

**BUSH FIRES.**14<sup>o</sup> and 15<sup>c</sup> Geo. VI., No. LIX.

No. 59 of 1950.

**AN ACT to amend the Bush Fires Act, 1937-1949.**

[Assented to 18th December, 1950.]

**BE** it enacted by the King'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 Amendment Act, 1950*, and shall be read as one with the Bush Fires Act, 1937-1949 (Act No. 55 of 1937 as reprinted with amendments to and including Act No. 35 of 1949, incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, approved for reprint 13/12/49, in Volume 3 of the Reprinted Acts of the Parliament of Western Australia, 1950), hereinafter referred to as the principal Act.

Citation of  
principal Act  
as amended  
by this Act.

2. The principal Act as amended by this Act may be cited as the *Bush Fires Act, 1937-1950*.

3. Section seven of the principal Act is amended <sup>s. 7 amended.</sup>  
by—

- (a) substituting for the word “nine” in line two of subsection (2) the word “ten”;
- (b) substituting for the words “Such number of members of the committee as is nearest to one-third of the number” in lines one and two of subsection (3) the word “Four”.

4. Section eight of the principal Act is amended <sup>s. 8 amended.</sup>  
by—

- (a) adding after the word “shall” in line two of subsection (2) the words “subject to the provisions of section forty-six of this Act”;
- (b) adding after the word “out” in line seven of subsection (3), the words “and subject to the condition that the Minister or that officer may without assigning a reason cancel it”;
- (c) repealing subsection (4).

5. Subsection (3) of section nine of the principal <sup>s. 9 amended.</sup>  
Act is amended by—

- (a) substituting the words “specified by the Minister” for the words—
  - (i) “expiring not later than the fifteenth day of January” in lines four and five of paragraph (a);
  - (ii) “not exceeding eight weeks” in lines two and three of paragraph (b);
- (b) adding the following paragraph—
  - (c) 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 practicably be reduced or abated otherwise than by burning—

and for that purpose the Minister may suspend the operations of the declaration—

for such period as he thinks fit and specifies; and  
subject to such conditions as may be prescribed or as he thinks fit and specifies.

s. 10  
amended.

6. Section ten of the principal Act is amended by—

- (a) substituting for the words “subsections (2), (3), and (4) of this section” in lines one and two of subsection (1) the words “the provisions of subsections (2) and (3) of this section and the provisions of section forty-six of this Act”;
- (b) substituting for the words “between the hours of eight o’clock in the evening and midnight of the same day” in lines three, four and five of paragraph (a) of subsection (2), the words “at such time, between the hours of six o’clock in the evening and midnight of the same day, as the local authority in whose district the burning is proposed to be carried out, approves in writing”;
- (c) substituting for all words in lines ten, eleven, twelve and thirteen of paragraph (b) of subsection (2), the words “at such time, between the hours of six o’clock in the evening and midnight of the same day, as the local authority in whose district the burning is proposed to be carried out, approves in writing”;
- (d) adding after paragraph (d) of subsection (3) the following paragraph:—
  - (da) The authorised officer shall specify in the permit—

- (i) the number of men being not less than four to be constantly in attendance at the fire in the area from the time it is lighted until it is completely extinguished to assist in keeping the fire under control and preventing it from spreading beyond the area proposed to be burnt; and
  - (ii) if the authorised officer is of opinion that fire fighting equipment should be available for immediate use in the area, what equipment shall be provided;
- (e) substituting for the words “all lands adjoining the area to be burnt” in lines three and four of subparagraph (1) of paragraph (e) of subsection (3) the words “land adjoining land of which the area proposed to be burnt forms a part or the whole”;
- (f) substituting for the words “at least three men” in line three of paragraph (g) of subsection (3) the words “the fire fighting equipment, if any, to be provided and the number of men specified in the permit”;
- (g) repealing subsection (4);
- (h) adding the following subsection:—
- (5) (a) A local authority, whose duly authorised officer issues a permit to burn clover, shall cause a notice specifying the area and date of the proposed burning and such other information relating to the permit as the local authority thinks desirable to be published in a newspaper circulating in the district of the local authority and may cause notification of the proposed burning to be made public in such other manner as it thinks fit;
  - (b) a notice may include reference to more than one permit.

s. 11  
amended.

7. Section eleven of the principal Act is amended by—

- (a) substituting for the words “subsections (3) and (4) of this section” in lines one and two of subsection (1) the words “the provisions of section forty-six of this Act”;
- (b) substituting for the word “two” in line two of paragraph (a) of subsection (1) the word “four”;
- (c) substituting for the word “or” in line one of subparagraph (ii) of paragraph (a) of subsection (1) the words “and also to”;
- (d) adding after the word “situated” in line six of subparagraph (ii) of paragraph (a) of subsection (1) the words “and has obtained the approval in writing of the bush fire control officer, or if no bush fire control officer has been appointed, the approval in writing of the secretary, to his burning such bush.”;
- (e) deleting the words “it is completely extinguished” in lines four and five of paragraph (d) of subsection (1) and substituting the words “the fire in the opinion of a bush fire officer is safe.”;
- (f) repealing subsections (3) and (4).

s. 12A  
amended.

8. Section twelve A of the principal Act is amended by—

- (a) adding after the section number “12A” the figure one in brackets thus (1) and the words “Subject to the provisions of the next succeeding subsection”;
- (b) adding the following subsection:—

(2) Paragraphs (b) and (c) of the provisions of the preceding subsection do not apply to log hauling diesel tractors while being used in the timber industry nor to any tractor while being used in an orchard.

9. Section fifteen of the principal Act is amended <sup>s. 15</sup> amended. by adding after the word "period" in line three the words "or during the times of the year during which it is declared pursuant to the provisions of subsection (1) of section nine of this Act to be unlawful to set fire to the bush within the district or part of the State".

10. Section sixteen of the principal Act is <sup>s. 16</sup> amended. amended by—

- (a) adding after the word "period" in line three of subsection (1) the words "or during the times of the year during which it is declared pursuant to the provisions of subsection (1) of section nine of this Act to be unlawful to set fire to the bush within the district or part of the State";
- (b) adding after the word "shall" in line two of subsection (2) the words "subject to the provisions of section forty-six of this Act".

11. Section seventeen of the principal Act is <sup>s. 17</sup> amended. amended by adding after the word "shall" in line two of subsection (2) the words "subject to the provisions of section forty-six of this Act".

12. Section twenty-one of the principal Act is <sup>s. 21</sup> amended. amended by—

- (a) substituting for all words in lines eight, nine, ten and eleven of subsection (1) the words, "requiring him within a time or to commence at a time to be specified in the notice to do all or any of the following things:—
  - (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 shall be specified in the notice;

- (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-operation 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”;

- (b) adding the following subsection:—

(1a) 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 eight and nine of this Act.

13. The principal Act is amended by inserting after section twenty-two the following section:—

22A. A local authority which is maintaining 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—

- (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 under the direction of a bush fire control officer or an officer of a bush fire brigade; and

- (b) insuring against loss or damage all appliances, equipment and apparatus of the bush fire brigade, or any privately owned equipment working under the direction of a bush fire control officer or bush fire brigade captain.

14. The principal Act is amended by adding the following sections:—

ss. 31A and  
31B added.

31A. (1) (a) Notwithstanding any other provision of this Act a bush fire control officer or in the circumstances mentioned in the next succeeding paragraph, a forest officer appointed pursuant to the provisions of the Forests Act, 1918-1931, or where no bush fire control officer has been appointed, the local authority shall prohibit, or from time to time postpone the proposed lighting of a fire, where in his 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.

Prohibition  
or postpone-  
ment of  
burning.

(b) Where it is proposed to light a fire within two miles of a boundary of a State forest within the meaning of the Forests Act, 1918-1931, and there is a forest officer so appointed present, he 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, but if a forest officer is not present a bush fire control officer may exercise those powers.

(2) Where by the exercise of the power conferred upon a bush fire control officer or a forest officer so appointed, as the case may be by the last preceding subsection, a person, who has paid a fee to a local authority for an authorisation to light the fire, is precluded from doing so in such circumstances that the authorisation is of no use to him the local authority shall, on being requested to do so, refund the fee to him.

31B. Subject to the provisions of the proviso to section twenty-four of this Act and to the provisions of section thirty-one of this Act, no

Prohibition  
of burning  
back fire  
breaks  
except as  
directed

person shall, when a bush fire is burning, burn a fire break, 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 registered under this Act or in his absence a member of the bush fire brigade who is present at the bush fire.

s. 35D  
amended.

15. Section thirty-five D of the principal Act is deleted.

s. 36  
amended.

16. Subsection (1) of section thirty-six of the principal Act is amended by adding after the words "authority" in line six the words "but where the penalty is imposed as the result of proceedings brought or by the direction of the local authority, the whole of the penalty shall, for the purposes of the provisions of the Fines and Penalties Appropriation Act, 1909, be regarded as a penalty incurred under the provisions of an Act relating to local government and be paid to the local authority accordingly".

s. 39  
amended.

17. Subsection (1) of section thirty-nine of the principal Act is amended by adding after the word "shall" in line four the words "subject to the provisions of section forty-six of this Act".

ss. 46 and  
47 added.

18. The principal Act is amended by adding the following sections:—

Prohibitions  
excluded in  
certain cir-  
cumstances.

46. The provisions of subsection (2) of section eight, subsection (1) of section nine, subsection (1) of section ten, subsections (1) and (2) of section eleven, subsections (1) and (2) of section sixteen, subsections (1) and (2) of section seventeen, paragraph (a) of section twenty, and of section thirty-nine of this Act shall 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 III of this Act.

47. (1) It shall not be 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.

(2) The provisions of the last preceding subsection shall not prejudice or affect those of section forty-four of this Act.

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