

BUSH FIRES.

3° Elizabeth II., No. LIII.

No. 53 of 1954.

AN ACT to make better provision for Diminishing the Dangers resulting from Bush Fires, for the Prevention, Control, and Extinguishment of Bush Fires, for the Repeal of the Bush Fires Act, 1937-1950 and for other purposes.

[Assented to 23rd December, 1954.]

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

Short title.

1. This Act may be cited as the *Bush Fires Act, 1954.*

Arrangement.

2. This Act is arranged as follows:—

PART I.—PRELIMINARY, s. 3 to s. 7.

PART II.—ADMINISTRATION, s. 8 to s. 15.

Division 1.—Bush Fires Board. Constitution. Officers, s. 8 to s. 9.

Division 2.—Powers of Bush Fires Board, s. 10 to s. 15.

PART III.—PREVENTION OF BUSH FIRES, s. 16 to s. 35.

Division 1.—Fire Protected Areas, s. 16.

Division 2.—Prohibited Burning Times, s. 17.

Division 3.—Restricted Burning Times, s. 18 to s. 20.

Division 4.—Bush Fire Emergency Period, s. 21.

Division 5.—Burning during Prohibited Burning Times and Restricted Burning Times, s. 22 to s. 26.

Division 6.—General Restrictions, Prohibitions and Offences, s. 27 to s. 35.

PART IV.—CONTROL AND EXTINGUISHMENT OF BUSH FIRES, s. 36 to s. 47.

Division 1.—Local Authorities, s. 36 to s. 40.

Division 2.—Bush Fire Brigades, s. 41 to s. 47.

PART V.—MISCELLANEOUS, s. 48 to s. 65.

PART I.—PRELIMINARY.

3. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

4. (a) This Act does not affect the provisions of the Fire Brigades Act, 1942-1951, or of the Forests Act, 1918-1931. Saving provisions.

(b) This Act is to be construed so as not to limit or restrict in any way the effect and operation of the provisions of either of those Acts.

5. The Bush Fires Act, 1937-1950, is repealed. Repeal of Bush Fires Act, 1937-1950.

6. Without prejudice to the operation of the other provisions of the Interpretation Act, 1918-1948, the provisions of section fifteen of that Act are expressly declared to apply to this Act. Application of Interpretation Act.

Interpreta-
tion.

7. In this Act unless the context otherwise indicates or requires—

“adjoining”, when used with respect to two or more pieces of land, extends to pieces of land which are separated only by a road or roads or by a railway or by a water-course;

“bush” includes trees, bushes, plants, stubble, scrub, and undergrowth of all kinds whatsoever whether alive or dead and whether standing or not standing and also a part of a tree, bush, plant, or undergrowth, and whether severed therefrom or not so severed. The term does not include sawdust, and other waste timber resulting from the saw-milling of timber in a sawmill whilst the sawdust and other waste timber remains upon the premises of the sawmill in which the saw-milling is carried on;

“Board” means the Board constituted under the provisions of this Act under the name of the Bush Fires Board;

“forest land” means any land under the control of the Forests Department pursuant to the provisions of the Forests Act, 1918-1931, or any other land under the control of that Department by agreement or otherwise;

“local authority” means a municipal council or road board constituted under the provisions of the Municipal Corporations Act, 1906-1953, or the Road Districts Act, 1919-1951;

“occupier of land” means a person residing on the land or having charge or control of it, whether the person is the owner or tenant or a bailiff, servant, caretaker, or other person residing or having charge or control of the land and includes a person who as mortgagee in possession has possession of the land, while the land is unoccupied, and also a person who has the charge or control of two or more separate parcels of land, although the person resides on only one of the parcels;

“prohibited burning times” means the times of the year during which it is declared by the Governor to be unlawful to set fire to the bush within a district or part of the State;

“restricted burning times” means the period of time from the first day of October in any year to the next following thirty-first day of May during which period burning of bush is, except as provided by this Act, unlawful;

“stubble” includes stubble, hay, straw, grass, herbage and all other vegetation, whether alive or dead, and whether standing or not standing.

PART II.—ADMINISTRATION.

Division 1.—Bush Fires Board.

8. (1) For the purposes of this Act there shall be constituted a Board under the name of the “Bush Fires Board.” Bush Fires Board established.

(2) The Board consists of ten members who, subject to the provisions of subsection (3) of this section, shall be appointed by the Governor on the recommendation of the Minister, and who shall hold office during the pleasure of the Governor. Constitution of Board.

(3) The Board consists of—

- (a) the Under Secretary for Lands who is Chairman of the Board;
- (b) five persons at least three of whom shall be actively engaged in the business of farming nominated by the executive council of the body known as the Road Board Association of Western Australia (Inc.);
- (c) a person nominated by the Minister for Forests;
- (d) a person nominated by the Minister for Agriculture;

- (e) a person nominated by the Western Australian Government Railways Commission; and
- (f) a person nominated by the body known as the Fire Accident and Marine Underwriters' Association.

Meetings.

(4) Meetings of the Board shall be held at such times as may be prescribed by regulation, and, until so prescribed, when convened by the Chairman.

Proceedings.

(5) The Board shall conduct its proceedings in such manner as may be prescribed by regulation and, until so prescribed, as the Board determines, but in any case—

the Chairman and five other members constitute a quorum for the conduct of business;

all matters shall be determined by a majority of the votes of the members present, and where there is an equality of votes the question is to be determined in the negative; each member, including the Chairman is entitled to one vote only on the determination of a matter.

Vacancy not to affect Board's functions.

(6) The Board may act and exercise all its powers notwithstanding a vacancy in membership and no act or proceeding of the Board is invalid or illegal in consequence only of a vacancy in membership existing at the time of an act or proceeding.

Deputies.

(7) (a) The Minister may, in respect of each member of the Board, appoint a person to be deputy to that member.

(b) A person appointed as a Deputy has, in the event of the absence of the member, all the powers of that member during his absence.

(c) No appointment of and no act done in that capacity by a deputy shall be questioned on the ground that the occasion for his appointment had not arisen, or had ceased.

(8) Acceptance of, or acting in the office of member or deputy member of the Board by a person, shall not of itself render the provisions of the Public Service Act, 1904-1953, the Superannuation Act, 1871-1951, or the Superannuation and Family Benefits Act, 1938-1951, applicable to him nor affect the application of those provisions to him, if they applied to the person at the time of the acceptance of or acting in the office. Acceptance of office.

(9) A member of the Board who is not a servant of the Crown appointed under the provisions of the Public Service Act, 1904-1953, may be paid by the Minister any fees, travelling or other expenses actually incurred by the member in the exercise of his office. Expenses to certain members.

(10) The Board shall cause to be kept minutes of its proceedings in such manner and form as the Minister may direct or approve. Minutes.

9. (1) For the purposes of carrying out the objects and purposes of this Act, the Board with the approval of the Minister, may in relation to any matters or class of matter, or in relation to the whole or any particular part of the State by writing under the authority of the Board delegate to the Chairman or such members of the Board as it may nominate or to both the Chairman and the members so nominated all or any of its powers and functions under this Act, or any by-law or regulation in force by virtue of this Act, except this power of delegation, so that the delegated powers or functions may be exercised with respect to the matters or class of matter, or the whole or that part of the State specified by the instrument of delegation either by him or them. Delegation of powers.

(2) A delegation under this section is revocable at will and may be, subject to the approval of the Minister, varied by the Board from time to time, but a delegation shall not prevent the exercise of a power or function by the Board.

*Division 2.—Powers of Bush Fires Board.*Powers of
Board.

10. (1) The Board shall—

- (a) report to the Minister as often as it thinks expedient so to do on the best means to be taken for preventing or extinguishing bush fires;
- (b) perform and undertake such powers and duties as may be entrusted to it by the Minister;
- (c) subject to the general control of and direction by the Minister, be responsible for the administration of this Act;
- (d) recommend to the Governor the prohibited burning times to be declared for the whole or any part of the State for any yearly period;
- (e) carry out such fire prevention measures as it considers necessary;
- (f) carry out research in connection with fire prevention and control and matters pertaining to fire prevention and control.
- (g) conduct publicity campaigns for the purpose of improving fire prevention measures;

(2) The Board may—

- (a) recommend the appointment of and employ such persons as it considers necessary for carrying out the provisions of this Act;
- (b) organise and conduct bush fire brigade demonstrations and competitions and provide prizes and certificates for presentation to bush fire brigades and competitors;
- (c) pay the expenses of bush fire brigades attending bush fire brigade demonstrations.

11. (1) The Board may appoint a secretary to the Board and such other officers and servants of the Board as it considers necessary for carrying out the provisions of this Act.

(2) A person who is required by the terms of his employment to give the whole of his time to the service of the Board, may be appointed under and subject to the provisions of the Public Service Act, 1904-1953.

(3) For the purpose of carrying out the powers, duties and obligations conferred or imposed upon the Board by this Act or any other Act, the Board may with the consent of the Minister and the consent of the Minister administering a department of the Public Service make use of the services of any person employed in that department.

12. The Board may with the approval of the Minister appoint a person to be a bush fire warden for a defined district in the State. Appoint-
ment of
fire warden..

13. (1) A bush fire warden appointed under this Act shall, subject to such directions as may be given by the Board, take such measures as appear to him to be necessary, expedient, and practicable to— Duties of
fire warden..

- (a) assist a local authority in his district in the formation, organisation, training and equipment of bush fire brigades;
- (b) inspect fire precaution measures throughout his district;
- (c) investigate the cause and origin of bush fires occurring in his district and report on them to the Board and the local authority;
- (d) exercise all the powers which may be exercised by a bush fire control officer under this Act;
- (e) report particulars of all offences against this Act to the Board and to the local authority in whose district the offence occurred;
- (f) employ or use the voluntary services of any person for the purpose of carrying out the provisions of this Act;

- (g) take charge of any appliances which may be made available by the Board; and
- (h) perform such other duties as may be prescribed by regulation.

(2) In the exercise or performance of any of the powers and duties conferred or imposed on the bush fire warden by this Act, he shall co-operate with in an advisory capacity a bush fire control officer.

Members of the Board and other persons may enter land or buildings for purposes of the Act.

14. A member of the Board, the secretary of the Board and an officer who is authorised by the Board so to do and a bush fire warden appointed in accordance with the provisions of this Act, is empowered to enter any land or building at any time to—

- (a) examine a fire which he has reason to believe has been lit, or maintained, or used in contravention of this Act;
- (b) examine a fire which he believes is not under proper control;
- (c) examine fire breaks on the land;
- (d) examine anything which he considers to be a fire hazard existing on the land;
- (e) investigate the cause and origin of a fire which has been burning on the land or building;
- (f) inspect fire precaution measures taken on the land;
- (g) investigate and examine the equipment of a bush fire brigade;
- (h) do all things necessary for the purpose of giving effect to this Act.

Appropriation.

15. The cost of administration of this Act shall be paid out of moneys appropriated by Parliament for the purpose.

PART III.—PREVENTION OF BUSH FIRES.

Division 1.—Fire Protected Areas.

16. (1) The Minister may on the recommendation of the Board by a notice published in the *Gazette* declare a defined portion of the State to be a fire protected area. Fire protected areas may be declared.

(2) Whilst the notice remains unrevoked, a person shall not be subject to section sixty-four of this Act at any time except between the thirty-first day of May and the next following first day of October in any year set fire to the bush on any land within the area without the written permission of the Minister or of an officer acting with the authority of the Minister.

Penalty—A fine of not less than ten pounds or more than two hundred pounds or imprisonment for three months.

(3) Where permission is granted to a person under subsection (2) of this section, it shall be granted subject expressly to compliance by him with such conditions as may be prescribed by regulation or as may be imposed by the Minister or the officer granting permission, to restrict the fire to the land on which the burning of the bush is to be carried out, and subject to the condition that the Minister or the officer may without assigning a reason cancel the permission.

Division 2.—Prohibited Burning Times.

17. (1) The Governor may by notice published in the *Gazette* declare the times of the year during which it is unlawful to set fire to the bush within a district or part of the State mentioned in the notice. Prohibited burning times may be declared.

(2) A copy of the *Gazette* containing the notice shall be received in all courts as evidence of the prohibited burning times within the district or part of the State mentioned in the notice.

(3) (a) The Minister on the recommendation of the Board, from time to time, may suspend the operation of a declaration made under the provisions

of subsection (1) of this section so far as the declaration extends—

- (i) to land used for railway purposes, subject to such conditions as may be prescribed by regulation, or as may be imposed by the Minister, and for such period as the Minister specifies;
- (ii) to forest land, and for such period as the Minister specifies;
- (iii) to land, the subject of an application made by a local authority to the Minister, requesting him to suspend the operation of the declaration in respect of the land so that burning may be carried out on the land, for the purpose of reducing or abating fire hazard which cannot be practicably reduced or abated otherwise than by burning;
- (iv) to land specified by the Minister on which land he considers burning should be carried out, and for that purpose the Minister may suspend the operation of the declaration for such periods as he thinks fit and specifies and subject to such conditions as may be prescribed by regulation or as he thinks fit and specifies.

(b) The Minister may authorise a person appointed by him to regulate permit or define the class of burning, the times and conditions under which a fire may be lit on the land referred to in subparagraph (iv) of paragraph (a) of this subsection during the period of suspension granted under this subsection.

(4) When and as often as the Minister considers that seasonal conditions warrant a variation of the prohibited burning times for the time being in force, he may on the recommendation of the Board by notice published in the *Gazette*—

- (a) postpone until a later date the commencing date of the prohibited burning times so far as they relate to a district or part of the State;

- (b) terminate the prohibited burning times so far as they relate to a district or part of the State, at any time being not more than fourteen days before the last day of the prohibited burning times as declared under subsection (1) of this section.

(5) When and as often as a local authority considers that seasonal conditions warrant a variation of the prohibited burning times it may after first consulting with a forest officer if forest land is situated in the district of the local authority—

- (a) declare that the prohibited burning times in respect of its district or any part of it, shall commence on a date not more than fourteen days earlier or not more than fourteen days later than the commencing date declared under subsection (1) of this section;
- (b) postpone for a period up to fourteen days the final date of the prohibited burning times declared under subsection (1) of this section in respect of the district of the local authority or any part of it.

(6) (a) The local authority shall—

- (i) notify the Board by the quickest means available to it of any variation made by the local authority to the prohibited burning times in respect to its district;
- (ii) publish in its district particulars of the variation made by it.

(b) For the purposes of this subsection “publish” means publication in a newspaper circulating in the district of the local authority, broadcasting from a radio broadcasting station which gives radio broadcasting coverage to the district of the local authority, the placing of notices in prominent positions in the district of the local authority, or such other method of publication as the Board may specify in writing.

(7) The provisions of this section do not apply to an area declared to be a fire protected area under the provisions of section sixteen of this Act.

(8) Subject to the provisions of this Act a person who sets fire to the bush on land within a district or part of the State during the prohibited burning times for that district or part of the State is guilty of an offence.

Penalty—A fine of not less than ten pounds or more than two hundred pounds or to imprisonment for a term of six months or to both the fine and imprisonment.

Division 3.—Restricted Burning Times.

18. (1) Nothing contained in this section authorises the burning of bush during the prohibited burning times.

Restricted
burning
times.

(2) A person shall not subject to section sixty-four of this Act during the restricted burning times set fire to the bush on land unless the following conditions are complied with—

- (a) he has delivered or caused to be delivered at least four days' notice in writing or otherwise as provided in paragraph (a) of section nineteen of this Act of his intention to burn the bush to each of the following persons—
 - (i) the owner or occupier of all land adjoining the land upon which or upon a part of which the bush proposed to be burnt is situated;
 - (ii) the secretary and a bush fire control officer of the local authority in whose district the bush proposed to be burnt is situated;
 - (iii) a forest officer if the land upon which the bush proposed to be burnt is situated within two miles of forest land and the burning operations are intended to take place on a day between the fifteenth day of December and the next fifteenth day of April in any yearly period;

- (b) the notice delivered by him under paragraph (a) of this subsection—
 - (i) contains full particulars of the locality where the bush proposed to be burnt is situated;
 - (ii) specifies a day or days, not less than four days or more than twenty-eight days from the date of the notice upon which the burning is to take place;
- (c) he has obtained a permit in writing to burn the bush from a bush fire control officer of the local authority in whose district the land upon which the bush proposed to be burnt is situated, or from the secretary of the local authority if a bush fire control officer is not available;
- (d) the land immediately adjoining on all sides the whole of the land on which the burning is to take place has, throughout the whole length of every side either been ploughed or has been cleared of all bush and other inflammable material to a width of at least ten feet or such width as is specified in the permit issued under paragraph (c) of this subsection;
- (e) he has himself arranged for and provided in order to assist in keeping the fire under control and preventing it from spreading beyond the land on which the burning is to take place, at least three men, who shall be constantly in attendance at the fire from the time it is lit until in the opinion of a bush fire control officer or bush fire brigade officer it is safe;
- (f) the fire is lit on a day other than a Sunday;
- (g) (i) that where for any day specified in the notice required under paragraph (a) of this subsection, the fire hazard forecast issued by the Perth Weather Bureau in

respect of the locality where the bush proposed to be burnt is situated, is "dangerous," the person who has received a permit under paragraph (c) of this subsection shall not burn bush in the locality on that day but may burn bush in the locality on the first day next following that day on which the fire hazard forecast issued by the Perth Weather Bureau in respect of the locality is below "dangerous";

- (ii) that where a day specified in the notice is varied in accordance with the provisions of the last preceding subparagraph, the person who has received a permit in writing to burn under paragraph (c) of this subsection notifies the bush fire control officer or the secretary who issued the permit and the persons mentioned in paragraph (a) of this subsection of the variation in the day for burning.

(3) (a) The person issuing a permit to burn under the provisions of this section may incorporate therein any additional requirements and directions considered necessary by him relative to the burning.

(b) The holder of the permit shall observe and carry out the requirements and directions.

(4) (a) Subject to the regulations a local authority may by resolution declare that within its district bush may be burnt only on such dates and by such persons as are prescribed by a schedule of burning times adopted by the local authority.

(b) A person desiring to set fire to bush within the district of the local authority which has so resolved, shall prior to the conclusion of the prohibited

burning times for the district of that local authority, or by such date as may be determined by it apply to the local authority for permission to set fire to the bush and the local authority shall allocate a day on which the burning may take place.

(c) The burning shall be done only on the day or days and in the manner specified by the local authority and subject to the conditions mentioned in subsection (2) of this section, except that the period of the notice required to be given by paragraph (a) of that subsection may be varied by the local authority in order to enable the schedule of burning times adopted by it to be given effect to.

(5) A person who commits a breach of this section is guilty of an offence.

Penalty: For a first offence a fine of not less than five pounds or more than one hundred pounds or imprisonment for a term of three months: for every subsequent offence a fine of not less than twenty pounds or more than five hundred pounds or imprisonment for six months.

19. For the purposes of section eighteen of this Act delivery of a notice required to be given to an owner, occupier or other person may be given by any of the following methods—

Made of
service of
notice.

- (a) personally or in writing as will ensure (except in the case mentioned in paragraph (c) of this section) that every owner occupier or other person is made aware of the intention to burn and the date and time thereof; or
- (b) by delivering it at the premises on which the person to whom notice is to be given lives or carries on business or by leaving it with a person who is apparently over the age of sixteen years who resides or is employed on the premises; or
- (c) where the person to whom the notice is to be given is not at the time residing on the adjoining land by posting not less than

eight days prior to the first day on which it is intended to burn the bush the notice by prepaid letter addressed to the last known place of abode or business of the person.

Regulations.

20. The Governor may make regulations in respect of any defined area of the State—

- (a) prescribing the maximum area which may be burnt under the provisions of section eighteen of this Act, at any one time;
- (b) permitting burning under the provisions of section eighteen of this Act on Sunday or prohibiting burning under the provisions of that section on any week day;
- (c) prescribing the conditions under which bush may be burnt under the provisions of section eighteen of this Act;
- (d) imposing a maximum penalty of fifty pounds for any breach of the regulations.

Division 4.—Bush Fire Emergency Period.

**Minister
may declare
bush fire
emergency
period.**

21. (1) (a) Where the Minister is of the opinion that the existing weather conditions are conducive to the outbreak or spread of bush fires, or that such weather conditions are imminent, he may, by wireless broadcast or in such other manner as the Minister deems expedient declare a bush fire emergency period for a defined area.

(b) The Minister from time to time may revoke amend or cancel the declaration if he considers it necessary so to do.

(2) (a) Subject to section sixty-four of this Act whilst the declaration remains unrevoked a person shall not set fire to bush on land within the area without the permission in writing of the Minister or of an officer acting with the authority of the Minister.

(b) Permission under this subsection if granted shall be so granted subject expressly to compliance by the person obtaining permission with such conditions as may be prescribed or imposed by the Minister or officer granting permission and subject to the condition that the Minister or that officer may without assigning a reason cancel the permission.

(3) (a) During a fire emergency period the Minister may appoint a person to take charge of bush fire fighting operations in an area to which the declaration made under subsection (1) of this section applies.

(b) Where a person is so appointed all local authorities, bush fire control officers, bush fire wardens and the captains, lieutenants and members of bush fire brigades or other persons shall comply with the directions given by that person in connection with the suppression and control of a fire which is burning in the area.

Division 5.—Burning During Prohibited Times and Restricted Times.

22. (1) For the purpose of this section—

Interpretation.

“common boundary” means the boundary common to railway land or forest land and adjoining land, and includes the boundary of railway land or forest land which is separated by a road, railway, or water course from the boundary of any other land;

“railway land” means land used for the purposes of a railway as defined in section two of the Government Railways Act, 1904-1953.

(2) Where, during the operation of a suspension granted pursuant to the provisions of subsection (3) of section seventeen of this Act, the occupier of railway or forest land sets fire to the bush on that land, the occupier of the adjoining land may, subject to provisions of this section, for the purpose of protecting his pasture or crop from damage by fire, set

Burning during the operation of a suspension.

fire to the bush on the adjoining land between the common boundary and the fire break referred to in paragraph (b) of subsection (3) of this section.

Notices
required to
be given.

(3) Before setting fire to the bush on land which is adjoining railway land or forest land, as provided in the last preceding subsection, the occupier of the adjoining land shall—

- (a) notify the local authority in whose district the adjoining land is situated, of his intention so to do and obtain its approval in writing to burn;
- (b) prepare a firebreak having a width of at least ten feet and the boundary of which nearer to and parallel or approximately parallel with the boundary of the railway land or forest land is not, at any point, of a greater distance than three chains from that boundary.

(4) The occupier of the adjoining land shall comply with and observe the provisions of this Act generally and of the conditions referred to in section eighteen of this Act, as modified by the provisions of this subsection particularly.

(5) The occupier of the adjoining land and the occupier of the railway land or forest land as the case may be shall in so far as is reasonably practicable, co-operate with each other in setting fire to the bush on the adjoining and the railway land, or forest land.

(6) (a) A local authority in whose district the burning is to take place may arrange with the occupier of railway land or forest land as the case may be, the occupier of land adjoining it and a bush fire brigade which has been registered by the local authority, to co-operate in burning fire breaks on the respective lands.

(b) Where an arrangement is made in pursuance of paragraph (a) of this subsection the local authority shall notify the occupier of the adjoining land of the date the burning is to take place and require him to provide by that date ploughed or cleared fire breaks parallel to the common boundary and of a distance therefrom of not more than three chains and as specified by the local authority.

(c) Where the occupier of railway land or forest land as the case may be and a bush fire brigade are burning bush on railway land or forest land in pursuance of an arrangement made under paragraph (a) of this subsection—

- (i) the occupier of the land adjoining the railway land or forest land shall assist in the burning of the bush;
- (ii) a bush fire control officer or an officer of the bush fire brigade may enter the adjoining land and set fire to the bush thereon for the purpose of making a fire break.

23. (1) Subject to the due observance of the provisions of this section, and the conditions prescribed in section eighteen of this Act the owner or occupier of land may during the prohibited burning times relating to the district where the land is situate—

Burning during prohibited burning times.

- (a) for the purpose of protecting from damage by fire a dwelling house or other building, or stack of hay, wheat or other produce, burn the bush between two plough or spade breaks, of which the outer plough or spade break is not more than five chains from the property to be protected.
- (b) where the prohibited burning times are declared to commence prior to the fifteenth day of December in any yearly period from

the commencement of the prohibited burning times up to the fifteenth day of December, or where the prohibited burning times are declared to commence on or after the fifteenth day of December in any yearly period during the first fourteen days of the prohibited burning times, for the purpose of protecting from damage by fire the pasture or crop growing on the land—

- (i) burn the bush on a road reserve between the constructed portion of the road and an established fire break; and
- (ii) burn the bush on any grass land of the owner or occupier of one chain in width between two fire breaks each being of not less than six feet wide.

(2) The burning of bush under the provisions of this section is subject to the owner or occupier of the land complying with the following conditions:—

- (a) The bush is burned at such a time between the hours of four o'clock in the afternoon and midnight of the same day as the local authority in whose district the burning is proposed to be carried out, approves in writing.
- (b) The provisions of section eighteen of this Act are complied with.
- (c) Such other conditions as the local authority may stipulate in writing are carried out.

(3) Subject to the provisions of section eighteen of this Act a person may burn bush on a road reserve between the constructed portion of the road and an established fire break during restricted burning times.

24. The owner or occupier of land upon which subterranean clover is growing may burn the clover during the prohibited burning times for the purpose of facilitating the collection from it of clover burr subject to the regulations and to the following conditions—

Bush on land growing subterranean clover may be burnt during prohibited burning times.

- (a) the owner or occupier of the land applies for, pays the prescribed fee and obtains from a duly authorised officer for the district of the local authority in which the land is situated, a permit in the prescribed form to burn clover;
- (b) the permit to burn shall not be granted unless and until the applicant satisfies the authorised officer to whom the application is made that—
 - (i) the area of the land on which the clover proposed to be burned at one time under the permit being applied for does not exceed the area to be specified in the permit, and in any event does not exceed seventy-five acres;
 - (ii) the area is surrounded by a fire break to a width of not less than ten feet;
 - (iii) where the area on which the burning is to take place is carrying live or dead standing trees, the area has been grazed during the growing period of the clover crop to reduce the amount of dead litter to a minimum, and that all grass and debris has been raked to a distance of not less than six feet from the base of each standing tree.

25. (1) During the restricted burning times or during the prohibited burning times a person shall not light or use a fire in the open air for a purpose

No fire to be lit in open air unless certain precautions taken.

not specifically mentioned or provided for in this Act, save and except in accordance with and subject to the following provisions—

- (a) a fire for the purpose of camping or cooking shall not be lit within ten feet of a log or stump and unless and until a space of ground around the site of the fire having a radius of at least ten feet from the site as the centre, is cleared of all bush and other inflammable material;
- (b) a fire shall not be lit for the conversion of bush into charcoal unless and until approval in writing is obtained from the local authority in whose district the burning is proposed to be carried out and a space of ground around the perimeter of a kiln, pit, or retort used for the purpose is cleared of all bush and other inflammable material for a distance of at least twenty feet and such directions and requirements, if any, as are given or specified by a bush fire control officer or forest officer as being, in his opinion, necessary for the purpose of preventing the fire from spreading or escaping, are duly carried out or complied with;
- (c) (i) a fire shall not be lit for the purpose of disposing of the carcass of a dead animal, or a part of the carcass, unless and until a space of ground around the perimeter of the fire and the carcass or part to be burnt is cleared of all bush and other inflammable material for a distance of at least twenty feet;
- (ii) the fire shall not be lit within a distance of twenty feet of a standing tree, whether dead or living and unless at least one person remains in attendance constantly at the fire, and the directions which may be given by a bush fire warden or bush fire control officer in respect of the fire are complied with.

- (d) a fire shall not be lit for the purpose of destroying garden refuse or rubbish or for any like purpose unless the fire is lit—
- (i) in a properly constructed incinerator designed to prevent the escape of sparks or burning material; or
 - (ii) upon ground from which all bush or other inflammable matter is thoroughly cleared within fifteen feet at all points of the site of the fire;
- (e) a fire which is lit for the purpose of destroying garden refuse or rubbish other than in an incinerator shall be lit only between the hours of six o'clock in the evening and eleven o'clock of the same day and shall be completely extinguished not later than midnight of that day;
- (f) where a fire is lit for any purpose mentioned in this subsection, except for the purpose mentioned in paragraph (b) of subsection (1) of this section, the person who lit the fire, or the person left in attendance on the fire as required by this subsection, as the case may be, shall completely extinguish the fire by the application of water or earth before he leaves it;
- (g) where the occupier of a sawmill uses a fire on the premises of the sawmill for the purpose of consuming or disposing of sawdust and waste timber resulting from the sawmilling of timber in the sawmill, if the occupier causes reasonable precautions to be taken for the purpose of preventing the fire from spreading or becoming a source of danger to persons or property, and causes the particular directions or requisitions of a bush fire control officer, bush fire warden or of a forest officer in respect of the fire to be properly observed, the occupier is not required to extinguish the fire whilst it continues to be required for the purpose.

(2) A person who contravenes a provision of subsection (1) of this section is guilty of an offence.

Penalty—A fine of not less than five pounds or more than one hundred pounds.

Burning of plants to eradicate disease during prohibited burning times.

26. (1) Where in the opinion of the Minister it is desirable that a plant, or the refuse of a plant, should be burnt during the prohibited burning times in order to prevent or eradicate disease arising or likely to arise from the plant, or the refuse, the Governor may, on the recommendation of the Minister, by proclamation—

- (a) authorise the burning of the plant, and the refuse specified in the proclamation, during the prohibited burning times or during any period of the prohibited burning times, as stated in the proclamation, and
- (b) declare that the proclamation shall take effect either generally or in the particular districts which are specified in the proclamation.

(2) A proclamation made under the provisions of subsection (1) of this section may be revoked, amended, or varied at any time by a subsequent proclamation.

(3) Where a proclamation authorises the burning of a plant, or the refuse of the plant, the burning shall be carried out subject to and in accordance with the regulations.

(4) A person who pursuant to the authority of a proclamation made under this section, burns a plant or the refuse of a plant, and fails to carry out the burning in accordance with the regulations is guilty of an offence against this Act.

Penalty—A fine not exceeding one hundred pounds.

*Division 6.—General Restrictions, Prohibitions
and Offences.*

27. (1) Subject to the provisions of subsection (2) of this section a person shall not operate, during the prohibited burning times, and at any time between the first day of October and the next following thirtieth day of April in any yearly period,

Prohibition on use of tractors or engines except under certain conditions.

(a) a tractor unless—

- (i) there is carried on the tractor a fire extinguisher as prescribed by regulation;
- (ii) the exhaust pipe of the tractor is vertical and its exhaust system, including pipes, is maintained in sound and efficient condition;
- (iii) the exhaust pipe of the tractor is fitted with a spark arrester as prescribed by regulation;

(b) an internal combustion engine, steam engine or other prescribed machinery or vehicle except in accordance with the regulations.

(2) Subparagraphs (ii) and (iii) of paragraph (a) of subsection (1) of this section do not apply to a log hauling diesel tractor while it is being used in the timber industry nor to any tractor while it is being used in an orchard.

28. (1) (a) Where a bush fire is burning on any land—

Occupier of land to extinguish bush fire occurring on his land

- (i) at any time in any year during the restricted burning times;
- (ii) during the prohibited burning times; and
- (iii) the bush fire is not part of the burning operations being carried on upon the land in accordance with the provisions of this Act—

the occupier of the land shall forthwith, upon becoming aware of the bush fire, whether he has lit or caused the same to be lit or not, take all possible measures at his own expense to extinguish the fire;

(b) Where he requires assistance for the purpose he shall if practicable, without leaving the fire unattended, inform or cause to be informed the nearest available bush fire control officer, or bush fire brigade officer, of the existence and locality of the fire.

(2) For the purposes of this section, a fire lit between the thirty-first day of May and the next following thirtieth day of September in any year, which is burning on the first day of October in that year or at the commencement of the prohibited burning times relating to the district where the fire is situated, is to be regarded as being a bush fire which is not part of the burning operation being carried on upon the land in accordance with the provisions of this Act.

Penalty—A fine of not less than five pounds or more than one hundred pounds.

(3) Where the occupier of the land upon which a bush fire is burning fails to take measures to extinguish it as required by subsection (1) of this section, a bush fire warden, a bush fire control officer of any local authority or a forest officer employed in connection with any forest land which is within two miles of the land where the fire is burning, may enter upon the land where the fire is burning and take all proper measures to extinguish it.

(4) (a) In so far as the measures taken by the bush fire warden bush fire control officer or forest officer are necessitated by reason of the failure of the occupier of the land to comply with subsection (1) of this section, any expenses incurred by the bush fire warden, bush fire control officer or forest officer, in taking measures to extinguish the fire, shall be a debt owing by the occupier of the land to the Board or the local authority employing the bush fire warden or bush fire control officer or to the Conservator of Forests as the case may be.

(b) The Board, local authority, or Conservator of Forests, as the case may be, may recover the expenses from the occupier in any court of competent jurisdiction.

29. (1) The Governor may by notice published in the *Gazette* prohibit the sale or use of matches which have self-igniting heads or wax coated or grease coated cotton stems, within the district of a local authority during the period specified in the notice.

Sale and use of certain kinds of matches may be prohibited.

(2) The notice may be revoked, amended or varied at any time and from time to time.

(3) While the notice remains unrevoked, a person who sells or uses any matches in contravention of the notice is guilty of an offence.

Penalty—Fifty pounds.

30. Between the first day of October and the next following thirtieth day of April in any yearly period—

Offences. No ignitable wadding to be carried or used.

(a) a person shall not, in connection with a gun, rifle, pistol, or other firearm carry or use any wadding made of paper, cotton, linen or other ignitable substance.

Penalty—Fifty pounds.

(b) the owner or occupier of land or the servant of the owner or occupier who finds a person using or carrying a gun, rifle, pistol, or other firearm on the land may seize and examine the gun, rifle, pistol, or other firearm, and all ammunition and material which is carried by the person for the purpose of ascertaining the nature of the wadding being carried or used;

(c) a person to whom paragraph (b) of this section relates who—

- (i) refuses to allow the seizure and examination authorised by the provisions of paragraph (b) of this section;
- (ii) refuses to disclose his name and address to the person demanding it; or
- (iii) gives a false name and address to the person demanding his name and address

is guilty of an offence.

Penalty—Fifty pounds.

(d) A person shall not dispose of a burning cigarette, cigar, tobacco, or match—

- (i) by disposing of it in circumstances that are likely to set fire to the bush; or
- (ii) by throwing it from a vehicle under any circumstances whatever.

Penalty—Fifty pounds.

Prohibition
of smoking.

31. A person shall not at any time smoke a pipe cigar cigarette or other material or substance within twenty yards of a stable, rick stack or field of hay corn straw stubble or other inflammable vegetable produce, unless the place where he is smoking is within a town or is upon a public road or highway, or the pipe is properly and securely covered.

Penalty—Ten pounds.

32. A person who wilfully—

Offences of lighting or attempting to light a fire likely to injure.

- (a) lights or causes to be lit or attempts to light a fire; or
- (b) places a match or other inflammable or combustible substance matter or thing in a position so that it may directly or indirectly be ignited by the rays of the sun or by friction or other means, or be exploded or set on fire, or whereby a fire may be lit or caused and with the intent to cause a fire,

under such circumstances as to be likely to injure or damage a person or property, whether the fire be caused or not, is guilty of a misdemeanour.

Penalty—A fine of five hundred pounds or imprisonment for five years.

33. (1) Subject to subsection (2) of this section a local authority at any time, and from time to time, and if so required by the Minister, shall as a measure of preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local authority or shall give notice to all owners or occupiers of land in its district by publishing a notice in the *Government Gazette* and in a newspaper circulating in the area requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things—

Local authority may require occupier of land to plough or clear fire break.

- (a) To plough, cultivate, scarify, burn or otherwise clear upon the land firebreaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local authority may and is hereby empowered to determine

and as are specified in the notice, and thereafter to maintain the firebreaks clear of all inflammable matter;

- (b) To act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local authority or its duly authorised officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,

and the notice may require the owner or occupier to do so—

as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land, and in any event to do so to the satisfaction of either the local authority or its duly authorised officer, according to which of them is specified in the notice.

(2) The provisions of the last preceding subsection do not authorise the local authority to set fire to the bush or require an owner or occupier of land to set fire to the bush contrary to the provisions of sections sixteen and seventeen of this Act.

(3) The owner or occupier of land to whom a notice has been given under subsection (1) of this section and who fails or neglects in any respect duly to comply with the requisitions of the notice is guilty of an offence.

Penalty—A fine of not less than five pounds or more than one hundred pounds.

(4) (a) Where an owner or occupier of land who has received notice under subsection (1) of this section fails or neglects to comply with the requisitions of the notice within the time specified in the notice, the local authority may direct its bush fire control officer, or any other officer of the local authority, to enter upon the land of the owner or occupier and to carry out the requisitions of the notice which have not been complied with;

(b) The bush fire control officer or other officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen, or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.

(5) (a) The amount of any costs and expenses incurred by the bush fire control officer or other officer in doing the acts, matters, or things provided for in subsection (4) of this section shall be ascertained and fixed by the local authority and a certificate signed by the mayor or chairman of the local authority shall be conclusive evidence of the amount.

(b) The local authority may recover the amount in any court of competent jurisdiction as a debt due from the owner or occupier of land to the local authority.

(6) A local authority may, at the request of the owner or occupier of land within its district, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of a fire danger, and the amount of the expense, if not paid on demand, may be recovered from the owner or occupier by the local authority in a court of competent jurisdiction as a debt due from the owner or occupier to the local authority.

34. (1) (a) The owner or occupier of land which abuts upon Crown land, a reserve or other land which is unoccupied by abandonment except forest land, may enter upon the land or reserve for the purpose of clearing or clearing and ploughing firebreaks not more than ten chains in width from the boundary of the land or reserve and the firebreaks may be cleared by burning if the burning is not contrary to the provisions of sections sixteen and seventeen of this Act and it is carried out in accordance with the provisions of section eighteen of this Act.

Burning on
Crown lands.

(b) Before any firebreaks are burnt under the provisions of this subsection, a permit to so burn shall be obtained from a bush fire control officer of the local authority in whose district the burning is to take place and where a permit is granted the bush fire control officer shall state in the permit the width to which a firebreak may be burnt up to a maximum of ten chains in width from the boundary of the land or reserve.

(c) A bush fire control officer may subject to the provisions of sections seventeen and eighteen of this Act enter upon any Crown land or reserve except forest land with such servants and workmen or with such vehicles, machinery and appliances as he may think necessary for the purpose of burning bush, in order to reduce or abate a fire hazard which cannot practicably be reduced or abated otherwise than by burning.

Conservator
of Forests
may require
occupiers
of land to
plough or
clear
firebreaks.

(2) (a) Where an agreement for the purpose of making firebreaks is not made between the Conservator of Forests and the owner or occupier of land adjoining or adjacent to forest land, if the Conservator has established on the forest land marginal and internal firebreaks, he may at any time and from time to time, give notice in writing to the owner or occupier within a time specified in the notice to do all or any of the things mentioned in paragraphs (a) and (b) of section thirty-three of this Act upon that part of the land of which he is the owner or occupier and which is nearest to the forest land as though the Conservator were the local authority referred to in those paragraphs and the provisions of the paragraphs apply *mutatis mutandis* as though they were expressly incorporated in this subsection.

(b) When and as often as the Conservator of Forests gives notice to an owner or occupier of land as provided for in paragraph (a) of this subsection, the provisions of subsection (3), (4) and (5) of section thirty-three of this Act *mutatis mutandis* apply and have effect in the same manner and to the same extent as if they were expressly incorporated in this section.

35. (1) Where a local authority, if requested so to do by the Minister, fails to give to an owner or occupier of land a notice under the provisions of subsection (1) of section thirty-three of this Act, the Board may give the notice and thereafter subsection (3) and subsection (4) of that section *mutatis mutandis* apply and have effect as if they were expressly incorporated in this section.

Powers of
Minister
on default
by local
authority.

(2) Where a local authority, in compliance with a request by the Minister, gives to an owner or occupier of land a notice under subsection (1) of section thirty-three of this Act, if the owner or occupier fails to comply with the requirements of the notice, and the local authority fails to exercise its powers under subsection (4) of that section, the Board may by its servants or agents exercise all the powers which the local authority may exercise to insure that the requirements of the notice are properly carried out.

(3) (a) Where the Board in exercise of the power conferred on it by subsection (2) of this section incurs any costs and expenses, the amount of the costs and expenses so incurred shall be ascertained and fixed by the Board.

(b) A certificate signed by the Secretary of the Board is evidence of the amount and the Board may recover the amount in a court of competent jurisdiction as a debt due from the local authority or from the owner or occupier of the land in respect of which the notice has been given, as the Board may at its option elect.

(4) Where in accordance with subsection (3) of this section the Board takes proceedings against, and obtains a judgment against, the local authority, the local authority has no recourse against, or right of contribution by, the owner or occupier of land under this section in respect of the judgment.

(5) (a) Where, in the opinion of the Board, a local authority fails or neglects to carry out its duties, exercise its powers or perform its functions under the provisions of this Part of this Act, the Board may, if it deems it necessary, instruct a bush fire warden to take such action as he considers necessary to remedy the default or neglect.

(b) The Board may recover in a court of competent jurisdiction the amount of the expenses incurred by the warden in remedying the default or neglect of the local authority as a debt due by it to the Board.

PART IV.—CONTROL AND EXTINGUISHMENT OF
BUSH FIRES.

Division 1.—Local Authorities.

Local authority may expend moneys in connection with control and extinguishment of bush fires.

36. (1) A local authority may, notwithstanding anything to the contrary contained in any other Act, expend any portion of its ordinary revenue for all or any of the following purposes:—

- (a) In the purchase and maintenance of appliances, equipment, and apparatus for the prevention, control and extinguishment of bush fires.
- (b) In paying the cost of clearing a street, road or reserve vested in it or under its control, of bush, and other inflammable material, for the purpose of preventing the occurrence or spread of a fire.
- (c) In connection with the exercise of any of its powers under this Part.
- (d) In establishing and maintaining bush fire brigades as a part of its organisation for the prevention, control, and extinguishment of bush fires.
- (e) In subsidising a bush fire brigade voluntarily established within the district of the local authority as distinct from a bush fire brigade established and maintained by the local authority, which is duly registered under and in accordance with this Part.
- (f) In assisting the occupier of farm lands within its district to acquire appliances, equipment and apparatus for the prevention, control, and extinguishment of bush fires upon or threatening his land, including the sale, loan or exchange to the

occupier of appliances, equipment and apparatus belonging to the local authority; and

- (g) in paying the expenses or costs of any other act, matter, or thing done or acquired in connection with the prevention, control, and extinguishment of bush fires, the doing or acquisition of which is approved by the Governor or otherwise authorised by the provisions of this Act.

37. A local authority which maintains a bush fire brigade as part of its organisation for the prevention, control and extinguishment of bush fires shall effect a policy or policies of insurance—

Local
authority
to insure
certain
persons.

- (a) insuring bush fire control officers, members of the bush fire brigade, and other persons voluntarily assisting any of them, against personal injury sustained while engaged in controlling and extinguishing bush fires or a fire in a building as provided in this Act, or while journeying to or from a bush fire or a fire in a building under the direction of a bush fire control officer or an officer of a bush fire brigade: Provided that the provisions of this paragraph shall not apply in respect of an injury sustained after the work of controlling or extinguishing a bush fire has been completed unless such injury occurs during the journey back to the place of employment, business or residence of the person concerned without any deviation or interruption thereof unconnected with the work of extinguishing or controlling the bush fire; and
- (b) insuring against loss or damage all appliances, equipment and apparatus of the bush fire brigade or any privately owned equip-

ment working under the direction of a bush fire control officer or bush fire brigade captain.

Local authority may appoint bush fire control officer.

38. (1) A local authority may from time to time appoint and employ such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act and shall determine the seniority of the bush fire control officers appointed by it.

(2) (a) The local authority shall give notice of an appointment made under the provisions of subsection (1) of this section to the Board and cause notice of the appointment to be published at least once in a newspaper circulating in its district.

(b) The Board shall cause notice of the appointment to be published once in the *Gazette*.

(3) The local authority may in respect to bush fire control officers appointed under the provisions of this section, exercise so far as they can be made applicable the same powers as it may exercise in respect to its other officers, under the provisions of the Acts under which those other officers are appointed.

(4) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local authority, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for—

(a) preventing the outbreak of bush fires;

(b) protecting life and property in the case of an outbreak of bush fire;

- (c) controlling and extinguishing a bush fire or preventing the spread of the fire;
- (d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III. of this Act;
- (e) procuring the due observance by all persons of the provisions of Part III. of this Act.

39. (1) Subject to the provisions of this Act a bush fire control officer appointed under this Act by a local authority may, in the exercise of his functions and the performance of his duties under this Act, do all or any of the following things:—

Special powers of bush fire control officers.

- (a) Exercise any of the appropriate powers of the Chief Officer of Fire Brigades under the Fire Brigades Act, 1942-1951, in so far as the same may be necessary or expedient, for extinguishing a bush fire or for preventing the spread or extension of the fire.
- (b) Enter any land or building, whether private property or not.
- (c) Pull down, cut, and remove fences on land, whether private property or not, if in his opinion it is necessary or expedient so to do for the purpose of taking effective measures for extinguishing a bush fire, or for preventing the spread or extension of the fire.
- (d) Cause firebreaks to be ploughed or cleared on land, whether private land or not, and take such other appropriate measures on the land as he may deem necessary for the

purpose of controlling or extinguishing a bush fire or for preventing the spread or extension of the fire.

- (e) Take and use water, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, and other fire extinguishing material from any source whatever on land, whether private property or not.
- (f) Take charge of and give directions to any bush fire brigade present at a bush fire with respect to its operations or activities in connection with the extinguishment or control of the bush fire, or the prevention of the spread or extension of the fire.
- (g) Any other thing which in his opinion is incidental to the exercise of any of the foregoing powers.
- (h) Employ a person or use the voluntary services of a person to assist him, subject to his directions in the exercise of any of the foregoing powers; and
- (i) either alone or with others under his command or direction to enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish the fire or prevent it from spreading, except as arranged with or requested by an officer in charge of a fire brigade under the Fire Brigades Act, 1942-1951, this power shall not be exercised in a townsite in an area which has been declared a fire district under that Act or in a townsite in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act.

(2) (a) Where a bush fire is burning in or on forest land, or in or on Crown lands, if a forest officer appointed under that Act is present at the fire, the powers and authorities conferred by this Act upon a bush fire control officer appointed under this Act by a local authority are vested in and are exercisable by the forest officer.

(b) Where a forest officer is present at the bush fire the powers and authorities are not exercisable by the fire control officer so appointed, except with the approval of and subject to the directions of the forest officer.

40. (1) Two or more local authorities may by agreement join in appointing, employing and remunerating bush fire control officers for the purposes of this Act.

Local authorities may join in appointing and employing bush fire control officers.

(2) Bush fire control officers so appointed may exercise their powers and authorities and shall perform their duties under this Act in each and every one of the districts of the local authorities which have joined in appointing them.

Division 2.—Bush Fire Brigades.

41. (1) For the purpose of taking measures and conducting operations for the control and extinguishment of bush fires—

Bush fire brigades.

- (a) a local authority may in accordance with its by-laws made for the purpose, establish, maintain and equip with appliances, equipment and apparatus a bush fire brigade;
- (b) an association of persons may voluntarily be formed as a bush fire brigade.

(2) A bush fire brigade established or formed under the authority of this section shall be registered in a register of bush fire brigades to be kept by the Board in accordance with the regulations, and, when so registered, but not otherwise, it shall be a bush fire brigade within the meaning and for the purposes of this Act.

(3) A local authority desiring to register a bush fire brigade established by it and an association of persons desiring to be registered as a bush fire brigade under and for the purposes of this Act shall make application in the prescribed form to the Board.

(4) The Board shall register a bush fire brigade which has been established by a local authority in accordance with its by-laws and shall not, except with the consent of the local authority, cancel the registration.

(5) The Board may refuse to register an association of persons formed as a bush fire brigade, and may at any time cancel the registration of an association previously registered as a bush fire brigade.

Local
authorities
may join in
establishing
a bush fire
brigade.

42. (1) Two or more local authorities may by agreement join in establishing, maintaining, and equipping with appliances, equipment and apparatus, a bush fire brigade to act as the bush fire brigade of each local authority under and for the purposes of this Act.

(2) The bush fire brigade shall be registered as provided for in section forty-one of this Act, but the application for registration may be made by any one local authority a party to the agreement on behalf of the local authorities which are parties to the agreement.

43. A local authority which establishes a bush fire brigade shall by its by-laws, and every association of persons formed as a bush fire brigade shall by its rules, provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade, and prescribe by the by-laws or rules as the case may be their respective duties.

Election and duties of officers of bush fire brigades.

44. (1) Subject to this Act, and except as provided in section forty-five of this Act for the purpose of controlling and extinguishing or preventing the occurrence or spread or extension of a bush fire, or for any other prescribed purpose, the captain, or, in his absence, the next senior officer of a bush fire brigade, after consulting with the occupier of the land if he be present, has and may exercise all or any of the following powers and authorities, he may—

Powers and authorities of officers of bush fire brigade.

- (a) control and direct the bush fire brigade at the fire or a person who voluntarily places his services at his disposal;
- (b) either alone or with others under his command or direction, enter on land or into premises which may be on fire or in the neighbourhood of a fire for the purpose of taking such steps as he deems necessary for the control or extinguishment or for the prevention of the spread or extension of the fire, or take or give directions for taking such apparatus required to be used at a fire into, through, or upon land or premises as he considers convenient for the purpose;
- (c) take any measures which in the circumstances are reasonable and appear to him to be necessary or expedient for the protection of life and property; and, for the purpose of controlling or extinguishing or for preventing the spread or extension of

a fire, cause fences to be pulled down or removed, and bush or other inflammable material to be burnt, or otherwise destroyed or removed;

- (d) enter or give directions for entering land or premises, and take or cause to be taken water from any source whatsoever, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, whether the water is upon private land or other land, and in all other respects, when and as often as in his opinion he deems it necessary or expedient to do so, exercise all the powers and authorities of a bush fire control officer under this Act;
- (e) either alone or with others under his command or direction enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish such fire or prevent it from spreading.

(2) The powers conferred by paragraph (e) of subsection (1) of this section shall not be exercised—

- (a) in an area which has been declared a fire district under the Fire Brigades Act, 1942-1951, unless at the express request of an officer of a fire brigade established under that Act; or
- (b) in an area in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act, unless at the express request of an officer of the fire brigade or volunteer fire brigade as the case may be.

(3) (a) Where the bush fire brigade of a local authority is present at a fire which is burning within the district of the local authority, if a bush fire

control officer of the local authority is not present, the captain or in his absence the next senior officer of the bush fire brigade has and shall take supreme control and charge of all operations and the officers and members of another bush fire brigade if present are subject to and shall act under his orders and directions.

(b) Subject to the provisions of section forty-five of this Act where a bush fire control officer of a local authority is present at a fire which is burning in the district of the local authority, he has supreme control and charge of all operations, and the officers and members of all bush fire brigades present at the fire are subject to and shall act under his orders and directions.

45. (a) Where a bush fire is burning in or near forest land, or in or near Crown lands, if a forest officer appointed under that Act is present, the powers and authorities conferred by this Act upon a bush fire control officer appointed under this Act, or upon a captain or other officer of a bush fire brigade, are exercisable by him;

Fires in or near State forests.

(b) Where a forest officer is present at the fire he has and shall take supreme control and charge of all the operations, and every bush fire control officer, and the officers and members of every bush fire brigade who are present at the fire, are in all respects subject to and shall act under his orders and directions.

46. (1) (a) Notwithstanding any other provision of this Act—

- (i) subject to the provisions of the next succeeding paragraph a bush fire control officer, or the local authority in whose district the land is situated may prohibit, or from time to time postpone the lighting of

Bush fire control officer or forest officer may postpone lighting a fire.

a fire, where in his or its opinion the fire, if lit, would be or become a source of danger by escaping from the land on which it is proposed to be lit;

- (ii) where a fire is burning on land and the bush fire control officer or the local authority as the case may be is of the opinion that the fire is in danger of escaping from that land, he or it may direct that all reasonable steps be taken by the owner or occupier of the land to extinguish the fire or to prevent the fire from spreading.

(b) Where it is proposed to light a fire within two miles of a boundary of forest land, a forest officer may exercise the powers conferred by the last preceding paragraph to the exclusion of the exercise of those powers by a bush fire control officer or the local authority but if a forest officer fails to exercise the powers a bush fire control officer or local authority may exercise those powers.

(2) A person who lights a fire contrary to the provisions of this section or who fails to carry out any direction given to him pursuant to this section is guilty of an offence.

Penalty: Imprisonment for three months or a fine of one hundred pounds.

(3) If the exercise of any power conferred by subsection (1) of this section, a person, who has paid a fee to a local authority for a permit to light a fire, is precluded from doing so in such circumstances that the permit is of no use to him the local authority shall, on being requested to do so, refund the fee to him.

Firebreak
not to be lit
when bush
fire burning.

47. Subject to the provisions of paragraphs (a) and (b) of subsection (2) of section thirty-nine of this Act, and to the provisions of section forty-five

of this Act, a person shall not, if a bush fire is burning on land, burn a fire break on the land or on any land adjoining or adjacent though not contiguous to the land whether for the purpose of controlling or preventing the spread of, or otherwise affecting the bush fire, unless as directed by a bush fire control officer or if a bush fire control officer is not present, the captain of a bush fire brigade or, in his absence, a member of the bush fire brigade who is present at the bush fire.

PART V.—MISCELLANEOUS.

48. (1) Where the owner or occupier of land clears it of all bush or other inflammable material for a space of at least ten feet from a fence dividing the land from the land of any other owner or occupier, if

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

- (a) that other owner or occupier does not similarly clear his land contiguous to the fence and
- (b) any damage to the fence from a bush fire is occasioned through his default,

the owner or occupier in default shall at his own cost and expense repair or re-erect the fence so damaged within one month from the date when the damage is done, or within such extended time as a stipendiary or resident magistrate in the district where the fire occurred may allow.

(2) An application to a stipendiary or resident magistrate for an extension of time as provided in subsection (1) of this section shall be made in writing by the owner or occupier in default and a copy of the application shall be served by him on the owner or occupier who cleared the land in accordance with this section.

(3) Where the owner or occupier in default fails to repair or re-erect the damaged fence within the time or extended time mentioned in subsection (1)

of this section, the owner or occupier who has cleared his land may repair or re-erect the damaged fence, and may recover the cost and expense of so doing in a court of competent jurisdiction as a debt owing to him by the owner or occupier in default.

(4) (a) A road or a reserve which is vested in a local authority is not to be regarded as "land of any other owner or occupier" within the meaning of that expression as used in subsection (1) of this section, and in relation to the road or reserve the local authority is not to be regarded as the owner or occupier as mentioned in the expression, and the provisions of subsections (1), (2) and (3) of this section are to be read and construed and have effect accordingly.

(b) Nothing in this subsection operates so as to relieve a local authority from liability for damage resulting from a bush fire caused by or due to the negligence of an officer, servant or workman employed by a local authority.

(5) Where an owner or occupier of land fails to clear it as provided in subsection (1) of this section, and as a result the dividing fence is damaged by a bush fire, the owner or occupier is not released from any of his obligations under this section by reason of the fact the bush fire which damaged the fence was not lit by him or did not start on his land.

Coroner
to hold
inquiry
when
requested by
certain
persons.

49. Where a bush fire originates or extends within the district of a local authority, if a Coroner has jurisdiction under the provisions of the Coroners Act, 1920, to inquire into the cause and origin of the fire, the Coroner shall, notwithstanding the provisions of that Act, hold an inquiry into the cause and origin of the fire, if requested in writing so to do by—

- (a) the local authority;
- (b) a *bona fide* resident in the district who has suffered damage from the bush fire; or

- (c) a forest officer where the fire has originated or extended within two miles of a State forest within the meaning of the Forests Act, 1918-1931.

50. (1) A local authority shall, in the month of August in every year, send or cause to be sent to the Board a statement in writing containing the following information:—

Reports to be furnished by local authorities.

- (a) The names, addresses, and usual occupations of all the bush fire control officers and bush fire brigade officers appointed by or holding office under the local authority.
- (b) Where a bush fire control officer holds office in respect of part only of the district of the local authority, descriptive particulars of that part of the district in respect of which the bush fire control officer holds office.
- (c) Particulars of the nature, quantity, and quality of the bush fire fighting equipment and appliances which are generally available within the district of the local authority for use in controlling and extinguishing bush fires.

(2) A local authority shall send to the Board in the month of June in each year in the prescribed form particulars of losses caused by fire in its district.

(3) A local authority which refuses or neglects, without reasonable excuse, to comply with its obligations under this section is guilty of an offence.

Penalty—Fifty pounds.

51. (1) Except as otherwise expressly provided in this Act, nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act takes away or affects any right of action or

Saving of remedies.

other remedy at common law or otherwise which a person may have in respect of loss or damage caused by a bush fire to which this Act relates.

(2) It is not a defence to a claim for damage, loss or injury in respect of the doing of anything, that it was done by or pursuant to the authority of this Act.

(3) The provisions of the last preceding subsection do not prejudice or affect those of section sixty-three of this Act.

Approved
area may be
declared.

52. (1) For the purposes of this Act, where a bush fire brigade is established in the district of a local authority the local authority may apply to the Minister to have the district or part of it declared an approved area.

(2) On receipt of the application the Minister may by notice published in the *Gazette* declare the district of the local authority or part of it to be an approved area.

(3) Before declaring the district or part of it to be an approved area the Minister may obtain a report as to the standard of efficiency of the bush fire brigade established in the district or the part.

(4) The Minister may require the local authority to pay the cost of any inspection made for the purposes of this section.

Reduction
in insurance
premium of
crops in
approved
area.

53. (1) Where a crop situate wholly or partly within an approved area is insured against loss or damage by fire, the rate of premium charged by the insurer in respect of the insurance shall not exceed seventy-five per centum of the rate of premium charged by the insurer in respect of crops not situate within an approved area.

(2) A person who charges a rate of premium in excess of that permitted by this section is guilty of an offence.

Penalty—Fifty pounds.

(3) For the purposes of this section “crop” includes a crop of wheat, oats, barley, flax, meadow hay or rye, whether growing, standing, harvested, cut for hay, stooked, or stacked, and grain, hay or chaff produced from a crop and bags to be used in connection therewith, whilst on the land on which the crop was produced and whether in the open air or in a building on the land, or whilst being transported from the land to a railway siding.

54. If in the opinion of the Board the bush fire brigade of a local authority is not at any time of a reasonable standard of efficiency, the Minister may by notice published in the *Gazette* declare that an approved area within the district of the local authority shall, as from a date to be specified in the notice, cease to be an approved area for the purposes of this Act and accordingly the provisions of section fifty-three of this Act as from the specified date cease to apply to a crop situate within the area except in so far as regards a crop on which insurance has been effected prior to the specified date.

Approved
area may be
cancelled.

55. Moneys received from penalties imposed for offences against this Act shall be paid to the Board, but where the penalty is imposed as the result of proceedings brought by or by the direction of the local authority, the whole of the penalty is, for the purposes of the provisions of the Fines and Penalties Appropriation Act, 1909, to be regarded as a penalty incurred under the provisions of an Act relating to local government and be paid to the local authority accordingly.

Appropriation
of
penalties.

Duties of
police
officers,
bush fire
control
officers, etc.

56. (1) It is the duty of—

- (a) a member of the Police Force a member of the Board, an officer employed by the Board, a bush fire control officer appointed under this Act and a forest officer appointed under the Forests Act, 1918-1931, who finds a person committing an offence against this Act to demand from the person his name and place of abode and to require him to produce a permit or authorisation under the authority of which it is claimed a fire is lit.
- (b) a bush fire control officer if he obtains the name and place of abode of a person as provided in paragraph (a) of this subsection to report the facts of the offence and the name and place of abode of the person who committed the offence as soon as conveniently may be to the local authority in whose district the offence is committed.

(2) A person who refuses to state his name and place of abode when required by a member of the Board, an officer employed by the Board, a bush fire control officer appointed under this Act, or a forest officer so to do, may without any other warrant than this Act be apprehended by the person requiring his name and place of abode under the provisions of the section and taken before justices there to be dealt with according to law.

(3) A person who in contravention of this section refuses to state his name and place of abode, or states a false name or a false place of abode, is guilty of an offence.

Penalty—Fifty pounds.

Obstructing
officers.

57. A person who obstructs, hinders, resists or in any way opposes a member of the Board, or an officer employed by the Board, or a bush fire control officer appointed under this Act, or a forest officer appointed

under the Forests Act, 1918-1931, or an officer or member of a bush fire brigade or other person acting with authority under this Act in the performance or doing of anything which he is empowered or required to do by this Act is guilty of an offence.

Penalty—A term of imprisonment for three months or one hundred pounds, and, in addition, if the offence is a continuing one, a daily penalty of two pounds.

58. (1) A person who contravenes any of the provisions of this Act is guilty of an offence against this Act and is liable, if no other penalty is prescribed, to a fine of fifty pounds.

General
penalty.

(2) Notwithstanding the provisions of section one hundred and sixty-six of the Justices Act, 1902-1948, or of any other Act, the minimum penalty for an offence against this Act is, if no other minimum penalty is prescribed, one-tenth of the maximum penalty for that offence.

Minimum
penalty.

(3) Where as the result of an offence against this Act, any expense is incurred by a forest officer, bush fire control officer, any officer or member of a bush fire brigade, or by any other person acting under the provisions of this Act, in the performance of a duty imposed, or the doing of anything which he is empowered or required to do, by this Act—

Recovery of
expenses.

the Conservator of Forests—

where the expense is incurred by a forest officer,

or a local authority concerned—

where the expense is incurred by a bush fire control officer employed by the local authority, or by an officer or member of a bush fire brigade established and maintained by the local authority, or

the Board—

where the expense is incurred by any other person acting pursuant to this Act—

- (a) may recover the amount of the expense so incurred from the person committing the offence as a debt due in a court of competent jurisdiction; or
- (b) may apply to a court of summary jurisdiction convicting the person of the offence for an order for payment by that person of the amount of the expense, if the amount does not exceed two hundred pounds, in addition to any penalty inflicted in respect of the conviction.
 - (i) The court may grant the application wholly or in part or refuse the application, and payment of an amount specified in an order may be enforced in the same manner as payment of a pecuniary penalty.
 - (ii) Refusal of the court to grant an order for payment of the whole or part of the expenses is not a bar to proceedings to recover the whole or part, as the case may be, in any other court of competent jurisdiction; or
- (c) may issue a certificate that the expense was incurred and as to the amount of the expense, and the certificate is evidence of the facts so stated in all courts until the contrary is proved.

Certificate
to be received
as evidence.

(4) Where proceedings are brought against the person committing the offence for the recovery of the amount of the expenses as a debt, a certificate containing the substance and effect only of the conviction for the offence, signed or purporting to be signed by the Clerk of Petty Sessions of the court where the offender was convicted, is, upon proof of

identity of the person, sufficient evidence of the conviction without proof of the signature, appointment or status of the person by whom the certificate is or purports to be signed until the contrary is proved.

59. (1) Subject to the provisions of section Prosecution of offences. thirty-two of this Act all proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions.

(2) (a) A person authorised by the Minister, a member of the Board, an officer of the Board, a forest officer, a member of the police force, a bush fire control officer at the request of the local authority, may institute and carry on proceedings against a person for an offence alleged to be committed against this Act.

(b) The person instituting and carrying on the proceedings shall be reimbursed out of the funds of the local authority within whose district the alleged offence is committed, all costs and expenses which he may incur or be put to in or about the proceedings.

(3) A local authority within whose district an offence against this Act is alleged to have been committed may direct its secretary, bush fire control officer, or other officer to institute and carry on proceedings against the person alleged to have committed the offence, and may pay the costs and expenses incurred in or about the proceedings out of its funds.

60. Wherever in this Act there is a prohibition of the doing of anything, the prohibition is to be read as including a prohibition of the assisting in or of aiding or abetting in any way the doing of the thing, and of the causing of or suffering the doing of it, and of any attempt to do the thing, or to cause it to be done or to assist in or aid or abet the doing of the thing. Assisting to commit an offence

Regulations.

61. (1) The Governor may make regulations prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed, or which appear to the Governor necessary or convenient to be prescribed for the purpose of effectually carrying out the provisions of this Act or for effecting the objects and purposes of this Act.

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

Local authority may make by-laws.

62. (1) A local authority may, with the approval of the Governor, make by-laws not inconsistent with this Act or with the regulations made under this Act for and in relation to—

- (a) the appointment, employment, payment, dismissal and duties of bush fire control officers;
- (b) the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local authority; and
- (c) any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local authority by this Act.

(2) Where a regulation made by the Governor under this Act is inconsistent with or repugnant to a by-law previously made by a local authority under subsection (1) of this section and still in force, the regulation prevails and the by-law to the extent by which it is inconsistent with or repugnant to the regulation is deemed to be repealed.

63. (1) (a) A member of the Board, an officer appointed by the Board, a bush fire warden, a local authority, a bush fire control officer, or other officer

appointed by a local authority, the officers and members of a bush fire brigade, and a person voluntarily assisting a bush fire brigade, and a forest officer lawfully exercising the powers or authorities or performing the duties conferred or imposed by this Act upon a local authority, are not liable for any damage, loss, or injury caused by them or any of them in the exercise or performance in good faith of any of the powers or authorities or of any of the duties.

(b) A person acting under and in accordance with any orders or directions of a person who as required by this Act has taken supreme control and charge of operations in connection with the control or extinguishment of a bush fire or the prevention of the spread or extension of a bush fire is not liable for any damage, loss or injury caused by him in good faith and when acting under the orders or directions.

(2) The damage, loss or injury referred to in subsection (1) of this section is to be regarded as damage by fire within the meaning of a policy of insurance against fire covering the property damaged, lost, or injured, notwithstanding any clause or condition to the contrary contained in the policy.

64. The provisions of subsection (2) of section sixteen, subsections (1) and (8) of section seventeen, subsections (2) and (5) of section eighteen, subsection (2) of section twenty-one, subsections (1) and (2) of section twenty-five and of section fifty-eight of this Act do not apply in respect of the exercise of any power or the performance of any function authorised by or pursuant to the provisions of Part IV. of this Act.

Prohibitions
excluded by
certain cir-
cumstances.

65. (1) In a prosecution or legal proceeding under the provisions of this Act instituted by or under the direction of the Board no proof is required, until evidence is given to the contrary of—

Proof of
certain
matters.

(a) the constitution of the Board;

- (b) an authority of the Minister to prosecute;
 - (c) the particular or general appointment of an officer of the Board to take proceedings against any person;
 - (d) the powers of the officer to prosecute.
- (2) The production of—
- (a) a copy of the Gazette containing a rule, by-law, regulation, declaration, order or notice purporting to have been made or given under the provisions of this Act; or
 - (b) a copy purporting to be a true copy of the rule, by-law, regulation, declaration, order, notice or a certificate of registration, of a fire brigade under those provisions, certified as such under the hand of the Secretary of the Board

is evidence until the contrary is proved of the due making, existence, confirmation, approval, and giving of the rule, by-law, regulation, declaration, order or notice and of the registration of the bush fire brigade as the case may be and of all preliminary steps necessary to give full force and effect to the same.
