

BUSH FIRES.

12° Elizabeth II., No. XI.

No. 11 of 1963.

AN ACT to amend the Bush Fires Act, 1954-1958.

[Assented to 22nd October, 1963.]

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, 1963*. Short title and citation.

(2) In this Act the Bush Fires Act, 1954-1958, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Bush Fires Act, 1954-1963.

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Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

S. 7
amended.

3. Section seven of the principal Act is amended—

(a) by adding immediately after the interpretation, “forest land”, the following interpretation—

“forest officer” means a forest officer appointed under the Forests Act, 1918; ;

(b) by substituting for the interpretation, “local authority”, the following interpretation—

“local authority” means the council of a municipality constituted under the Local Government Act, 1960; .

S. 8
amended.

4. Section eight of the principal Act is amended—

(a) by substituting for the word, “ten” in line one of subsection (2), the word, “thirteen”;

(b) by substituting for the word, “five” in line one of paragraph (b) of subsection (3), the word, “six”;

(c) by substituting for the passage, “known as the Road Board Association of Western Australia (Inc.)” in lines four and five of paragraph (b) of subsection (3), the passage, “formerly known as the Road Board Association of Western Australia (Inc.) but now known as the Country Shire Councils’ Association of W.A.”;

(d) by deleting the word, “and”, being the last word in paragraph (e) of subsection (3);

(e) by substituting for the full stop after the word, “Association”, being the last word in paragraph (f) of subsection (3), a semi-colon;

(f) by adding after paragraph (f) of subsection (3) the following paragraphs—

(g) a person nominated by the Commissioner of Police; and

(h) a person nominated by the body known as the Associated Sawmillers and Timber Merchants. ; and

(g) by substituting for the word, “five” in line five of subsection (5), the word, “six”.

5. Section fourteen of the principal Act is ^{S. 14} amended.
amended—

(a) by substituting for the words, “and a bush fire warden appointed in accordance with the provisions of this Act” in lines three and four, the passage, “, a bush fire warden and a bush fire control officer, appointed in accordance with the provisions of this Act, and, subject to the proviso to this section, a member of the police force”; and

(b) by adding at the end of the section the following proviso—

Provided that a member of the police force is not empowered under this section to enter any land or building for any purpose other than those specified in paragraphs (a), (b) and (e) of this section.

6. Section seventeen of the principal Act is ^{S. 17} amended.
amended—

(a) by substituting for the full stop after the word, “section”, being the last word in paragraph (b) of subsection (4), a semicolon;

(b) by adding after paragraph (b) of subsection (4), the following paragraph—

(c) reimpose any prohibited burning time terminated pursuant to paragraph (b) of this subsection for such

period as the Minister thinks necessary but not beyond the last day of the prohibited burning time as declared under subsection (1) of this section. ;

- (c) by substituting for the full stop after the word, "it", being the last word in paragraph (b) of subsection (5), a semi-colon; and
- (d) by adding after paragraph (b) of subsection (5), the following paragraph—
 - (c) reimpose any prohibited burning time in respect of the district of the local authority or any part of it for any period the local authority considers necessary, after the expiration of the prohibited burning time declared under subsection (1) of this section, or during any period of postponement under paragraph (b) of this subsection, in respect of that district or part, but so that any prohibited burning time so reimposed does not extend beyond the period of fourteen days referred to in that paragraph.

S. 18
amended.

7. Section eighteen of the principal Act is amended—

- (a) by substituting for the words, "Perth Weather Bureau" in line four of subparagraph (i) of paragraph (g) of subsection (2), the words, "Bureau of Meteorology in Perth";
- (b) by substituting for the words, "the Perth Weather Bureau" in lines thirteen and fourteen of subparagraph (i) of paragraph (g) of subsection (2), the words, "that Bureau of Meteorology";

- (c) by substituting for paragraphs (a) and (b) of subsection (4), the following paragraphs:—

(a) Subject to the regulations a local authority—

- (i) shall, in respect of the burning of the bush on any land for the purpose of developing or clearing that land; and
- (ii) may, in respect of the burning of the bush on any land for any other purpose,

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

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

- (i) not later than the first day of September in any year, if he desires to burn the bush on any land for the purpose of developing or clearing that land; or
- (ii) prior to the conclusion of the prohibited burning times for the district of that local authority, or by such date as may be determined by it, if he desires to burn the bush on any land for any other purpose,

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. ;

- (d) by adding immediately after paragraph (b) of subsection (4) the following paragraph:—

(c) Notwithstanding the provisions of paragraph (b) of this subsection, application for permission to set fire to the

bush on any land for the purpose of developing or clearing that land may be made to the local authority after the first day of September, and in such case the local authority may at its discretion grant the permission subject to the applicant being required to comply with such additional protective requirements and directions as the local authority considers necessary and imposes relative to the burning. ;

- (e) by substituting for the paragraph designation “(c)” in line one of paragraph (c) of subsection (4), the paragraph designation, “(d)”;
- (f) by inserting after the word, “section” in line four of paragraph (c) of subsection (4), the passage, “and any additional protective requirements and directions mentioned in paragraph (c) of this subsection”;
- (g) by adding after subsection (4) the following subsection:—

(4a) 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 fifty pounds incurred by it in preventing the extension of or extinguishing the fire, and such expenses may be recovered in any court of competent jurisdiction. ; and

- (h) by inserting after the word, “section” in line one of subsection (5), the passage, “other than subsection (4a)”.

8. Section twenty-one of the principal Act is amended by adding at the end of paragraph (a) of subsection (2) the following passage—

S. 21
amended.

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

9. Section twenty-two of the principal Act is amended—

S. 22
amended

- (a) by substituting for the words, “protecting his pasture or crop from damage by fire” in lines six and seven of subsection (2), the words, “reducing or abating a fire hazard”;
- (b) by inserting after the word, “bush” in line one of subsection (3), the word, “on”; and
- (c) by substituting for the word, “subsection” in the last line of subsection (4), the word, “section”.

10. Section twenty-four A of the principal Act is amended by substituting for the word, “conducting” in line three of subsection (2), the word, “conducting”.

S. 24A
amended.

11. The principal Act is amended by adding immediately after section twenty-four A the following section—

S. 24B
added.

24B. (1) An officer of the Board authorised by the Board so to do, a bush fire warden, a bush fire control officer, an officer of a bush fire brigade, a member of the police force, or an officer of a local authority authorised by it so to do, may require a person who has set fire to the bush, or to clover, on any land during the prohibited burning times or restricted burning times to produce the permit to burn issued to that person under the provisions of this Act in respect of the fire so lit by him.

Production
of permit
to burn
may be
required.

(2) A person who when so required under the provisions of subsection (1) of this section fails or refuses to produce a permit to burn issued to him is guilty of an offence.

Penalty: Fifty pounds.

S. 25
amended.

12. Section twenty-five of the principal Act is amended—

- (a) by adding after the word, “material”, being the last word in paragraph (a) of subsection (1), the passage, “, and when for any day the fire hazard forecast by the Bureau of Meteorology in Perth in respect of the locality wherein it is desired to light or use a fire for such purpose is ‘dangerous’, such fire shall not be lit on that day unless and until the approval in writing of the local authority for that locality has been obtained so to do”;
- (b) by inserting after the word, “charcoal” in line two of paragraph (b) of subsection (1), the passage, “, or in or about a lime kiln for the production of lime,”;
- (c) by adding after subparagraph (ii) of paragraph (c) of subsection (1) the following subparagraphs—
 - (iii) the fire shall not be lit except between the hours of six o’clock in the evening and eleven o’clock of the same day;
 - (iv) the fire shall not be lit unless and until notice of intention so to do has been given to the occupier of all land adjoining the land on which the burning is to take place; ;
- (d) by adding after the word “material” in the last line of subparagraph (i) of paragraph (d) of subsection (1), the words, “and situated not less than six feet from any building or fence and from which all inflammable material is cleared and kept cleared for a distance of at least six feet”;

- (e) by adding at the end of paragraph (d) of subsection (1) a proviso as follows—

Provided that, notwithstanding the provisions of subparagraph (i) of this paragraph, a local authority may, upon being satisfied that no fire hazard is likely to occur, give permission in writing for an incinerator to be situated at a lesser distance than six feet from any building or fence, subject to compliance with the other requirements of that subparagraph. ;

- (f) by substituting for the full stop after the word, “purpose”, being the last word in paragraph (g) of subsection (1), a semi-colon; and

- (g) by adding after paragraph (g) of subsection (1) a paragraph as follows—

- (h) where the occupier of a brick kiln uses a fire on the premises of the brick kiln for the purpose of burning and producing bricks, such occupier is not required to extinguish the fire while it continues to be required for that purpose, if he takes or causes to be taken reasonable precautions to prevent the fire from spreading or becoming a source of danger to persons or property and observes or causes to be observed properly the particular directions or requisitions of a bush fire control officer, bush fire warden or forest officer in respect of the fire.

13. Section twenty-seven of the principal Act is amended by repealing and re-enacting subsection (2) with amendments as follows:—

S. 27
amended.

(2) A local authority may at any time permit the use in orchards within its district of tractors the exhaust pipes of which are not vertical, and

in any district where permission is so given, a person may operate in an orchard during the times mentioned in subsection (1) of this section a tractor the exhaust pipe of which is not vertical, so long as the person while operating that tractor complies with the other requirements specified in respect of a tractor in paragraph (a) of that subsection.

S. 28
amended.

14. Section twenty-eight of the principal Act is amended by substituting for subparagraphs (i), (ii) and (iii) of paragraph (a) of subsection (1) the following—

(i) at any time in any year during the restricted burning times; or

(ii) during the prohibited burning times,

and the bush fire is not part of the burning operations being carried on upon the land in accordance with the provisions of this Act.

S. 33
amended.

15. Section thirty-three of the principal Act is amended by inserting immediately after the passage, "time to time," in line two of subsection (1), the passage, "may,".

S. 34
amended.

16. Section thirty-four of the principal Act is amended by substituting for paragraph (a) of subsection (1) the following paragraph:—

(a) The owner or occupier of land that abuts upon Crown land (other than land set apart for roads or land comprised in closed roads), a reserve or other land that is unoccupied by abandonment except forest land, may enter upon that Crown land, reserve or other land for the purpose of clearing or clearing and ploughing firebreaks not more than ten feet in width situated not more than ten chains distant from the boundary of that Crown land, reserve or other land, and may burn the bush between those firebreaks and the boundary of the land of the owner or occupier if the burning is not

contrary to the provisions of sections sixteen and seventeen of this Act and is carried out in accordance with the provisions of section eighteen of this Act.

17. Section thirty-six of the principal Act is ^{S. 36} amended—

- (a) by deleting the subsection designation, “(1)” in line one; and
- (b) by adding after paragraph (e) a paragraph as follows:—

(ea) In or towards recompensing the owner or hirer of a vehicle utilised in controlling and extinguishing a bush fire or a fire in a building as provided in this Act, or in the attempting so to do, in respect of damage to a tyre or the tyres of that vehicle while actually being so utilised, the amount payable in respect of such damage not to exceed such amount as may be assessed by an officer of the local authority authorised by it in that behalf; .

18. Section thirty-eight of the principal Act is ^{S. 38} amended—

- (a) by substituting for subsection (1) the following subsection:—

(1) A local authority may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall appoint two as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it ;

- (b) by adding after paragraph (b) of subsection (2) the following paragraphs:—

(c) The local authority shall fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush Fire Control Officer within one month after the vacancy occurs and if the local authority fails or neglects to do so within that time, the Board may by notice in writing require the local authority to appoint a person to the vacant office within one month after service on it of such notice.

(d) Where a local authority that has been served with a notice pursuant to paragraph (c) of this subsection fails or neglects to comply with the requirements of that notice, the Board may appoint a person to the vacant office. ; and

- (c) by substituting for the words, "Perth Weather Bureau" in line eight of paragraph (h) of subsection (6), the words, "Bureau of Meteorology in Perth".

s. 39
amended.

19. Section thirty-nine of the principal Act is amended by deleting the words, "appointed under that Act" in line three of paragraph (a) of subsection (2).

s. 45
amended.

20. Section forty-five of the principal Act is amended by deleting the words, "appointed under that Act" in line three of paragraph (a).

s. 46
amended.

21. Section forty-six of the principal Act is amended by inserting after the word, "If" in line one of subsection (3), the words, "as a result of".

s. 54
amended.

22. Section fifty-four of the principal Act is amended by substituting for the words, "bush fire brigade of a local authority is not at any time" in lines one and two, the words, "organisation for the prevention or control of fire in the district of a local authority is at any time not".

23. Section fifty-six of the principal Act is amended by deleting the passage, "appointed under the Forests Act, 1918-1931" in lines four and five of paragraph (a) of subsection (1). S. 56
amended.

24. Section fifty-seven of the principal Act is amended by deleting the passage, "appointed under the Forests Act, 1918-1931" in lines four and five. S. 57
amended.

25. Section fifty-nine of the principal Act is amended by substituting for the passage, "subsection (4)" in line two of subsection (5), the passage, "subsection (3)". S. 59
amended.

26. Section sixty-three of the principal Act is amended by substituting for the words, "a local authority" in line nine of paragraph (a) of subsection (1), the passage, "the Board, or upon the local authority or the bush fire brigade or any of the persons mentioned in this paragraph". S. 63
amended.

27. Section sixty-five of the principal Act is amended— S. 65
amended.

- (a) by deleting the words, "instituted by or under the direction of the Board" in lines two and three of subsection (1);
- (b) by inserting after the word, "declaration" in line two of paragraph (a) of subsection (2), the passage, ", notice of appointment of a bush fire control officer";
- (c) by inserting after the word, "declaration" in line fourteen of subsection (2), the passage, ", appointment of the bush fire control officer";
- (d) by adding after subsection (2) a subsection as follows:—

(3) The production of a certificate purporting to have been issued by the Bureau of Meteorology in Perth and

signed by the Deputy Director or other officer of that Bureau as to the fire hazard rating issued by the Bureau in respect of any day is evidence until the contrary is proved of the fire hazard rating so issued in respect of that day.

Ss. 66 and 67
added.

28. The principal Act is amended by adding after section sixty-five the following sections:—

Proof of
ownership
or
occupancy.

66. (1) In a prosecution or legal proceedings under this Act, in addition to other methods of proof available—

- (a) the production of the rate book of a municipality, or of a copy or extract purporting to be certified by the mayor or president or clerk of the council of that municipality as a copy or extract of the rate book, showing that a person is rated as the owner or occupier of land;
- (b) the production of a document purporting to be—
 - (i) a certificate signed by the Registrar of Deeds or his substitute or an Assistant Registrar of Deeds that a person appears from a memorial of registration of a deed, conveyance or other instrument to be the owner of land;
 - (ii) a certificate signed by the Registrar of Titles or an Assistant Registrar that a person's name appears in the Register Book kept under the Transfer of Land Act, 1893, as that of the owner of land; or
 - (iii) a certificate signed by the Under Secretary for Lands, the Under Secretary for Mines, or the Conservator of Forests, that a person is registered in the Department

of Lands and Surveys, the Department of Mines, or the Forests Department, as the case may be, as the lessee or occupier of land or the holder of a timber lease, concession or permit,

is, until the contrary is proved, evidence that the person is the owner, lessee or occupier, as the case may be, of the land.

(2) All courts, judges and persons acting judicially shall for the purposes of this Act take judicial notice of the signature to a certificate mentioned in subsection (1) of this section.

(3) The averment in a claim, complaint or other document in a prosecution or legal proceedings instituted for the purposes of this Act that a person is or was at the stated time the owner or occupier of land, is to be presumed as proved in the absence of proof to the contrary.

67. (1) A local authority may at any time with the approval of the Board appoint persons who are bush fire control officers or members of bush fire brigades as a bush fire advisory committee for the purpose of advising the local authority regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind, as, or a different kind from, those specified in this subsection.

Advisory
committees.

(2) A committee appointed under this section shall consist of not more than twelve nor less than six members, and shall include a member of the council of the local authority nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be chairman thereof.

(3) In respect to a committee so appointed, the local authority shall fix the quorum for the transaction of business at meetings of the committee and may—

- (a) make rules for the guidance of the committee;
- (b) accept the resignation in writing of, or remove, any member of the committee and appoint to take his place on the committee another person who is a bush fire control officer or a member of a bush fire brigade; and
- (c) where any vacancy occurs on the committee appoint to fill such vacancy a person who is a bush fire control officer or a member of a bush fire brigade.

(4) A committee appointed under this section—

- (a) may from time to time meet and adjourn as the committee thinks fit;
 - (b) shall not transact business at a meeting unless the quorum fixed by the local authority is present;
 - (c) is answerable to the local authority and shall, as and when required by the local authority, report fully on its activities.
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