

BUSH FIRES.

4° and 5° GEO. VI., No. LIII.

No. 53 of 1940.

AN ACT to amend the Bush Fires Act, 1937.

[Assented to 30th December, 1940.]

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:—

1. This Act may be cited as the *Bush Fires Act Amendment Act*, 1940, and shall be read as one with the Bush Fires Act, 1937 (No. 55 of 1937), hereinafter referred to as the principal Act. Short title.

2. Section two of the principal Act is amended by deleting the figure "6" in line two of the section and inserting in lieu thereof the figure and letter "6A." Amendment of s. 2.

3. Section five of the principal Act is amended as follows:— Amendment of s. 5.

(a) by inserting therein before the definition of "Bush" a definition as follows:—

"Adjoining," when used with respect to two or more pieces of land, extends

to pieces of land which are separated only by a road or roads or by a railway or by a watercourse.

- (b) by deleting from the definition of "occupier of land" the word "and" where it appears in lines two and five of such definition and inserting in lieu thereof in each case the word "or."

New section.

4. A section is inserted in Part I. of the principal Act after section six as follows:—

Advisory
Committee.
cf. S.A. No.
27 of 1938,
s. 2.

6A. (1) There shall be a committee, to be called the Rural Fires Prevention Advisory Committee.

(2) The committee shall consist of not more than nine members, who, subject to the provisions of the next following subsection, shall be appointed by the Governor, on the recommendation of the Minister, and who shall hold office during the pleasure of the Governor.

(3) Such number of members of the committee as is nearest to one-third of the number of the members for the time being shall be appointed by the Governor on the recommendation of the Executive Council of the Road Board Association of Western Australia, Inc.

(4) One of the said members shall, on the recommendation of the Minister, be appointed by the Governor as chairman of the committee, and shall hold such office during the pleasure of the Governor.

(5) The committee shall—

(a) report to the Minister, as often as it thinks expedient, as to the best means to be taken for preventing or extinguishing bush fires;

(b) perform and undertake such powers and duties as may be entrusted to it by the Minister; and

(c) generally advise the Minister upon the administration of this Act.

- (6) The Minister may, on the recommendation of the committee, pay to any member of the committee, who is not a servant in the employment of the Crown, any travelling or other expenses actually incurred by the member in the exercise of his office.

5. Section seven of the principal Act is amended by inserting in subsection (2) thereof after the word "time" in line three of the said subsection, the words "except between the thirty-first day of May and the next following first day of October in any year."

Amendment
of s. 7.

6. Section nine of the principal Act is amended as follows:—

Amendment
of s. 9.

(a) by deleting subsection (2) and inserting in lieu thereof a subsection, as follows:—

- (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 to do any of the following things, namely:—

(a) 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;

(b) during the prohibited times in any yearly period prior to the fifteenth day of December in such yearly period, and between the hours of eight o'clock in the evening and midnight of the same day, and with the approval in writing of the local authority in whose district the burning is to take place—

- (i) to burn the bush on any road reserve between the road formation and an established firebreak; and

- (ii) to burn the bush on any grass land of one chain in width on the land of such owner or occupier between two fire-breaks each not less than six feet wide—

for the purpose of protecting from damage by fire his pasture or crop;

(b) by inserting in paragraph (a) of subsection (3) after the word “officer” in line two of the said paragraph the words “for the district of the local authority in which the land is situated”;

(c) by deleting from paragraph (d) of subsection (3) the word “may” in line two of the said paragraph (d) and inserting in lieu thereof the word “shall”;

(d) by inserting at the end of subsection (3) a proviso as follows:—

Provided that—

- (i) no permit shall be granted under subsection (3) of this section for the burning of any subterranean clover growing upon any land situate in any locality within the district of a local authority specified by such local authority in a notice in writing given by it to the duly authorised officer for the district of such local authority, whereby the local authority objects to the issue or grant of any such permit for the purpose aforesaid on the ground that the burning of the clover in respect of which the permit is applied for may be a source of danger to lands adjoining the land on which the proposed burning is intended to take place; and
- (ii) the duly authorised officer may refuse to issue or grant a permit under subsection (3) of this section when in any case after inspection he is satisfied that, notwithstanding that all the precautions required to be taken under the said subsection in connection with the proposed burning are taken, such proposed burning may nevertheless be or become a

source of danger by escaping from the land on which it is intended to carry out such burning.

7. Section ten of the principal Act is amended as follows:— Amendment of s. 10.

(a) by deleting the words "thirtieth day of April" in line three of the section and inserting in lieu the words "thirty-first day of May."

(b) by deleting from paragraph (a) of subsection (1) the word "four" in line two of the said paragraph and inserting in lieu thereof the word "two";

(c) by deleting subparagraph (i) of paragraph (a) of subsection (1) and inserting in lieu thereof a subparagraph as follows:—

(i) to each owner or occupier of all lands adjoining the land of the person proposing to set fire to the bush as aforesaid upon which or upon any part of which the bush proposed to be burnt is situated;

(d) by adding to subsection (1) after paragraph (d) a paragraph as follows:—

(e) the fire is lighted on a day other than Sunday.

(e) by adding to subsection (3) at the end thereof the words "or for payment to any local authority or the Forests Department of the amount of any expenses incurred by it in preventing the extension of the fire started by such person, in case it escapes from the land of such person despite due compliance with all the requirements of this section."

8. A section is inserted in the principal Act after section ten, as follows:— New section.

10A. (1) It shall be unlawful to use or drive on any road any motor vehicle equipped with producer gas apparatus unless such motor vehicle is so constructed or equipped as to prevent the escape of sparks, live coals, ashes or cinders. Precautions to be taken with respect to motor vehicles equipped with producer gas apparatus.

- (2) No person shall at any time between the first day of October and the next ensuing thirty-first day of May in any yearly period clean the fire box of any producer gas apparatus fitted to any motor vehicle which contains live coals or hot ashes or any other matter from which sparks or fire are or is likely to be emitted, unless a space of ground around the said vehicle having a radius of at least twenty feet has been previously cleared of all stubble, scrub, and other inflammable material. All live coals or hot ash or any other matter removed as aforesaid shall immediately be covered with earth or completely saturated with water.
- (3) For the purposes of this section the words "motor vehicle" and "road" shall have the meaning attributed to the words aforesaid in the Traffic Act, 1919-1935.

Amendment
of s. 11.

9. Section eleven of the principal Act is amended by deleting subsection (1) and inserting in lieu thereof a subsection as follows:—

(1) Where a bush fire occurs or is burning on any land—

(a) at any time in any year during the period commencing on the first day of October in one year and ending on the thirty-first day of May in the next ensuing year; and

(b) the bush fire is not part of burning operations being carried on upon the said land in conformity with the provisions of this Act—

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, inform the nearest available bush fire control officer of the existence and locality of the fire.

Penalty: Twenty pounds.

10. Section twelve of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Amendment
of s. 12.
Repeal and
new section.

12. (1) The Governor may by notice published in the *Government Gazette* prohibit the sale or use of matches with self-igniting heads, and of other matches which have wax-coated or grease-coated cotton stems, within the district of any local authority during the period specified in such notice.

Sale and use
of certain
kinds of
matches may
be prohibited

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

Penalty: Ten pounds.

11. Section fourteen of the principal Act is amended by deleting subsection (1) and inserting in lieu thereof a subsection as follows:—

Amendment
of s. 14.

(1) During the period commencing on the first day of October and ending on the thirty-first day of May next ensuing in every yearly period, no person shall at any time light or use any fire in the open air for any purpose not specifically mentioned or provided elsewhere in this Act, save and except in accordance with and subject to the following provisions, that is to say:—

- (a) a fire for the purpose of camping or cooking shall not be lighted within ten feet of any log or stump and unless and until a space of ground around the site of such fire having a radius of at least ten feet from such site as the centre has been cleared of all stubble, scrub, branchwood, and other inflammable material;
- (b) when a fire is lighted for any purpose mentioned in paragraph (b) hereof at any time other than during the prohibited times aforesaid, the same precautions shall be taken as are provided in paragraph (a) hereof in relation to a fire lighted for the purpose of camping or cooking;
- (c) a fire shall not be lighted for the conversion of any bush into charcoal unless and until a space of ground around the periphery

of every kiln, pit, or retort used for such purpose has been cleared of all stubble, scrub, branchwood, and other inflammable material for a distance of at least twenty feet or the directions and requirements (if any) given or specified by a bush fire control officer or forest officer as being, in his opinion, necessary for the purpose of preventing the fire from spreading or escaping, have been duly carried out or complied with;

(d) a log fire shall not be lighted for the purpose of disposing of the carcass of any dead animal, unless and until a space of ground around the periphery of the heap of logs and the carcass to be burnt has been cleared of all stubble, scrub, branchwood, and other inflammable material for a distance of at least twenty feet, also no such fire shall be lighted within a distance of twenty feet of any standing tree, whether dead or living, and unless at least one person is and remains in attendance constantly at such fire;

(c) where any fire has been lighted for any purpose mentioned in the foregoing provisions of this subsection, the person lighting such fire, or the person left in attendance on such fire as required by this subsection, as the case may be, shall completely extinguish such fire by the application of water or earth before he leaves the place where such fire was lighted.

New section.

12. A section is inserted in the principal Act after section fourteen, as follows:—

**Burning of
tomato
plants.**

14A. (1) During the period commencing on the first day of October and ending on the fifteenth day of January in every yearly period, no person shall at any time light or use a fire in the open air at any place within the boundaries of the Geraldton, Northampton, Upper Chapman, Greenough, and Gascoyne-Minilya or other proclaimed road districts for the purpose of burning tomato plants, or the

refuse thereof, save and except in accordance with and subject to the following provisions, that is to say:—

- (a) the area of ground on which the tomato plants or refuse are to be burnt shall be so cleared or prepared that the fire shall not in any circumstances be able to run along the ground;
- (b) the plants or refuse to be burnt shall be placed in heaps and so that each heap shall not be more than three feet high measured from the ground, and shall not cover an area of ground exceeding that which would be contained within the circumference of a circle having a diameter of six feet and so that there shall be a distance of at least ten feet between the base of any one heap and that of any other heap;
- (c) the heaps mentioned in paragraph (b) hereof shall be distant approximately one-half chain from any brush fence in the vicinity thereof, and at least one chain from the nearest boundary of any pastoral or agricultural property adjoining the land upon which such heaps are situated;
- (d) the person proposing to burn tomato plants or the refuse thereof as aforesaid shall—

(i) two days at least before doing so, deliver or cause to be delivered notice in writing of his intention so to do personally to each owner or occupier of all lands adjoining the land upon which the tomato plants or refuse will be burnt, and also to the secretary or a bush fire control officer of the local authority in whose district or adjacent thereto the said last-mentioned land is situated;

(ii) before commencing burning operations, provide and have available at the place thereof at least eight gallons of water in suitable containers which can be conveniently used for extinguishing fire;

(iii) provide at least three men to be constantly in attendance at the burning operations from the time when the fire is lighted until it is completely extinguished, and to assist in keeping the fire under control and prevent it from spreading beyond the land on which the said burning operations are conducted;

(iv) carry out the burning operations only between eight o'clock in the evening and midnight on the same day;

(v) cause all ash resulting from the burning operations to be covered completely with earth or sand before ten o'clock in the morning of the day next following such burning operations;

(e) the provisions of subsection (3) of section ten of this Act, with such adaptations as may be necessary, shall be deemed to be incorporated in and to form part of this section and shall apply and have effect accordingly.

(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.

Amendment
of s. 17.

13. Section seventeen of the principal Act is amended as follows:—

(a) by inserting in subsection (1) after the word “may” in line two of the said subsection the words “and if so required by the Minister shall”;

(b) by adding to the section after subsection (5) subsections as follow:—

Conservator
of Forests
may require
occupiers of
land to plough
or clear fire
breaks.

(6) (a) In the event of mutually satisfactory arrangements for the making of fire-breaks between the owner or occupier of any land and the Conservator of Forests not being made at any time, and from time to time, the Conservator of Forests may give notice

in writing to the owner or occupier of any land adjoining or adjacent to any State forest on which the Conservator has established marginal and internal fire breaks, requiring him, within a time to be specified in the notice, to plough or clear upon that part of his land which is nearest to the State forest, fire breaks in the manner prescribed in paragraph (c) of subsection (1) of section ten of this Act.

(b) As and whenever the Conservator of Forests gives any notice to any owner or occupier of land as provided for in paragraph (a) hereof, the provisions of subsections (2), (3), and (4) of this section shall, with such adaptations as are necessary, apply and have effect in the same manner and to the same extent as if they were expressly incorporated in this subsection.

(7) If a local authority, when requested so to do by the Minister, fails to give to any owner or occupier of land a notice under subsection (1) of this section, the Minister may give such notice and thereafter subsection (2) and subsection (3), with such adaptations as may be necessary, shall apply and have effect as if they were expressly incorporated in this subsection.

Powers of
Minister on
default by
local auth-
ority.

(8) If a local authority, in compliance with a request by the Minister, gives to an owner or occupier of land a notice under subsection (1) of this section but thereafter, upon failure by such owner or occupier to comply with the requirements of such notice, the local authority refuses or fails to exercise its powers under subsection (3) of this section, the Minister may by his servants or agents exercise all the powers which the local authority can exercise and has refused or failed to exercise to insure that the requirements of the said notice are properly carried out.

(9) Where in any case provided for either in subsection (7) or subsection (8) of this

section, the Minister, in consequence of default by the local authority, has caused the requirements of the notice to be carried out and has incurred any costs and expenses in connection therewith, the amount of such costs and expenses so incurred shall be ascertained and fixed by the Minister, and a certificate signed by the Minister shall be conclusive evidence of such amount, and the Minister may recover such amount in any court of competent jurisdiction as a debt due from the local authority or from the owner or occupier of land in default, according as the Minister may at his option elect.

(10) Where in accordance with subsection (9) of this section the Minister has taken proceedings against, and obtained a judgment against, the local authority, the local authority shall not have any recourse against, or right to contribution by, the owner or occupier of land in default under this section in respect of such judgment.

Amendment
of s. 27.

14. Section twenty-seven of the principal Act is amended by deleting the word "on" where it appears in line one and also in line three of the section and inserting in lieu thereof in each case the word "near."

Amendment
of s. 28.

15. Section twenty-eight of the principal Act is amended by inserting therein after subsection (2) a subsection as follows:—

(2a) A road or a reserve which is vested in a local authority shall not be deemed to be "land of any other owner or occupier" within the meaning of that expression as used in subsection (1) of this section, and in relation to any such road or reserve the local authority shall not be deemed to be the owner or occupier as mentioned in the said expression, and the provisions of subsections (1) and (2) shall be read and construed and have effect accordingly: Provided that nothing in this subsection shall operate so as to relieve any local authority from liability for damage resulting from a bush fire

caused by or due to the negligence of any officer, servant, or workman employed by such local authority.

16. A section inserted in the principal Act after section twenty-nine, as follows:— New section.

29A. (1) Every local authority shall, in the month of August in every year, send or cause to be sent to the Minister in writing a statement containing the following information, namely:— Reports to be furnished by local authorities.

(a) The names, addresses, and usual occupations of all the bush fire control officers and bush fire brigade officers appointed by or holding office under the local authority;

(b) where any bush fire control officer holds office in respect of part only of the district of the local authority, descriptive particulars of that part of the said district in respect of which such bush fire control officer holds office as aforesaid;

(c) particulars of the nature, quantity, and quality of the bush fire fighting equipment and appliances which are generally available within the district of the local authority for use in controlling and extinguishing bush fires.

(2) Any local authority which, without reasonable excuse, refuses or neglects in any respect to comply with its obligations under this section shall be guilty of an offence.

Penalty: Ten pounds.

17. Section thirty-two of the principal Act is amended by deleting subsection (1) and inserting in lieu thereof a subsection as follows:— Amendment of s. 32.

(1) It shall be the duty of—

(a) 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;

- (b) every bush fire control officer aforesaid, when he has obtained the name and place of abode of any person as provided for in paragraph (a) of this subsection, 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.

Citation of
principal Act
as amended.

18. The principal Act as amended by this Act may be cited as the Bush Fires Act, 1937-1940.
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