Minister.

Where in this section the exercise of any power or function by the Minister or the operation of any provision of this section is dependent upon the opinion of the Minister in relation to any matter that power or
30 function may be exercised by the delegate or that provision may operate, as the case may be, upon the opinion of the delegate in relation to that matter.

(4) Any person who fails to comply with any direction given by the Minister or the council of an
35 area under or pursuant to the provisions of this section shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(5)

Bush Fires.

(5) The provisions of this section shall have effect notwithstanding anything contained in this Act (section seventeen excepted) or any other Act to the contrary.

- 5 **17.** (1) Where the Minister is of opinion that a state of emergency exists and it is necessary or expedient in the interests of public safety so to do, he may authorise or direct the Commissioner of Police or any member of the Police Force or any officer or employee of the Board
 10 of Fire Commissioners of New South Wales or of the Forestry Commission of New South Wales or any officer or employee appointed or employed under the provisions of the Public Service Act, 1902, or any other person whomsoever to take charge of bush fire fighting
 15 operations in any area or locality.

Minister
empowered
to appoint
any person
to take
charge of
bush fire
fighting
operations
when state
of emer-
gency
exists.

- Where any person is so authorised or directed by the Minister pursuant to this section all councils, captains, deputy captains, group captains and deputy group captains of bush fire brigades, fire control officers,
 20 fire patrol officers, officers and employees of the Board of Fire Commissioners of New South Wales and the Forestry Commission of New South Wales, members of the Police Force and other persons, shall comply with any direction given by such person in connection with the
 25 suppression or control of any fire which is burning in any area or locality in respect of which such person has been so authorised or directed.

- A state of emergency may be deemed to exist where the Minister is of the opinion that any bush fire has
 30 assumed such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning.

- (2) Any person failing to observe any direction given pursuant to this section by a person authorised or
 35 directed by the Minister shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(3)

Bush Fires.

(3) The provisions of this section shall have effect notwithstanding anything contained in this or any other Act to the contrary.

- 18.** Any person who contravenes or fails to comply Penalties.
 5 with any provision of this Part of this Act or with the conditions of any permit granted under this Part of this Act or with the requirements of any notice given by a council under section thirteen of this Act or is guilty of an offence against this Part of this Act shall, where no
 10 other penalty is expressly provided, be liable for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment and for any subsequent offence to a penalty not exceeding
 15 two hundred pounds or to imprisonment for a term not exceeding two years or to both such penalty and imprisonment.

PART III.

BUSH FIRE BRIGADES.

- 20 **19.** Bush fire brigades may be formed or organised— Formation
of bush
fire
brigades.
 (a) by a council within its area or any part thereof not being within a fire district constituted under the Fire Brigades Act, 1909-1949;
 25 (b) by two or more councils jointly within the areas of such councils or any parts thereof not being within a fire district so constituted;
 (c) by the Minister where he is of the opinion that the formation of a bush fire brigade in any area or part thereof, not being within a fire district so
 30 constituted, is necessary and the council of such area has failed or refused to comply with a request by the Minister to form or organise a bush fire brigade;
 (d)

Bush Fires.

- (d) by the Minister in any locality in the Western Division not being within a fire district so constituted;
- 5 (e) by the Minister and one or more councils jointly in the areas of such councils or any parts thereof not being within a fire district so constituted and any locality in the Western Division adjoining such areas or parts thereof not being within a fire district so constituted.
- 10 **20.** The council, or Minister, or the Minister and council or councils, as the case may be, by whom any bush fire brigades are formed or organised—
- (a) shall determine the territory in respect of which such bush fire brigades may operate, and
- 15 (b) may appoint a captain and deputy captains of bush fire brigades so formed or organised and a group captain and deputy group captains of any two or more bush fire brigades formed or organised within an area.
- 20 **21.** The captains, deputy captains, group captains and deputy group captains of bush fire brigades shall have and may exercise such powers, authorities, duties and functions as are conferred and imposed upon them under this Act or the regulations thereunder.
- 25 **22.** (1) A bush fire brigade captain or group captain, or in the absence of the bush fire brigade captain or group captain the deputy bush fire brigade captain or deputy group captain or the senior deputy bush fire brigade captain or senior deputy group captain may,
- 30 for the purpose of the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger—
- (a) enter any land or building of any person;
- 35 (b) cause any road or public place in the vicinity of the bush fire to be closed to traffic, other than traffic of the Naval, Military or Air Forces of His Majesty, or of any power which is allied or associated with His Majesty in any war in which His Majesty is engaged;
- (c)

Area of operations and appointment of personnel of bush fire brigades.

Powers of captains, deputy captains, etc.

Powers of bush fire brigade captains, group captains and deputy captains.

Bush Fires.

- (c) pull down, cut and remove or cause to be pulled down, cut and removed, fences on any land;
- 5 (d) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
- (e) destroy or remove or cause to be destroyed or removed any living or dead vegetation;
- 10 (f) burn, plough or clear fire breaks on any land or cause fire breaks to be burnt, ploughed or cleared on any land;
- (g) take and use free of charge any water from any source whatsoever on any land;
- 15 (h) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- 20 (i) do any other act, matter or thing which is necessary for or incidental to the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger or the effective exercise of any of the powers conferred by this subsection.

25 (2) The powers conferred by subsection one of this section may, subject to sections sixteen and seventeen of this Act, be exercised notwithstanding any other provisions of this Act:

Limitation
of powers
of such
captains
on lands
controlled
by certain
public
authorities.

30 Provided that such powers shall not be exercised on or in connection with any land or property vested in or under the control of—

- (a) the Commissioner for Railways—unless permission has been granted by such Commissioner or some person authorised by him in that behalf;
- 35 (b) the Forestry Commission of New South Wales—unless permission has been granted by a person authorised by such Commission in that behalf.

Bush Fires.

(3) The powers conferred by the foregoing provisions of this section on a person referred to in subsection one of this section may be exercised within the territory of the bush fire brigade or brigades to which
5 such person has been appointed and may also be exercised outside such territory:—

- 10 (a) in relation to a bush fire which has passed from or is approaching such territory and is not within the territory of any other bush fire brigade;
- 15 (b) in relation to a bush fire which is within any area (whether or not such area is the area within which the bush fire brigade was formed or organised and whether or not the fire is within the territory of any other bush fire brigade)
where the exercise of such powers is sanctioned by the mayor, president, or clerk of the council of such area;
- 20 (c) in relation to a bush fire which is in any locality (whether or not such locality is within the territory of another bush fire brigade) where the exercise of such powers in such locality has been directed or sanctioned by the Minister;
- 25 (d) in relation to a bush fire within the territory of any bush fire brigade (not being a bush fire brigade within the area of any council) where the exercise of such powers in such territory has been sanctioned by the captain of any such bush fire brigade;
- 30 (e) in relation to a bush fire which is within any fire district constituted under the Fire Brigades Act, 1909-1949, where the exercise of such powers in such fire district is sanctioned by the officer or other person in charge of the fire
35 brigade in such fire district;
- (f) in relation to a bush fire which is within a bush fire district where the exercise of such powers in such bush fire district is sanctioned by the fire control officer.

(4)

Bush Fires.

(4) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(5) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection four of this section shall be void and of no effect.

23. A captain, deputy captain, group captain or deputy group captain or any member of a bush fire brigade shall not, merely by reason of the authority granted him to exercise any powers or carry out any duties under this Act, be deemed to be a servant of a council or of the Minister, as the case may be.

24. The powers and authorities conferred upon a captain, deputy captain, group captain or deputy group captain under this Act in respect of a bush fire may be exercised by a captain, deputy captain, group captain, or deputy group captain at any fire of any kind within the territory of the bush fire brigade if, in his opinion, the fire is out of control.

PART IV.

25 BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

25. The Governor may, from time to time, upon application by a council and upon the recommendation of the Committee, declare by proclamation published in the Gazette the area of such council or part thereof (not being within a fire district constituted under the Fire Brigades Act, 1909-1949, a national forest, State forest, timber reserve or flora reserve, under the Forestry Act, 1916-1949, or any other Act) to be a bush fire district for the purposes of this Act:

Provided

Bush Fires.

Provided that, in the event of any bush fire district or part thereof being constituted a fire district under the Fire Brigades Act, 1909-1949, such bush fire district or part thereof shall cease to be a bush fire district for
5 the purposes of this Act.

26. (1) Where any area has been proclaimed a bush fire district the Minister shall upon the recommendation of the Committee appoint a person as fire control officer for that district for such period or periods as he thinks
10 fit.

(2) Where any area or part thereof has been proclaimed a bush fire district and such district adjoins a fire district constituted under the Fire Brigades Act, 1909-1949, the person to be appointed as fire control
15 officer under this section shall where practicable be the officer-in-charge of such fire district.

27. A fire control officer appointed under this Part of this Act shall have all the powers and immunities conferred upon any captain of a bush fire brigade by
20 Part III of this Act.

Notwithstanding anything contained in Part III of this Act a fire control officer—

- (a) shall have the supervision and direction of all bush fire brigades in the bush fire district to
25 which he has been appointed and of the captains, deputy captains, group captains or deputy group captains of such brigades;
- (b) shall have the right to use any fire fighting apparatus in such bush fire district;
- 30 (c) shall inspect all fire fighting apparatus in such bush fire district;
- (d) shall take all necessary measures for extinguishing fires in such bush fire district and protecting and saving life and property
35 in case of fire.

Bush Fires.

PART V.

FIRE REGIONS.

28. (1) The Governor, upon the recommendation of the Minister for Local Government, may, from time to time, by proclamation published in the Gazette, proclaim parts of the Eastern and Central Divisions as fire regions for the purposes of this Act and may, in like manner—

Division of
State into
fire
regions.
cf. Act No.
5040 Vic.
s. 14.

(a) abolish any fire region; or

(b) alter any existing fire region.

(2) The boundaries of fire regions shall, as nearly as practicable, be coincident with the boundaries of areas.

(3) The sub-committee of the Committee may, and if requested by the Minister for Local Government so to do shall, prepare and submit to him proposals for the purpose of giving effect to this section.

PART VI.

EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

29. (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Eastern and Central Divisions Bush Fire Fighting Fund.

Eastern and
Central
Divisions
Bush Fire
Fighting
Fund.

(2) All moneys received under this Part of this Act shall be paid into such Fund and the cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act in addition to all expenditure on bush fire fighting in the Eastern and Central Divisions shall, subject to the provisions of this Act, be paid out of the said Fund.

(3)

Bush Fires.

(3) The cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act shall
5 not, during any financial year, exceed ten per centum of the total expenditure from the Fund in respect of such financial year.

(4) The certificate of the Minister for Local Government shall be accepted as conclusive evidence as
10 to the cost of administration of this Part of this Act and all expenses incurred by him in the exercise of his powers, authorities and functions pursuant to this Part of this Act.

30. (1) (a) As soon as practicable after the com-
15 mencement of this Act the Minister for Local Govern-
ment shall prepare—

Estimate
to be
prepared by
Minister
for Local
Government.

(i) an estimate of the probable expenditure from
the Fund during the period from the commence-
ment of this Act to the thirtieth day of June
20 then next ensuing, which period is hereinafter
referred to as the first financial year;

(ii) an estimate of the parts of such expenditure
applicable to each fire region.

(b) Before the end of the first financial year
25 and each succeeding financial year the Minister for Local
Government shall prepare—

(i) an estimate of the probable expenditure from
the Fund during the then ensuing financial year;

(ii) an estimate of the parts of such expenditure
30 applicable to each fire region.

(2) The Minister for Local Government shall so
prepare such estimate that the amount of the contribution
to be paid by a council shall not exceed one-twentieth of
a penny in the pound on the unimproved capital value
35 of ratable land in the area of such council (not being land
within a fire district constituted under the Fire Brigades
Act, 1909-1949).

(3)

Bush Fires.

(3) Before preparing the estimate the Minister for Local Government shall consider the report and recommendation of the sub-committee of the Committee in respect of the matters referred to in subsection one
5 of this section.

31. For the purpose of enabling the Minister for Local Government to prepare the estimates referred to in section thirty of this Act a council or bush fire brigade or the trustees of any supervised park or a fire control
10 officer shall, at such times and in such manner as the Minister for Local Government may require, furnish to him such information relative to the bush fire brigades or other fire fighting personnel, the fire fighting apparatus of such bush fire brigades or personnel and such other
15 matters relating to the organisation of such bush fire brigades or personnel as he may require.

Councils,
etc., to
furnish
information
to Minister
for Local
Government.

32. (1) Towards the estimate referred to in subsection one of section thirty of this Act—

Contribu-
tions by the
Colonial
Treasurer,
councils and
insurance
companies.

- 20 (a) the Colonial Treasurer shall contribute one-quarter;
(b) councils the areas of which are situated in the Eastern and Central Divisions wholly or partly outside any fire district constituted under the Fire Brigades Act, 1909-1949, shall contribute
25 one-quarter. Such contribution shall be paid out of the general funds of such councils;
(c) insurance companies shall contribute one-half.

(2) The amounts to be so contributed shall be paid in equal quarterly instalments on the first day of
30 July, the first day of October, the first day of January and the first day of April respectively in each financial year:

Contribu-
tions to be
paid
quarterly.

Provided that the Governor may by proclamation direct the manner and the times of payment in respect
35 of the first financial year.

(3) The Colonial Treasurer may, in addition to the contribution to the Fund under subsection one of this section, from time to time advance such moneys to the Fund subject to such terms and conditions as he may
40 determine.

Advances to
Fund by
Colonial
Treasurer.

(4)

Bush Fires.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

(5) Where it is shown to the Governor that the
5 danger from bush fires in an area is negligible he may exempt the council of that area from making contributions to the Fund:
Exemption of council from contributing to Fund.

Provided that no exemption shall be granted except upon the recommendation of the Committee.

10 (6) Where the council of any area has been exempted under subsection five of this section from making contributions to the Fund no payment shall be made in or towards any of the purposes specified in section thirty-seven of this Act for the benefit of the area
15 in respect of which such exemption has been granted.
Payments not to be made to any council exempted from contributing.

33. (1) The contributions of councils shall be determined as follows:—
Determination of contributions of councils.

(a) That part of the estimated expenditure applicable to any fire region which is to be contributed
20 by councils shall be contributed by those councils the areas or any parts of which lie within the fire region.

(b) The total amount of the contribution of any
25 council shall be absolutely determined by the Minister for Local Government.

(2) The amount of the contribution payable by any council may be raised if necessary, and notwithstanding any statutory limit of such rates, by an increase of the general rate by such a sum in the pound as will be
30 sufficient to provide the amount of the contribution, and such increase shall for all purposes be deemed to form part of such general rate.

(3) Every council and every officer thereof shall, when so required by the Minister for Local Government,
35 furnish him with all such documents, papers and information as he may require to determine the contribution of the council.

Bush Fires.

34. The contributions of the respective insurance companies shall be determined as follows:—

Determina-
tion of con-
tributions of
insurance
companies.

- 5 (a) Every insurance company shall, before the last day 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 showing the total amount of the premium income received by or due to such company during the year ending the thirty-first day of December then last past in respect of insurance of any property whatsoever situated within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning less any part of such premium income actually paid by way of re-insurance to any other companies contributing under this Part of this Act together with a statutory declaration by the manager, secretary or agent in the State of such company that to the best of his knowledge, information and belief, such return is a true return of such amount. If any such company fails to send such return 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.
- 20
- 25
- 30 (b) The amount to be contributed by each such company shall bear the same proportion to the whole contribution by insurance companies as the amount of premium income shown in the company's return bears to the aggregate amount of premium income shown in all such returns.
- 35

35. (1) If, in any financial year, the amount received by the Minister for Local Government from contributions under this Part of this Act falls short of the expenditure based on the estimate for that financial year, the deficit shall be added to the estimate of expenditure for the ensuing

Deficits, etc.
cf. Act No.
5040 Vic.
s. 57.

Bush Fires.

ensuing year and, subject to subsection two of section thirty of this Act, the contributions shall be increased accordingly, but if the amount received by the Minister for Local Government in any financial year, from contributions under this Part of this Act exceeds the expenditure based on the estimate for that financial year, then the excess shall be treated as a credit in favour of the estimated income of the ensuing year and the contributions reduced accordingly.

(2) For the purposes of subsection one of this section any deficit or excess in respect of any financial year shall be the deficit or excess as certified by the Auditor-General.

36. (1) Contributions payable under this Part of this Act shall become due and payable upon assessment by the Minister for Local Government and any such contribution not paid within sixty days of the date of assessment shown on the assessment notice shall, unless the Minister for Local Government otherwise determines, be increased by ten per centum of the amount of the contribution payable.

Contributions due and payable within sixty days of assessment.

(2) Contributions or any part thereof not paid by any insurance company or council within ninety days of the date of assessment and all penalties incurred in respect thereof shall constitute a debt due and payable to the Minister for Local Government and shall be recoverable in any court of competent jurisdiction by the Minister for Local Government.

37. (1) Moneys to the credit of the Fund may be applied in the Eastern and Central Divisions by the Colonial Treasurer in or towards—

Application of moneys to credit of Fund.

- (a) the purchase of fire fighting apparatus of all kinds for bush fire brigades formed or organised under this Act, fire control officers or the trustees of supervised parks;
- (b) the maintenance of fire fighting apparatus in the possession of or available to such bush fire brigades, fire control officers or trustees of supervised parks;

(c)

Bush Fires.

- (c) the erection and maintenance of buildings for the storage of fire fighting apparatus of such bush fire brigades, fire control officers or trustees of supervised parks;
- 5 (d) the construction and maintenance of water storage tanks and lookout towers;
- (e) the purchase, maintenance and storage of reserves of fire fighting apparatus for use in any emergency;
- 10 (f) the payment of salaries or allowances of fire control officers or inspectors appointed under this Act;
- (g) the payment of such expenditure by or on behalf of councils, bush fire brigades, fire control officers or the trustees of supervised parks for or in connection with the prevention, control or suppression of bush fires as is approved by the Minister for Local Govern-
15 ment;
- 20 (h) any measures generally for the prevention, detection, control and suppression of bush fires including aerial reconnaissance.

(2) The Colonial Treasurer may pay such moneys out of the Fund upon the certificate of the Minister for
25 Local Government.

(3) All fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be vested in the council of the area for or on behalf of which such
30 apparatus, buildings, water storage tanks or lookout towers have been purchased or constructed as the case may be:

Provided that, in the case of any fire fighting apparatus, buildings, water storage tanks or lookout towers
35 purchased or constructed on behalf of the trustees of any supervised park such apparatus, buildings, water storage tanks or lookout towers shall be vested in the trustees of such supervised park.

(4)

Bush Fires.

(4) A council or the trustees of any supervised park shall not sell or otherwise dispose of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund without the consent in writing of the Minister for Local Government having been first obtained.

(5) The proceeds of the sale of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be paid to the credit of the Fund.

38. (1) The Minister for Local Government shall, as soon as practicable after the end of each financial year, furnish to both Houses of Parliament a report upon the administration of the Fund during that financial year together with a balance-sheet and statement of receipts and expenditure during that financial year duly audited by the Auditor-General.

Financial statements.

(2) The Minister for Local Government shall as soon as practicable after such report, balance-sheet and statement have been furnished to Parliament as aforesaid, furnish to each council and each insurance company contributing to the Fund a true copy of such report, balance-sheet and statement.

25

PART VII.

GENERAL.

39. (1) There shall be constituted a Bush Fire Committee consisting of twenty persons which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Committee by this Act.

Constitution of Bush Fire Committee.

(2) The members of the Committee and the chairman thereof shall be appointed by the Governor.

Of the members so appointed:—

(i) one shall be a person nominated by the Fire and Accident Underwriters' Association of New South Wales as representative of such Association;

(ii)

Bush Fires.

- (ii) at least one shall be an officer of the Chief Secretary's Department;
- (iii) one shall be an officer of the Department of Local Government;
- 5 (iv) one shall be a person nominated by the Shires Association of New South Wales as representative of such Association;
- (v) one shall be a person nominated by the Association of Local Government Clerks of New South Wales as representative of such Association.
- 10 (3) The persons who, immediately before the commencement of this Act, were the members of the Bush Fires Advisory Committee shall, upon such commencement, be deemed to have been appointed under
- 15 this Act as members of the Committee.
- (4) Any member of the Committee may resign his office by writing under his hand addressed to the Governor.
- (5) Meetings of the Committee shall be held
- 20 from time to time on the requisition of the chairman. Meetings.
- (6) There shall be a Standing Committee of the Committee consisting of the chairman of the Committee and five other members elected by the Committee from among its members. The Standing Committee shall meet
- 25 at least once each month. The chairman of the Committee shall be the chairman of the Standing Committee. Standing Committee.
- (7) For the purposes of sections twenty-eight and thirty of this Act there shall be constituted a sub-committee of the Committee consisting of the chairman
- 30 and the members referred to in paragraphs (i) (iii) and (iv) of subsection two of this section and where one member is appointed under paragraph (ii) of the said subsection such member or where more than one member is so appointed such member as the Minister selects. The
- 35 chairman of the Committee shall be the chairman of the sub-committee. Sub-committee for purposes of ss. 28 and 30.
- (8) Five members shall constitute a quorum of the Committee, four members shall constitute a quorum of the Standing Committee and three members shall
- 40 constitute a quorum of the sub-committee.

(9)

Bush Fires.

(9) Each member of the Committee shall be entitled to receive such travelling or other expenses as the Minister may determine and such other fees as may be prescribed.

5 (10) Any moneys payable under subsection nine of this section shall be paid out of moneys provided by Parliament.

10 (11) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

15 (12) The office of a member of the Committee shall not for the purposes of the Constitution Act, 1902, or any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

40. (1) The Committee shall—

Functions
of
Committee

20 (a) furnish reports and recommendations upon any matter referred to it by the Minister or the Minister for Local Government pursuant to this Act;

25 (b) carry out such functions of an advisory or educational character as the Minister may direct;

30 (c) before the thirtieth day of April in each year furnish a report to the Minister and the Minister for Local Government of the estimated damage from bush fires in New South Wales during the preceding twelve months together with recommendations as to any special measures which should be adopted for the purpose of preventing, controlling or suppressing bush fires during the year next ensuing;

35 (d) in conjunction with councils foster and encourage the formation or organisation of bush fire brigades and assist the Minister in the formation or organisation of bush fire brigades in the Western Division;

(e)

Bush Fires.

5 (e) generally take all practicable measures to educate persons in the need for preventing, suppressing and controlling bush fires and make recommendations to the Minister, councils and other persons as to the best measures to be taken for preventing or extinguishing fires.

(2) The Committee may—

10 (a) subject to the approval of the Minister, contract for the carrying out of aerial reconnaissance of the State or part or parts thereof for the detection of fire;

15 (b) for the purpose of improving the efficiency of bush fire brigades and other fire fighting personnel, organise or conduct competitions and provide prizes and certificates for presentation to brigades and competitors thereat.

(3) Any moneys payable under this section shall be paid out of moneys provided by Parliament.

20 **41.** Any council, bush fire brigade formed or organised by the Minister, fire control officer, or trustees of any public reserve or park, shall, at such times and in such manner as the Committee may require, furnish to the Committee such information relating to bush fire brigades or other fire fighting personnel, fire fighting apparatus
25 of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as the Committee may require.

Councils and other bodies to furnish information to Committee.

30 **42.** (1) Members of the police force, public school teachers, field officers of the Departments of Lands, Agriculture and Conservation, the Forestry Commission of New South Wales and of all Pastures Protection Boards, members and officers of councils, members of the Committee, inspectors of fisheries, and rangers appointed under the Metropolitan Water, Sewerage, and
35 Drainage Act, 1924-1949, shall, by virtue of their office, be fire patrol officers and have the powers and authorities prescribed by this Act or by the regulations.

Appointment of fire patrol officers and honorary fire patrol officers.

(2)

Bush Fires.

(2) The Minister may by notice in the Gazette appoint honorary fire patrol officers who shall have the powers and perform the duties of fire patrol officers.

(3) All honorary rangers appointed under the
5 Careless Use of Fire Act, 1912-1946, and holding office immediately before the commencement of this Act shall be deemed to be honorary fire patrol officers under this Act and shall have the powers and perform the duties of fire patrol officers.

10 **43.** Every fire patrol officer is hereby empowered without any let or hindrance whatsoever to enter at any time any land and examine any fire in the open air which he has reason to believe has been lit or maintained or used in contravention of this Act or the regulations and
15 do all other such acts and things as he is required to do by this Act and the regulations.

Fire patrol officers empowered to enter land.

44. (1) Any fire patrol officer may require any person—

Powers of fire patrol officers.

- 20 (a) reasonably suspected to be offending against any of the provisions of this Act or the regulations to give his name in full and place of abode;
- (b) reasonably suspected to be offending against any of the provisions of this Act or the regulations to produce any permit notice or other document
25 by or under the authority of which it is claimed by such person that any fire has been lit maintained or used;
- (c) who has lit a fire in contravention of the provisions of this Act or the regulations to
30 extinguish such fire;
- (d) who has lit or used a fire in the open air to extinguish such fire before leaving it.

(2) If such person, after being so required, refuses to give his real name or place of abode or gives
35 a false or fictitious name or place of abode or refuses to produce any permit notice or other document or refuses to extinguish any fire, he shall be guilty of an offence against this Act and be liable for every such offence to a penalty not exceeding five pounds.

45.

Bush Fires.

45. A fire patrol officer shall promptly notify any outbreak of fire which comes to his notice to—

Fire patrol officers to notify outbreaks of fire.

- (a) the owner or occupier of the land upon which such outbreak occurs;
- 5 (b) the owners or occupiers of any lands which may be threatened or endangered by the spread of fire;
- 10 (c) the nearest member of the police force or any fire brigade or bush fire brigade or other authority whose duty it may be to control or extinguish fires in the district in which the outbreak occurs.

46. (1) The Governor may appoint inspectors for the purposes of this Act.

Inspectors.

- 15 (2) The duties of an inspector shall include—
- (a) inspecting and reporting to the Minister and the Minister for Local Government upon the fire fighting apparatus of councils, bush fire brigades, fire control officers and the trustees of supervised parks;
- 20 (b) investigating and verifying claims by councils, bush fire brigades, fire control officers and the trustees of supervised parks for payments from the Fund;
- 25 (c) reporting from time to time to the Committee upon conditions of fire risk in any part of the State;
- 30 (d) submitting to the Committee recommendations as to any special measures which, in the opinion of the inspector, should be adopted for the purpose of preventing, controlling or suppressing bush fires.

47. Except as in this Act otherwise expressly provided nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by any bush or other fire to which this Act relates or for any trespass committed.

Liability of persons in respect of loss or damage caused by bush or other fires.

Bush Fires.

48. No proceedings whether at law or in equity shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Minister for Local Government, a member of the Committee, a council, an officer or employee of the Board of Fire Commissioners of New South Wales or the Forestry Commission of New South Wales, a fire control officer, a fire patrol officer, a captain, deputy captain, group captain or deputy group captain of a bush fire brigade, or any person acting in the execution or intended execution of this Act in respect of anything done bona fide under and for the purposes of this Act.

Proceedings not to lie against persons acting bona fide under and for the purposes of Act.

49. Whosoever fails to do any act directed to be done or does any act forbidden to be done by or under this Act or any regulation shall be guilty of an offence against this Act.

Penalties.

Any person who is guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

50. Whosoever, without lawful authority, destroys, defaces or removes any notice displayed under this Act or the regulations or under the authority of the Minister or the Committee or a council or any public authority in pursuance of this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding ten pounds.

Destruction, etc., of notices.

51. (1) Where a bush fire is burning on any land and such bush fire or any part thereof is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, any officer of the Forestry Commission of New South Wales or any person or persons authorised by that Commission in that behalf may enter upon such land or upon any land situated between such land and such national forest, State forest, timber reserve or

Powers of officers of Forestry Commission where a bush fire is burning on any land within five miles of a State forest, etc.

flora

Bush Fires.

flora reserve, with such vehicles and fire fighting apparatus as may be reasonably necessary for the purpose of extinguishing or assisting to extinguish such fire, and may do all such acts, matters and things as are
 5 reasonably necessary to extinguish such fire or to prevent the spread thereof.

(2) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be
 10 damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(3) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the
 15 operation of subsection two of this section shall be void and of no effect.

52. Where a fire (not being a fire or part of a fire lit under the authority of this Act or any other Act) is burning on any land at any time during a bush fire
 20 danger period applicable to such land the occupier of such land shall, immediately upon becoming aware of such fire and whether he has lit or caused the same to be lit or not, take all possible steps to extinguish such fire and, if he is unable without assistance to extinguish
 25 the same and any practicable means of communication are available, shall, where practicable without leaving the fire unattended, inform or cause to be informed—

Responsi-
 bility of
 occupiers to
 extinguish
 fires or
 notify them
 to fire
 fighting
 authorities.
 cf. Act No.
 5040 Vic.,
 s.35.

(a) where the fire is burning within any fire district constituted under the Fire Brigades Act, 1909-
 30 1949,—the nearest available officer or fireman of the fire brigades in such district;

(b) where the fire is burning outside any such fire district—the nearest available captain or deputy captain or member of a bush fire brigade or
 35 fire control officer or fire patrol officer or officer of the Forestry Commission of New South Wales,

of the existence and locality of such fire.

Bush Fires.

53. (1) Any of the following purposes shall be deemed to be a general purpose within the meaning of subsection two of section one hundred and seven of the Local Government Act, 1919, as amended by subsequent Acts—

General
fund of
councils.

- (a) the purchase, distribution, maintenance and storage of fire fighting apparatus for the prevention, control and suppression of bush and other fires;
- 10 (b) the organising of bush fire brigades and such matters as are relevant thereto, including the establishment of fire stations and fire control centres;
- 15 (c) the establishment and maintenance of fire breaks;
- (d) the removal or destruction of inflammable matter;
- (e) the taking of measures generally for the prevention, control or suppression of bush fires.

20 (2) For the purposes of section one hundred and twenty of the Local Government Act, 1919, as amended by subsequent Acts, any work relating to the prevention and suppression of bush and other fires shall be deemed to be a purpose which may be lawfully undertaken by
25 a council and in respect of which special rates may be made and levied by a council.

54. It shall be the duty of the council of any area or any public authority to take all practicable steps to prevent the occurrence of fires on and to minimise the
30 danger of the spread of fires on or from—

Duty of
councils
and public
authorities
to prevent
fires.

- (a) any land vested in or under its control or management; or
- 35 (b) any highway, road, street, lane or thoroughfare, the maintenance of which is charged upon such authority or council.

55.

Bush Fires.

55. (1) It shall be the duty of officers and members of the police force to support the authority of a captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer and to assist him and any person acting under his directions in enforcing compliance with any directions given in pursuance of this Act or any regulation.

Duty of officers and members of police force to support authority of captains, etc., of bush fire brigades and fire control officers.

(2) Any person who obstructs any captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer or a person acting under his directions shall be liable to a penalty not exceeding ten pounds.

56. (1) Except where otherwise expressly provided or allowed any notice or direction required by this Act to be given to any owner, occupier, or other person may be given as provided in this section.

Giving of notices.

(2) The notice or direction may be given—

(a) personally; or

(b) by delivering the same at or on the premises at which the person to whom the notice or direction is to be given lives or carries on business, and leaving the same with any person apparently above the age of fourteen years resident or employed thereat; or

(c) by posting the notice or direction by prepaid letter addressed to the last known place of abode or business of the person to whom the notice or direction is to be given.

57. (1) The Governor may make regulations not inconsistent with this Act 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.

Regulations.

(2)

Bush Fires.

(2) In particular and without limiting the generality of the power conferred by subsection one of this section the Governor may make regulations with respect to:—

- 5 (a) the method of establishing fire breaks on railway lands and, if such breaks are to be established by burning, the times at which and the conditions under which such breaks may be burned;
- 10 (b) the conditions under which fires for or in connection with charcoal or lime burning or for the distillation of eucalyptus or other oils or for the destruction of the waste products of such operations may be lit, maintained or used;
- 15 (c) the conditions under which fires for the purpose of cooking, heating or preparing meals or boiling water or for any like purpose may be lit, maintained or used;
- 20 (d) the use of phosphorus or other preparations for the extermination or suppression of noxious weeds or animals;
- (e) the conditions under which fires may be lit, maintained or used for or in connection with the taking of honey from beehives or in honey
- 25 houses or apiaries;
- (f) the conditions under which fires may be lit, maintained or used for or in connection with saw-mill operations;
- (g) the use or operation of producer-gas units and the precautionary measures to be taken to prevent fires resulting from the use or operation of the same;
- 30 (h) the use of appliances on and the precautionary measures to be adopted by persons driving or
- 35 controlling—
- (i) a traction engine; or
- (ii) an engine used for any agricultural purpose and in which wood, coal or coke fuel is burned;
- (iii)

Bush Fires.

- (iii) a motor tractor, steam tractor or power driven harvester or portable or other engine;
- 5 (iv) an engine used on any railway line or tram line,
in order to prevent the escape of dangerous sparks or burning or incandescent material from any such engines;
- 10 (i) approved fire appliances for use in connection with any traction engine or engine used for any agricultural purposes and in which wood, coal or coke fuel is burned or any motor tractor, steam tractor, power driven harvester or portable or other engine or any engine used on any
- 15 railway line or tram line;
- (j) the terms and conditions of employment of any fire control officer;
- (k) the storage in areas outside fire districts of any inflammable matter;
- 20 (l) the records to be kept and the procedure to be followed at meetings of the Committee;
- (m) the powers, authorities, duties and functions of captains, deputy captains, group captains or deputy group captains of bush fire brigades, fire control officers, or fire patrol officers;
- 25 (n) conditions under which fires may be lit, maintained or used for the destruction of any household or garden refuse or rubbish or for any like purpose;
- 30 (o) conditions under which fires may be lit, maintained or used for the destruction of the carcasses of animals;
- (p) the form of permits, notices, advertisements and notifications, issued by councils under this
- 35 Act;
- (q) the registration by councils of bush fire brigades and the members of such brigades;
- (r)

Bush Fires.

- (r) the keeping by councils and the trustees of supervised parks of records of the fire fighting apparatus of such councils or trustees;
- 5 (s) the prescribing of constitutions and rules for bush fire brigades;
- (t) the classification of substances as inflammable matter.

(3) A regulation may be made to apply or to have operation throughout the whole or any part of the State, 10 may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

(4) Such regulations shall—

- (a) be published in the Gazette;
- 15 (b) take effect from the date of publication or from a later date to be specified in such regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within four- 20 teen 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 25 such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

58. (1) The Local Government Act, 1919, as amended by subsequent Acts, is amended by omitting from sub- 30 section one of section 495A the words "or a dangerous menace from fire."

Amendment of Act No. 41, 1919, Sec. 495A. (Consequential.)

(2) The Workers' Compensation Act, 1926-1948, is amended by omitting from section 17B the definition of "Bush fire brigade" and by inserting in lieu thereof the 35 following definition:—

Amendment of Workers' Compensation Act, 1926-1948, Sec. 17B. (Consequential.)

"Bush fire brigade" means any bush fire brigade formed or organised under the Bush Fires Act, 1949.

SCHEDULE.

Bush Fires.

SCHEDULE.

Sec. 4.

Number of Act.	Name of Act.	Extent of repeal.
No. 28, 1912 ..	Careless Use of Fire Act, 1912.	The whole.
5 No. 41, 1919 ..	Local Government Act, 1919.	Paragraph (a) of subsection one and subsections four, five, six, seven and eight of section 494. Section 495. Paragraphs (r) and (s) of section 513.
10		
No. 14, 1930 ..	Bush Fires Act, 1930 ..	The unrepealed portion.
15 No. 41, 1932 ..	Local Government (Bush Fires) Amendment Act, 1932.	The whole except so much of paragraph (c) of subsection one of section 2 as inserts paragraph (t) in section 513 of the Local Government Act, 1919.
20		
No. 54, 1946 ..	Economic Stability and War-time Provisions Continuance Act, 1946.	Part VI.
25		

RECEIPTS

No.	Date	Particulars	Amount
1	1890	To Balance	100.00
2	1890	By Cash	50.00
3	1890	By Cash	25.00
4	1890	By Cash	15.00
5	1890	By Cash	10.00
6	1890	By Cash	5.00
7	1890	By Cash	2.50
8	1890	By Cash	1.25
9	1890	By Cash	0.62
10	1890	By Cash	0.31
11	1890	By Cash	0.16
12	1890	By Cash	0.08
13	1890	By Cash	0.04
14	1890	By Cash	0.02
15	1890	By Cash	0.01
16	1890	By Cash	0.00
17	1890	By Cash	0.00
18	1890	By Cash	0.00
19	1890	By Cash	0.00
20	1890	By Cash	0.00

No. , 1949.

A BILL

To make provision for the prevention, control and suppression of bush and other fires, and for the mitigation of dangers resulting from bush fires; to repeal the Careless Use of Fire Act, 1912-1946, and the Bush Fires Act, 1930; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. EVATT;—20 September, 1949.]

Bush Fires.

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Bush Fires Act, 1949."
- 10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
2. This Act is divided into Parts, as follows :—

Short title and commencement.
Division into Parts.

PART I.—PRELIMINARY.

- 15

PART II.—PREVENTION OF BUSH AND OTHER FIRES.

PART III.—BUSH FIRE BRIGADES.

PART IV.—BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

PART V.—FIRE REGIONS.

- 20

PART VI.—EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

PART VII.—GENERAL.

SCHEDULE.

- 3. Unless otherwise expressly provided nothing in this Act shall affect any of the provisions of the Fire Brigades Act, 1909-1949, the Forestry Act, 1916-1949, or the Soil Conservation Act, 1938-1949, or any by-laws or regulations made thereunder.

Construc-
tion.
- 30 4. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Repeal of
Acts.
- 5. (1) All proclamations, permits, notifications, notices, or directions published, granted, made or given under any enactment repealed by this Act and in force immediately before the commencement of this Act, shall continue in force and shall be deemed to have been published, granted, made or given under this Act.

Savings.

Bush Fires.

(2) All bush fire brigades organised under the Local Government Act, 1919, as amended by subsequent Acts, and in existence immediately before the commencement of this Act, shall continue in existence and shall be
5 deemed to be bush fire brigades organised under this Act.

(3) A bush fire brigade captain, or deputy bush fire brigade captain holding office as such under the Local Government Act, 1919, as amended by subsequent Acts,
10 immediately before the commencement of this Act, shall be deemed to have been appointed under this Act.

(4) All regulations made under the enactments repealed by this Act and in force immediately before the commencement of this Act shall, until repealed, replaced
15 or amended by regulations under this Act, continue in force, and shall be deemed to have been made under this Act.

6. In the Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

20 “Area” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

“Bush fire” includes a grass fire.

25 “Bush fire danger period” means a period proclaimed as such under this Act.

“Bush fire district” means any part of New South Wales proclaimed as a bush fire district under this Act.

30 “Committee” means the Bush Fire Committee constituted under this Act.

“Council” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes a county council within the meaning of that Act, as so amended.

35 “Eastern and Central Divisions” means the Eastern and Central Divisions of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

40 “Financial year” means the year ending on the thirtieth day of June.

“Fire

Bush Fires.

- “Fire control officer” means a fire control officer appointed under this Act.
- 5 “Fire fighting apparatus” includes all engines, vehicles, horses, reels, buckets, hoses, pumps, ladders, escapes, tanks, tools, radio equipment, implements and things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire.
- 10 “Fire patrol officer” means a fire patrol officer appointed under this Act.
- “Fire region” means any part of New South Wales proclaimed as a fire region under this Act.
- 15 “Fund” means the Eastern and Central Divisions Bush Fire Fighting Fund established under Part VI of this Act.
- 20 “Inflammable matter” includes all substances or matter capable of ignition or combustion by the application of heat or fire or by means of sparks or flame or by spontaneous causes together with all substances which are classified as inflammable matter by any regulation made under this Act.
- 25 “Insurance company” means any corporate body, company, partnership, association, underwriters or persons insuring any property outside a fire district constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning.
- 30 “Occupier” in relation to land means the person who has the management or beneficial use of the land whether residing thereon or not and, in relation to a public reserve or park, means the trustees thereof or any person having the care, control and management thereof.
- 35 “Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity—
- (a) is entitled to the land for any estate of freehold in possession; or
- (b)

Bush Fires.

- 5 (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Consolidation Act, 1913, or any other Act relating to the alienation of lands of the Crown; or
- 10 (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.
- "Prescribed" means prescribed by this Act or by the regulations.
- 15 "Public authority" means any board, commission, trust or other body, corporate or unincorporate, established or constituted by or under any Act for any public purpose, whether in respect of the whole or any part of New South Wales, but
- 20 does not include a council.
- "Regulations" means regulations made under this Act.
- "Supervised park" means any public reserve or park proclaimed as a supervised park under
- 25 this Act.
- "Western Division" means the Western Division of the State of New South Wales as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

30

PART II.

PREVENTION OF BUSH AND OTHER FIRES.

7. The Governor may from time to time by proclamation published in the Gazette declare any period to be a bush fire danger period.

Bush fire
danger
period.

Any

Bush Fires.

Any such proclamation may apply to the whole State or any part of the State specified therein and may declare different periods in respect of different parts.

5 8. The Governor may from time to time by proclamation published in the Gazette declare any public reserve or park to be a supervised park for the purposes of this Act. Supervised parks.

10 9. The Governor may from time to time by proclamation published in the Gazette revoke, amend or vary any proclamation made under this Act. Proclamations.

15 10. (1) No person shall light, maintain, or use, or cause to be lit, maintained or used any fire for the purpose of clearing any land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break unless he gives the prescribed notices to the prescribed persons. Requirements to be complied with by persons lighting certain classes of fires.

20 (2) (a) No person shall during the bush fire danger period light, maintain or use, or cause to be lit, maintained or used any fire, upon any land within any area in respect of which such bush fire danger period has been proclaimed, for the purpose of clearing such land of bush, stubble, scrub, timber, trees, grass or vegetative or other material or for burning any fire break, unless—

- 25 (i) he gives the notices required to be given under subsection one of this section;
- (ii) he has obtained a permit from the council of such area or a person authorised in that behalf by such council authorising him to light, maintain or use such fire; and
- 30 (iii) such fire is lit, maintained or used in accordance with the conditions (if any) attached to such permit.

(b) The provisions of paragraph (a) of this subsection relating to permits shall not apply to any fire lit, maintained, or used by or under the direction of a public authority.

(3) Any such permit shall be in writing and shall specify the duration thereof.

40 (4) Any such permit may be granted subject to such conditions as may be specified or referred to therein.

(5)

Bush Fires.

(5) (a) Such conditions may include a condition that any fire to be lit, maintained or used—

- 5 (i) in a fire district constituted under the Fire Brigades Act, 1909-1949, shall be lit, maintained or used by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;
- 10 (ii) outside any such fire district shall be lit, maintained or used by or under the supervision of the bush fire brigade specified in the permit or the captain or deputy captain of such bush fire brigade or any fire control officer.

(b) Such conditions shall include a condition that at least one person shall be present at the site of
15 the fire from the time it is lit till such time as it is extinguished.

(6) Where any permit is granted under this section by a council or any person authorised in that behalf by a council for the lighting, maintenance or use
20 of any fire and the land on which such fire is to be lit, maintained or used is within five miles of any national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such permit shall, within twenty-four hours of the
25 granting thereof, be forwarded by such council or such person to a forestry officer attached to such forest or reserve.

11. (1) A permit granted under section ten of this Act by a council or a person authorised in that behalf by
30 a council may be revoked, suspended or varied by such council or such person and notification of such revocation, suspension or variation shall be given in writing to the holder of such permit and to the forestry officer to whom a copy of such permit has been forwarded in accordance
35 with subsection six of section ten of this Act.

Revocation,
suspension
or variation
of permits.

(2) Where the council or any person authorised by the council to grant permits is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive
40 to the outbreak or spread of bush fires are imminent and it

Bush Fires.

it is impracticable to give the notification under subsection one of this section in the manner prescribed by that subsection such notification may be given by or on behalf of such council or such person verbally or in such other
5 manner including aerial broadcast as such council or such person deems expedient:

Provided that notification by aerial broadcast shall only be given when no other practicable method is available.

12. (1) Any person who—

Offences.

- 10 (a) sets fire or causes fire to be set to the land or property of another person, the Crown or any public authority under such circumstances as to cause or be likely to cause injury or damage to
15 such other person or his land or property or the land or property of the Crown or public authority;
(b) permits a fire to escape from his own land under such circumstances as to cause or be likely to cause injury or damage to the person, land or
20 property of another person or the land or property of the Crown or a public authority;
(c) sells, offers for sale, distributes or uses any wax matches or any matches other than those so made as to strike only on a preparation attached to
25 the containing box or a box containing the same description of matches;
(d) leaves whether temporarily or otherwise any fire which he has lit in the open air before the same is thoroughly extinguished;

30 shall be guilty of an offence against this Part of this Act.

(2) (a) The Governor may by proclamation published in the Gazette suspend the operation of paragraph (c) of subsection one of this section in any locality or localities specified in the proclamation for
35 such period or periods as may be specified in the proclamation.

(b) Nothing in paragraph (d) of subsection one of this section shall require any person to extinguish a fire in the open air which has been lit for the purpose
40 of cooking, heating or preparing meals or boiling water

or

Bush Fires.

or for any like purpose in accordance with the regulations if, at the time of his leaving it, such fire continues to be used by some other person.

(3) Any person who in any part of the State in respect of which a bush fire danger period has been proclaimed and during such bush fire danger period—

(a) ignites or uses or carries when ignited any cigarette, tobacco, cigar or match or any other burning or incandescent material within fifty feet of any stacks of grain, hay, corn or straw or any standing crops or stubble field;

(b) throws down or drops any lighted cigarette, tobacco, cigar or match or any other burning or incandescent material on any land,

shall be guilty of an offence against this Part of this Act.

13. (1) The council of an area may, by notice in writing, require the occupier (or where there is no occupier, the owner) of any land within the area—

Power given
to councils
to require
fire breaks.

(a) to plough, burn, clear or otherwise establish fire breaks on such land in the manner, within the time or at such times and at the places and to the widths specified in such notice, and thereafter to maintain such fire breaks;

(b) to remove, burn or destroy any inflammable matter or other material upon such land where the council is satisfied that the removal, burning or destruction thereof is necessary for the prevention of the outbreak, spread or extension of a bush fire or other fire.

For the purposes of this section the expressions “occupier” and “owner” shall not include a public authority.

(2) (a) A notice under paragraph (a) of subsection one of this section shall not operate to require an occupier or owner to kill or remove any living trees which are reasonably necessary for shade, shelter, windbreak or fodder purposes.

(b) A notice under paragraph (b) of subsection one of this section shall specify the time or times at

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at which or the period within which such removal, burning or destruction shall be carried out and may also specify the circumstances in which and the conditions under which such removal, burning or destruction shall
5 be carried out.

(3) An occupier or owner to whom a notice has been given under this section shall, notwithstanding the fact that a permit has not been granted under subsection two of section ten of this Act, comply with the require-
10 ments specified in the notice.

(4) The requirements and conditions so specified may include a requirement or condition that the burning of fire breaks or of inflammable matter or other material—

15 (a) shall, in a fire district constituted under the Fire Brigades Act, 1909-1949, be carried out by or under the supervision of the fire brigade in such district or the officer or fireman in charge of such fire brigade;

20 (b) shall, outside any such fire district, be carried out by or under the supervision of the bush fire brigade specified in the notice or the captain or deputy captain of such bush fire brigade or any fire control officer.

25 (5) Where a council by notice in writing requires the occupier or owner of any land to burn fire breaks or inflammable matter or other material and the land on which such fire breaks or inflammable matter or other material are or is to be burnt is within five miles of any
30 national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a copy of such notice shall, within twenty-four hours after the same has been given, be sent by such council to a forestry officer attached to such forest or reserve.

35 **14.** (1) If within the time specified in any notice under section thirteen of this Act the owner or occupier to whom it is given fails to comply with any requirement thereof any servants, agents or workmen of the council

Councils may authorise persons to enter land and make fire breaks or clear inflammable material.

OR

Bush Fires.

or any officers or members of any fire brigade or bush fire brigade authorised by the council may, without prejudice to the liability of the owner or occupier, enter upon the land and do all such acts, matters and things
 5 as the owner or occupier was required to do, and the expenses of doing such acts, matters or things shall be borne by and may be recovered as a debt from such owner or occupier by the council in any court of competent jurisdiction.

- 10 (2) Where any servants, agents or workmen of a council or any officers or members of any fire brigade or bush fire brigade are authorised under subsection one of this section to enter any land and light any fire and the land on which such fire is to be lit is within
 15 five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, a notification in writing stating the time at which or the period within which such fire is to be lit shall be sent by the council to a forestry officer
 20 attached to such forest or reserve.

15. (1) If the owner or occupier of any land clears the same of all inflammable matter for a space of not less than twenty feet wide from any fence dividing such land from the land of any other owner or occupier, and such
 25 other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence from such neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own expense cause such fence to be repaired or
 30 re-erected within one month after the same has been so damaged, or within such extended period as may be allowed by a stipendiary magistrate on application made to him in a summary way. Reasonable notice of any such application shall be given to the owner or occupier
 35 who has cleared his land.

Damage by fire to dividing fence caused by negligence of owner or occupier of land to be made good by him.
 Act No. 28, 1912, s. 5.

- (2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time as may be allowed in pursuance of subsection one of this
 40 section, the owner or occupier of the land contiguous to the

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the said fence who has cleared the same of inflammable matter as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended
5 or laid out under the provisions of subsection two of this section shall be deemed to be money paid to the use of the owner or occupier in default.

(4) Any owner or occupier, who has cleared his land in the manner referred to in subsection one of this
10 section, may enter the land of an adjoining owner or occupier, who has neglected or omitted so to clear his land, without any liability for trespass or action for compensation for any damage done by him, and take all necessary steps to extinguish any unattended fire which
15 at its closest point has approached to within twenty chains of and endangers his land or any fence or property thereon.

(5) The owner or occupier of land which
20 adjoins any Crown land not held under lease or license nor vested in nor under the control of trustees may enter upon such land for the purpose of clearing, making and maintaining thereon fire breaks not more than sixty-six feet wide along the boundary of such land.

16. (1) Where the Minister is of opinion that it is
25 necessary or expedient in the interests of public safety so to do, he may by notification published in the Gazette or in a newspaper circulating in the area or areas to which the direction relates, direct that—

- (a) the lighting of any fire or class of fire in the
30 open air is prohibited in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (b) such special conditions as may be specified in such notification be observed by persons light-
35 ing any fire or class of fire in the open air in such area or areas or part or parts thereof and for such period or periods as may be specified in such notification;
- (c) such action as may be specified in such notifica-
40 tion be taken in such area or areas or part or parts thereof and by such persons or class

Fire breaks
on Crown
lands.

Lighting
of fires
prohibited
in emergent
circum-
stances.

Act No. 28,
1912, s. 4B.

Bush Fires.

class of persons as may be specified in such notification for preventing the outbreak or the spread of any bush fire or for controlling or extinguishing any bush fire.

5 (2) Where the Minister is of the opinion that the weather conditions are conducive to the outbreak or spread of bush fires or that weather conditions conducive to the outbreak or spread of bush fires are imminent and that it is impracticable to give any directions under
10 paragraph (a) of subsection one of this section in the manner prescribed by that subsection such directions may be given by or on behalf of the Minister verbally or in such other manner including aerial broadcast as the Minister deems expedient.

15 (3) The Minister may by writing under his hand delegate all or any of his powers or functions under this section (except this power of delegation) to the council of an area so that the delegated powers or functions with respect to the matters or class of matters
20 specified in the instrument of delegation may be exercised by that council in respect of the area of which it is the council.

Every delegation under this subsection shall be revocable at will and no delegation shall prevent the
25 exercise of any power or function by the Minister.

Where in this section the exercise of any power or function by the Minister or the operation of any provision of this section is dependent upon the opinion of the Minister in relation to any matter that power or
30 function may be exercised by the delegate or that provision may operate, as the case may be, upon the opinion of the delegate in relation to that matter.

(4) Any person who fails to comply with any direction given by the Minister or the council of an
35 area under or pursuant to the provisions of this section shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

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(5) The provisions of this section shall have effect notwithstanding anything contained in this Act (section seventeen excepted) or any other Act to the contrary.

- 5 17. (1) Where the Minister is of opinion that a state of emergency exists and it is necessary or expedient in the interests of public safety so to do, he may authorise or direct the Commissioner of Police or any member of the Police Force or any officer or employee of the Board
10 of Fire Commissioners of New South Wales or of the Forestry Commission of New South Wales or any officer or employee appointed or employed under the provisions of the Public Service Act, 1902, or any other person whomsoever to take charge of bush fire fighting
15 operations in any area or locality.

Minister empowered to appoint any person to take charge of bush fire fighting operations when state of emergency exists.

- Where any person is so authorised or directed by the Minister pursuant to this section all councils, captains, deputy captains, group captains and deputy group captains of bush fire brigades, fire control officers,
20 fire patrol officers, officers and employees of the Board of Fire Commissioners of New South Wales and the Forestry Commission of New South Wales, members of the Police Force and other persons, shall comply with any direction given by such person in connection with the
25 suppression or control of any fire which is burning in any area or locality in respect of which such person has been so authorised or directed.

- A state of emergency may be deemed to exist where the Minister is of the opinion that any bush fire has
30 assumed such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning.

- (2) Any person failing to observe any direction given pursuant to this section by a person authorised or
35 directed by the Minister shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such penalty and imprisonment.

(3)

Bush Fires.

(3) The provisions of this section shall have effect notwithstanding anything contained in this or any other Act to the contrary.

18. Any person who contravenes or fails to comply Penalties.
5 with any provision of this Part of this Act or with the conditions of any permit granted under this Part of this Act or with the requirements of any notice given by a council under section thirteen of this Act or is guilty of an offence against this Part of this Act shall, where no
10 other penalty is expressly provided, be liable for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment and for any subsequent offence to a penalty not exceeding
15 two hundred pounds or to imprisonment for a term not exceeding two years or to both such penalty and imprisonment.

PART III.

BUSH FIRE BRIGADES.

- 20 19. Bush fire brigades may be formed or organised— Formation
of bush
fire
brigades.
(a) by a council within its area or any part thereof not being within a fire district constituted under the Fire Brigades Act, 1909-1949;
(b) by two or more councils jointly within the areas
25 of such councils or any parts thereof not being within a fire district so constituted;
(c) by the Minister where he is of the opinion that the formation of a bush fire brigade in any area or part thereof, not being within a fire district so constituted, is necessary and the council of such
30 area has failed or refused to comply with a request by the Minister to form or organise a bush fire brigade;

(d).

Bush Fires.

- (d) by the Minister in any locality in the Western Division not being within a fire district so constituted;
- 5 (e) by the Minister and one or more councils jointly in the areas of such councils or any parts thereof not being within a fire district so constituted and any locality in the Western Division adjoining such areas or parts thereof not being within a fire district so constituted.
- 10 **20.** The council, or Minister, or the Minister and council or councils, as the case may be, by whom any bush fire brigades are formed or organised—
- (a) shall determine the territory in respect of which such bush fire brigades may operate, and
- 15 (b) may appoint a captain and deputy captains of bush fire brigades so formed or organised and a group captain and deputy group captains of any two or more bush fire brigades formed or organised within an area.
- 20 **21.** The captains, deputy captains, group captains and deputy group captains of bush fire brigades shall have and may exercise such powers, authorities, duties and functions as are conferred and imposed upon them under this Act or the regulations thereunder.
- 25 **22.** (1) A bush fire brigade captain or group captain, or in the absence of the bush fire brigade captain or group captain the deputy bush fire brigade captain or deputy group captain or the senior deputy bush fire brigade captain or senior deputy group captain may,
- 30 for the purpose of the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger—
- (a) enter any land or building of any person;
- 35 (b) cause any road or public place in the vicinity of the bush fire to be closed to traffic, other than traffic of the Naval, Military or Air Forces of His Majesty, or of any power which is allied or associated with His Majesty in any war in which His Majesty is engaged;
- (c)

Area of operations and appointment of personnel of bush fire brigades.

Powers of captains, deputy captains, etc.

Powers of bush fire brigade captains, group captains and deputy captains.

Bush Fires.

- (c) pull down, cut and remove or cause to be pulled down, cut and removed, fences on any land;
- 5 (d) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
- (e) destroy or remove or cause to be destroyed or removed any living or dead vegetation;
- 10 (f) burn, plough or clear fire breaks on any land or cause fire breaks to be burnt, ploughed or cleared on any land;
- (g) take and use free of charge any water from any source whatsoever on any land;
- 15 (h) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- 20 (i) do any other act, matter or thing which is necessary for or incidental to the control or suppression of a bush fire or the protection of life or property from any existing or imminent bush fire danger or the effective exercise of any of the powers conferred by this subsection.

25 (2) The powers conferred by subsection one of this section may, subject to sections sixteen and seventeen of this Act, be exercised notwithstanding any other provisions of this Act:

Limitation
of powers
of such
captains
on lands
controlled
by certain
public
authorities.

30 Provided that such powers shall not be exercised on or in connection with any land or property vested in or under the control of—

- (a) the Commissioner for Railways—unless permission has been granted by such Commissioner or some person authorised by him in that behalf;
- 35 (b) the Forestry Commission of New South Wales—unless permission has been granted by a person authorised by such Commission in that behalf.

Bush Fires.

(3) The powers conferred by the foregoing provisions of this section on a person referred to in subsection one of this section may be exercised within the territory of the bush fire brigade or brigades to which
5 such person has been appointed and may also be exercised outside such territory:—

- 10 (a) in relation to a bush fire which has passed from or is approaching such territory and is not within the territory of any other bush fire brigade;
- 15 (b) in relation to a bush fire which is within any area (whether or not such area is the area within which the bush fire brigade was formed or organised and whether or not the fire is within the territory of any other bush fire brigade)
where the exercise of such powers is sanctioned by the mayor, president, or clerk of the council of such area;
- 20 (c) in relation to a bush fire which is in any locality (whether or not such locality is within the territory of another bush fire brigade) where the exercise of such powers in such locality has been directed or sanctioned by the Minister;
- 25 (d) in relation to a bush fire within the territory of any bush fire brigade (not being a bush fire brigade within the area of any council) where the exercise of such powers in such territory has been sanctioned by the captain of any such bush fire brigade;
- 30 (e) in relation to a bush fire which is within any fire district constituted under the Fire Brigades Act, 1909-1949, where the exercise of such powers in such fire district is sanctioned by the officer or other person in charge of the fire
35 brigade in such fire district;
- (f) in relation to a bush fire which is within a bush fire district where the exercise of such powers in such bush fire district is sanctioned by the fire control officer.

(4)

Bush Fires.

(4) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(5) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection four of this section shall be void and of no effect.

23. A captain, deputy captain, group captain or deputy group captain or any member of a bush fire brigade shall not, merely by reason of the authority granted him to exercise any powers or carry out any duties under this Act, be deemed to be a servant of a council or of the Minister, as the case may be.

24. The powers and authorities conferred upon a captain, deputy captain, group captain or deputy group captain under this Act in respect of a bush fire may be exercised by a captain, deputy captain, group captain, or deputy group captain at any fire of any kind within the territory of the bush fire brigade if, in his opinion, the fire is out of control.

PART IV.

25 BUSH FIRE DISTRICTS AND FIRE CONTROL OFFICERS.

25. The Governor may, from time to time, upon application by a council and upon the recommendation of the Committee, declare by proclamation published in the Gazette the area of such council or part thereof (not being within a fire district constituted under the Fire Brigades Act, 1909-1949, a national forest, State forest, timber reserve or flora reserve, under the Forestry Act, 1916-1949, or any other Act) to be a bush fire district for the purposes of this Act:

Provided

Bush Fires.

Provided that, in the event of any bush fire district or part thereof being constituted a fire district under the Fire Brigades Act, 1909-1949, such bush fire district or part thereof shall cease to be a bush fire district for
5 the purposes of this Act.

26. (1) Where any area has been proclaimed a bush fire district the Minister shall upon the recommendation of the Committee appoint a person as fire control officer for that district for such period or periods as he thinks
10 fit.

(2) Where any area or part thereof has been proclaimed a bush fire district and such district adjoins a fire district constituted under the Fire Brigades Act, 1909-1949, the person to be appointed as fire control
15 officer under this section shall where practicable be the officer-in-charge of such fire district.

27. A fire control officer appointed under this Part of this Act shall have all the powers and immunities conferred upon any captain of a bush fire brigade by
20 Part III of this Act.

Notwithstanding anything contained in Part III of this Act a fire control officer—

- (a) shall have the supervision and direction of all bush fire brigades in the bush fire district to
25 which he has been appointed and of the captains, deputy captains, group captains or deputy group captains of such brigades;
- (b) shall have the right to use any fire fighting apparatus in such bush fire district;
- 30 (c) shall inspect all fire fighting apparatus in such bush fire district;
- (d) shall take all necessary measures for extinguishing fires in such bush fire district and protecting and saving life and property
35 in case of fire.

Bush Fires.

PART V.

FIRE REGIONS.

28. (1) The Governor, upon the recommendation of the Minister for Local Government, may, from time to time, by proclamation published in the Gazette, proclaim parts of the Eastern and Central Divisions as fire regions for the purposes of this Act and may, in like manner—

Division of
State into
fire
regions.
cf. Act No.
5040 Vic.
s. 14.

(a) abolish any fire region; or

(b) alter any existing fire region.

10 (2) The boundaries of fire regions shall, as nearly as practicable, be coincident with the boundaries of areas.

(3) The sub-committee of the Committee may, and if requested by the Minister for Local Government so to do shall, prepare and submit to him proposals for the purpose of giving effect to this section.

PART VI.

EASTERN AND CENTRAL DIVISIONS BUSH FIRE FIGHTING FUND.

20 29. (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Eastern and Central Divisions Bush Fire Fighting Fund.

Eastern and
Central
Divisions
Bush Fire
Fighting
Fund.

(2) All moneys received under this Part of this Act shall be paid into such Fund and the cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act in addition to all expenditure on bush fire fighting in the Eastern and Central Divisions shall, subject to the provisions of this Act, be paid out of the said Fund.

(3)

Bush Fires.

(3) The cost of administration of this Part of this Act and all expenses incurred by the Minister for Local Government in the exercise of his powers, authorities and functions pursuant to this Part of this Act shall not, during any financial year, exceed ten per centum of the total expenditure from the Fund in respect of such financial year.

(4) The certificate of the Minister for Local Government shall be accepted as conclusive evidence as to the cost of administration of this Part of this Act and all expenses incurred by him in the exercise of his powers, authorities and functions pursuant to this Part of this Act.

30. (1) (a) As soon as practicable after the commencement of this Act the Minister shall prepare—

Estimate
to be
prepared by
Minister
for Local
Government.

(i) an estimate of the probable expenditure from the Fund during the period from the commencement of this Act to the thirtieth day of June then next ensuing, which period is hereinafter referred to as the first financial year;

(ii) an estimate of the parts of such expenditure applicable to each fire region.

(b) Before the end of the first financial year and each succeeding financial year the Minister for Local Government shall prepare—

(i) an estimate of the probable expenditure from the Fund during the then ensuing financial year;

(ii) an estimate of the parts of such expenditure applicable to each fire region.

(2) The Minister for Local Government shall so prepare such estimate that the amount of the contribution to be paid by a council shall not exceed one-twentieth of a penny in the pound on the unimproved capital value of ratable land in the area of such council (not being land within a fire district constituted under the Fire Brigades Act, 1909-1949).

(3)

Bush Fires.

(3) Before preparing the estimate the Minister for Local Government shall consider the report and recommendation of the sub-committee of the Committee in respect of the matters referred to in subsection one
5 of this section.

31. For the purpose of enabling the Minister for Local Government to prepare the estimates referred to in section thirty of this Act a council or bush fire brigade or the trustees of any supervised park or a fire control
10 officer shall, at such times and in such manner as the Minister for Local Government may require, furnish to him such information relative to the bush fire brigades or other fire fighting personnel, the fire fighting apparatus of such bush fire brigades or personnel and such other
15 matters relating to the organisation of such bush fire brigades or personnel as he may require.

Councils,
etc., to
furnish
information
to Minister
for Local
Government.

32. (1) Towards the estimate referred to in subsection one of section thirty of this Act—

20 (a) the Colonial Treasurer shall contribute one-quarter;

(b) councils the areas of which are situated in the Eastern and Central Divisions wholly or partly outside any fire district constituted under the Fire Brigades Act, 1909-1949, shall contribute
25 one-quarter. Such contribution shall be paid out of the general funds of such councils;

(c) insurance companies shall contribute one-half.

Contributions by the Colonial Treasurer, councils and insurance companies.

(2) The amounts to be so contributed shall be paid in equal quarterly instalments on the first day of
30 July, the first day of October, the first day of January and the first day of April respectively in each financial year:

Contributions to be paid quarterly.

35 Provided that the Governor may by proclamation direct the manner and the times of payment in respect of the first financial year.

(3) The Colonial Treasurer may, in addition to the contribution to the Fund under subsection one of this section, from time to time advance such moneys to the Fund subject to such terms and conditions as he may
40 determine.

Advances to Fund by Colonial Treasurer.

Bush Fires.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

(5) Where it is shown to the Governor that the
5 danger from bush fires in an area is negligible he may exempt the council of that area from making contributions to the Fund: Exemption of council from contributing to Fund.

Provided that no exemption shall be granted except upon the recommendation of the Committee.

10 (6) Where the council of any area has been exempted under subsection five of this section from making contributions to the Fund no payment shall be made in or towards any of the purposes specified in section thirty-seven of this Act for the benefit of the area
15 in respect of which such exemption has been granted. Payments not to be made to any council exempted from contributing.

33. (1) The contributions of councils shall be determined as follows:— Determination of contributions of councils.

(a) That part of the estimated expenditure applicable to any fire region which is to be contributed
20 by councils shall be contributed by those councils the areas or any parts of which lie within the fire region.

(b) The total amount of the contribution of any council shall be absolutely determined by the
25 Minister for Local Government.

(2) The amount of the contribution payable by any council may be raised if necessary, and notwithstanding any statutory limit of such rates, by an increase of the general rate by such a sum in the pound as will be
30 sufficient to provide the amount of the contribution, and such increase shall for all purposes be deemed to form part of such general rate.

(3) Every council and every officer thereof shall, when so required by the Minister for Local Government,
35 furnish him with all such documents, papers and information as he may require to determine the contribution of the council.

Bush Fires.

34. The contributions of the respective insurance companies shall be determined as follows:—

Determina-
tion of con-
tributions of
insurance
companies.

- (a) Every insurance company shall, before the last day 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 showing the total amount of the premium income received by or due to such company during the year ending the thirty-first day of December then last past in respect of insurance of any property whatsoever situated within the Eastern and Central Divisions outside fire districts constituted under the Fire Brigades Act, 1909-1949, against loss or damage caused by fire or lightning less any part of such premium income actually paid by way of re-insurance to any other companies contributing under this Part of this Act together with a statutory declaration by the manager, secretary or agent in the State of such company that to the best of his knowledge, information and belief, such return is a true return of such amount. If any such company fails to send such return 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.
- (b) The amount to be contributed by each such company shall bear the same proportion to the whole contribution by insurance companies as the amount of premium income shown in the company's return bears to the aggregate amount of premium income shown in all such returns.

35. (1) If, in any financial year, the amount received by the Minister for Local Government from contributions under this Part of this Act falls short of the expenditure based on the estimate for that financial year, the deficit shall be added to the estimate of expenditure for the ensuing

Deficits, etc.
cf. Act No.
5040 Vic.
s. 57.

Bush Fires.

ensuing year and, subject to subsection two of section thirty of this Act, the contributions shall be increased accordingly, but if the amount received by the Minister for Local Government in any financial year, from contributions under this Part of this Act exceeds the expenditure based on the estimate for that financial year, then the excess shall be treated as a credit in favour of the estimated income of the ensuing year and the contributions reduced accordingly.

(2) For the purposes of subsection one of this section any deficit or excess in respect of any financial year shall be the deficit or excess as certified by the Auditor-General.

36. (1) Contributions payable under this Part of this Act shall become due and payable upon assessment by the Minister for Local Government and any such contribution not paid within sixty days of the date of assessment shown on the assessment notice shall, unless the Minister for Local Government otherwise determines, be increased by ten per centum of the amount of the contribution payable.

Contributions due and payable within sixty days of assessment.

(2) Contributions or any part thereof not paid by any insurance company or council within ninety days of the date of assessment and all penalties incurred in respect thereof shall constitute a debt due and payable to the Minister for Local Government and shall be recoverable in any court of competent jurisdiction by the Minister for Local Government.

37. (1) Moneys to the credit of the Fund may be applied in the Eastern and Central Divisions by the Colonial Treasurer in or towards—

Application of moneys to credit of Fund.

- (a) the purchase of fire fighting apparatus of all kinds for bush fire brigades formed or organised under this Act, fire control officers or the trustees of supervised parks;
- (b) the maintenance of fire fighting apparatus in the possession of or available to such bush fire brigades, fire control officers or trustees of supervised parks;

(c)

Bush Fires.

- (c) the erection and maintenance of buildings for the storage of fire fighting apparatus of such bush fire brigades, fire control officers or trustees of supervised parks;
- 5 (d) the construction and maintenance of water storage tanks and lookout towers;
- (e) the purchase, maintenance and storage of reserves of fire fighting apparatus for use in any emergency;
- 10 (f) the payment of salaries or allowances of fire control officers or inspectors appointed under this Act;
- (g) the payment of such expenditure by or on behalf of councils, bush fire brigades, fire control officers or the trustees of supervised parks for or in connection with the prevention, control or suppression of bush fires as is approved by the Minister for Local Government;
- 15 (h) any measures generally for the prevention, detection, control and suppression of bush fires including aerial reconnaissance.
- 20

(2) The Colonial Treasurer may pay such moneys out of the Fund upon the certificate of the Minister for
25 Local Government.

(3) All fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be vested in the council of the area for or on behalf of which such
30 apparatus, buildings, water storage tanks or lookout towers have been purchased or constructed as the case may be:

Provided that, in the case of any fire fighting apparatus, buildings, water storage tanks or lookout towers
35 purchased or constructed on behalf of the trustees of any supervised park such apparatus, buildings, water storage tanks or lookout towers shall be vested in the trustees of such supervised park.

(4)

Bush Fires.

(4) A council or the trustees of any supervised park shall not sell or otherwise dispose of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund without the consent in writing of the Minister for Local Government having been first obtained.

(5) The proceeds of the sale of any fire fighting apparatus, buildings, water storage tanks or lookout towers purchased or constructed from moneys to the credit of the Fund shall be paid to the credit of the Fund.

38. (1) The Minister for Local Government shall, as soon as practicable after the end of each financial year, furnish to both Houses of Parliament a report upon the administration of the Fund during that financial year together with a balance-sheet and statement of receipts and expenditure during that financial year duly audited by the Auditor-General. Financial statements.

(2) The Minister for Local Government shall as soon as practicable after such report, balance-sheet and statement have been furnished to Parliament as aforesaid, furnish to each council and each insurance company contributing to the Fund a true copy of such report, balance-sheet and statement.

25

PART VII.**GENERAL.**

39. (1) There shall be constituted a Bush Fire Committee consisting of twenty persons which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Committee by this Act. Constitution of Bush Fire Committee.

(2) The members of the Committee and the chairman thereof shall be appointed by the Governor.

Of the members so appointed:—

35 (i) one shall be a person nominated by the Fire and Accident Underwriters' Association of New South Wales as representative of such Association;

(ii)

Bush Fires.

- (ii) at least one shall be an officer of the Chief Secretary's Department;
- (iii) one shall be an officer of the Department of Local Government;
- 5 (iv) one shall be a person nominated by the Shires Association of New South Wales as representative of such Association;
- (v) one shall be a person nominated by the Association of Local Government Clerks of New South Wales as representative of such Association.
- 10 (3) The persons who, immediately before the commencement of this Act, were the members of the Bush Fires Advisory Committee shall, upon such commencement, be deemed to have been appointed under
- 15 this Act as members of the Committee.
- (4) Any member of the Committee may resign his office by writing under his hand addressed to the Governor.
- (5) Meetings of the Committee shall be held
- 20 from time to time on the requisition of the chairman. Meetings.
- (6) There shall be a Standing Committee of the Committee consisting of the chairman of the Committee and five other members elected by the Committee from among its members. The Standing Committee shall meet
- 25 at least once each month. The chairman of the Committee shall be the chairman of the Standing Committee. Standing Committee.
- (7) For the purposes of sections twenty-eight and thirty of this Act there shall be constituted a sub-committee of the Committee consisting of the chairman
- 30 and the members referred to in paragraphs (i) (iii) and (iv) of subsection two of this section and where one member is appointed under paragraph (ii) of the said subsection such member or where more than one member is so appointed such member as the Minister selects. The
- 35 chairman of the Committee shall be the chairman of the sub-committee. Sub-committee for purposes of ss. 28 and 30.
- (8) Five members shall constitute a quorum of the Committee, four members shall constitute a quorum of the Standing Committee and three members shall
- 40 constitute a quorum of the sub-committee.

(9)

Bush Fires.

(9) Each member of the Committee shall be entitled to receive such travelling or other expenses as the Minister may determine and such other fees as may be prescribed.

5 (10) Any moneys payable under subsection nine of this section shall be paid out of moneys provided by Parliament.

10 (11) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

15 (12) The office of a member of the Committee shall not for the purposes of the Constitution Act, 1902, or any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

40. (1) The Committee shall—

- 20 (a) furnish reports and recommendations upon any matter referred to it by the Minister or the Minister for Local Government pursuant to this Act;
- 25 (b) carry out such functions of an advisory or educational character as the Minister may direct;
- 30 (c) before the thirtieth day of April in each year furnish a report to the Minister and the Minister for Local Government of the estimated damage from bush fires in New South Wales during the preceding twelve months together with recommendations as to any special measures which should be adopted for the purpose of preventing, controlling or suppressing bush fires during the year next ensuing;
- 35 (d) in conjunction with councils foster and encourage the formation or organisation of bush fire brigades and assist the Minister in the formation or organisation of bush fire brigades in the Western Division;

Functions
of
Committee.

(e).

Bush Fires.

5 (e) generally take all practicable measures to educate persons in the need for preventing, suppressing and controlling bush fires and make recommendations to the Minister, councils and other persons as to the best measures to be taken for preventing or extinguishing fires.

(2) The Committee may—

10 (a) subject to the approval of the Minister, contract for the carrying out of aerial reconnaissance of the State or part or parts thereof for the detection of fire;

15 (b) for the purpose of improving the efficiency of bush fire brigades and other fire fighting personnel, organise or conduct competitions and provide prizes and certificates for presentation to brigades and competitors thereat.

(3) Any moneys payable under this section shall be paid out of moneys provided by Parliament.

20 **41.** Any council, bush fire brigade formed or organised by the Minister, fire control officer, or trustees of any public reserve or park, shall, at such times and in such manner as the Committee may require, furnish to the Committee such information relating to bush fire brigades or other fire fighting personnel, fire fighting apparatus
25 of such bush fire brigades or personnel and such other matters relating to the organisation of such bush fire brigades or personnel as the Committee may require.

Councils and other bodies to furnish information to Committee.

30 **42.** (1) Members of the police force, public school teachers, field officers of the Departments of Lands, Agriculture and Conservation, the Forestry Commission of New South Wales and of all Pastures Protection Boards, members and officers of councils, members of the Committee, inspectors of fisheries, and rangers appointed under the Metropolitan Water, Sewerage, and
35 Drainage Act, 1924-1949, shall, by virtue of their office, be fire patrol officers and have the powers and authorities prescribed by this Act or by the regulations.

Appointment of fire patrol officers and honorary fire patrol officers.

(2)

Bush Fires.

(2) The Minister may by notice in the Gazette appoint honorary fire patrol officers who shall have the powers and perform the duties of fire patrol officers.

(3) All honorary rangers appointed under the
5 Careless Use of Fire Act, 1912-1946, and holding office immediately before the commencement of this Act shall be deemed to be honorary fire patrol officers under this Act and shall have the powers and perform the duties of fire patrol officers.

10 **43.** Every fire patrol officer is hereby empowered without any let or hindrance whatsoever to enter at any time any land and examine any fire in the open air which he has reason to believe has been lit or maintained or used in contravention of this Act or the regulations and
15 do all other such acts and things as he is required to do by this Act and the regulations.

Fire patrol officers empowered to enter land.

44. (1) Any fire patrol officer may require any person—

Powers of fire patrol officers.

20 (a) reasonably suspected to be offending against any of the provisions of this Act or the regulations to give his name in full and place of abode;

(b) reasonably suspected to be offending against any of the provisions of this Act or the regulations to produce any permit notice or other document
25 by or under the authority of which it is claimed by such person that any fire has been lit maintained or used;

(c) who has lit a fire in contravention of the provisions of this Act or the regulations to extinguish such fire;
30

(d) who has lit or used a fire in the open air to extinguish such fire before leaving it.

(2) If such person, after being so required, refuses to give his real name or place of abode or gives
35 a false or fictitious name or place of abode or refuses to produce any permit notice or other document or refuses to extinguish any fire, he shall be guilty of an offence against this Act and be liable for every such offence to a penalty not exceeding five pounds.

45.

Bush Fires.

45. A fire patrol officer shall promptly notify any outbreak of fire which comes to his notice to—

Fire patrol officers to notify outbreaks of fire.

- (a) the owner or occupier of the land upon which such outbreak occurs;
- 5 (b) the owners or occupiers of any lands which may be threatened or endangered by the spread of fire;
- (c) the nearest member of the police force or any fire brigade or bush fire brigade or other
- 10 authority whose duty it may be to control or extinguish fires in the district in which the outbreak occurs.

46. (1) The Governor may appoint inspectors for the purposes of this Act.

Inspectors.

- 15 (2) The duties of an inspector shall include—
- (a) inspecting and reporting to the Minister and the Minister for Local Government upon the fire fighting apparatus of councils, bush fire brigades, fire control officers and the trustees of supervised parks;
- 20 (b) investigating and verifying claims by councils, bush fire brigades, fire control officers and the trustees of supervised parks for payments from the Fund;
- 25 (c) reporting from time to time to the Committee upon conditions of fire risk in any part of the State;
- (d) submitting to the Committee recommendations as to any special measures which, in the opinion
- 30 of the inspector, should be adopted for the purpose of preventing, controlling or suppressing bush fires.

47. Except as in this Act otherwise expressly provided nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by any bush or other fire to which this Act relates or for any trespass committed.

Liability of persons in respect of loss or damage caused by bush or other fires.

Bush Fires.

48. No proceedings whether at law or in equity shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Minister for Local Government, a member of the Committee, a council, an officer or employee of the Board of Fire Commissioners of New South Wales or the Forestry Commission of New South Wales, a fire control officer, a fire patrol officer, a captain, deputy captain, group captain or deputy group captain of a bush fire brigade, or any person acting in the execution or intended execution of this Act in respect of anything done bona fide under and for the purposes of this Act.

Proceedings not to lie against persons acting bona fide under and for the purposes of Act.

49. Whosoever fails to do any act directed to be done or does any act forbidden to be done by or under this Act or any regulation shall be guilty of an offence against this Act.

Penalties.

Any person who is guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

50. Whosoever, without lawful authority, destroys, defaces or removes any notice displayed under this Act or the regulations or under the authority of the Minister or the Committee or a council or any public authority in pursuance of this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding ten pounds.

Destruction, etc., of notices.

51. (1) Where a bush fire is burning on any land and such bush fire or any part thereof is within five miles of a national forest, State forest, timber reserve or flora reserve under the Forestry Act, 1916-1949, or any other Act, any officer of the Forestry Commission of New South Wales or any person or persons authorised by that Commission in that behalf may enter upon such land or upon any land situated between such land and such national forest, State forest, timber reserve or

Powers of officers of Forestry Commission where a bush fire is burning on any land within five miles of a State forest, etc.

flora

Bush Fires.

flora reserve, with such vehicles and fire fighting apparatus as may be reasonably necessary for the purpose of extinguishing or assisting to extinguish such fire, and may do all such acts, matters and things as are
 5 reasonably necessary to extinguish such fire or to prevent the spread thereof.

(2) Any damage to property caused by any person purporting bona fide to exercise any power conferred by or under this section shall be deemed to be
 10 damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(3) Any provision, stipulation, covenant or condition in any agreement which negatives, limits or modifies or purports to negative, limit or modify the
 15 operation of subsection two of this section shall be void and of no effect.

52. Where a fire (not being a fire or part of a fire lit under the authority of this Act or any other Act) is burning on any land at any time during a bush fire
 20 danger period applicable to such land the occupier of such land shall, immediately upon becoming aware of such fire and whether he has lit or caused the same to be lit or not, take all possible steps to extinguish such fire and, if he is unable without assistance to extinguish
 25 the same and any practicable means of communication are available, shall, where practicable without leaving the fire unattended, inform or cause to be informed—

Responsi-
 bility of
 occupiers to
 extinguish
 fires or
 notify them
 to fire
 fighting
 authorities.
 cf. Act No.
 5040 Vic.,
 s.35.

(a) where the fire is burning within any fire district constituted under the Fire Brigades Act, 1909-
 30 1949,—the nearest available officer or fireman of the fire brigades in such district;

(b) where the fire is burning outside any such fire district—the nearest available captain or deputy captain or member of a bush fire brigade or
 35 fire control officer or officer of the Forestry Commission of New South Wales,

of the existence and locality of such fire.

Bush Fires.

53. (1) Any of the following purposes shall be deemed to be a general purpose within the meaning of subsection two of section one hundred and seven of the Local Government Act, 1919, as amended by subsequent Acts—

General fund of councils.

- (a) the purchase, distribution, maintenance and storage of fire fighting apparatus for the prevention, control and suppression of bush and other fires;
- 10 (b) the organising of bush fire brigades and such matters as are relevant thereto, including the establishment of fire stations and fire control centres;
- 15 (c) the establishment and maintenance of fire breaks;
- (d) the removal or destruction of inflammable matter;
- (e) the taking of measures generally for the prevention, control or suppression of bush fires.

20 (2) For the purposes of section one hundred and twenty of the Local Government Act, 1919, as amended by subsequent Acts, any work relating to the prevention and suppression of bush and other fires shall be deemed to be a purpose which may be lawfully undertaken by
25 a council and in respect of which special rates may be made and levied by a council.

54. It shall be the duty of the council of any area or any public authority to take all practicable steps to prevent the occurrence of fires on and to minimise the
30 danger of the spread of fires on or from—

Duty of councils and public authorities to prevent fires.

- (a) any land vested in or under its control or management; or
- 35 (b) any highway, road, street, lane or thoroughfare, the maintenance of which is charged upon such authority or council.

Bush Fires.

55. (1) It shall be the duty of officers and members of the police force to support the authority of a captain or deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or
 5 a fire control officer and to assist him and any person acting under his directions in enforcing compliance with any directions given in pursuance of this Act or any regulation.

Duty of officers and members of police force to support authority of captains, etc., of bush fire brigades and fire control officers.

(2) Any person who obstructs any captain or
 10 deputy captain of a bush fire brigade or a group captain or deputy group captain of bush fire brigades or a fire control officer or a person acting under his directions shall be liable to a penalty not exceeding ten pounds.

56. (1) Except where otherwise expressly provided
 15 or allowed any notice or direction required by this Act to be given to any owner, occupier, or other person may be given as provided in this section.

Giving of notices.

(2) The notice or direction may be given—

- (a) personally; or
- 20 (b) by delivering the same at or on the premises at which the person to whom the notice or direction is to be given lives or carries on business, and leaving the same with any person apparently above the age of fourteen years
 25 resident or employed thereat; or
- (c) by posting the notice or direction by prepaid letter addressed to the last known place of abode or business of the person to whom the notice or direction is to be given.

30 57. (1) The Governor may make regulations not inconsistent with this Act 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.

Regulations.

(2)

Bush Fires.

(2) In particular and without limiting the generality of the power conferred by subsection one of this section the Governor may make regulations with respect to:—

- 5 (a) the method of establishing fire breaks on railway lands and, if such breaks are to be established by burning, the times at which and the conditions under which such breaks may be burned;
- 10 (b) the conditions under which fires for or in connection with charcoal or lime burning or for the distillation of eucalyptus or other oils or for the destruction of the waste products of such operations may be lit, maintained or used;
- 15 (c) the conditions under which fires for the purpose of cooking, heating or preparing meals or boiling water or for any like purpose may be lit, maintained or used;
- 20 (d) the use of phosphorus or other preparations for the extermination or suppression of noxious weeds or animals;
- 25 (e) the conditions under which fires may be lit, maintained or used for or in connection with the taking of honey from beehives or in honey houses or apiaries;
- 30 (f) the conditions under which fires may be lit, maintained or used for or in connection with saw-mill operations;
- 35 (g) the use or operation of producer-gas units and the precautionary measures to be taken to prevent fires resulting from the use or operation of the same;
- (h) the use of appliances on and the precautionary measures to be adopted by persons driving or controlling—
 - (i) a traction engine; or
 - (ii) an engine used for any agricultural purpose and in which wood, coal or coke fuel is burned;
 - (iii)

Bush Fires.

- (iii) a motor tractor, steam tractor or power driven harvester or portable or other engine;
- (iv) an engine used on any railway line or tram line,
5 in order to prevent the escape of dangerous sparks or burning or incandescent material from any such engines;
- (i) approved fire appliances for use in connection with any traction engine or engine used for any agricultural purposes and in which wood, coal or coke fuel is burned or any motor tractor, steam tractor, power driven harvester or portable or other engine or any engine used on any railway line or tram line;
10
15
- (j) the terms and conditions of employment of any fire control officer;
- (k) the storage in areas outside fire districts of any inflammable matter;
- (l) the records to be kept and the procedure to be followed at meetings of the Committee;
20
- (m) the powers, authorities, duties and functions of captains, deputy captains, group captains or deputy group captains of bush fire brigades, fire control officers, or fire patrol officers;
25
- (n) conditions under which fires may be lit, maintained or used for the destruction of any household or garden refuse or rubbish or for any like purpose;
- (o) conditions under which fires may be lit, maintained or used for the destruction of the carcasses of animals;
30
- (p) the form of permits, notices, advertisements and notifications, issued by councils under this Act;
35
- (q) the registration by councils of bush fire brigades and the members of such brigades;

(r)

Bush Fires.

- (r) the keeping by councils and the trustees of supervised parks of records of the fire fighting apparatus of such councils or trustees;
- 5 (s) the prescribing of constitutions and rules for bush fire brigades;
- (t) the classification of substances as inflammable matter.

(3) A regulation may be made to apply or to have operation throughout the whole or any part of the State,
 10 may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

(4) Such regulations shall—

- (a) be published in the Gazette;
- 15 (b) take effect from the date of publication or from a later date to be specified in such regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within four-
 20 teen 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
 25 such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

58. (1) The Local Government Act, 1919, as amended
 by subsequent Acts, is amended by omitting from sub-
 30 section one of section 495A the words "or a dangerous menace from fire."

Amendment of
 Act No. 41,
 1919.
 Sec. 495A.
 (Conse-
 quential.)

(2) The Workers' Compensation Act, 1926-1948,
 is amended by omitting from section 17B the definition of
 "Bush fire brigade" and by inserting in lieu thereof the
 35 following definition:—

Amendment
 of Workers'
 Compensation
 Act, 1926-
 1948.
 Sec. 17B.
 (Conse-
 quential.)

"Bush fire brigade" means any bush fire brigade
 formed or organised under the Bush Fires Act,
 1949.

SCHEDULE.

Bush Fires.

SCHEDULE.

Sec. 4.

Number of Act.	Name of Act.	Extent of repeal.
No. 28, 1912 ..	Careless Use of Fire Act, 1912.	The whole.
5 No. 41, 1919 ..	Local Government Act, 1919.	Paragraph (a) of subsection one and subsections four, five, six, seven and eight of section 494. Section 495. Paragraphs (r) and (s) of section 513.
10		
No. 14, 1930 ..	Bush Fires Act, 1930 ..	The unrepealed portion.
15 No. 41, 1932 ..	Local Government (Bush Fires) Amendment Act, 1932.	The whole except so much of paragraph (c) of subsection one of section 2 as inserts paragraph (t) in section 513 of the Local Government Act, 1919.
20		
No. 54, 1946 ..	Economic Stability and War-time Provisions Continuance Act, 1946.	Part VI.
25		

Brush Fires

BOUNDARY

Number of Act	Name of Act	Period of report
No. 15, 1913	Brush Fire Act, 1913	1913
No. 41, 1919	Brush Fire Act, 1919	1919
No. 14, 1920	Brush Fire Act, 1920	1920
No. 41, 1921	Brush Fire Act, 1921	1921
No. 41, 1922	Brush Fire Act, 1922	1922
No. 41, 1923	Brush Fire Act, 1923	1923
No. 41, 1924	Brush Fire Act, 1924	1924
No. 41, 1925	Brush Fire Act, 1925	1925
No. 41, 1926	Brush Fire Act, 1926	1926
No. 41, 1927	Brush Fire Act, 1927	1927
No. 41, 1928	Brush Fire Act, 1928	1928
No. 41, 1929	Brush Fire Act, 1929	1929
No. 41, 1930	Brush Fire Act, 1930	1930
No. 41, 1931	Brush Fire Act, 1931	1931
No. 41, 1932	Brush Fire Act, 1932	1932
No. 41, 1933	Brush Fire Act, 1933	1933
No. 41, 1934	Brush Fire Act, 1934	1934
No. 41, 1935	Brush Fire Act, 1935	1935
No. 41, 1936	Brush Fire Act, 1936	1936
No. 41, 1937	Brush Fire Act, 1937	1937
No. 41, 1938	Brush Fire Act, 1938	1938
No. 41, 1939	Brush Fire Act, 1939	1939
No. 41, 1940	Brush Fire Act, 1940	1940
No. 41, 1941	Brush Fire Act, 1941	1941
No. 41, 1942	Brush Fire Act, 1942	1942
No. 41, 1943	Brush Fire Act, 1943	1943
No. 41, 1944	Brush Fire Act, 1944	1944
No. 41, 1945	Brush Fire Act, 1945	1945
No. 41, 1946	Brush Fire Act, 1946	1946
No. 41, 1947	Brush Fire Act, 1947	1947
No. 41, 1948	Brush Fire Act, 1948	1948
No. 41, 1949	Brush Fire Act, 1949	1949
No. 41, 1950	Brush Fire Act, 1950	1950
No. 41, 1951	Brush Fire Act, 1951	1951
No. 41, 1952	Brush Fire Act, 1952	1952
No. 41, 1953	Brush Fire Act, 1953	1953
No. 41, 1954	Brush Fire Act, 1954	1954
No. 41, 1955	Brush Fire Act, 1955	1955
No. 41, 1956	Brush Fire Act, 1956	1956
No. 41, 1957	Brush Fire Act, 1957	1957
No. 41, 1958	Brush Fire Act, 1958	1958
No. 41, 1959	Brush Fire Act, 1959	1959
No. 41, 1960	Brush Fire Act, 1960	1960
No. 41, 1961	Brush Fire Act, 1961	1961
No. 41, 1962	Brush Fire Act, 1962	1962
No. 41, 1963	Brush Fire Act, 1963	1963
No. 41, 1964	Brush Fire Act, 1964	1964
No. 41, 1965	Brush Fire Act, 1965	1965
No. 41, 1966	Brush Fire Act, 1966	1966
No. 41, 1967	Brush Fire Act, 1967	1967
No. 41, 1968	Brush Fire Act, 1968	1968
No. 41, 1969	Brush Fire Act, 1969	1969
No. 41, 1970	Brush Fire Act, 1970	1970
No. 41, 1971	Brush Fire Act, 1971	1971
No. 41, 1972	Brush Fire Act, 1972	1972
No. 41, 1973	Brush Fire Act, 1973	1973
No. 41, 1974	Brush Fire Act, 1974	1974
No. 41, 1975	Brush Fire Act, 1975	1975
No. 41, 1976	Brush Fire Act, 1976	1976
No. 41, 1977	Brush Fire Act, 1977	1977
No. 41, 1978	Brush Fire Act, 1978	1978
No. 41, 1979	Brush Fire Act, 1979	1979
No. 41, 1980	Brush Fire Act, 1980	1980
No. 41, 1981	Brush Fire Act, 1981	1981
No. 41, 1982	Brush Fire Act, 1982	1982
No. 41, 1983	Brush Fire Act, 1983	1983
No. 41, 1984	Brush Fire Act, 1984	1984
No. 41, 1985	Brush Fire Act, 1985	1985
No. 41, 1986	Brush Fire Act, 1986	1986
No. 41, 1987	Brush Fire Act, 1987	1987
No. 41, 1988	Brush Fire Act, 1988	1988
No. 41, 1989	Brush Fire Act, 1989	1989
No. 41, 1990	Brush Fire Act, 1990	1990
No. 41, 1991	Brush Fire Act, 1991	1991
No. 41, 1992	Brush Fire Act, 1992	1992
No. 41, 1993	Brush Fire Act, 1993	1993
No. 41, 1994	Brush Fire Act, 1994	1994
No. 41, 1995	Brush Fire Act, 1995	1995
No. 41, 1996	Brush Fire Act, 1996	1996
No. 41, 1997	Brush Fire Act, 1997	1997
No. 41, 1998	Brush Fire Act, 1998	1998
No. 41, 1999	Brush Fire Act, 1999	1999
No. 41, 2000	Brush Fire Act, 2000	2000