

BUSH FIRES.

No. 101 of 1969.

AN ACT to amend sections eight, seventeen, eighteen and twenty-five of, to add sections twenty-five B and twenty-seven D to, and to repeal and re-enact section thirty-seven of, the Bush Fires Act, 1954-1965.

[Assented to 25th November, 1969.]

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, 1969.*

Short title
and citation.

(2) In this Act the Bush Fires Act, 1954-1965 is referred to as the principal Act.

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Acts.
Approved for
reprint 3rd
July, 1961
and
amended by
Acts No. 11 of
1963, No. 23 of
1964 and No.
15 of 1965.

(3) The principal Act as amended by this Act may be cited as the Bush Fires Act, 1954-1969.

Amendment
to s. 8.

2. Subsection (3) of section 8 of the principal Act is amended by substituting for paragraph (f) a paragraph as follows:—

(f) a person nominated by the body known as the Fire and Accident Underwriters' Association of Western Australia; .

Amendment
to s. 17.

3. Section 17 of the principal Act is amended by adding after subsection (6) subsections as follow:—

(6a) 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 (5) and (6) of this section.

(6b) A local authority may by resolution revoke a delegation it has given under subsection (6a) of this section and no delegation so given prevents the exercise and discharge by the local authority of its powers and duties under subsections (5) and (6) of this section. .

Amendment
to s. 18.

4. Section 18 of the principal Act is amended—

(a) by deleting the words beginning with the word "and", in line four of subparagraph (iii) of paragraph (a) of subsection (2), and ending with the word "period", in the last line of that subparagraph;

(b) by adding before the word "he", in line one of paragraph (c) of subsection (2), the passage "subject to subsection (2a) of this section," ;

(c) by adding after subsection (2) a subsection as follows:—

(2a) A bush fire control officer shall not issue to himself a permit to burn the bush. ; and

- (d) by substituting for the passage beginning with the word "any", in line six of subsection (3a) and ending with the word "May", in the last line of that subsection, the words "the restricted burning times".

5. Subsection (1) of section 25 of the principal Act is amended by substituting for the words "section twenty-five A", in line one, the words "sections twenty-five A and twenty-five B".

Amendment to s. 25.

6. The principal Act is amended by adding after section 25A a section as follows:—

Addition of s. 25B.

25B. (1) On the recommendation of the Board, the Minister may, by notice in the *Government Gazette*, suspend, for a period specified in the notice, the operation of the provisions of section twenty-five of this Act that relate to a fire to be lit, or which is lit, for the purpose of destroying garden refuse or rubbish or for any like purpose and may, in the notice, specify conditions that shall apply to such a fire during that period.

Power of Minister to suspend provisions of section twenty-five of this Act.

(2) Where the Minister has, in a notice under subsection (1) of this section, specified conditions that shall apply to a fire of the kind referred to in that subsection for a period specified in the notice, a person shall not, during that period, light or use such a fire in the open air except in accordance with and subject to those conditions.

Minimum penalty: Ten dollars, irreducible in mitigation, notwithstanding any other Act.

Maximum penalty: Two hundred dollars.

Addition of
s. 27D.

7. The principal Act is amended by adding after section 27C a section as follows:—

Require-
ments for
carriage and
deposit of
incendiary
material.

27D. (1) In this section “incendiary material” means hot or burning ash, cinders, hot furnace refuse, or any combustible matter that is burning.

(2) A person shall not use a motor vehicle, or cause it to be used, for the carriage of incendiary material unless—

- (a) it is used with a metal container that totally encloses, and prevents the escape of, the incendiary material; and
- (b) it is used in accordance with and subject to any directions or requirements of a local authority, a bush fire control officer, a bush fire warden, or a forest officer that apply to the carriage of incendiary material.

Minimum penalty: Ten dollars, irreducible in mitigation, notwithstanding any other Act.

Maximum penalty: Two hundred dollars.

(3) A person shall not deposit incendiary material, or cause it to be deposited, on any land unless—

- (a) it is deposited with the prior approval of the bush fire control officer of the local authority for the district in which the land is situated;
- (b) it is deposited in accordance with and subject to any directions or requirements of a local authority, a bush fire control officer, a bush fire warden, or a forest officer that apply to the land; and

- (c) it is deposited on a part of the land that is immediately surrounded by a firebreak cleared of all bush and other inflammable material to a width of at least ten feet.

Minimum penalty: Ten dollars, irreducible in mitigation, notwithstanding any other Act.

Maximum penalty: Two hundred dollars. .

8. Section 37 of the principal Act is repealed and re-enacted as follows:—

Repeal and re-enactment of s. 37.

37. (1) In this section—

“bush fire” includes a fire in a building;

“firefighter” means a bush fire control officer, an officer or a member of a bush fire brigade, or a person voluntarily assisting any of them in controlling or extinguishing a bush fire;

“injury” means personal injury by accident that is not compensable under the Workers’ Compensation Act, 1912 and includes incapacity, disability, and death that results from the injury;

“loss or damage” does not include loss or damage that is caused by or results from theft, reasonable wear or tear, mechanical or electrical breakdown, failure or breakage.

(2) A local authority that maintains a bush fire brigade as part of its organisation for the prevention, control and extinguishment of bush fires shall obtain and keep current—

- (a) a policy of insurance that insures firefighters for compensation, payable in accordance with subsections (4) and (5) of this section, for injury caused to them while they are engaged,

pursuant to this Act, in controlling or extinguishing a bush fire, or, subject to subsection (3) of this section, while they are travelling to or from the place where they are so engaged; and

- (b) a policy of insurance that, subject to subsection (6) of this section, insures against loss or damage all appliances, equipment, and apparatus of the bush fire brigade and any privately owned appliance, equipment, or apparatus that is used under the direction of a bush fire control officer, or an officer or a member of a bush fire brigade for the purposes of this Act

(3) Paragraph (a) of subsection (2) of this section does not apply in respect of an injury caused to a firefighter after he ceases to be engaged in controlling or extinguishing a bush fire unless the injury occurs while he is travelling between the place where he was so engaged and his place of employment, business, or residence without any deviation or interruption unconnected with the controlling or extinguishing of the bush fire.

(4) The compensation that is payable and the purposes for which it is payable under a policy of insurance referred to in paragraph (a) of subsection (2) of this section shall be the amounts and purposes that would apply if a firefighter were a worker and suffered a compensable injury under the Workers' Compensation Act, 1912 and where a reference to average weekly earnings is necessary for calculating those amounts, the firefighter is deemed to have had, at the date of the injury, average weekly earnings equal to the basic wage within the meaning of the term "basic wage" in that Act.

(5) The amounts referred to in subsection (4) of this section shall be payable to the person or persons who would be entitled to receive them if a firefighter were a worker and suffered a compensable injury under the Workers' Compensation Act, 1912.

(6) Under a policy of insurance referred to in paragraph (b) of subsection (2) of this section a local authority is not required to insure for loss or damage that—

(a) in respect of any one bush fire, exceeds—

(i) two thousand dollars for any one appliance or item of equipment or apparatus; or

(ii) four thousand dollars to any one person or partnership; or

(b) in any one insurance year, exceeds a total amount of ten thousand dollars to any one person or partnership for all loss or damage.

(7) A policy of insurance referred to in paragraph (a) or paragraph (b) of subsection (2) of this section shall provide reasonable conditions for the procedure of establishing claims and arbitrating differences arising out of the policy.

(8) A local authority may insure against injury of the kind referred to in paragraph (a) of subsection (2) of this section and against loss or damage of the kind referred to in paragraph (b) of that subsection for amounts greater than those specified in subsections (4) and (6) of this section. .