

BUSH FIRES.

No. 65 of 1977.

AN ACT to amend the Bush Fires Act, 1954-1973

[Assented to 28th November, 1977.]

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:—

1. (1) This Act may be cited as the *Bush Fires Act Amendment Act, 1977*. Short title and citation.

(2) In this Act the Bush Fires Act, 1954-1973 is referred to as the principal Act. Reprinted as approved for reprint 14th April, 1971 and amended by Act No. 94 of 1972 (as amended by No. 83 of 1973).

(3) The principal Act as amended by this Act may be cited as the Bush Fires Act, 1954-1977.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 2
amended.

3. Section 2 of the principal Act is amended—

- (a) by deleting the passage “s. 16” in line eight, and substituting the passage “s. 17”;
- (b) by deleting the passage “*Division 1.—Fire Protected Areas, s. 16.*” in line ten;
- (c) by deleting the passage “s. 26” in line seventeen, and substituting the passage “s. 26A” ; and
- (d) by deleting the passage “s. 67” in the last line, and substituting the passage “s. 68”.

Section 7
amended.

4. Section 7 of the principal Act is amended—

- (a) by adding after the interpretation “bush” an interpretation as follows—

“bush fire brigade” means a bush fire brigade for the time being registered in a register kept pursuant to section forty-one of this Act; ;
- (b) as to the interpretation “forest land”—
 - (i) by adding after the word “Department” in line two the words “or the Conservator of Forests”; and
 - (ii) by adding after the word “Department” in the last line the words “or Conservator”;
- (c) by deleting the interpretation “prohibited burning times” and substituting an interpretation as follows—

“prohibited burning times” means the times of the year during which it is declared by the Minister under section seventeen of this Act to be

unlawful to set fire to the bush within a zone of the State and, in relation to any land in such a zone—

- (a) includes any extension of those times made, or any further times imposed, under that section in respect of the whole of that zone or in respect of the part of that zone, or the district or part of a district, in which that land is situated; but
- (b) does not include any period by which those times are reduced, or for which those times are suspended, under that section in respect of the whole of that zone or in respect of the part of that zone, or the district or part of a district, in which that land is situated or in respect of that land in particular; ;
- (d) by deleting the interpretation “restricted burning times” and substituting an interpretation as follows—

“restricted burning times” means the times of the year during which it is declared by the Board under section eighteen of this Act to be unlawful to set fire to the bush within a zone of the State except in accordance with a permit obtained under that section and with the conditions prescribed for the purposes of that section and, in relation to land in such a zone—

- (a) includes any extension of those times made, or any further times imposed, under that section in respect of the whole of that zone or in respect of the part of that

zone, or the district or part of a district, in which that land is situated; but

- (b) does not include any period by which those times are reduced, or for which those times are suspended, under that section in respect of the whole of that zone or in respect of the part of that zone, or the district or part of a district, in which that land is situated. ; and

(e) by deleting the interpretation “stubble”.

**Section 8
amended.**

5. Section 8 of the principal Act is amended—

(a) as to subsection (2)—

(i) by deleting the word “thirteen” in line one of paragraph (a) and substituting the word “sixteen”; and

(ii) by repealing paragraph (c);

(b) by repealing subsection (2a) and re-enacting that subsection as follows—

(2a) Where the office of a member of the Board has become vacant otherwise than by effluxion of time, the Governor, on the recommendation of the Minister, may appoint to the vacant office for the unexpired part of the term of the office which so became vacant a person who has the like prescribed qualifications, if any, as those of the member whose office has become vacant and, where the case requires, who has been nominated in the manner in which the member was nominated. ;

(c) as to subsection (3)—

(i) by deleting the passage “formerly known as the Road Board Association of Western Australia (Inc.) but now” in lines eight, nine and ten of paragraph (b);

(ii) by deleting paragraph (f) and substituting a paragraph as follows—

(f) a person appointed to be representative of the insurance industry in the State; ;

(iii) by deleting the word “and” after paragraph (g); and

(iv) by deleting paragraph (h) and substituting paragraphs as follows—

(h) a person appointed to be representative of the sawmilling industry in the State;

(i) a person nominated by the Regional Director for the State of the Bureau of Meteorology;

(j) a person nominated by the Minister to whom the administration of the Wildlife Conservation Act, 1950 is for the time being committed to represent The Western Australian Wildlife Authority constituted under that Act; and

(k) a person nominated by the Minister to whom the administration of the National Parks Authority Act, 1976 is for the time being committed to represent the National Parks Authority of Western Australia established under that Act.

6. Section 9 of the principal Act is amended—

Section 9
amended.

(a) by repealing subsection (1) and re-enacting that subsection as follows—

(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 any one or more of the following persons, namely—

- (a) the Chairman of the Board;
- (b) any member of the Board nominated by the Board; or
- (c) any person who is the executive officer of the Board or is, for the time being, acting in or discharging the duties of that office,

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 that person or those persons. ; and

(b) by adding a subsection as follows—

(3) A person to whom a power or function is delegated under this section shall exercise that power or function in accordance with such policy as the Board may determine.

Section 10
amended.

7. Section 10 of the principal Act is amended by deleting paragraph (d) of subsection (1) and substituting a paragraph as follows—

(d) recommend to the Minister the prohibited burning times to be declared for the whole or any part of the State; .

Section 11
amended.

8. Subsection (1) of section 11 of the principal Act is amended by deleting the words “a secretary to” in line one and substituting the words “an executive officer of”.

9. The principal Act is amended by repealing section 12 and re-enacting that section as follows—

Section 12
repealed and
re-enacted.

12. (1) The Board may with the approval of the Minister appoint persons to be bush fire liaison officers for the purposes of this Act.

Appointment
of bush fire
liaison
officers.

(2) Any person who was a bush fire warden immediately before the coming into operation of section nine of the Bush Fires Act Amendment Act, 1977 shall be deemed to have been appointed to be a bush fire liaison officer under subsection (1) of this section. .

10. The principal Act is amended by repealing section 13 and re-enacting that section as follows—

Section 13
repealed and
re-enacted.

13. (1) A bush fire liaison officer shall exercise such powers and perform such duties as the Board may direct and may, in addition, exercise all the powers that may be exercised by a bush fire control officer under this Act.

Duties of
bush fire
liaison
officers.

(2) A bush fire liaison officer shall exercise his powers and perform his duties—

(a) subject to such directions as may be given by the Board;

(b) in such part or parts of the State as the Board may direct.

(3) In the exercise or performance of any of the powers or duties conferred or imposed on a bush fire liaison officer he shall co-operate with, and act in an advisory capacity to a bush fire control officer. .

11. Section 14 of the principal Act is amended by deleting the word "secretary" in line one, and substituting the words "executive officer".

Section 14
amended.

Heading and
section 16
repealed.

12. The principal Act is amended by repealing section 16 and the heading "*Division 1.—Fire Protected Areas.*" that precedes that section.

Section 17
repealed and
re-enacted.

13. The principal Act is amended by repealing section 17 and re-enacting that section as follows—

Prohibited
burning
times may
be declared
by Minister.

17. (1) The Minister may, by declaration published in the *Gazette*, declare the times of the year during which it is unlawful to set fire to the bush within a zone of the State mentioned in the declaration and may, by subsequent declaration so published, vary that declaration or revoke that declaration either absolutely or for the purpose of substituting another declaration for the declaration so revoked.

(2) Where by declaration made under subsection (1) of this section prohibited burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from time to time, those prohibited burning times shall have effect in respect of that zone in each year until that declaration is revoked.

(3) A copy of the *Gazette* containing a declaration published under subsection (1) of this section shall be received in all courts as evidence of the matters set out in the declaration.

(4) Where the Board considers that burning should be carried out on any land, the Board may suspend the operation of a declaration made under subsection (1) of this section, so far as the declaration extends to that land, for such period as it thinks fit and specifies and subject to such conditions as may be prescribed or as it thinks fit and specifies.

(5) The Board may authorise a person appointed by it to regulate, permit or define the class of burning that may be carried out, and the times when and conditions under which a fire may be lit, on the land referred to in subsection (4) of this section during the period of suspension granted under that subsection.

(6) In any year in which the Board considers that seasonal conditions warrant a variation of the prohibited burning times in a zone of the State the Board may, by notice published in the *Gazette*, vary the prohibited burning times in respect of that year in the zone or a part of the zone by—

- (a) shortening, extending, suspending or reimposing a period of prohibited burning times; or
- (b) imposing a further period of prohibited burning times.

(7) (a) Subject to paragraph (b) of this subsection, in any year in which a local authority considers that seasonal conditions warrant a variation of the prohibited burning times in its district the local authority may, after consultation with a forest officer if forest land is situated in the district, vary the prohibited burning times in respect of that year in the district or a part of the district by—

- (i) shortening, extending, suspending or reimposing a period of prohibited burning times; or
- (ii) imposing a further period of prohibited burning times.

(b) A variation of prohibited burning times shall not be made under this subsection if that variation would have the effect of shortening or suspending those prohibited burning times by, or for, more than fourteen successive days.

(8) Where, under subsection (7) of this section, a local authority makes a variation to the prohibited burning times in respect of its district or a part of its district the following provisions shall apply—

(a) the local authority—

(i) shall, by the quickest means available to it and not later than two days before the first day affected by the variation, give notice of the variation to any local authority whose district adjoins that district;

(ii) shall, by the quickest means available to it, give particulars of the variation to the Board and to any Government department or instrumentality which has land in that district under its care, control and management and which has requested the local authority to notify it of all variations made from time to time by the local authority under this section or section eighteen of this Act;

(iii) shall, as soon as is practicable publish particulars of the variation in that district;

(b) the Minister, on the recommendation of the Board, may give notice in writing to the local authority directing it—

(i) to rescind the variation; or

(ii) to modify the variation in such manner as is specified in the notice;

(c) on receipt of a notice given under paragraph (b) of this subsection the local authority shall forthwith—

(i) rescind or modify the variation as directed in the notice: and

- (ii) publish in that district notice of the rescission or particulars of the modification, as the case may require.

(9) For the purposes of subsections (7) and (8) of this section "publish" means to publish in a newspaper circulating in the district of the local authority, to broadcast from a radio broadcasting station that gives radio broadcasting coverage to that district, to place notices in prominent positions in that district, or to publish by such other method as the Board may specify in writing.

(10) A local authority may by resolution delegate to its mayor, or president, and its chief bush fire control officer, jointly its powers and duties under subsections (7) and (8) of this section.

(11) A local authority may by resolution revoke a delegation it has given under subsection (10) of this section and no delegation so given prevents the exercise and discharge by the local authority of its powers and duties under subsections (7) and (8) of this section.

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

Penalty: A fine of eight hundred dollars or imprisonment for a term of six months or both the fine and imprisonment.

14. The principal Act is amended by repealing section 18 and re-enacting that section as follows—

Section 18
repealed and
re-enacted.

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

Restricted
burning
times may
be declared
by Board.

(2) The Board 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 zone of the State mentioned in the notice except in accordance with a permit obtained under this section and with the conditions prescribed for the purposes of this section, and may, by subsequent notice so published vary that declaration or revoke that declaration either wholly or for the purpose of substituting another declaration for the declaration so revoked.

(3) Where by declaration made under subsection (2) of this section restricted burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from from time to time, those restricted burning times shall have effect in respect of that zone in each year until that declaration is revoked.

(4) A copy of the *Gazette* containing a declarations published under subsection (2) of this section shall be received in all courts as evidence of the matters set out in the declaration.

(5) (a) Subject to paragraph (b) of this subsection in any year in which a local authority considers that seasonal conditions so warrant the local authority may, after consultation with a forest officer if forest land is situated in its district,—

(i) vary the restricted burning times in respect of that year in the district or a part of the district by—

(A) shortening, extending, suspending or reimposing a period of restricted burning times; or

(B) imposing a further period of restricted burning times; or

- (ii) vary the prescribed conditions by modifying or suspending all or any of those conditions.

(b) A variation shall not be made under this subsection if that variation would have the effect of—

- (i) shortening the restricted burning times by; or
- (ii) suspending the restricted burning times, or any prescribed condition, for,

more than fourteen successive days during a period declared by the Board in respect of that zone by declaration published in the *Gazette*.

(c) The provisions of subsections (8), (9), (10) and (11) of section seventeen of this Act, with the necessary adaptations and modifications, apply to and in relation to the variation of restricted burning times or prescribed conditions by a local authority, as if those provisions were expressly incorporated in this section.

(d) For the purposes of this subsection “prescribed condition” includes the requirement of paragraph (a) of subsection (6) of this section.

(6) Subject to this Act a person shall not set fire to the bush on land within a zone of the State during the restricted burning times for that zone of the State unless—

- (a) 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 clerk of the local authority if a bush fire control officer is not available; and

- (b) the conditions prescribed for the purposes of this section are complied with in relation to the burning of the bush.

(7) The person issuing a permit to burn under this section may, by endorsement on the permit—

- (a) incorporate therein any additional requirements and directions considered necessary by him relative to the burning; or
- (b) modify or dispense with any of the conditions prescribed for the purposes of this section in so far as those conditions are applicable to the burning.

(8) The holder of a permit to burn under this section—

- (a) shall observe and carry out any requirement or direction incorporated therein pursuant to paragraph (a) of subsection (7) of this section;
- (b) shall, where any prescribed condition is modified pursuant to subsection (5) or paragraph (b) of subsection (7) of this section, comply with that condition as so modified;
- (c) need not comply with any prescribed condition that is suspended or dispensed with pursuant to subsection (5) or paragraph (b) of subsection (7) of this section.

(9) A permit issued under this section may authorise the owner or occupier of land to burn the bush on a road reserve adjoining that land.

(10) (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 that has so resolved shall, by such date as may be determined by the local authority, apply to the local authority for permission to set fire to the bush, and the local authority shall allocate a day or days 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 prescribed for the purposes of this section except that any prescribed period of notice may be varied by the local authority in order to enable the schedule of burning times adopted by it to be given effect to.

(11) Where a person starts a fire on land, if the fire escapes from the land or if the fire is in the opinion of a bush fire control officer or an officer of a bush fire brigade out of control on the land, the person shall be liable to pay to the local authority on the request of and for recoup to its bush fire brigade, any expenses up to a maximum amount of one hundred dollars incurred by it in preventing the extension of or extinguishing the fire, and such expenses may be recovered in any court of competent jurisdiction.

(12) A person who commits a breach of this section other than subsection (11) is guilty of an offence.

Penalty: For a first offence a fine of four hundred dollars or imprisonment for a term of three months; for every subsequent offence a fine of two thousand dollars or imprisonment for six months. .

Section 19
repealed.

15. The principal Act is amended by repealing section 19.

Section 20
repealed and
re-enacted.

16. The principal Act is amended by repealing section 20 and re-enacting that section as follows—

Regulations
as to
restricted
burning
times.

20. (1) The Governor may make regulations prescribing the conditions under which bush may be burnt under section eighteen of this Act.

(2) Without limiting the generality of subsection (1) of this section, regulations may be made—

- (a) requiring a person who intends to burn bush to give notice to such persons as are specified in the regulations and prescribing the matters to be included in the notice and the methods by which the notice may be given;
- (b) prescribing the precautions to be taken before a fire is lit, and whilst it is alight, in order to keep it under control and to prevent it from spreading beyond the land in respect of which a permit to burn has been obtained under section eighteen of this Act;
- (c) prescribing, by reference to fire danger forecasts issued by the Bureau of Meteorology in Perth, the days on which a person may set fire to the bush.

(3) Regulations may be made under this section—

- (a) so as to apply throughout the State or in any specified part or parts of the State;
- (b) so that different regulations apply to different parts of the State.

17. Section 22 of the principal Act is amended—

Section 22
amended.

(a) as to subsection (1)—

- (i) by deleting the words “railway land or forest” in each of lines two and four of the interpretation “common boundary”, and substituting the word “exempt” in each case;
- (ii) by deleting the interpretation “railway land” and substituting a definition as follows—

“exempt land” means land that is for the time being the subject of a suspension granted pursuant to the provisions of subsection (4) of section seventeen of this Act. ;

- (b) by deleting the words “railway or forest” in lines three and four of subsection (2), and substituting the word “exempt”;
- (c) as to subsection (3), by deleting the words “railway land or forest” where they occur in line two of the subsection and in lines four and five of paragraph (b), and substituting the word “exempt” in each case;
- (d) by deleting the words “referred to in” in line three of subsection (4) and substituting the words “prescribed for the purposes of”;
- (e) by repealing subsection (5) and re-enacting that subsection as follows—

(5) The occupier of the adjoining land and the occupier of the exempt land shall, in so far as is reasonably practicable, co-operate with each other in setting fire to bush on the adjoining and the exempt land. ; and

(f) as to subsection (6)—

- (i) by deleting the words “railway land or forest land as the case may be” where they occur in lines three and

four of paragraph (a) and in lines one and two of paragraph (c), and substituting the words "exempt land" in each case; and

- (ii) by deleting the words "railway land or forest" where they occur in line three of paragraph (c) and in lines one and two of subparagraph (i) of that paragraph, and substituting the word "exempt" in each case.

Section 23
repealed and
re-enacted.

18. The principal Act is amended by repealing section 23 and re-enacting that section as follows—

Burning
during
prohibited
burning
times.

23. (1) Subject to this section the owner or occupier of land may during the prohibited burning times for the zone of the State in which his land is situated—

- (a) at any time, burn the bush on his land for the purpose of protecting a dwelling house or other building, or a stack of hay, wheat or other produce, from damage by fire;
- (b) within such period after the commencement of those prohibited burning times as is determined by the local authority of the district in which his land is situated,—
 - (i) burn the bush on a road reserve adjoining his land;
 - (ii) burn the bush on any of his land that is grass land,

for the purpose of protecting pasture or crop growing on his land from damage by fire.

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

(a) the following conditions—

- (i) a permit in writing to burn the bush shall be obtained from a bush fire control officer of the local authority in whose district the land is situated, or from the clerk of the local authority if a bush fire control officer is not available;
- (ii) the bush shall be burnt at such a time between the hours of four o'clock in the afternoon and midnight of the same day as is specified in the permit issued under this section;
- (iii) in the case of burning carried out pursuant to paragraph (a) of subsection (1) of this section, the bush shall be burnt between two plough or spade breaks of which the outer break is not more than one hundred metres from the property to be protected;
- (iv) in the case of burning carried out pursuant to subparagraph (i) of paragraph (b) of subsection (1) of this section, the bush shall be burnt between the constructed portion of the road and an established fire break; and
- (v) in the case of burning carried out pursuant to subparagraph (ii) of paragraph (b) of subsection (1) of this section, the bush shall be burnt between two fire breaks that are not more than twenty

metres apart and each of which is not less than two metres in width;

- (b) the conditions prescribed for the purposes of section eighteen of this Act; and
- (c) such other conditions as are stipulated in the permit issued under this section.

Section 24
amended.

19. Section 24 of the principal Act is amended by deleting the words "thirty hectares" in subparagraph (i) of paragraph (b), and substituting the words "such area as the local authority from time to time determines".

Section 24B
amended.

20. Section 24B of the principal Act is amended by repealing subsection (2) and substituting subsections as follows—

(2) Where a person does not produce a permit to burn immediately upon being required under subsection (1) of this section to do so, the officer who made the requirement may require that person to identify the person by whom that permit was issued.

(3) A person—

- (a) who does not, within seven days after being required under subsection (1) of this section to produce a permit to burn, produce that permit to the officer who made the requirement or to a person nominated by that officer;
- (b) who when required under subsection (1) of this section to identify the person who issued a permit to burn to him fails or refuses to name or otherwise identify that person,

is guilty of an offence.

Penalty: Two hundred dollars. .

21. Section 25 of the principal Act is amended— Section 25
amended.

- (a) as to paragraph (a) of subsection (1)—
- (i) by deleting the word “hazard” in line eight, and substituting the word “danger”; and
 - (ii) by deleting the passage “ ‘dangerous’ ” in line eleven, and substituting the passage “ ‘extreme’ or “very high” ’ ”;
- (b) by deleting the words “an incinerator to be” in lines six and seven of the proviso to paragraph (d) of subsection (1), and substituting the words “the use of an incinerator”;
- (c) by adding after subsection (1) subsections as follows—

(1a) Notwithstanding anything contained in subsection (1) of this section a local authority may, by notice published in the *Gazette* and in a newspaper circulating in its district, prohibit the lighting of fires in the open air in its district for the purpose of camping or cooking for such period during the prohibited burning times as is specified in the notice.

(1b) A notice published under subsection (1) of this section may be cancelled or varied by a subsequent notice so published.

(1c) During any period for which the lighting of fires for the purpose of camping or cooking is prohibited in the district of a local authority by a notice published under subsection (1a) of this section a

person shall not light a fire in the open air in that district for either of those purposes unless the fire is lit—

- (a) in a place specified in the notice as being set aside for the lighting of camping and cooking fires; or
- (b) with the approval in writing of the local authority.

(1d) The provisions of paragraphs (a) and (f) of subsection (1) of this section shall be complied with in relation to a fire lit pursuant to subsection (1c) of this section. ; and

- (d) by deleting the passage “subsection (1) of” in line two of subsection (2).

Section 25A
amended.

22. Section 25A of the principal Act is amended—

- (a) by repealing subsection (1) and re-enacting that subsection as follows—

(1) Where the Minister is advised in writing by the Board that, in the opinion of the Board, a person has taken adequate precautions for the—

- (a) prevention of the spread or extension;
- (b) control; and
- (c) extinguishment, if necessary,

of any fire that is to be lit in the open air during the restricted burning times or the prohibited burning times for the purpose of burning any trade refuse from or in connection with an industry, trade, process or operation (including the burning during testing operations of gas

or oil during the operation of drilling for petroleum and the burning of gas or oil in connection with the testing, operation, maintenance or repair of a gas or oil pipe-line) the Minister may, in respect of any such fire as is so lit, exempt the person and any person acting under his instructions, either wholly or partially from the operation of the provisions of section twenty-five of this Act. ;

- (b) by deleting the word "occupier" in line six of subsection (2), and substituting the word "person";
- (c) by deleting the word "occupier" in line two of subsection (3), and substituting the word "person"; and
- (d) by adding after subsection (4) subsections as follows—

(5) Notwithstanding any other provision of this section a local authority may, by notice in writing served on a person to whom an exemption has been granted under this section, prohibit that person and any person acting under his instructions from lighting a fire to which the exemption relates for such period as is specified in the notice.

(6) A notice under subsection (5) of this section may prohibit the lighting of a fire either absolutely or unless such conditions as are specified in the notice are complied with.

(7) A person who lights a fire contrary to a notice under subsection (5) of this section is guilty of an offence.

Penalty: Four hundred dollars.

Section 26
amended.

23. Section 26 of the principal Act is amended by adding after subsection (4) a subsection as follows—

(5) In this section the term “plant” does not include a plant that is a declared plant within the meaning of the Agriculture and Related Resources Protection Act, 1976. .

Section 26A
added.

24. The principal Act is amended by adding after section 26 a section as follows—

Burning of
declared
plants
during
prohibited
burning
times.

26A. (1) A plant that is a declared plant within the meaning of the Agriculture and Related Resources Protection Act, 1976, or the refuse of such a plant, may be burnt during the prohibited burning times so long as the burning is carried out subject to and in accordance with the regulations.

(2) A person who pursuant to the authority of 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 four hundred dollars. .

Section 27
amended.

25. Section 27 of the principal Act is amended—

(a) as to subsection (1)—

(i) by deleting the passage commencing with the word “times” in line three and ending with the word “period” in line five, and substituting the words “times or the restricted burning times”;

(ii) by deleting subparagraph (i) of paragraph (a); and

(iii) by adding at the foot of the subsection the passage “Penalty: two hundred dollars.”;

- (b) by adding after the word "subsection" in the last line of subsection (2) the passage "and with the requirements of any notice under subsection (3) of this section having effect in the district for the time being";
- (c) by adding after subsection (2) subsections as follows—
 - (3) A local authority may, by notice published in its district by—
 - (a) publication in a newspaper circulating in that district;
 - (b) broadcast from a radio broadcasting station that gives radio broadcasting coverage to that district; and
 - (c) display in prominent positions in that district,

prohibit the operation in its district of any tractor other than a tractor that is equipped with a fire extinguisher.

(4) A notice under subsection (3) of this section—

- (a) shall have effect for such period during the prohibited burning times or the restricted burning times, or both, as is specified in the notice;
- (b) may be varied or cancelled by the local authority by a notice published in the manner set out in that subsection.

(5) During any period for which a notice under subsection (3) of this section has effect in a district a person shall not operate a tractor in that district unless a fire extinguisher as prescribed

by regulation is carried on that tractor or on a trailer, semi-trailer or agricultural machine or appliance being drawn or propelled by that tractor.

Penalty: Two hundred dollars. .

Section 27A
amended.

26. Section 27A of the principal Act is amended by deleting paragraph (a) of subsection (1) and substituting paragraphs as follows—

(a) regulating—

(i) the use of any materials for the purpose of blasting, including explosives and fuses;

(ii) the carrying out in the open air of any process or operation specified in the regulations as being a process or operation likely to create a bush fire danger,

either generally or in any locality or localities specified in the regulations or during any period or periods specified in the regulations;

(aa) providing that preparations for, or the carrying out of, blasting or any other process or operation specified in the regulations shall be in accordance with the directions, and to the satisfaction of, a bush fire control officer, officer of a bush fire brigade, or forest officer; .

Section 28
amended.

27. Section 28 of the principal Act is amended—

(a) as to subsection (2) by deleting the passage commencing with the word “between” in line two and ending with the word “situated” in line seven, and substituting the passage “before the commencement of a period of prohibited burning times

relating to the district where the fire is situated, and which is still burning at the commencement of those prohibited burning times”;

- (b) as to paragraph (a) of subsection (4) by deleting the words “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” in lines nine, ten and eleven, and substituting the passage “, local authority or Conservator of Forests, respectively”.

28. The principal Act is amended by repealing section 29. Section 29 repealed.

29. The principal Act is amended by repealing section 30 and re-enacting that section as follows— Section 30 repealed and re-enacted.

30. During the restricted burning times or prohibited burning times for a zone of the State a person shall not dispose of burning tobacco, or a burning cigarette, cigar or match, in that zone— Disposal of burning cigarettes etc.

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

Penalty: Two hundred dollars.

30. The principal Act is amended by repealing section 31. Section 31 repealed.

31. Section 32 of the principal Act is amended— Section 32 amended.

- (a) by deleting the word “wilfully” in line one; and
- (b) by inserting before the word “lights” in line one of paragraph (a), the word “wilfully”.

Section 33
amended.

32. Section 33 of the principal Act is amended—

- (a) by repealing subsection (2) and substituting subsections as follows—

(2) A notice in writing under subsection (1) of this section may be given to an owner or occupier of land by posting it to him at his last postal address known to the local authority and may be given to an owner of land by posting it to him at the address shown in the rate book kept by the local authority pursuant to the Local Government Act, 1960, as his address for the service of rate notices.

(2a) The provisions of subsection (2) of this section are in addition to and not in derogation of those of section thirty-one of the Interpretation Act, 1918. ;

- (b) by adding after subsection (5) subsections as follows—

(5a) A local authority may, with the approval of the Governor, make by-laws—

- (a) requiring owners and occupiers of land in its district to clear firebreaks in such manner, at such places, at such times, of such dimensions and to such number, and whether in parallel or otherwise, as are specified in the by-laws and to maintain the firebreaks clear of inflammable matter;

- (b) providing that things required by the by-laws to be done shall be done to the satisfaction of the local authority or its duly authorised officer.

(5b) Where an owner or occupier of land fails or neglects in any respect to comply with the requirements of by-laws

made under subsection (5a) of this section the provisions of subsections (3), (4) and (5) of this section apply *mutatis mutandis* as if those requirements were the requisitions of a notice given under subsection (1) of this section.

(5c) Nothing in subsection (5a) of this section affects the power of a local authority to give notice under subsection (1) of this section nor its duty to do so if so required by the Minister.

(5d) Where the provisions of by-laws made under subsection (5a) of this section are inconsistent with those of a notice given under subsection (1) of this section or under section thirty-four or thirty-five of this Act, the provisions of that notice shall, to the extent of the inconsistency, prevail. ; and

(c) by adding after subsection (6) a subsection as follows—

(7) Nothing in this section authorises a local authority—

(a) to set fire to the bush, or to require an owner or occupier of land to set fire to the bush, contrary to the provisions of section seventeen of this Act; or

(b) to make by-laws authorising or requiring bush to be set on fire contrary to the provisions of section seventeen of this Act. .

33. Section 34 of the principal Act is amended— Section 34
amended.

(a) by deleting the word “The” in line one of paragraph (a) of subsection (1) and substituting the passage “Subject to subsections (1a) and (1b) of this section, the ”;

(b) by adding after subsection (1) subsections as follows—

(1a) Where—

(a) the person, body or Government department responsible for the care, control and management of a reserve, after consultation with the local authority or local authorities in whose district or districts the reserve is situated, tenders to the Board a plan setting out the measures taken and proposed to be taken to prevent, control and extinguish bush fires on the reserve; and

(b) the Board is satisfied that the measures set out in the plan will provide adequate fire protection in relation to the reserve and that the exercise of the powers conferred by subsection (1) of that section would be likely to interfere with the development of the reserve,

the Board may, by notice published in the *Gazette* and in a newspaper circulating in the district in which the reserve is situated, order that the powers conferred by subsection (1) of this section shall not be exercised in relation to the reserve.

(1b) A notice published under subsection (1a) of this section—

(a) has effect according to its tenor;

(b) may be varied or cancelled by a subsequent notice so published. ;

and

(c) by inserting before the word “section” in line ten of paragraph (a) of subsection (2), the passage “subsection (1) of”.

34. Section 35 of the principal Act is amended by deleting the word "Secretary" in line one of paragraph (b) of subsection (3), and substituting the words "executive officer".

Section 35
amended.

35. Subsection (4) of section 37 of the principal Act is amended—

Section 37
amended.

- (a) by deleting the word "average" in each of lines eight and ten; and
- (b) by deleting the passage 'basic wage within the meaning of the term "basic wage" in that Act', and substituting the passage "estimate, published by the Australian Statistician, of the average weekly earnings per employed male unit for the last preceding June quarter in this State".

36. Section 38 of the principal Act is amended—

Section 38
amended.

(a) as to subsection (2)—

(i) by deleting paragraph (a) and substituting a paragraph as follows—

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

(ii) by deleting paragraph (b); and

(iii) by adding after paragraph (d) a paragraph as follows—

(e) A bush fire control officer appointed under the provisions of this section shall be issued with a certificate of appointment by the local authority or, if he is appointed by the Board, by the Board. ;

- (b) by deleting the words “in the district” in the penultimate line of paragraph (a) of subsection (5) and substituting the passage “under the care, control and management”;
- (c) as to paragraph (h) of subsection (6)—
 - (i) by deleting the passage “(c) of subsection (2)” in line four, and substituting the passage “(a) of subsection (6)”;
 - (ii) by deleting the word “hazard” in line seven, and substituting the word “danger”;
 - (iii) by deleting the passage ‘ “dangerous” ’ in line ten, and substituting the passage ‘ “extreme” or “very high” ’ ; and
 - (iv) by deleting the word “by” in the penultimate line, and substituting the words “for the purposes of”.

Section 41
repealed and
re-enacted.

37. The principal Act is amended by repealing section 41 and re-enacting that section as follows—

Bush Fire
Brigades.

41. (1) For the purpose of taking measures and conducting operations for the control and extinguishment of bush fires a local authority may, in accordance with its by-laws made for the purpose, establish and maintain one or more bush fire brigades and may, in accordance with those by-laws, equip each bush fire brigade so established with appliances, equipment and apparatus.

(2) A local authority shall keep a register of bush fire brigades in accordance with the regulations and shall register therein each bush fire brigade established by it under subsection (1) of this section.

(3) A local authority may at any time cancel the registration of a bush fire brigade. .

38. Subsection (4) of section 48 of the principal Act is amended— Section 48
amended.

(a) by deleting paragraph (a) and substituting a paragraph as follows—

(a) The expression “land of any other owner or occupier” in subsection (1) of this section does not include—

(i) land under the care, control and management of the Commissioner of Main Roads pursuant to section fifteen of the Main Roads Act, 1930; or

(ii) a road or reserve that is vested in a local authority,

and in relation to that land, road or reserve the Commissioner or local authority, as the case may be, 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) by adding after the word “relieve” in line two of paragraph (b), the words “the Commissioner of Main Roads or”; and

(c) by deleting the words “employed by a local authority” in the last line of paragraph (b) and substituting the passage “of that Commissioner or local authority, as the case may be”.

39. Section 50 of the principal Act is amended— Section 50
amended.

(a) by deleting the passage “shall, in the month of August in every year, send or cause to be sent to the Board a statement in writing” in lines one, two and three of subsection (1), and substituting the words “shall maintain records”; and

(b) by repealing subsections (2) and (3) and substituting a subsection as follows—

(2) The Governor may make regulations—

- (a) requiring an owner or occupier of land to notify the local authority in whose district the land is situated of the occurrence of any bush fire on the land;
- (b) requiring a local authority to send to the Board particulars of losses caused by bush fires in its district;
- (c) prescribing the times at or within which, and the manner in which, the requirements of the regulations shall be complied with;
- (d) imposing a maximum penalty of two hundred dollars for any breach of the regulations.

Section 53
amended.

40. Section 53 of the principal Act is amended—

(a) as to subsection (1)—

- (i) by adding after the word “crop” in line one the words “of any kind”;
- (ii) by adding after the word “crops” in the penultimate line the words “of that kind”; and
- (iii) by repealing subsection (3) and re-enacting that subsection as follows—

(3) For the purposes of this section “crop” includes any crop whether growing, standing, harvested, cut, picked, collected, stacked, stoked, or packed, and grain, hay, chaff or other things

produced from a crop, and bags and other containers and packing materials to be used in connection therewith, whilst on the land on which the crop is 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 or other receiving depot.

41. Section 59 of the principal Act is amended— Section 59 amended.

- (a) by deleting the words “section thirty-two” in lines one and two of subsection (1), and substituting the words “sections thirty-two and fifty-nine A”;
- (b) by deleting the words “a bush fire control officer at the request of the” in lines three and four of paragraph (a) of subsection (2), and substituting the words “or a”;
- (c) as to subsection (3)—
 - (i) by deleting the word “secretary” in line four, and substituting the word “clerk”;
 - (ii) by adding after the word “proceedings” in line eight, the words “in the name of the local authority”.

42. The principal Act is amended by adding after section 59 a section as follows— Section 59A added.

59A. (1) In this section “prosecutor” means a person or local authority authorised by or under section fifty-nine of this Act to institute and carry on proceedings against a person for an offence alleged to be committed against this Act.

Alternative procedure—
infringement notices.

(2) Where a prosecutor has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes

of this section, the prosecutor may serve on that person a notice, in the prescribed form (in this section called an "infringement notice"), informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to an officer specified in the notice, within the time therein specified, the amount of the penalty prescribed for the offence, if dealt with under this section.

(3) An infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, at the time of, or immediately following, the occurrence giving rise to the allegation of an offence, or as shown (in the case of an owner of land) in a rate book kept pursuant to the Local Government Act, 1960, as his address for the service of rate notices.

(4) A person who receives an infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed penalty within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under those provisions.

(5) An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn, at any time within twenty-eight days after the service of the notice, by the sending of a notice, in the prescribed form, signed by a prescribed officer, to the alleged offender at his last known place of residence or business, advising the alleged offender that the infringement notice has been withdrawn, and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.

(6) Where a prescribed penalty has been paid pursuant to an infringement notice and the notice has not been withdrawn as provided

by subsection (5) of this section, proceedings shall not be brought against any person with respect to the offence alleged in the notice.

(7) The payment of a penalty pursuant to an infringement notice shall, for the purposes of this Act, constitute a conviction of an offence, but shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence by reason of which the infringement notice was given.

(8) The Governor may make regulations for any purpose for which regulations are contemplated or required by this section and, in particular, may make regulations—

- (a) prescribing offences for the purposes of this section by setting out the offences or by reference to the provisions creating the offences; and
- (b) prescribing a penalty for the purposes of this section in respect of any prescribed offence, which penalty shall be a fine of not more than fifty dollars.

43. Section 64 of the principal Act is amended by adding after the word "Act" in the last line, the passage "other than a power or function referred to in subsection (5) of section thirty-eight of this Act".

Section 64
amended.

44. Section 65 of the principal Act is amended—

Section 65
amended.

- (a) by repealing subsection (2) and re-enacting that subsection as follows—

(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;

- (b) a copy purporting to be a true copy of such a rule, by-law, regulation, declaration, order or notice certified as such under the hand of the executive officer of the Board;
- (c) a copy purporting to be a true copy of the certificate of appointment of a bush fire control officer certified as such under the hand of the clerk of a local authority or the executive officer of the Board; or
- (d) a copy purporting to be a true copy of the certificate of registration of a bush fire brigade certified as such under the hand of the clerk of a local authority,

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, or of the due appointment of the bush fire control officer, or of the due 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. ;

- (b) by deleting the word "hazard" in each of lines four and seven of subsection (3), and substituting the word "danger" in each case; and

(c) by adding after subsection (3) a subsection as follows—

(4) The averment in a claim, complaint or other document in a prosecution or legal proceedings instituted for the purposes of this Act—

(a) that a stated time was during the prohibited burning times or during the restricted burning times; or

(b) that land is within a particular district or zone of the State,

is to be presumed as proved in the absence of proof to the contrary. .

45. Section 67 of the principal Act is amended—

Section 67
amended.

(a) by deleting the words “with the approval of the Board appoint persons who are bush fire control officers or members of bush fire brigades” in lines one, two, three and four of subsection (1), and substituting the words “appoint such persons as it thinks fit”; and

(b) as to subsection (3)—

(i) by deleting the words beginning with the word “and” in line two of paragraph (b) and ending with the word “brigade” in the last line of that paragraph; and

(ii) by deleting paragraph (c) and substituting a paragraph as follows—

(c) where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy. .

Section 68
added.

46. The principal Act is amended by adding after section 67 a section as follows—

Regional
advisory
committees.

68. (1) A group of two or more local authorities may by agreement join in appointing a regional bush fire advisory committee to assist them in the performance of their functions under this Act.

(2) Where a group of local authorities agree to appoint a committee under this section—

(a) those local authorities, by agreement—

- (i) shall fix the number of members of the committee and the quorum for the transaction of business at meetings of the committee;
- (ii) shall determine the interests to be represented on the committee;
- (iii) may make rules for the guidance of the committee;

(b) each of those local authorities—

- (i) shall be entitled to appoint the same number of persons as members of the committee and, subject to subparagraph (ii) of paragraph (a) of this subsection, may so appoint such persons as they think fit;
- (ii) may accept the resignation in writing of, or remove, a member of the committee appointed by it;
- (iii) may, where for any reason a vacancy occurs in the office of a member of the committee appointed by it, appoint a person to fill that vacancy; and

(c) the committee—

- (i) may from time to time meet and adjourn as the committee thinks fit;
- (ii) shall not transact business at a meeting unless the quorum fixed pursuant to subparagraph (i) of paragraph (a) of this subsection is present;
- (iii) is answerable to those local authorities and shall, as and when required by them report fully on its activities.

(3) The function of a regional advisory committee established under this section by a group of local authorities is to advise those local authorities individually and collectively on all aspects of the co-ordination and planning of their activities in preventing, controlling and extinguishing bush fires. .

47. The principal Act is amended by substituting for the word “warden” the words “liaison officer” in each case set out in the First Schedule to this Act.

Miscellaneous amendments as to liaison officers.

48. The principal Act is amended as set out in the Second Schedule to this Act.

Miscellaneous amendments as to penalties.

THE SCHEDULES

FIRST SCHEDULE

S.47

Provision Amended	Line Number
Section 14	Line 3
Section 24B (1)	Line 2
Section 25 (1) (c) (ii)	Line 7
Section 25 (1) (g)	Line 11

FIRST SCHEDULE—continued

Provision Amended	Line Number
Section 25 (1) (h)	Line 12
Section 27B (1)	Line 4
Section 27D (2) (b)	Line 4
Section 27D (3) (b)	Line 4
Section 28 (3)	Line 4
Section 28 (4) (a)	Line 2
Section 28 (4) (a)	Line 6
Section 35 (5) (a)	Line 6
Section 35 (5) (b)	Line 3
Section 63 (1) (a)	Line 2 .

SECOND SCHEDULE

S.48.

Provision Amended	Amendment
Section 21 (2) (a)	Delete "not less than twenty dollars or more than four" in lines 7 and 8, substitute "eight".
Section 25 (2)	Delete "not less than ten dollars or more than two" in lines 3 and 4, substitute "four".
Section 25A (4)	Delete "Two" in the last line, substitute "Four".
Section 25B (2)	Delete the maximum and minimum penalties in lines 8, 9 and 10, substitute "Penalty: Four hundred dollars."
Section 26 (4)	Delete "two" in the last line, substitute "four".
Section 27A (1) (b)	Delete "one" in the last line, substitute "two"
Section 27B (1)	Delete "One" in the last line, substitute "Two".
Section 27D (2)	Delete the maximum and minimum penalties in lines 12, 13 and 14, substitute "Penalty: Four hundred dollars."

SECOND SCHEDULE—continued

Provision Amended	Amendment
Section 27D (3)	Delete the maximum and minimum penalties in lines 16, 17 and 18, substitute "Penalty: Four hundred dollars."
Section 28 (2)	Delete "not less than ten dollars or more than two" in the penultimate and last lines, substitute "four".
Section 32	Delete "one" in the penultimate line, substitute "two".
Section 33 (3)	Delete "not less than ten dollars or more than two" in the penultimate and last lines, substitute "four".
Section 46 (2)	Delete "two" in the last line, substitute "four".
Section 53 (2)	Delete "One" in the last line, substitute "Two".
Section 56 (3)	Delete "One" in the last line, substitute "Two".
Section 57	Delete "two" in line 11, substitute "four".
Section 57	Delete "four" in the last line, substitute "eight".
Section 58 (1)	Delete "one" in the last line, substitute "two".
Section 58 (2)	Repeal the subsection.
Section 61 (2)	Delete "one" in the penultimate line, substitute "two".