

BUSH FIRES.

1° AND 2° GEO. VI., No. LV.

No. 55 of 1937.

AN ACT to make better provision for diminishing the dangers resulting from Bush Fires, for the prevention, control, and extinguishment of Bush Fires, and for other purposes incidental thereto.

[Assented to 18th January, 1938.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of 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, 1937.*

Act divided
into Parts.

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

PART I.—ss. 3 to 6—PRELIMINARY.

PART II.—ss. 7 to 17—PREVENTION OF BUSH FIRES.

PART III.—ss. 18 to 27—CONTROL AND EXTINGUISHMENT OF BUSH FIRES.

Division 1—ss. 18 to 22—Local Authorities.

Division 2—ss. 23 to 27—Bush Fire Brigades.

PART IV.—ss. 28 to 39—MISCELLANEOUS.

SCHEDULE—ACTS REPEALED.

PART I.—PRELIMINARY.

3. This Act shall not affect the provisions of the Fire Brigades Act, 1916 (No. 13 of 1917), or of the Forests Act, 1918-1931 (No. 8 of 1919); and the provisions of this Act shall not be construed so as in any manner to limit or restrict the effect and operation of any provisions of either of the Acts aforesaid.

Saving provisions.

4. The Acts mentioned in the Schedule to this Act are hereby repealed.

Acts repealed.

5. In this Act, subject to the context—

“Bush” means and includes trees, bushes, plants, stubble, scrub, and undergrowth of all kinds and sizes whether alive or dead, and whether standing or not standing, and also any parts of any trees, bushes, plants or undergrowths, and whether severed therefrom or not so severed. The term does not include sawdust and other waste timber resulting from the sawmilling of timber in a sawmill whilst such sawdust and other waste timber remain upon the premises of the sawmill in which the sawmilling is carried on.

Interpretation. See 1 & 2 Edw. VII., No. 18, s. 4; see S.A. No. 2189, s. 2.

“Local authority” means any municipal council and any road board which the Governor may by proclamation declare to be a local authority for the purposes of this Act:

Provided that any such proclamation may be varied or revoked by a subsequent proclamation.

“Minister” means the Minister for Lands or the Minister of the Crown at any time acting as the Minister for Lands.

“Occupier of land” means and includes any person residing on the land and having charge or control thereof, whether such person shall be the owner or tenant or a bailiff, servant, caretaker, or other person residing and having charge or control as aforesaid.

The term shall include any person who as mortgagee in possession has possession of any land, although not residing thereon, while such land is unoccupied, and also any person who has the charge or control of two or more separate

parcels of land, although such person resides on only one of such parcels of land.

“Prohibited times” means the times of the year during which it shall be declared by the Governor to be unlawful to set fire to the bush within any district or part of the State.

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

6. This Act shall be administered by the Minister.

Administra-
tion. See 1
& 2 Edw. VII.,
No. 18, s. 2

PART II.—PREVENTION OF BUSH FIRES.

7. (1.) The Governor may by a notice published in the *Government Gazette* declare any defined portion of the State to be a fire protected area.

Fire pro-
tected areas
See 1 & 2
Edw. VII.,
No. 18, s. 7A,
as amended
by No. 27 of
1925, s. 5.

(2.) Within any such area, whilst such notice remains unrevoked, it shall be unlawful for any person to set fire to the bush on any land at any time without the permission of the Minister or of an officer acting with the authority of the Minister.

Penalty—Fifty Pounds.

(3.) Permission under subsection (2) hereof, when granted, shall be so granted subject expressly to compliance by the applicant with such conditions as may be prescribed by regulations or as may be imposed by the Minister or officer granting permission to restrict the fire to the land on which the burning of the bush is to be carried out.

(4.) Notwithstanding that permission is granted as aforesaid, nothing in this section shall be deemed to relieve any person from liability for any actionable damage sustained by any other person in consequence of the burning operations carried out pursuant to such permission.

8. (1.) The Governor may by notice published in the *Government Gazette* declare the times of the year during which it shall be unlawful to set fire to the bush within any district or part of the State mentioned in the notice.

Governor may
declare pro-
hibited times.
See 1 & 2
Edw. VII.,
No. 18, s. 5.

(2.) A copy of the *Gazette* containing any such notice shall be received in all courts of justice and elsewhere as evidence of the prohibited times within the district or part of the State named in such notice.

(3.) The Governor may from time to time suspend the operation of any declaration made under this section, so far as such declaration extends to any railway reserve or any land under the control of the Conservator of Forests, for any period not exceeding six weeks in any one year.

(4.) Neither this section nor any declaration under subsection (1) hereof shall apply to any fire-protected area declared under section seven of this Act.

9. (1.) Subject to subsections (2), (3), and (4) of this section every person who shall set fire to the bush on any land within any district or part of the State during the prohibited times for that district or part of the State shall be guilty of an offence.

cf. No. 36 of 1904, s. 2. No. 27 of 1925, s. 7.

Penalty for lighting fires; 1 & 2 Edw. VII., No. 18, s. 6.

Penalty—Fifty Pounds.

(2.) Subject to the due observance of the conditions prescribed in section ten of this Act, it shall be lawful for any owner or occupier of land during the prohibited times to burn off the bush upon such land between two plough breaks or spade breaks between the hours of eight o'clock in the evening and midnight of the same day for the purpose of protecting any dwelling-house or other building or stack of hay, wheat, or other produce within ten chains of a dwelling-house or other building. Provided that the outer plough break or spade break is not distant more than ten chains from the property to be protected.

(3.) It shall be lawful for any owner or occupier of land upon which subterranean clover is growing to burn such clover during the prohibited times for the purpose of facilitating the collection of clover burr therefrom upon and subject to the following conditions, namely:—

- (a) The owner or occupier of the land shall first apply for and obtain from a duly authorised officer in the prescribed form a permit to burn clover under and in accordance with the regulations.
- (b) The permit to burn shall not be granted unless and until the applicant for the same satisfies the authorised officer to whom the application is made—
 - (i) that the land to be burned at one time and under the permit applied for does not exceed the

- area as fixed by the authorising officer when granting the permit, provided that the area does not in any case exceed fifty acres;
- (ii) such area has been surrounded by a fire-break to a width of not less than ten feet;
 - (iii) if the area to be burned is carrying any standing trees (whether green or ringbarked), that such 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.
- (c) The application for the permit to burn clover shall be received by the authorised officer to whom the application is made, at least seven days before the day upon which it is intended to commence burning.
- (d) The authorised officer to whom the application for the permit is made may, before granting such permit, enter upon the land of the applicant to inspect the area proposed to be burned.
- (e) If the permit to burn clover applied for is granted the holder thereof shall, before commencing to burn under the authority of such permit—
- (1) deliver or cause to be delivered personally to each owner or occupier of all lands adjoining the area to be burnt, and, where the authorised officer who granted the permit is not an officer of the local authority within whose district the area to be burnt is situated, to such local authority or to the bush fire control officer of such local authority at least four days' notice in writing of his intention to burn such area; and
 - (2) if the area to be burnt is situated within two miles of a State forest, deliver or cause to be delivered personally to a forest officer employed in connection with such State forest at least four days' notice in writing of his intention to burn such area.
- (f) The burning of an area under the authority of a permit to burn clover shall be carried out between the hours of four o'clock in the afternoon

and midnight of the same day and not at any other periods of the day.

- (g) The owner or occupier of the area to be burned shall himself arrange for and provide at least three men 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 burned.

(4.) Subsection (1) of this section shall not apply to any person setting fire to the bush in exercise of any power or duty conferred or imposed by Part III. of this Act.

10. (1.) Subject to subsections (3) and (4) of this section no person shall at any time between the first day of October and the next ensuing thirtieth day of April in any yearly period set fire to the bush on any land, whether such land is within a fire-protected area or not, unless the following conditions are complied with, namely:—

Certain precautions to be taken when burning bush; 1 & 2 Edw. VII., No. 18, s. 7; No. 27 of 1925, s. 5.

See also S.A. No. 2139, s. 4, ss (4) 1.

- (a) he has delivered or caused to be delivered personally at least four days' notice in writing of his intention to burn such bush to each of the following persons, that is to say—
- (i) to each owner or occupier of all lands adjoining the land upon which the bush proposed to be burnt is situated;
 - (ii) to the secretary or a bush fire control officer of the local authority in whose district or adjacent to whose district the land upon which the bush proposed to be burnt is situated;
 - (iii) where the land upon which the bush proposed to be burnt is situated within two miles of a State forest and the burning operations are intended to take place on a day between the fifteenth day of December and the next fifteenth day of March in any yearly period, to a forest officer employed in connection with such State forest;
- (b) the notice required to be given under paragraph (a) hereof shall contain full particulars of the locality of the bush proposed to be burned;

- (c) 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 such side either been ploughed to a width of at least ten feet, or has been cleared of all scrub, stubble, and other inflammable material to a width of at least ten feet;
- (d) he has himself arranged for and provided at least three men to be constantly in attendance at the fire 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 land on which the burning is to take place.

(2.) Any person who by any act or omission commits any contravention of this section shall be guilty of an offence.

Penalty: For a first offence twenty pounds, with a minimum of two pounds, and for every subsequent offence, fifty pounds, with a minimum of five pounds.

(3.) Nothing in this section shall be deemed to relieve any person from liability for any actionable damage sustained by any other person in consequence of any burning operations carried out in compliance with all the conditions prescribed in subsection (1) of this section.

(4.) Nothing in this section shall authorise the burning of any bush during the prohibited times or any act or thing contrary to section nine of this Act, or limit or restrict the doing of any act or thing which is authorised and done under Part III. of this Act.

Occupier to extinguish bush fire occurring on his land during prohibited times.

11. (1.) Where a bush fire occurs or is burning on any land during the prohibited times relating to such land, the occupier of such land shall forthwith, upon becoming aware of such bush fire, whether he has lighted or caused the same to be lighted or not, take all possible measures at his own expense to extinguish such fire, and, if he requires assistance for such purpose and means are available to do so without leaving the fire unattended, to inform the nearest available bush fire control officer of the existence and locality of such fire.

Penalty: Twenty pounds.

(2.) If the occupier of the land upon which a bush fire is burning fails to take measures to extinguish the same as required by subsection (1) hereof, the bush fire control officer of any local authority or the forest officer employed in connection with any adjacent State forest upon becoming aware that such fire is burning may enter upon the land of such occupier and take all proper measures to extinguish the same; and, in so far as the measures taken by such bush fire control officer or forest officer as aforesaid are necessitated through the failure of the occupier of the land either himself to take such measures or to inform the nearest available bush fire control officer that assistance was required to extinguish the said bush fire, any expenses incurred by such bush fire control officer or such forest officer in taking measures to extinguish the said fire shall be a debt owing by the occupier of the land to the local authority by which the said bush fire control officer is employed or to the Conservator of Forests, as the case may be, and shall be recoverable from such occupier at the suit of such local authority or such Conservator of Forests, as the case may be, in any court of competent jurisdiction.

12. (1.) The Governor may by notice published in the *Government Gazette* prohibit the sale or use of wax matches within the district of any local authority during the period specified in such notice.

Sale and use of wax matches may be prohibited.

(2.) While such notice remains unrevoked any person who sells or uses wax matches in contravention of such notice shall be guilty of an offence.

Penalty: Ten pounds.

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

Other offences.

(a) no person shall, in connection with any gun, rifle, pistol, or other firearm carry or use any wadding made of paper, cotton, linen, or other ignitable substance;

No ignitable wadding to be carried or used.
1 & 2 Edw. VII., No. 18, s. 8.

Penalty: Ten pounds;

(b) the owner or occupier of land or the servant of such owner or occupier who finds thereon any other person using or carrying any gun, rifle, pistol, or other firearm may seize and ex-

Ibid. s. 9.

amine such gun, rifle, pistol, or other firearm, and all ammunition and material carried therewith by such other person for the purpose of ascertaining the nature of any wadding carried or used;

Ibid., s. 9.

- (c) every person to whom paragraph (b) hereof relates who refuses to allow the seizure and examination authorised in paragraph (b) aforesaid, or who upon the occasion thereof refuses to disclose his name and address to the person demanding the same, or who gives a false name and address shall be guilty of an offence;

Penalty: Ten pounds;

Lighted cigarettes, etc., not to be thrown from vehicles.

cf. S.A. No. 2189, s. 19.

- (d) No person, while being conveyed in any moving vehicle, and no pedestrian in any part of the State outside any town boundary shall throw out of such vehicle (or in the case of a pedestrian throw down or drop) any lighted cigarette, cigar or match.

Penalty: Ten pounds.

No fire to be lighted in open air unless precautions taken.

1 & 2 Edw. VII., No. 18, s. 10.

14. (1.) During the period commencing on the first day of October and ending on the thirtieth day of April next ensuing, in every yearly period no person—

- (a) shall at any time light or use any fire in the open air for the purpose of cooking, camping, or for any other purpose not specifically mentioned and provided for elsewhere in this Act within ten feet of any log or stump, or unless a space of ground around the said fire having a radius of at least ten feet has been previously cleared of all stubble, scrub and other inflammable material;
- (b) having lighted or used any such fire shall neglect completely to extinguish the same before leaving the place where such fire has been lighted or used.

(2.) Any person who commits any contravention of subsection (1) hereof shall be guilty of an offence.

Penalty: Twenty pounds with a minimum of two pounds.

Provided that, where the occupier of a sawmill uses a fire on the premises of his sawmill to consume or dispose of sawdust and waste timber resulting from the saw-

milling of timber in such sawmill, it shall not be necessary to extinguish such fire whilst it is still required for use as aforesaid if and so long as the said occupier causes reasonable precautions to be taken, and causes the particular directions or requisitions of a bush fire control officer or of a forest officer giving such directions or making such requisitions to be properly observed for the purpose of preventing such fire from spreading or becoming a source of danger to persons or property.

15. No person shall at any time smoke any pipe, cigar, cigarette or other substance within twenty yards of any stable, rick, stack, or field of hay, corn, straw, stubble or other inflammable vegetable production, unless such smoking is within a town or with a pipe properly and securely covered, or upon a public road or highway.

No smoking near stacks, etc.

1 & 2 Edw. VII., No. 18, s. 11.

Penalty: Five pounds, with a minimum of two pounds.

16. Any person who—

- (a) lights or causes to be lighted or attempts to light any fire; or
- (b) puts or places any matches or other inflammable or combustible substance, matter, or thing in such a position that the same may directly or indirectly be ignited by the sun's rays or by friction or other means, or be exploded or set on fire, or whereby any fire may be lighted or caused

Lighting or attempting to light a fire with intent to injure.

1 & 2 Edw. VII., No. 18, s. 12.

under such circumstances as to be likely to injure or damage any person or property shall, whether such fire shall be caused or not, be guilty of an offence.

Penalty: Imprisonment with or without hard labour for one year, or a fine of one hundred pounds.

17. (1.) At any time and from time to time any local authority may, as a measure for 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 any owner or occupier of land situate within the district of such local authority requiring him within a time to be specified in the notice to plough or clear upon the land of such owner or occupier fire breaks in the manner at the places and to the width specified in such notice.

Local authority may require occupiers of land to plough or clear fire breaks.

(2.) If the owner or occupier of land who has received notice under subsection (1) hereof fails or neglects in

any respect duly to comply with the requisitions of such notice he shall be guilty of an offence.

Penalty: Twenty pounds, with a minimum of two pounds.

(3.) Should an owner or occupier of land who has received notice under subsection (1) hereof fail or neglect to comply with the requisitions thereof within the time specified in such 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 such owner or occupier and to carry out the requisitions of the notice which have not been complied with; and such bush fire control officer or other officer aforesaid may, in pursuance of such direction, enter upon the land of the said owner or occupier with any servants, workmen, or contractors, and with such vehicles, machinery, or appliances as may be required, and may do such acts, matters, and things as may be necessary to carry out the requisitions of the notice.

(4.) 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 (3) hereof 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 such amount; and the local authority may recover such amount in any court of competent jurisdiction as a debt due from the owner or occupier of land in default as aforesaid to the local authority.

(5.) The owner or occupier of land which abuts upon Crown lands, reserves, or other land which is unoccupied by abandonment, may enter upon such land for the purpose of clearing and or ploughing firebreaks not more than twelve feet in width from the boundary of such land.

PART III.—CONTROL AND EXTINGUISHMENT OF BUSH FIRES.

Division 1—Local Authorities.

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

cf. S.A. No. 2139, s. 28.

18. 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, namely:—

(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 any street, road, or reserve vested in it or under its control of any bush, stubble, and other inflammable material for the purpose of preventing the spread of any fire;
- (c) in connection with the exercise of any of its powers under this Part of this Act;
- (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 any 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 of the Act; and
- (f) 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.

19. (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.

Local authority may appoint bush fire control officers.

cf. S.A. No. 2189, s. 29.

(2.) Every such appointment shall be notified in the *Government Gazette*, and advertised at least once in a newspaper circulating in the district.

(3.) The general powers of the local authority which appoints and employs such bush fire control officers with respect to other officers appointed by it under its local governing Act shall apply with respect to its bush fire control officers appointed and employed under this section.

(4.) Every bush fire control officer appointed under this section shall, subject to such directions as are given by the local authority, and subject to this Act and regulations and by-laws made under this Act, take any measures which 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 any bush fire or preventing the spread thereof;
- (d) exercising any authority or carrying out any duty conferred or imposed upon him by any of the provisions of Part II. of this Act;
- (e) procuring the due observance by all persons of the provisions of Part II. of this Act.

Special
powers of
bush fire con-
trol officer

20. Subject as in this section and as in this Act hereinafter provided, every bush fire control officer appointed by a local authority under this Act may, in the exercise of his functions and the performance of his duties under this Act, after consulting with the occupier of the land if he be present, do all or any of the following things—

- (a) exercise any of the appropriate powers of the Chief Officer of Fire Brigades under the Fire Brigades Act, 1916, in so far as the same may be necessary or expedient, for extinguishing a bush fire which is already burning or for preventing the spread or extension thereof;
- (b) enter any land or building, whether private property or not;
- (c) pull down, cut, and remove fences on any land, whether private property or not, when in his opinion the same is necessary or expedient for the purpose of taking effective measures for extinguishing a bush fire which is already burning, or for preventing the spread or extension thereof;
- (d) cause fire breaks to be ploughed or cleared on any land, whether private land or not, and take any other appropriate measures on any such land as he may deem necessary for the purpose of controlling or extinguishing a bush fire which is already burning or for preventing the spread or extension thereof;
- (e) take and use water, other than that for use at a school or an occupier's domestic supply contained in a tank at his dwelling-house, and any other fire extinguishing material from any source whatever on any land, whether private property or not;

- (f) take charge of and give directions to any bush fire brigade present at any bush fire with respect to its operations or activities in connection with the extinguishment or control of such bush fire, or the prevention of the spread or extension thereof;
- (g) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers; and
- (h) employ any person or use the voluntary services of any person to assist him, subject to his directions in the exercise of any of the foregoing powers:

Provided that, when any bush fire is burning in or on any State forest within the meaning of the Forests Act, 1918, or in or on any Crown lands, the powers and authorities conferred by this Act upon a bush fire control officer appointed by a local authority under this Act shall be vested in and be exercisable by any forest officer appointed under the Forests Act, 1918, who may be present at such bush fire; and if any such forest officer is present at any such bush fire the said powers and authorities shall not be exercisable by any bush fire control officer appointed as aforesaid, except with the approval of and subject to the directions of such forest officer, whilst such forest officer continues to be present at such bush fire.

21. (1.) On the outbreak of a bush fire at any place within or adjacent to the district of the local authority the bush fire control officers of such local authority, or as many of them as may be available shall, with all possible speed—

Duties of bush fire control officer on outbreak of bush fire.

cf. S.A. No. 2139, s. 29 (6).

- (a) inform an officer or member of every registered bush fire brigade established in the district in which the bush fire is burning of the outbreak and locality of such bush fire; and
- (b) proceed to the place where the bush fire is burning with such fire-preventing and fire-extinguishing appliances, equipment, and apparatus as may be available for use by them; and
- (c) subject to this Act, take charge of the operations for controlling and extinguishing the bush fire or for preventing the spread or extension thereof.

(2.) If a bush fire to which this section applies occurs and no bush fire control officer of the local authority in whose district the bush fire is burning is present at such fire, any bush fire control officer of any adjoining or adjacent local authority may exercise in respect of such bush fire all the powers and authorities of a bush fire control officer of the local authority in whose district the fire is burning.

- (3.) This section shall apply only to bush fires which—
- (a) have been lighted or are maintained unlawfully (whether in contravention of this Act or not);
 - or
 - (b) have occurred accidentally; or
 - (c) have ceased to be under control or are not adequately controlled; and
 - (d) to such other bush fires as are prescribed by regulations.

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

22. (1.) Any two or more local authorities may by agreement join in appointing and employing bush fire control officers for the purposes of this Act and in remunerating them.

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

Division 2—Bush Fire Brigades.

Bush fire brigades.

See Vict. 24, Geo. V., No. 4185, s. 8.

23. (1.) Any local authority may in accordance with by-laws made by the local authority for the purpose, establish, maintain and equip with appliances, equipment, and apparatus a bush fire brigade, and any association of persons may voluntarily be formed as a bush fire brigade for the purpose in both cases of taking measures and conducting operations for the control and extinguishment of bush fires.

(2.) Every 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 Minister in accordance with the regulations, and, when so

registered, but not otherwise, shall be a bush fire brigade within the meaning and for the purposes of this Act.

(3.) Every local authority desiring to register a bush fire brigade established by the local authority and every 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 Minister.

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

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

24. (1.) Any 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.

Local authorities may join in establishing a bush fire brigade.

(2.) Every such bush fire brigade shall be registered as provided for in section twenty-three of this Act, but it shall be sufficient if the application for such registration is made by any one local authority on behalf of all the local authorities concerned.

25. Every 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 rules of the association, 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, whose duties shall be prescribed by such by-laws or rules as the case may be.

Officers of bush fire brigades.

See Vict. 24, Geo. V., No. 4185, s. 9.

26. Subject to this Act and the regulations, and subject as in this section hereinafter expressly provided, for the purpose of controlling and extinguishing or preventing the spread or extension of any bush fire which is burning, the captain, or, in his absence, the next senior officer of any bush fire brigade registered under this Act,

Powers and authorities of officers of a bush fire brigade.

See Vict. 24, Geo. V., No. 4185, s. 10.

shall, after consulting with the occupier of the land if he be present, have and may exercise all or any of the following powers and authorities, that is to say:—

- (a) He shall have the control and direction of such brigade at any such fire and of any persons who voluntarily place their services at his disposal.
- (b) He shall have authority, either alone or with others under his command or direction, to enter into any land or premises which may be on fire or in the neighbourhood of any fire for the purpose of taking any steps which he deems necessary for the control or extinguishment or for the prevention of the spread or extension of the fire, and he may take or give directions for taking any apparatus required to be used at a fire into, through, or upon any land or premises which he considers convenient for the purposes aforesaid.
- (c) He may 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, may cause any fences to be pulled down or removed, and any bush, scrub, or stubble or other inflammable material to be burnt or otherwise destroyed or removed.
- (d) He may enter or give directions for entering any land or premises, and take or cause to be taken water from any source whatsoever, other than that for use at a school or an occupier's domestic supply contained in a tank at his dwelling-house, whether the same is upon private land or other land, and in all other respects, whenever in his opinion he deems it necessary or expedient to do so, he may exercise all the powers and authorities of a bush fire control officer under this Act:

Provided that—

- (i) when the bush fire brigade of a local authority and any other bush fire brigade are present at a fire which is burning within the district of such local authority and a bush fire control officer of such local authority is not present at such fire

the captain, or in his absence the next senior officer of the bush fire brigade of the local authority, shall have and take supreme control and charge of all operations and the other bush fire brigades and the officers and members thereof shall be subject to and act under his orders and directions;

- (ii) when a bush fire control officer of any local authority is present at a fire burning in the district of such local authority, such bush fire control officer shall have supreme control and charge of all operations, and the officers and members thereof of all bush fire brigades present at the fire shall be subject to and act under his orders and directions;
- (iii) when any bush fire is burning in or on any State forest within the meaning of the Forests Act, 1918, or in or on any Crown lands, section twenty-seven of this Act shall apply.

27. When any bush fire is burning in or on any State forest within the meaning of the Forests Act, 1918, or in or on any Crown lands, 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 registered under this Act, shall be exercisable by any forest officer appointed under the Forests Act, 1918, who may be present at such fire, and if any such forest officer is present at any such fire he shall have and 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 also present at the fire, shall in all respects be subject to and act under his orders and directions.

As to fires in or near State forests.

See Vict. 24, Geo. V., No. 4185, s. 12.

PART IV.—MISCELLANEOUS.

28. (1.) If the owner or occupier of any land clears the same of all bush or other inflammable materials for a space of at least ten feet from any fence dividing such land from the land of any other owner or occupier and—

- (a) such other owner or occupier does not clear his land contiguous to the said fence similarly for a space of at least ten feet; and

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

See S.A. 24, Geo. V., No. 2139, s. 25

- (b) any damage from a bush fire happens to such dividing fence through his failing so to do,

such other owner or occupier shall at his own cost and expense repair or re-erect the fence so damaged within a period of one month from the day when the same is so damaged, or within such extended time as is allowed by a stipendiary or resident magistrate, upon application being made to him in writing of which application not less than seven days' notice in writing has been served on the owner or occupier who has cleared his land as aforesaid.

(2.) If the owner or occupier who has failed to clear his land fails to repair or erect the fence damaged within the time or extended time mentioned in subsection (1) hereof, the owner or occupier who has cleared his land as aforesaid may repair or re-erect the fence damaged, and may recover the cost and expense of so doing in any court of competent jurisdiction as a debt owing to him by the owner or occupier so in default.

(3.) Where an owner or occupier has failed to clear his land as mentioned in subsection (1) hereof and as a result thereof the dividing fence has been damaged by a bush fire as aforesaid, such owner or occupier shall not be released from any of his obligations under this section merely by reason of the fact that the bush fire which damaged the fence was not lighted by him or did not start on his land.

29. When a bush fire which a coroner under the provisions of the Coroners Act, 1920, has jurisdiction to inquire into originates or extends within the district of a local authority or of a road board (not being a local authority within the meaning of this Act), the coroner having jurisdiction within such district shall hold an inquiry into the cause and origin of such bush fire, if requested in writing so to do by—

- (a) the local authority or the road board (as the case may be); or
- (b) any *bona fide* resident in the district who has suffered damage from such bush fire; or
- (c) any forest officer when the fire has originated or extended within two miles of a State Forest.

Coroner to hold inquiry when requested.

See 1 & 2 Edw. VII., No. 18, s. 13 of. S.A. No. 2139, s. 27.

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

This Act not to affect rights at law.
cf. 1 & 2 Edw. VII., No. 18, s. 1d.
cf. S.A. No. 2139, s. 30.

31. (1.) All moneys received for penalties imposed for offences against this Act shall be paid to the Minister, who shall pay a moiety thereof, less any expenses, to the local authority within whose district the offence was committed for the use of the said local authority.

Appropriation of penalties.
cf. 1 & 2 Edw. VII., No. 18, s. 16, and No. 27 of 1925, s. 4.

(2.) Subject to subsection (1) hereof the moneys received by the Minister under this section shall be paid into the Consolidated Revenue Fund.

32. (1.) It shall be the duty of every member of the Police force and every bush fire control officer appointed under this Act, and every forest officer appointed under the Forests Act, 1918-1931, who finds any person committing any offence against this Act, or committing any breach of a regulation or by-law made under this Act, to demand from such person his name and place of abode, and to report the facts of such offence or breach, and the name and place of abode of such person, as soon as conveniently may be to the local authority in whose district the offence or breach has been committed.

Duty of police officers and bush fire control officers.

(2.) Any such person who refuses to state his name and place of abode when required by a member of the Police force, or by a bush fire control officer or a forest officer so to do, may, without any other warrant than this Act, be apprehended by such member of the Police force, or by such bush fire control officer, or by such forest officer and be taken before justices there to be dealt with according to law.

(3.) Any 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, shall be guilty of an offence.

Penalty—Ten pounds.

33. Any person who obstructs, hinders, resists, or in any wise opposes any forest officer, bush fire control officer, any officer or member of any bush fire brigade registered under this Act or any other person acting with

Obstructing execution of Act.

authority under this Act in the performance or doing of anything which he is empowered or required to do by this Act or by any regulation or by-law under this Act, shall be guilty of an offence.

Penalty—Twenty pounds, and, in addition, if the offence is a continuing one, a daily penalty of two pounds.

**General
penalty.**

34. Every person failing to do any act directed to be done or doing any act forbidden to be done by this Act or by any regulation or by-law, shall be guilty of an offence, and be liable, if no other penalty is prescribed by this Act, to a penalty not exceeding twenty pounds.

**Prosecution
of offences.**

35. (1.) All proceedings for offences against this Act and the regulations or by-laws made under this Act shall be taken and dealt with summarily in accordance with the provisions of the Justices Act, 1902-1936.

(2.) Every forest officer and every member of the Police force, may by virtue of his office, and every bush fire control officer at the request of the local authority (or road board not being a local authority within the meaning of this Act) may institute and carry on proceedings against any person for an alleged offence against this Act or any regulation or by-law, and he shall be reimbursed out of the funds of the local authority or road board within whose district the alleged offence is committed all costs and expenses which he may incur or be put to in or about such proceedings.

(3.) A local authority, or a road board (not being a local authority within the meaning of this Act) within whose district an alleged offence against this Act or any regulation or by-law has been committed, may direct its secretary, bush fire control officer, or any other officer to institute and carry on proceedings against the person alleged to have committed such offence, and may pay the costs and expenses incurred in or about such proceedings out of the funds of the local authority or road board.

**Assisting to
commit an
offence.**

*of. S.A., No.
2139, s. 35.*

36. Wherever in this Act there is a prohibition of the doing of any thing, such prohibition shall be read as including a prohibition of the assisting in or of aiding or abetting in any way the doing of such thing, and of the causing of or suffering the doing thereof, and of any attempt to do such thing, or to cause it to be done or to assist in or aid or abet the doing thereof.

37. (1.) The Governor may make regulations not inconsistent with this Act for 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 to the utmost extent the objects and purposes of this Act.

Regulations.
cf. 1 & 2 Edw.
VII., No. 18,
s. 16A.

(2.) Such regulations may impose a penalty not exceeding twenty pounds for a breach of any regulation.

38. (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 the appointment, employment, payment, dismissal, and duties of bush fire control officers, for and in relation to the organisation, establishment, maintenance, and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local authority, and for and in relation to any other matter affecting the exercise of any powers and authorities conferred and the performance of any duties imposed upon the local authority by this Act.

Local authority may make by-laws.

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

39. (1.) A local authority, a bush fire control officer, or other officer appointed by a local authority, the officers and members of every bush fire brigade registered under this Act, 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 upon such local authority, such bush fire brigade or any of the persons aforesaid by this Act shall not be liable for any damage, loss, or injury caused by the exercise or performance in good faith of any such powers or authorities or of any such duties; and a person acting under and in accordance with any orders or directions of any person who as required by this Act has

Immunity.
cf. Vict. 24,
Geo. V., No.
4185, s. 18.

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 shall not be liable for any damage, loss, or injury caused by him in good faith when acting under such orders or directions.

(2.) Any damage, loss, or injury mentioned in subsection (1) of this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property damaged, lost, or injured, notwithstanding any clause or condition to the contrary contained in such policy.

SCHEDULE.

| No. of Act repealed. | Title of Act repealed. |
|----------------------------|-------------------------------------|
| 1 & 2 Edw. VII., No. 18 .. | Bush Fires Act, 1902. |
| 36 of 1904 | Bush Fires Amendment Act, 1904. |
| 27 of 1925 | Bush Fires Act Amendment Act, 1925. |