

Reprinted under the
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at 27 February 1992

WESTERN AUSTRALIA

BUSH FIRES ACT 1954

ARRANGEMENT

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WESTERN AUSTRALIA

BUSH FIRES ACT 1954

AN ACT to make better provision for diminishing the dangers resulting from bush fires, for the prevention, control and extinguishment of bush fires, for the repeal of the *Bush Fires Act 1937-1950* and for other purposes.

Short title

1. This Act may be cited as the *Bush Fires Act 1954*.

[2. *Repealed by No. 8 of 1987 s.3.*]

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PART I — PRELIMINARY

Commencement

3. This Act shall come into operation on a date to be fixed by proclamation¹.

Saving provisions

4. (a) This Act does not affect the provisions of the *Fire Brigades Act 1942*, or of the *Forests Act 1918*².

(b) This Act is to be construed so as not to limit or restrict in any way the effect and operation of the provisions of either of those Acts.

Repeal of *Bush Fires Act 1937-1950*

5. The *Bush Fires Act 1937-1950* is repealed.

Application of Interpretation Act

6. Without prejudice to the operation of the other provisions of the *Interpretation Act 1918*³, the provisions of section 15 of that Act are expressly declared to apply to this Act.

Interpretation

7. In this Act unless the context otherwise indicates or requires —

“**adjoining**”, when used with respect to 2 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 water-course;

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“bush” includes trees, bushes, plants, stubble, scrub, and undergrowth of all kinds whatsoever whether alive or dead and whether standing or not standing and also a part of a tree, bush, plant, or undergrowth, and whether severed therefrom or not so severed. The term does not include sawdust, and other waste timber resulting from the sawmilling of timber in a sawmill whilst the sawdust and other waste timber remains upon the premises of the sawmill in which the sawmilling is carried on;

“bush fire brigade” means a bush fire brigade for the time being registered in a register kept pursuant to section 41;

“Board” means the Board constituted under the provisions of this Act under the name of the Bush Fires Board;

“forest land” means State forest and timber reserves within the meaning of the *Conservation and Land Management Act 1984* and any land to which section 131 of that Act applies;

“forest officer” means a forest officer appointed under the *Forests Act 1918*²;

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

“occupier of land” means a person residing on the land or having charge or control of it, whether the person is the owner or tenant or a bailiff, servant, caretaker, or other person residing or having charge or control of the land and includes a person who as mortgagee in possession has possession of the land, while the land is unoccupied, and also a person who has the charge or control of 2 or more separate parcels of land, although the person resides on only one of the parcels;

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“prohibited burning times” means the times of the year during which it is declared by the Minister under section 17 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;

“restricted burning times” means the times of the year during which it is declared by the Board under section 18 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 that part of that zone, or the district or part of a district, in which that land is situated.

[Section 7 amended by No. 11 of 1963 s.3; No. 65 of 1977 s.4; No. 112 of 1984 s.22.]

PART II — ADMINISTRATION

Division 1 — Bush Fires Board

Bush Fires Board established

8. (1) For the purposes of this Act there shall be constituted a Board under the name of the “**Bush Fires Board**”.

(2) (a) The Board shall consist of 16 members who, subject to this section, shall be appointed by the Governor on the recommendation of the Minister.

(b) Each member of the Board, other than the Chairman thereof, shall be appointed to hold office for a term of 3 years but is eligible for re-appointment if at the time of his re-appointment he is a person who, in all respects, is eligible to be appointed to office as a member of the Board.

(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.

(3) The Board consists of —

- (a) the Executive Director, Department of Land Administration⁴ who is Chairman of the Board;
- (b) 6 persons at least 5 of whom shall be actively engaged in the business of farming, actively engaged in any organisation for the prevention, control and extinguishment of bush fires and so engaged in any bush fire brigade established under Part IV nominated by the executive council of the body known as the Country Shire Councils' Association of W.A.;

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- (c) 3 persons nominated by the Minister to whom the administration of the *Conservation and Land Management Act 1984* is for the time being committed;
- (d) a person nominated by the Minister for Agriculture;
- (e) a person nominated by The Western Australian Government Railways Commission;
- (f) a person appointed to be representative of the insurance industry in the State;
- (g) a person nominated by the Commissioner of Police;
- (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.

(4) Meetings of the Board shall be held at such times as may be prescribed by regulation, and, until so prescribed, when convened by the Chairman.

(5) The Board shall conduct its proceedings in such manner as may be prescribed by regulation and, until so prescribed, as the Board determines, but in any case —

the Chairman and 6 other members constitute a quorum for the conduct of business;

all matters shall be determined by a majority of the votes of the members present, and where there is an equality of votes the question is to be determined in the negative; each member, including the Chairman is entitled to one vote only on the determination of a matter.

(6) The Board may act and exercise all its powers notwithstanding a vacancy in membership and no act or proceeding of the Board is invalid or illegal in consequence only of a vacancy in membership existing at the time of an act or proceeding.

(7) (a) The Minister may, in respect of each member of the Board, appoint a person to be deputy to that member.

(b) A person appointed as a deputy has, in the event of the absence of the member, all the powers of that member during his absence.

(c) No appointment of and no act done in that capacity by a deputy shall be questioned on the ground that the occasion for his appointment had not arisen, or had ceased.

(8) Acceptance of, or acting in the office of member or deputy member of the Board by a person, shall not of itself render the provisions of the *Public Service Act 1904*⁵, the *Superannuation Act 1871*⁶, or the *Superannuation and Family Benefits Act 1938*, applicable to him nor affect the application of those provisions to him, if they applied to the person at the time of the acceptance of or acting in the office.

(9) A member of the Board who is not a servant of the Crown appointed under the provisions of the *Public Service Act 1904*⁵, may be paid by the Minister any fees, travelling or other expenses actually incurred by the member in the exercise of his office.

(10) The Board shall cause to be kept minutes of its proceedings in such manner and form as the Minister may direct or approve.

[Section 8 amended by No. 11 of 1963 s.4; No. 23 of 1964 s.2; No. 101 of 1969 s.2; No. 65 of 1977 s.5; No. 112 of 1984 s.23.]

Delegation of powers

9. (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;

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- (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.

(2) A delegation under this section is revocable at will and may be, subject to the approval of the Minister, varied by the Board from time to time, but a delegation shall not prevent the exercise of a power or function by the Board.

(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 9 amended by No. 65 of 1977 s.6.]

Division 2 — Powers of Bush Fires Board

Powers of Board

- 10.** (1) The Board shall —
- (a) report to the Minister as often as it thinks expedient so to do on 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;
 - (c) subject to the general control of and direction by the Minister, be responsible for the administration of this Act;

- (d) recommend to the Minister the prohibited burning times to be declared for the whole or any part of the State;
 - (e) carry out such fire prevention measures as it considers necessary;
 - (f) carry out research in connection with fire prevention and control and matters pertaining to fire prevention and control;
 - (g) conduct publicity campaigns for the purpose of improving fire prevention measures.
- (2) The Board may —
- (a) recommend the appointment of and employ such persons as it considers necessary for carrying out the provisions of this Act;
 - (b) organize and conduct bush fire brigade demonstrations and competitions and provide prizes and certificates for presentation to bush fire brigades and competitors;
 - (c) pay the expenses of bush fire brigades attending bush fire brigade demonstrations.

[Section 10 amended by No. 65 of 1977 s.7.]

Appointment of officers of Board

11. (1) The Board may appoint an executive officer of the Board and such other officers and servants of the Board as it considers necessary for carrying out the provisions of this Act.

(2) A person who is required by the terms of his employment to give the whole of his time to the service of the Board, may be appointed under and subject to the provisions of the *Public Service Act 1904*^e.

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(3) For the purpose of carrying out the powers, duties and obligations conferred or imposed upon the Board by this Act or any other Act, the Board may with the consent of the Minister and the consent of the Minister administering a department of the Public Service make use of the services of any person employed in that department.

[Section 11 amended by No. 65 of 1977 s.8.]

Appointment of bush fire liaison officers

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.

(2) Any person who was a bush fire warden immediately before the coming into operation of section 9 of the *Bush Fires Act Amendment Act 1977*¹ shall be deemed to have been appointed to be a bush fire liaison officer under subsection (1).

[Section 12 inserted by No. 65 of 1977 s.9.]

Duties of bush fire liaison officers

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.

(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.

[Section 13 inserted by No. 65 of 1977 s.10.]

**Members of the Board and other persons
may enter land or buildings for purposes of the Act**

14. A member of the Board, the executive officer of the Board and an officer who is authorized by the Board so to do, a bush fire liaison officer 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, is empowered to enter any land or building at any time to —

- (a) examine a fire which he has reason to believe has been lit, or maintained, or used in contravention of this Act;
- (b) examine a fire which he believes is not under proper control;
- (c) examine fire breaks on the land;
- (d) examine anything which he considers to be a fire hazard existing on the land;
- (e) investigate the cause and origin of a fire which has been burning on the land or building;
- (f) inspect fire precaution measures taken on the land;
- (g) investigate and examine the equipment of a bush fire brigade;
- (h) do all things necessary for the purpose of giving effect to this Act.

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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).

[Section 14 amended by No. 11 of 1963 s.5; No. 65 of 1977 ss.11 and 47.]

Appropriation

15. The cost of administration of this Act shall be paid out of moneys appropriated by Parliament for the purpose.

PART III — PREVENTION OF BUSH FIRES

[Division 1 Repealed by No. 65 of 1977 s.12.]

Division 2 — Prohibited Burning Times

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) 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) 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), 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 authorize 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) during the period of suspension granted under that subsection.

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(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), 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 14 successive days.

(8) Where, under subsection (7), 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 2 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 18;
 - (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) 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) “**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).

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

(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: \$2 000 or 6 months' imprisonment or both.

[Section 17 inserted by No. 65 of 1977 s.13; amended by No. 8 of 1987 s.8.]

Division 3 — Restricted Burning Times

Restricted burning times may be declared by Board

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

(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) 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 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 declaration published under subsection (2) shall be received in all courts as evidence of the matters set out in the declaration.

(5) (a) Subject to paragraph (b) 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 14 successive days during a period declared by the Board in respect of that zone by declaration published in the *Gazette*.

(c) The provisions of section 17 (8), (9), (10) and (11), 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 subsection (6) (a).

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(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 subsection (7) (a);

(b) shall, where any prescribed condition is modified pursuant to subsection (5) or subsection (7) (b), 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 (7) (b).

(9) A permit issued under this section may authorize 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 \$100 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 \$1 000 or 6 months' imprisonment or both; for any subsequent offence \$4 000 or 6 months' imprisonment or both.

[Section 18 inserted by No. 65 of 1977 s.14; amended by No. 8 of 1987 s.8.]

[19. Repealed by No. 65 of 1977 s.15.]

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Regulations as to restricted burning times

20. (1) The Governor may make regulations prescribing the conditions under which bush may be burnt under section 18.

(2) Without limiting the generality of subsection (1), 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 18;
- (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.

[Section 20 inserted by No. 65 of 1977 s.16.]

Division 4 — Bush Fire Emergency Period

Minister may declare bush fire emergency period

21. (1) (a) Where the Minister is of the opinion that the existing weather conditions are conducive to the outbreak or spread of bush fires, or that such weather conditions are imminent, he may, by wireless broadcast or in such other manner as the Minister deems expedient declare a bush fire emergency period for a defined area.

(b) The Minister from time to time may revoke, amend or cancel the declaration if he considers it necessary so to do.

(2) (a) Subject to section 64 whilst the declaration remains unrevoked a person shall not set fire to bush on land within the area without the permission in writing of the Minister or of an officer acting with the authority of the Minister.

Penalty: \$2 000 or 6 months' imprisonment or both.

(b) Permission under this subsection if granted shall be so granted subject expressly to compliance by the person obtaining permission with such conditions as may be prescribed or imposed by the Minister or officer granting permission and subject to the condition that the Minister or that officer may without assigning a reason cancel the permission.

(3) (a) During a fire emergency period the Minister may appoint a person to take charge of bush fire fighting operations in an area to which the declaration made under subsection (1) applies.

(b) Where a person is so appointed all local authorities, bush fire control officers, bush fire liaison officers and the captains, lieutenants and members of bush fire brigades or other persons shall comply with the directions given by that person in connection with the suppression and control of a fire which is burning in the area.

[Section 21 amended by No. 11 of 1963 s.8; No. 113 of 1965 s.8 (1); No. 65 of 1977 s.48; No. 51 of 1979 s.5; No. 8 of 1987 s.8.]

Division 5 — Burning During Prohibited Times and Restricted Times

Interpretation

22. (1) For the purpose of this section —

“**common boundary**” means the boundary common to exempt land and adjoining land, and includes the boundary of exempt land which is separated by a road, railway, or water course from the boundary of any other land;

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“**exempt land**” means land that is for the time being the subject of a suspension granted pursuant to the provisions of section 17 (4).

(2) Where, during the operation of a suspension granted pursuant to the provisions of section 17 (4), the occupier of exempt land sets fire to the bush on that land, the occupier of the adjoining land may, subject to provisions of this section, for the purpose of reducing or abating a fire hazard, set fire to the bush on the adjoining land between the common boundary and the fire break referred to in subsection (3) (b).

(3) Before setting fire to the bush on land which is adjoining exempt land, as provided in the last preceding subsection, the occupier of the adjoining land shall —

- (a) notify the local authority in whose district the adjoining land is situated, of his intention so to do and obtain its approval in writing to burn;
- (b) prepare a fire break having a width of at least 3 metres and the boundary of which nearer to and parallel or approximately parallel with the boundary of the exempt land is not at any point, of a greater distance than 60 metres from that boundary.

(4) The occupier of the adjoining land shall comply with and observe the provisions of this Act generally and of the conditions prescribed for the purposes of section 18, as modified by the provisions of this section particularly.

(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.

(6) (a) A local authority in whose district the burning is to take place may arrange with the occupier of exempt land, the occupier of land adjoining it and a bush fire brigade which has been registered by the local authority, to co-operate in burning fire breaks on the respective lands.

(b) Where an arrangement is made in pursuance of paragraph (a) the local authority shall notify the occupier of the adjoining land of the date the burning is to take place and require him to provide by that date ploughed or cleared fire breaks parallel to the common boundary and of a distance therefrom of not more than 60 metres and as specified by the local authority.

(c) Where the occupier of exempt land and a bush fire brigade are burning bush on exempt land in pursuance of an arrangement made under paragraph (a) —

- (i) the occupier of the land adjoining the exempt land shall assist in the burning of the bush;
- (ii) a bush fire control officer or an officer of the bush fire brigade may enter the adjoining land and set fire to the bush thereon for the purpose of making a fire break.

[Section 22 amended by No. 11 of 1963 s.9; No. 94 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 s.17; No. 51 of 1979 s.5.]

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;

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- (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 4 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 subsection (1) (a), the bush shall be burnt between 2 plough or spade breaks of which the outer break is not more than 100 metres from the property to be protected;
- (iv) in the case of burning carried out pursuant to subsection (1) (b) (i), 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 subsection (1) (b) (ii), the bush shall be burnt between 2 fire breaks that are not more than 20 metres apart and each of which is not less than 2 metres in width;

(b) the conditions prescribed for the purposes of section 18;
and

- (c) such other conditions as are stipulated in the permit issued under this section.

[Section 23 inserted by No. 65 of 1977 s.18;]

**Bush on land growing subterranean clover
may be burnt during prohibited burning times**

24. The owner or occupier of land upon which subterranean clover is growing may burn the clover during the prohibited burning times for the purpose of facilitating the collection from it of clover burr subject to the regulations and to the following conditions —

- (a) the owner or occupier of the land applies for, pays the prescribed fee for and obtains from a duly authorized officer for the district of the local authority in which the land is situated, a permit in the prescribed form to burn clover;
- (b) the permit to burn shall not be granted unless and until the applicant satisfies the authorized officer to whom the application is made that —
 - (i) the area of the land on which the clover proposed to be burnt at one time under the permit being applied for does not exceed the area to be specified in the permit, and in any event does not exceed such area as the local authority from time to time determines;
 - (ii) the area is surrounded by a fire break to a width of not less than 3 metres;
 - (iii) where the area on which the burning is to take place is carrying live or dead standing trees, the area has been grazed during the growing period of the clover crop to reduce the amount of dead litter

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to a minimum, and that all grass and debris has been raked to a distance of not less than 2 metres from the base of each standing tree.

[Section 24 amended by No. 94 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 s.19; No. 51 of 1979 s.5.]

Bush on land in prescribed irrigation areas may be burnt during prohibited times for the purpose of germinating clover

24A. (1) This section applies in those parts of the State only, which are prescribed by the regulations as areas of irrigation to which this section applies.

(2) The owner or occupier of land in any area of irrigation so prescribed may for the purpose of conducing to the early germination of subterranean clover on the land, burn bush on the land during the prohibited burning times, subject to the regulations and conditions which are referred to in section 24, and which shall apply subject to modification or variation under subsection (3) of this section.

(3) (a) A fee is not payable for a permit required under this section unless regulations made under paragraph (b) prescribe otherwise.

(b) The provisions of the regulations mentioned in section 24, and the provisions of paragraphs (a) and (b) of that section, may be modified, varied, added to, or substituted, by regulations made in relation to burning under this section, but until so modified, varied, added to, or substituted, those provisions continue to apply, subject to paragraph (a) of this subsection, to burning under this section.

[Section 24A inserted by No. 35 of 1957 s.4; amended by No. 11 of 1963 s.10.]

Production of permit to burn may be required

24B. (1) An officer of the Board authorized by the Board so to do, a bush fire liaison officer, 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 authorized 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.

(2) Where a person does not produce a permit to burn immediately upon being required under subsection (1) 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 7 days after being required under subsection (1) 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 (2) 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: \$500.

[Section 24B inserted by No. 11 of 1963 s.11; amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.20 and 47; No. 51 of 1979 s.5; No. 8 of 1987 s.8.]

**No fire to be lit in open air
unless certain precautions taken**

25. (1) Subject to sections 25A and 25B, during the restricted burning times or during the prohibited burning times a person shall not light or use a fire in the open air for a purpose not specifically

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mentioned or provided for in this Act, save and except in accordance with and subject to the following provisions —

- (a) a fire for the purpose of camping or cooking shall not be lit within 3 metres of a log or stump and unless and until a space of ground around the site of the fire having a radius of at least 3 metres from the site as the centre, is cleared of all bush and other inflammable material, and when for any day the fire danger 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 “**extreme**” or “**very high**”, 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) a fire shall not be lit for the conversion of bush into charcoal, or in or about a lime kiln for the production of lime, unless and until approval in writing is obtained from the local authority in whose district the burning is proposed to be carried out and a space of ground around the perimeter of a kiln, pit, or retort used for the purpose is cleared of all bush and other inflammable material for a distance of at least 6 metres and such directions and requirements, if any, as are 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, are duly carried out or complied with;
- (c)
 - (i) a fire shall not be lit for the purpose of disposing of the carcass of a dead animal, or a part of the carcass, unless and until a space of ground around the perimeter of the fire and the carcass or part to be burnt is cleared of all bush and other inflammable material for a distance of at least 6 metres;
 - (ii) the fire shall not be lit within a distance of 6 metres of a standing tree, whether dead or living and unless at least one person remains in

attendance constantly at the fire, and the directions which may be given by a bush fire liaison officer or bush fire control officer in respect of the fire are complied with;

- (iii) the fire shall not be lit except between the hours of 6 o'clock in the evening and 11 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 and to a bush fire control officer of the local authority for the district in which the fire is to be lit;
- (d) a fire shall not be lit for the purpose of destroying garden refuse or rubbish or for any like purpose unless the fire is lit —
- (i) in a properly constructed incinerator designed to prevent the escape of sparks or burning material, and situated not less than 2 metres from any building or fence and from which all inflammable material is cleared and kept cleared for a distance of at least 2 metres; or
 - (ii) upon ground from which all bush or other inflammable matter is thoroughly cleared within 5 metres at all points of the site of the fire:

Provided that, notwithstanding the provisions of subparagraph (i), a local authority may, upon being satisfied that no fire hazard is likely to occur, give permission in writing for the use of an incinerator situated at a lesser distance than 2 metres from any building or fence, subject to compliance with the other requirements of that subparagraph;

- (e) a fire which is lit for the purpose of destroying garden refuse or rubbish other than in an incinerator shall be

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lit only between the hours of 6 o'clock in the evening and 11 o'clock of the same day and shall be completely extinguished not later than midnight of that day;

- (f) where a fire is lit for any purpose mentioned in this subsection, except for the purpose mentioned in paragraph (b), the person who lit the fire, or the person left in attendance on the fire as required by this subsection, as the case may be, shall completely extinguish the fire by the application of water or earth before he leaves it;
- (g) where the occupier of a sawmill uses a fire on the premises of the sawmill for the purpose of consuming or disposing of sawdust and waste timber resulting from the sawmilling of timber in the sawmill, if the occupier causes reasonable precautions to be taken for the purpose of preventing the fire from spreading or becoming a source of danger to persons or property, and causes the particular directions or requisitions of a bush fire control officer, bush fire liaison officer or of a forest officer in respect of the fire to be properly observed, the occupier is not required to extinguish the fire whilst it continues to be required for the purpose;
- (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 liaison officer or forest officer in respect of the fire.

(1a) Notwithstanding anything contained in subsection (1) 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 (1a) 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) 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 subsection (1) (a) and (f) shall be complied with in relation to a fire lit pursuant to subsection (1c).

(2) A person who contravenes a provision of this section is guilty of an offence.

Penalty: \$1 000.

[Section 25 amended by No. 11 of 1963 s.12; No. 15 of 1965 s.2; No. 113 of 1965 s.8 (1); No. 101 of 1969 s.5; No. 67 of 1970 s.2; No. 94 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 ss.21, 47 and 48; No. 51 of 1979 s.5; No. 8 of 1987 s.8.]

Power of Minister to exempt from provisions of section 25

25A. (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;

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- (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 pipeline) 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 25.

(2) An exemption granted by the Minister under this section —

- (a) shall be in writing signed by the Minister;
- (b) may be revoked at any time by the Minister by notice in writing signed by him and served on the person to whom the exemption was granted;
- (c) is subject to such conditions as the Minister thinks fit to impose and specifies in the exemption;
- (d) authorizes the person to whom it is granted and any person acting under his instructions to light and maintain, subject only to the conditions of the exemption, any fire authorized to be lit and maintained pursuant to the authority of the exemption; and
- (e) exempts any fire to which the exemption relates from the operation of section 46.

(3) The Minister may at any time, by notice in writing signed by him and served on the person to whom the exemption was granted, revoke or vary, whether by way of addition or substitution, any conditions specified in the exemption.

(4) A person to whom an exemption is granted under this section shall observe and carry out any conditions specified therein.

Penalty: \$1 000.

(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) 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) is guilty of an offence.

Penalty: \$1 000.

[Section 25A inserted by No. 15 of 1965 s.3; amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.22 and 48; No. 8 of 1987 s.8.]

Power of Minister to suspend provisions of section 25

25B. (1) On the recommendation of the Board the Minister may, by notice in the *Government Gazette*, in respect of land specified in the notice, suspend, for a period specified in the notice, the operation of the provisions of section 25 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.

(2) Where the Minister has, in a notice under subsection (1), 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

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not, during that period, light or use such a fire in the open air except in accordance with and subject to those conditions.

Penalty: \$1 000.

[Section 25B inserted by No. 101 of 1969 s.6; amended by No. 67 of 1970 s.3; No. 65 of 1977 s.48; No. 8 of 1987 s.8.]

Burning of plants to eradicate disease during prohibited burning times

26. (1) Where in the opinion of the Minister it is desirable that a plant, or the refuse of a plant, should be burnt during the prohibited burning times in order to eradicate the plant or to prevent or eradicate disease arising or likely to arise from the plant, or the refuse, the Governor may, on the recommendation of the Minister, by proclamation —

- (a) authorize the burning of the plant, and the refuse specified in the proclamation, during the prohibited burning times or during any period of the prohibited burning times, as stated in the proclamation; and
- (b) declare that the proclamation shall take effect either generally or in the particular districts which are specified in the proclamation.

(2) A proclamation made under the provisions of subsection (1) may be revoked, amended, or varied at any time by a subsequent proclamation.

(3) Where a proclamation authorizes the burning of a plant, or the refuse of the plant, the burning shall be carried out subject to and in accordance with the regulations.

(4) A person who pursuant to the authority of a proclamation made under 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 \$400.

(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 26 amended by No. 35 of 1957 s.5; No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.23 and 48.]

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 \$400.

[Section 26A inserted by No. 65 of 1977 s.24.]

Division 6 — General Restrictions, Prohibitions and Offences

Prohibition on use of tractors or engines except under certain conditions

27. (1) Subject to the provisions of subsection (2) a person shall not operate, during the prohibited burning times or the restricted burning times —

- (a) a tractor or self-propelled harvester unless —
 - (i) its exhaust system, including pipes, is maintained in sound and efficient condition;

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- (ii) its exhaust pipe is fitted with a spark arrester as prescribed by regulation; and
 - (iii) its exhaust pipe terminates so as to discharge exhaust emissions vertically upwards or, in the case of a self-propelled harvester the exhaust pipe of which terminates at least 2 metres above the ground, so as to discharge exhaust emissions horizontally or in a direction upwards of the horizontal plane;
- (b) an internal combustion engine, steam engine or other prescribed machinery or vehicle contrary to the regulations or otherwise than in accordance with the regulations.

Penalty: \$500.

(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) 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 and with the requirements of any notice under subsection (3) having effect in the district for the time being.

(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 or self-propelled harvester other than a tractor or self-propelled harvester that is equipped with a fire extinguisher.

(4) A notice under subsection (3) —

- (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) has effect in a district a person shall not operate a tractor or self-propelled harvester in that district unless a fire extinguisher as prescribed by regulation is carried on that tractor or self-propelled harvester or, in the case of a tractor, on a trailer, semi-trailer or agricultural machine or appliance being drawn or propelled by that tractor.

Penalty: \$500.

(6) The Governor may make regulations with respect to the prohibition or regulation of the use of engines, vehicles, plant and machinery during the prohibited burning times or restricted burning times.

(7) Regulations made under subsection (6) may —

- (a) authorize a local authority or a bush fire control officer to prohibit the carrying out of an activity or operation either absolutely or except in accordance with conditions specified in the notice or direction by which the prohibition is imposed or in the regulations;
- (b) prohibit the carrying out of an activity or operation without the consent of a local authority or bush fire control officer;
- (c) provide that an act or thing shall be done subject to the approval or to the satisfaction of a local authority or a bush fire control officer;

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- (d) provide as the penalty for a breach of any regulation so made a maximum penalty of \$500.

(8) The provisions of subsections (6) and (7) are in addition to and not in derogation of those of section 61.

[Section 27 amended by No. 11 of 1963 s.13; No. 65 of 1977 s.25; No. 51 of 1979 s.2; No. 95 of 1981 s.2; No. 8 of 1987 s.8.]

Blasting

27A. (1) The Governor may make regulations —

- (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;
- (b) prescribing as the penalty for a breach of any regulation so made a maximum penalty of \$500.

(2) The provisions of subsection (1) are in addition to and not in derogation of those of section 61.

[Section 27A inserted by No. 35 of 1957 s.6; amended by No. 113 of 1965 s.8; No. 65 of 1977 ss.26 and 48; No. 8 of 1987 s.8 (1).]

False alarms

27B. (1) A person who, knowing it is false, gives a false alarm of fire to a member, employee or agent, of the Board, or of a local authority, or to a member of a bush fire brigade, or to a bush fire liaison officer, bush fire control officer, or forest officer employed in connection with any forest, commits an offence.

Penalty: \$500.

(2) A court convicting an offender of an offence of giving a false alarm of fire against subsection (1), may assess the amount of any expenses needlessly incurred by the Board or any local authority, bush fire brigade, or other body or person, as a result of the false alarm, and order the offender to pay the amount so assessed to the authority, brigade, body, or person by which or by whom the expenses were so incurred, in addition to or without imposing a penalty on the offender.

[Section 27B inserted by No. 35 of 1957 s.6; amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.47 and 48; No. 8 of 1987 s.8.]

Vandalism

27C. (1) A person who, except by lawful authority, moves, uses, interferes with, damages or destroys anything provided by the Board, a local authority, a bush fire control officer, or a bush fire brigade, for preventing, controlling, or extinguishing, bush fires, commits an offence.

Penalty: \$500.

(2) A court convicting an offender of an offence against subsection (1) may assess the amount of expense of replacing, or as the case may be, of repairing or restoring, anything the subject matter of the offence, and order the offender to pay the amount to the Board, or, as the case may be, the local authority, bush fire control officer, or bush fire brigade, in addition to or without imposing a penalty on the offender.

[Section 27C inserted by No. 35 of 1957 s.6; amended by No. 8 of 1987 s.8.]

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**Requirements 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 liaison officer, or a forest officer that apply to the carriage of incendiary material.

Penalty: \$1 000.

(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 liaison officer, 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 3 metres.

Penalty: \$1 000.

[Section 27D inserted by No. 101 of 1969 s.7; amended by No. 94 of 1972 s.4 (As amended by No. 83 of 1973); No. 65 of 1977 ss.47 and 48; No. 8 of 1987 s.8.]

**Occupier of land to extinguish bush
fire occurring on his land**

28. (1) (a) Where a bush fire is burning on any land —
- (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, the occupier of the land shall forthwith, upon becoming aware of the bush fire, whether he has lit or caused the same to be lit or not, take all possible measures at his own expense to extinguish the fire.

(b) Where he requires assistance for the purpose he shall if practicable, without leaving the fire unattended, inform or cause to be informed the nearest available bush fire control officer, or bush fire brigade officer, of the existence and locality of the fire.

(2) For the purposes of this section, a fire lit 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, is to be regarded as being a bush fire which is not part of the burning operation being carried on upon the land in accordance with the provisions of this Act.

Penalty: \$1 000.

(3) Where the occupier of the land upon which a bush fire is burning fails to take measures to extinguish it as required by subsection (1), a bush fire liaison officer, a bush fire control officer of any local authority or a forest officer employed in connection with any forest land which is within 3 kilometres of the land where the fire is burning may enter upon the land where the fire is burning and take all proper measures to extinguish it.

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(4) (a) In so far as the measures taken by the bush fire liaison officer, bush fire control officer or forest officer are necessitated by reason of the failure of the occupier of the land to comply with subsection (1), any expenses incurred by the bush fire liaison officer, bush fire control officer or forest officer, in taking measures to extinguish the fire, shall be a debt owing by the occupier of the land to the Board, local authority or Executive Director of the Department of Conservation and Land Management⁷, respectively.

(b) The Board, local authority, or Executive Director of the Department of Conservation and Land Management⁷, as the case may be, may recover the expenses from the occupier in any court of competent jurisdiction.

[Section 28 amended by No. 11 of 1963 s.14; No. 113 of 1965 s.8 (1); No. 94 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 ss.27, 47 and 48; No. 8 of 1987 s.8.]

[29. *Repealed by No. 65 of 1977 s.28.*]

Disposal of burning cigarettes etc.

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 —

- (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: \$500.

[Section 30 inserted by No. 65 of 1977 s.29; amended by No. 8 of 1987 s.8.]

[31. *Repealed by No. 65 of 1977 s.30.*]

Offences of lighting or attempting to light a fire likely to injure

32. A person who —

- (a) wilfully lights or causes to be lit or attempts to light a fire; or
- (b) places a match or other inflammable or combustible substance, matter or thing in a position so that it may directly or indirectly be ignited by the rays of the sun or by friction or other means, or be exploded or set on fire, or whereby a fire may be lit or caused and with the intent to cause a fire,

under such circumstances as to be likely to injure or damage a person or property, whether the fire be caused or not, is guilty of an indictable offence.

Penalty: \$250 000 or 14 years' imprisonment or both.

[Section 32 amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.31 and 48; No. 8 of 1987 s.8; No. 101 of 1990 s.56.]

Local authority may require occupier of land to plough or clear fire break

33. (1) Subject to subsection (2) a local authority at any time, and from time to time, may, and if so required by the Minister shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local authority or shall give notice to all owners or occupiers of land in its district by publishing a notice in the *Government Gazette* and in a newspaper circulating in the area

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requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things —

- (a) to plough, cultivate, scarify, burn or otherwise clear upon the land firebreaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local authority may and is hereby empowered to determine and as are specified in the notice, and thereafter to maintain the firebreaks clear of inflammable matter;
- (b) to act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local authority or its duly authorized officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,

and the notice may require the owner or occupier to do so —

as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land, and in any event to do so to the satisfaction of either the local authority or its duly authorized officer, according to which of them is specified in the notice.

(2) A notice in writing under subsection (1) 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) are in addition to and not in derogation of those of section 31 of the *Interpretation Act 1918*³.

(3) The owner or occupier of land to whom a notice has been given under subsection (1) and who fails or neglects in any respect duly to comply with the requisitions of the notice is guilty of an offence.

Penalty: \$1 000.

(4) (a) Where an owner or occupier of land who has received notice under subsection (1) fails or neglects to comply with the requisitions of the notice within the time specified in the notice, the local authority may direct its bush fire control officer, or any other officer of the local authority, to enter upon the land of the owner or occupier and to carry out the requisitions of the notice which have not been complied with.

(b) The bush fire control officer or other officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen, or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.

(5) (a) The amount of any costs and expenses incurred by the bush fire control officer or other officer in doing the acts, matters, or things provided for in subsection (4) shall be ascertained and fixed by the local authority and a certificate signed by the mayor or president of the local authority shall be *prima facie* evidence of the amount.

(b) The local authority may recover the amount in any court of competent jurisdiction as a debt due from the owner or occupier of land to the local authority.

(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

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

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

(5d) Where the provisions of by-laws made under subsection (5a) are inconsistent with those of a notice given under subsection (1) or under section 34 or 35, the provisions of that notice shall, to the extent of the inconsistency, prevail.

(6) A local authority may, at the request of the owner or occupier of land within its district, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of a fire danger, and the amount of the expense, if not paid on demand, may be recovered from the owner or occupier by the local authority in a court of competent jurisdiction as a debt due from the owner or occupier to the local authority.

(7) Nothing in this section authorizes 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 17; or

- (b) to make by-laws authorizing or requiring bush to be set on fire contrary to the provisions of section 17.

[Section 33 amended by No. 11 of 1963 s.15; No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.32 and 48; No. 51 of 1979 ss.3 and 5; No. 8 of 1987 s.8.]

Burning on Crown lands

34. (1) (a) Subject to subsections (1a) and (1b) 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 3 metres in width situated not more than 200 metres 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 section 17 and is carried out in accordance with the provisions of section 18.

(b) Before any firebreaks are burnt under the provisions of this subsection, a permit to so burn shall be obtained from a bush fire control officer of the local authority in whose district the burning is to take place and where a permit is granted the bush fire control officer shall state in the permit the width to which a firebreak may be burnt up to a maximum of 200 metres in width from the boundary of the land or reserve.

(c) A bush fire control officer may subject to the provisions of sections 17 and 18 enter upon any Crown land or reserve except forest land with such servants and workmen or with such vehicles, machinery and appliances as he may think necessary for the purpose of burning bush, in order to reduce or abate a fire hazard which cannot practicably be reduced or abated otherwise than by burning.

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(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) 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) shall not be exercised in relation to the reserve.

(1b) A notice published under subsection (1a) —

- (a) has effect according to its tenor;
- (b) may be varied or cancelled by a subsequent notice so published.

(2) (a) Where an agreement for the purpose of making firebreaks is not made between the Executive Director of the Department of Conservation and Land Management⁷ and the owner or occupier of land adjoining or adjacent to forest land, if the Executive Director has established on the forest land marginal and internal firebreaks, he may at any time and from time to time, give notice in writing to the owner or occupier within a time specified in the notice to do all or any of the things mentioned in section 33 (1) (a) and (b) upon that part of the land of which he is the owner or occupier and which is nearest to the forest land as though the Executive Director were the local authority referred to in those paragraphs and, the provisions of the paragraphs apply *mutatis mutandis* as though they were expressly incorporated in this subsection.

(b) When and as often as the Executive Director of the Department of Conservation and Land Management⁷ gives notice to an owner or occupier of land as provided for in paragraph (a), the provisions of section 33 (3), (4) and (5) *mutatis mutandis* apply and have effect in the same manner and to the same extent as if they were expressly incorporated in this section.

[Section 34 amended by No. 11 of 1963 s.16; No. 84 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 s.33; No. 51 of 1979 s.5.]

Powers of Board on default by local authority

35. (1) Where a local authority, if requested so to do by the Minister, fails to give to an owner or occupier of land a notice under the provisions of section 33 (1), the Board may give the notice and thereafter subsections (3) and (4) of that section *mutatis mutandis* apply and have effect as if they were expressly incorporated in this section.

(2) Where a local authority, in compliance with a request by the Minister, gives to an owner or occupier of land a notice under section 33 (1), if the owner or occupier fails to comply with the requirements of the notice, and the local authority fails to exercise its powers under subsection (4) of that section, the Board may by its servants or agents exercise all the powers which the local authority may exercise to ensure that the requirements of the notice are properly carried out.

(3) (a) Where the Board in exercise of the power conferred on it by subsection (2) incurs any costs and expenses, the amount of the costs and expenses so incurred shall be ascertained and fixed by the Board.

(b) A certificate signed by the executive officer of the Board is evidence of the amount and the Board may recover the amount in a court of competent jurisdiction as a debt due from the local authority or from the owner or occupier of the land in respect of which the notice has been given, as the Board may at its option elect.

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(4) Where in accordance with subsection (3) the Board takes proceedings against, and obtains a judgment against, the local authority, the local authority has no recourse against, or right of contribution by, the owner or occupier of land under this section in respect of the judgment.

(5) (a) Where, in the opinion of the Board, a local authority fails or neglects to carry out its duties, exercise its powers or perform its functions under the provisions of this Part, the Board may, if it deems it necessary, instruct a bush fire liaison officer to take such action as he considers necessary to remedy the default or neglect.

(b) The Board may recover in a court of competent jurisdiction the amount of the expenses incurred by the liaison officer in remedying the default or neglect of the local authority as a debt due by it to the Board.

[Section 35 amended by No. 65 of 1977 ss.34 and 47.]

**PART IV — CONTROL AND EXTINGUISHMENT OF
BUSH FIRES**

Division 1 — Local Authorities

**Local authority may expend moneys in connection
with control and extinguishment of bush fires**

36. A local authority may, notwithstanding anything to the contrary contained in any other Act, expend any portion of its ordinary revenue for all or any of the following purposes —

- (a) in the purchase and maintenance of appliances, equipment, and apparatus for the prevention, control and extinguishment of bush fires;
- (b) in paying the cost of clearing a street, road or reserve vested in it or under its control, of bush, and other inflammable material, for the purpose of preventing the occurrence or spread of a fire;
- (c) in connection with the exercise of any of its powers under this Part;
- (d) in establishing and maintaining bush fire brigades as a part of its organization for the prevention, control, and extinguishment of bush fires;
- [(e) *deleted*]
- (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 authorized by it in that behalf;

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- (f) in assisting the occupier of farm lands within its district to acquire appliances, equipment and apparatus for the prevention, control, and extinguishment of bush fires upon or threatening his land, including the sale, loan or exchange to the occupier of appliances, equipment and apparatus belonging to the local authority; and
- (g) in paying the expenses or costs of any other act, matter, or thing done or acquired in connection with the prevention, control, and extinguishment of bush fires, the doing or acquisition of which is approved by the Governor or otherwise authorized by the provisions of this Act.

[Section 36 amended by No. 11 of 1963 s.17; No. 51 of 1979 s.5.]

Local authority to insure certain persons

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*⁸, 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), 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), 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), 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) Subsection (2) (a) 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 subsection (2) (a) 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*^s and where a reference to weekly earnings is necessary for calculating those amounts, the firefighter is deemed to have had, at the date of the injury, weekly earnings equal to the estimate, published by the Australian Statistician, of the average weekly earnings per employed male unit for the last preceding June quarter in this State.

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(5) The amounts referred to in subsection (4) 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*⁸.

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

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

(i) \$2 000 for any one appliance or item of equipment or apparatus; or

(ii) \$4 000 to any one person or partnership; or

(b) in any one insurance year, exceeds a total amount of \$10 000 to any one person or partnership for all loss or damage.

(7) A policy of insurance referred to in subsection (2) (a) or (b) 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 subsection (2) (a) 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).

[Section 37 inserted by No. 101 of 1969 s.8; amended by No. 65 of 1977 s.35.]

**Local authority may appoint
bush fire control officer**

38. (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 2 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.

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

[(b) *deleted*]

(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) fails or neglects to comply with the requirements of that notice, the Board may appoint a person to the vacant office.

(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.

(3) The local authority may, in respect to bush fire control officers appointed under the provisions of this section, exercise so far as they can be made applicable the same powers as it may exercise in respect to its other officers, under the provisions of the Acts under which those other officers are appointed.

(4) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local authority, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for —

(a) preventing the outbreak of bush fires;

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- (b) protecting life and property in the case of an outbreak of bush fire;
- (c) controlling and extinguishing a bush fire or preventing the spread of the fire;
- (d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;
- (e) procuring the due observance by all persons of the provision of Part III.

(5) (a) A local authority may issue directions to a bush fire control officer appointed by the local authority, or to an officer of a bush fire brigade registered by the local authority to burn, subject to the provisions of this Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the local authority.

(b) The bush fire control officer, or officer of the bush fire brigade, may by authority of any directions so issued carry out the directions but subject to the provisions of this Act.

(c) The provisions of this subsection are not in derogation of those of subsection (4).

(6) (a) In this section —

“approved local authority” means a local authority approved under paragraph (b) by the Board.

(b) If it appears to the Board that the standard of efficiency of a local authority in fire prevention and control justifies the Board doing so, the Board, by notice published in the *Government Gazette* —

- (i) may approve the local authority as one to which this subsection applies; and
- (ii) may from time to time cancel or vary any previous approval given under this paragraph.

(c) An approved local authority may appoint to the office of fire weather officer such number of senior bush fire control officers as it thinks necessary.

(ca) Where more than one fire weather officer is appointed by a local authority the local authority shall define a part of its district in which each fire weather officer shall have the exclusive right to exercise the power conferred by paragraph (h).

(cb) An approved local authority may appoint one or more persons, as it thinks necessary, to be the deputy or deputies, as the case may be, of a fire weather officer appointed by the local authority and where 2 or more deputies are so appointed they shall have seniority in the order determined by the local authority.

(cc) Where the office of a fire weather officer is vacant or whilst the occupant is absent or unable to act in the discharge of the duties of the office, any deputy appointed in respect of that office under paragraph (cb) is, subject to paragraph (cd), entitled to act in the discharge of the duties of that office.

(cd) A deputy who is one of 2 or more deputies of a fire weather officer is not entitled to act in the discharge of the duties of the office of that fire weather officer if a deputy who has precedence over him in the order of seniority determined under paragraph (cb) is available and able to discharge those duties.

(d) The local authority shall give notice of an appointment made under paragraph (c) or (cb) to the Board and cause notice of the appointment to be published at least once in a newspaper circulating in its district and the Board shall cause notice of the appointment to be published once in the *Government Gazette*.

(e) An approved local authority may appoint a committee for the purpose of advising and assisting a fire weather officer or any deputy of a fire weather officer acting in the place of that officer under this subsection.

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(f) Where a committee is appointed, a fire weather officer, or, as the case may be, a deputy of a fire weather officer while acting in the place of that officer, may exercise the authority conferred on him by paragraph (h), notwithstanding the advice and assistance tendered to him by the committee.

(g) The provisions of this subsection are not in derogation of those of any other subsection of this section.

(h) A fire weather officer of an approved local authority, or a deputy of that fire weather officer while acting in the place of that officer, may authorize a person who has received a permit under section 18 (6) (a), to burn the bush in the district of the local authority notwithstanding that for any day specified in the notice the fire danger forecast issued by the Bureau of Meteorology in Perth, in respect to the locality where the bush proposed to be burnt is situated, is “**extreme**” or “**very high**”, and upon the authority being given the person, if he has otherwise complied with the conditions prescribed for the purposes of section 18, may burn the bush.

(i) This subsection does not authorize the burning of bush during the prohibited burning times or within the defined area during a bush fire emergency period.

[Section 38 amended by No. 35 of 1957 s.7; No. 20 of 1958 s.2; No. 11 of 1963 s.18; No. 67 of 1970 s.4; No. 65 of 1977 s.36; No. 51 of 1979 s.4.]

Special powers of bush fire control officers

39. (1) Subject to the provisions of this Act a bush fire control officer appointed under this Act by a local authority may, in the exercise of his functions and the performance of his duties under this Act, do all or any of the following things —

- (a) Exercise any of the appropriate powers of the Chief Officer of Fire Brigades under the *Fire Brigades Act 1942*, in so far as the same may be necessary or expedient, for extinguishing a bush fire or for preventing the spread or extension of the fire;

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- (b) enter any land or building, whether private property or not;
- (c) pull down, cut, and remove fences on land, whether private property or not, if in his opinion it is necessary or expedient so to do for the purpose of taking effective measures for extinguishing a bush fire, or for preventing the spread or extension of the fire;
- (d) cause firebreaks to be ploughed or cleared on land, whether private land or not, and take such other appropriate measures on the land as he may deem necessary for the purpose of controlling or extinguishing a bush fire or for preventing the spread or extension of the fire;
- (e) take and use water, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, and other fire extinguishing material from any source whatever on land, whether private property or not;
- (f) take charge of and give directions to any bush fire brigade present at a bush fire with respect to its operations or activities in connection with the extinguishment or control of the bush fire, or the prevention of the spread or extension of the fire;
- (g) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers;
- (h) employ a person or use the voluntary services of a person to assist him, subject to his directions in the exercise of any of the foregoing powers; and
- (i) either alone or with others under his command or direction enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish the fire or prevent it from spreading, but except as arranged with or requested by an officer in

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charge of a fire brigade under the *Fire Brigades Act 1942*, this power shall not be exercised in a townsite in an area which has been declared a fire district under that Act or in a townsite in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act.

(2) (a) Where a bush fire is burning in or on forest land, or in or on Crown lands, if a forest officer is present at the fire, the powers and authorities conferred by this Act upon a bush fire control officer appointed under this Act by a local authority are vested in and are exercisable by the forest officer.

[(b) *deleted*]

[*Section 39 amended by No. 11 of 1963 s.19; No. 51 of 1979 s.5; No. 8 of 1987 s.4.*]

**Duties of bush fire authorities
on outbreak of fire**

39A. (1) On the outbreak of a bush fire at a place within or adjacent to the district of a local authority, the bush fire control officers, bush fire brigade officers, or bush fire brigade members, of the local authority, or as many of them as may be available may, subject to this Act, take charge of the operations for controlling and extinguishing the bush fire or for preventing the spread or extension of the fire.

(2) Where a bush fire to which this section applies occurs, if a bush fire control officer, bush fire brigade officer, or member of a bush fire brigade, of the local authority in whose district the bush fire is burning is not present at the fire, a bush fire control officer, a bush fire brigade officer, or member of a bush fire brigade, of a local authority whose district is adjoining or adjacent, may exercise in respect of the bush fire, all powers and authorities of a bush fire control officer of the local authority in whose district the fire is burning.

- (3) This section applies only to bush fires which —
- (a) have been lit or are maintained unlawfully;
 - (b) have occurred accidentally;
 - (c) have ceased to be under control or are not adequately controlled; or
 - (d) are declared in the regulations to be bush fires to which this section applies.

[Section 39A inserted by No. 35 of 1957 s.8; amended by No. 51 of 1979 s.5.]

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

40. (1) Two or more local authorities may by agreement join in appointing, employing and remunerating bush fire control officers for the purposes of this Act.

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

Division 2 — Bush Fire Brigades

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.

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(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).

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

[Section 41 inserted by No. 65 of 1977 s.37.]

Local authorities may join in establishing a bush fire brigade

42. (1) Two or more local authorities may by agreement join in establishing, maintaining, and equipping with appliances, equipment and apparatus, a bush fire brigade to act as the bush fire brigade of each local authority under and for the purposes of this Act.

(2) The bush fire brigade shall be registered as provided for in section 41, but the application for registration may be made by any one local authority a party to the agreement on behalf of the local authorities which are parties to the agreement.

Election and duties of officers of bush fire brigades

43. A local authority which establishes a bush fire brigade shall by its by-laws provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade, and prescribe their respective duties.

[Section 43 amended by No. 51 of 1979 s.5.]

**Powers and authorities of officers
of bush fire brigade**

44. (1) Subject to this Act, and except as provided in section 45 for the purpose of controlling and extinguishing or preventing the occurrence or spread or extension of a bush fire, or for any other prescribed purpose, the captain, or, in his absence, the next senior officer of a bush fire brigade, or in the absence of the captain and all other officers, any other member of the bush fire brigade, after consulting with the occupier of the land if he be present, has and may exercise all or any of the following powers and authorities, he may —

- (a) control and direct the bush fire brigade at the fire or a person who voluntarily places his service at his disposal;
- (b) either alone or with others under his command or direction, enter on land or into premises which may be on fire or in the neighbourhood of a fire for the purpose of taking such steps as he deems necessary for the control or extinguishment or for the prevention of the spread or extension of the fire, or take or give directions for taking such apparatus required to be used at a fire into, through, or upon land or premises as he considers convenient for the purpose;
- (c) take any measures which in the circumstances are reasonable and appear to him to be necessary or expedient for the protection of life and property; and, for the purpose of controlling or extinguishing or for preventing the spread or extension of a fire, cause fences to be pulled down or removed, and bush or other inflammable material to be burnt, or otherwise destroyed or removed;
- (d) enter or give directions for entering land or premises, and take or cause to be taken water from any source whatsoever, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, whether the water is upon private land

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or other land, and in all other respects, when and as often as in his opinion he deems it necessary or expedient to do so, exercise all the powers and authorities of a bush fire control officer under this Act;

- (e) either alone or with others under his command or direction enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish such fire or prevent it from spreading.

(2) The powers conferred by subsection (1) (e) shall not be exercised —

- (a) in an area which has been declared a fire district under the *Fire Brigades Act 1942*, unless at the express request of an officer of a fire brigade established under that Act; or
- (b) in an area in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act, unless at the express request of an officer of the fire brigade or volunteer fire brigade as the case may be.

(3) (a) Where the bush fire brigade of a local authority is present at a fire which is burning within the district of the local authority, if a bush fire control officer of the local authority is not present, the captain or in his absence the next senior officer of the bush fire brigade of the local authority, or in the absence of the captain and all other officers of that bush fire brigade, any other member of that bush fire brigade has and shall take supreme control and charge of all operations and the officers and members of another bush fire brigade if present are subject to and shall act under his orders and directions.

(b) Subject to the provisions of section 45 where a bush fire control officer of a local authority is present at a fire which is burning in the district of the local authority, he has supreme control and charge of all operations, and the officers and members of all bush fire brigades present at the fire are subject to and shall act under his orders and directions.

[Section 44 amended by No. 35 of 1957 s.9.]

Fires in or near forest land or Crown lands

45. (a) Where a bush fire is burning in or near forest land, or in or near Crown lands, if a forest officer is present, the powers and authorities conferred by this Act upon a bush fire control officer appointed under this Act, or upon a captain or other officer of a bush fire brigade, are exercisable by him.

(b) Where a forest officer is present at the fire he may take supreme control and charge of all the operations, and thereupon every bush fire control officer, and the officers and members of every bush fire brigade who are present at the fire, are in all respects subject to and shall act under his orders and directions.

[Section 45 amended by No. 11 of 1963 s.20; No. 8 of 1987 s.5.]

Bush fire control officer or forest officer may postpone lighting a fire

46. (1) (a) Notwithstanding any other provision of this Act —
- (i) subject to the provisions of the next succeeding paragraph a bush fire control officer, or the local authority in whose district the land is situated may prohibit, or from time to time postpone the lighting of a fire, where in his or its opinion the fire, if lit, would be or become a source of danger by escaping from the land on which it is proposed to be lit;
 - (ii) where a fire is burning on land and the bush fire control officer or the local authority as the case may be is of the opinion that the fire is in danger of escaping from that land, he or it may direct that all reasonable steps be taken by the owner or occupier of the land to extinguish the fire or to prevent the fire from spreading.

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(b) Where it is proposed to light a fire within 3 kilometres of a boundary of forest land, a forest officer may exercise the powers conferred by the last preceding paragraph to the exclusion of the exercise of those powers by a bush fire control officer or the local authority but if a forest officer fails to exercise the powers a bush fire control officer or local authority may exercise those powers.

(2) A person who lights a fire contrary to the provisions of this section or who fails to carry out any direction given to him pursuant to this section is guilty of an offence.

Penalty: \$1 000 or 3 months' imprisonment or both.

(3) If, as a result of the exercise of any power conferred by subsection (1), a person, who has paid a fee to a local authority for a permit to light a fire, is precluded from doing so in such circumstances that the permit is of no use to him the local authority shall, on being requested to do so, refund the fee to him.

[Section 46 amended by No. 11 of 1963 s.21; No. 113 of 1965 s.8 (1); No. 94 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 s.48; No. 8 of 1987 s.8.]

Firebreak not to be lit when bush fire burning

47. Subject to the provisions of section 39 (2) (a) and to the provisions of section 45, a person shall not, if a bush fire is burning on land, burn a fire break on the land or on any land adjoining or adjacent though not contiguous to the land whether for the purpose of controlling or preventing the spread of, or otherwise affecting the bush fire, unless as directed by a bush fire control officer or if a bush fire control officer is not present, the captain of a bush fire brigade or, in his absence, a member of the bush fire brigade who is present at the bush fire.

[Section 47 amended by No. 8 of 1987 s.6.]

PART V — MISCELLANEOUS

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

48. (1) Where the owner or occupier of land clears it of all bush or other inflammable material for a space of at least 3 metres from a fence dividing the land from the land of any other owner or occupier, if —

- (a) that other owner or occupier does not similarly clear his land contiguous to the fence; and
- (b) any damage to the fence from a bush fire is occasioned through his default,

the owner or occupier in default shall at his own cost and expense repair or re-erect the fence so damaged within one month from the date when the damage is done, or within such extended time as a stipendiary magistrate in the district where the fire occurred may allow.

(2) An application to a stipendiary magistrate for an extension of time as provided in subsection (1) shall be made in writing by the owner or occupier in default and a copy of the application shall be served by him on the owner or occupier who cleared the land in accordance with this section.

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

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

- (i) land under the care, control and management of the Commissioner of Main Roads pursuant to section 15 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) are to be read and construed and have effect accordingly.

(b) Nothing in this subsection operates so as to relieve the Commissioner of Main Roads or a local authority from liability for damage resulting from a bush fire caused by or due to the negligence of an officer, servant or workman of that Commissioner or local authority, as the case may be.

(5) Where an owner or occupier of land fails to clear it as provided in subsection (1), and as a result the dividing fence is damaged by a bush fire, the owner or occupier is not released from any of his obligations under this section by reason of the fact the bush fire which damaged the fence was not lit by him or did not start on his land.

[Section 48 amended by No. 94 of 1972 s.4 (as amended by No. 83 of 1973); No. 65 of 1977 s.38.]

Coroner to hold inquiry when requested by certain persons

49. Where a bush fire originates or extends within the district of a local authority, if a Coroner has jurisdiction under the provisions of the *Coroners Act 1920*, to inquire into the cause and origin of the

fire, the Coroner shall, notwithstanding the provisions of that Act, hold an inquiry into the cause and origin of the fire, if requested in writing so to do by —

- (a) the local authority;
- (b) a *bona fide* resident in the district who has suffered damage from the bush fire; or
- (c) a forest officer where the fire has originated or extended within 3 kilometres of forest land.

[Section 49 amended by No. 94 of 1972 s.4 (As amended by No. 83 of 1973); No. 112 of 1984 s.24.]

Records to be maintained by local authorities

50. (1) A local authority shall maintain records containing the following information —

- (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 a 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 district in respect of which the bush fire control officer holds office;
- (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) 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;

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- (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 \$200 for any breach of the regulations.

[Section 50 amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 s.39.]

Saving of remedies

51. (1) Except as otherwise expressly provided in this Act, nothing in this Act and no conviction, payment of penalty or proceeding taken under this Act takes away or affects any right of action or other remedy at common law or otherwise which a person may have in respect of loss or damage caused by a bush fire to which this Act relates.

(2) It is not a defence to a claim for damage, loss or injury in respect of the doing of anything, that it was done by or pursuant to the authority of this Act.

(3) The provisions of the last preceding subsection do not prejudice or affect those of section 63.

Approved area may be declared

52. (1) For the purposes of this Act, where a bush fire brigade is established in the district of a local authority the local authority may apply to the Minister to have the district or part of it declared an approved area.

(2) On receipt of the application the Minister may by notice published in the *Gazette* declare the district of the local authority or part of it to be an approved area.

(3) Before declaring the district or part of it to be an approved area the Minister may obtain a report as to the standard of efficiency of the bush fire brigade established in the district or the part.

(4) The Minister may require the local authority to pay the cost of any inspection made for the purposes of this section.

Reduction in insurance premium of crops in approved area

53. (1) Where a crop of any kind situate wholly or partly within an approved area is insured against loss or damage by fire, the rate of premium charged by the insurer in respect of the insurance shall not exceed 75% of the rate of premium charged by the insurer in respect of crops of that kind not situate within an approved area.

(2) A person who charges a rate of premium in excess of that permitted by this section is guilty of an offence.

Penalty: \$200.

(3) For the purposes of this section “crop” includes any crop whether growing, standing, harvested, cut, picked, collected, stacked, stooked, 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.

[Section 53 amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 ss.40 and 48.]

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Approved area may be cancelled

54. If in the opinion of the Board the organisation for the prevention or control of fire in the district of a local authority is at any time not of a reasonable standard of efficiency, the Minister may by notice published in the *Gazette* declare that an approved area within the district of the local authority shall, as from a date to be specified in the notice, cease to be an approved area for the purposes of this Act and accordingly the provisions of section 53 as from the specified date cease to apply to a crop situate within the area except in so far as regards a crop on which insurance has been effected prior to the specified date.

[Section 54 amended by No. 11 of 1963 s.22.]

Appropriation of penalties

55. Moneys received from penalties imposed for offences against this Act shall be paid to the Board, but where the penalty is imposed as the result of proceedings brought by or by the direction of the local authority, the whole of the penalty is, for the purposes of the provisions of the *Fines and Penalties Appropriation Act 1909*, to be regarded as a penalty incurred under the provisions of an Act relating to local government and be paid to the local authority accordingly.

Duties of police officers, bush fire control officers, etc.

56. (1) It is the duty of —
- (a) a member of the Police Force, a member of the Board, an officer employed by the Board, a bush fire control officer appointed under this Act and a forest officer, who finds a person committing an offence against this Act to demand from the person his name and place of abode and to require him to produce a permit or authorization under the authority of which it is claimed a fire is lit;

- (b) a bush fire control officer if he obtains the name and place of abode of a person as provided in paragraph (a) to report the facts of the offence and the name and place of abode of the person who committed the offence as soon as conveniently may be to the local authority in whose district the offence is committed.

(2) A person who refuses to state his name and place of abode when required by a member of the Board, an officer employed by the Board, a bush fire control officer appointed under this Act, or a forest officer so to do, may without any other warrant than this Act be apprehended by the person requiring his name and place of abode under the provisions of this section and taken before justices there to be dealt with according to law.

(3) A person who in contravention of this section refuses to state his name and place of abode, or states a false name or a false place of abode, is guilty of an offence.

Penalty: \$500.

[Section 56 amended by No. 11 of 1963 s.23; No. 113 of 1965 s.8 (1); No. 65 of 1977 s.48; No. 8 of 1987 s.8.]

Obstructing officers

57. A person who obstructs, hinders, resists or in any way opposes a member of the Board, or an officer employed by the Board, or a bush fire control officer appointed under this Act, or a forest officer, or an officer or member of a bush fire brigade or other person acting with authority under this Act, in the performance or doing of anything which he is empowered or required to do by this Act is guilty of an offence.

Penalty: \$1 000 or 3 months' imprisonment or both.

[Section 57 amended by No. 11 of 1963 s.24; No. 113 of 1965 s.8 (1); No. 65 of 1977 s.48; No. 8 of 1987 s.8.]

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General penalty

58. (1) A person who contravenes any of the provisions of this Act is guilty of an offence against this Act and is liable, if no other penalty is prescribed, to a fine of \$200.

[(2) *repealed*]

(3) Where, as the result of an offence against this Act, any expense is incurred by a forest officer, bush fire control officer, any officer or member of a bush fire brigade, or by any other person acting under the provisions of this Act, in the performance of a duty imposed, or the doing of anything which he is empowered or required to do, by this Act —

the Executive Director of the Department of Conservation and Land Management⁷ —

where the expense is incurred by a forest officer,

or a local authority concerned —

where the expense is incurred by a bush fire control officer employed by the local authority, or by an officer or member of a bush fire brigade established and maintained by the local authority, or

the Board —

where the expense is incurred by any other person acting pursuant to this Act —

- (a) may recover the amount of the expense so incurred from the person committing the offence as a debt due in a court of competent jurisdiction; or
- (b) may apply to a court of summary jurisdiction convicting the person of the offence for an order for payment by that person of the amount of the expense, if the amount

does not exceed \$400, in addition to any penalty inflicted in respect of the conviction.

- (i) The court may grant the application wholly or in part or refuse the application, and payment of an amount specified in an order may be enforced in the same manner as payment of a pecuniary penalty.
 - (ii) Refusal of the court to grant an order for payment of the whole or part of the expenses is not a bar to proceedings to recover the whole or part, as the case may be, in any other court of competent jurisdiction; or
- (c) may issue a certificate that the expense was incurred and as to the amount of the expense, and the certificate is evidence of the facts so stated in all courts until the contrary is proved.

(4) Where proceedings are brought against the person committing the offence for the recovery of the amount of the expenses as a debt, a certificate containing the substance and effect only of the conviction for the offence, signed or purporting to be signed by the clerk of petty sessions of the court where the offender was convicted, is, upon proof of identity of the person, sufficient evidence of the conviction without proof of the signature, appointment or status of the person by whom the certificate is or purports to be signed until the contrary is proved.

[Section 58 amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 s.48.]

Prosecution of offences

59. (1) Subject to the provisions of sections 32 and 59A all proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions.

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(2) (a) A person authorized by the Minister, a member of the Board, an officer of the Board, a forest officer, a member of the Police Force, or a local authority, may institute and carry on proceedings against a person for an offence alleged to be committed against this Act.

(b) The person instituting and carrying on the proceedings shall be reimbursed out of the funds of the local authority within whose district the alleged offence is committed, all costs and expenses which he may incur or be put to in or about the proceedings.

(3) A local authority may, by written instrument of delegation, delegate authority generally, or in any class of case, or in any particular case, to its clerk, bush fire control officer, or other officer, to consider allegations of offences alleged to have been committed against this Act in the district of the local authority and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local authority against any person alleged to have committed any of those offences in the district, and may pay out of its funds any costs and expenses incurred in or about the proceedings.

(4) A local authority may by written instrument cancel, or from time to time vary, any instrument of delegation conferred under subsection (3).

(5) Notwithstanding that a local authority has under subsection (3) conferred authority on a delegate, the local authority is not precluded from exercising but may itself exercise the authority.

[Section 59 amended by No. 35 of 1957 s.10; No. 11 of 1963 s.25; No. 65 of 1977 s.41.]

Alternative procedure — infringement notices

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

(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 28 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), proceedings shall not be brought against any person with respect to the offence alleged in the notice.

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(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 \$200.

[Section 59A inserted by No. 65 of 1977 s.42; amended by No. 8 of 1987 s.8.]

Assisting to commit an offence

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

Regulations

61. (1) The Governor may make regulations prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed, or which appear to the Governor necessary or convenient to be prescribed for the purpose of effectually carrying out the provisions of this Act or for effecting the objects and purposes of this Act.

(2) The regulations may impose a penalty not exceeding \$500 for a breach of a regulation.

[Section 61 amended by No. 113 of 1965 s.8 (1); No. 65 of 1977 s.48; No. 8 of 1987 s.8.]

Local authority may make by-laws

62. (1) A local authority may, with the approval of the Governor, make by-laws not inconsistent with this Act or with the regulations made under this Act for and in relation to —

- (a) the appointment, employment, payment, dismissal and duties of bush fire control officers;
- (b) the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local authority; and
- (c) any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local authority by this Act.

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

Member, etc., not liable for damage

63. (1) (a) A member of the Board, an officer appointed by the Board, a bush fire liaison officer, a local authority, a bush fire control officer, or other officer appointed by a local authority, the officers and members of a bush fire brigade, and a person voluntarily assisting a bush fire brigade, and a forest officer lawfully exercising the powers or authorities or performing the

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duties conferred or imposed by this Act upon the Board, or upon the local authority or the bush fire brigade or any of the persons mentioned in this paragraph, are not liable for any damage, loss, or injury caused by them or any of them in the exercise or performance in good faith of any of the powers or authorities or of any of the duties.

(b) A person acting under and in accordance with any orders or directions of a person who under this Act has taken supreme control and charge of operations in connection with the control or extinguishment of a bush fire or the prevention of the spread or extension of a bush fire is not liable for any damage, loss or injury caused by him in good faith and when acting under the orders or directions.

(2) The damage, loss or injury referred to in subsection (1) is to be regarded as damage by fire within the meaning of a policy of insurance against fire covering the property damaged, lost, or injured, notwithstanding any clause or condition to the contrary contained in the policy.

[Section 63 amended by No. 11 of 1963 s.26; No. 65 of 1977 s.47; No. 8 of 1987 s.7.]

Prohibitions excluded by certain circumstances

64. The provisions of section 17 (1), (2) and 12, section 18 (2), (3), (6) and (12), section 21 (2), section 25 (1) and (2), and section 58 (1) do not apply in respect of the exercise of any power or the performance of any function authorized by or pursuant to the provisions of Part IV other than a power or function referred to in section 38 (5).

[Section 64 amended by No. 65 of 1977 s.43; No. 51 of 1979 s.5.]

Proof of certain matters

65. (1) In a prosecution or legal proceeding under the provisions of this Act no proof is required, until evidence is given to the contrary, of —

- (a) the constitution of the Board;
- (b) an authority of the Minister or of a local authority to prosecute;
- (c) the particular or general appointment of an officer of the Board or of a local authority to take proceedings against any person;
- (d) the powers of the officer to prosecute.

(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

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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.

(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 danger rating issued by the Bureau in respect of any day is evidence until the contrary is proved of the fire danger rating so issued in respect of that day.

(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.

[Section 65 amended by No. 35 of 1957 s.11; No. 11 of 1963 s.27; No. 65 of 1977 s.44.]

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 a 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 Executive Director, Department of Land Administration⁴, the Director General for Mines, or the Executive Director of the Department of Conservation and Land Management⁷, that a person is registered in the Department of Land Administration, the Department of Mines, or the Department of Conservation and Land Management, 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).

(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.

[Section 66 inserted by No. 11 of 1963 s.28.]

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Advisory committees

67. (1) A local authority may at any time appoint such persons as it thinks fit 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 firebreaks 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.

(2) A committee appointed under this section 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
- (c) where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.

(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.

[Section 67 inserted by No. 11 of 1963 s.28; amended by No. 67 of 1970 s.5; No. 65 of 1977 s.45.]

Regional advisory committees

68. (1) A group of 2 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 paragraph (a) (ii), 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;

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- (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 paragraph (a) (i) 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.

[Section 68 inserted by No. 65 of 1977 s.46.]

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NOTES

1. This reprint is a compilation as at 27 February 1992 of the *Bush Fires Act 1954* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

| Act | Number and Year | Assent | Commencement | Miscellaneous |
|---|-----------------|------------------|---|---------------|
| <i>Bush Fires Act 1954</i> | 53 of 1954 | 23 December 1954 | 29 April 1955 (see section 3 and <i>Gazette</i> 29 April 1955 p.749) | |
| <i>Bush Fires Act Amendment Act 1957</i> | 35 of 1957 | 5 November 1957 | 5 November 1957 | |
| <i>Bush Fires Act Amendment Act 1958</i> | 20 of 1958 | 22 October 1958 | 22 October 1958 | |
| <i>Bush Fires Act Amendment Act 1963</i> | 11 of 1963 | 22 October 1963 | 22 November 1963 (see section 2 and <i>Gazette</i> 22 November 1963 p.3618) | |
| <i>Bush Fires Act Amendment Act 1964</i> | 23 of 1964 | 28 October 1964 | 28 October 1964 | |
| <i>Bush Fires Act Amendment Act 1965</i> | 15 of 1965 | 1 October 1965 | 1 October 1965 | |
| <i>Decimal Currency Act 1965, section 8</i> | 113 of 1965 | 21 December 1965 | Sections 4 to 9: 14 February 1966 (see section 2 (2)); Balance 21 December 1965 | |
| <i>Bush Fires Act Amendment Act 1969</i> | 101 of 1969 | 25 November 1969 | 25 November 1969 | |

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Table of Acts — *continued*

| Act | Number and Year | Assent | Commencement | Miscellaneous |
|---|-----------------|------------------|---|--|
| <i>Bush Fires Act Amendment Act 1970</i> | 67 of 1970 | 17 November 1970 | 17 November 1970 | |
| <i>Metric Conversion Act 1972</i> | 94 of 1972 | 4 December 1972 | The relevant amendments, as set out in the Third Schedule, took effect on 1 June 1974 (see section 4 (2), as amended by No. 19 of 1973 s.2 and <i>Gazette</i> 24 May 1974 p.1626) | The Third Schedule was added by the <i>Metric Conversion Amendment Act (No. 2) 1973</i> (No. 38 of 1973) |
| <i>Bush Fires Act Amendment Act 1977</i> | 65 of 1977 | 28 November 1977 | 1 June 1978 (see section 2 and <i>Gazette</i> 10 March 1978 p.667) | |
| <i>Bush Fires Amendment Act 1979</i> | 51 of 1979 | 7 November 1979 | 7 November 1979 | |
| <i>Bush Fires Amendment Act 1981</i> | 95 of 1981 | 4 December 1981 | 4 December 1981 | |
| <i>Acts Amendment (Conservation and Land Management Act 1984, Part IV</i> | 112 of 1984 | 19 December 1984 | 22 March 1985 (see section 2 and <i>Gazette</i> 15 March 1985 p.931) | |
| <i>Bush Fires Amendment Act 1987</i> | 8 of 1987 | 5 June 1987 | 3 July 1987 | |
| <i>Criminal Law Amendment Act 1990, Part 3</i> | 101 of 1990 | 20 December 1990 | 14 February 1991 (see section 2) | |

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- ¹. The *Bush Fires Act 1954* is affected by the *Soil and Land Conservation Act 1945* (No. 15 of 1945) and the *Dividing Fences Act 1961* (No. 44 of 1961).
- ². Repealed by Act No. 126 of 1984 s.147.
- ³. Now see *Interpretation Act 1984*.
- ⁴. Title substituted under section 7 (3) (h) of the *Reprints Act 1984*.
- ⁵. Now see *Public Service Act 1978*.
- ⁶. Repealed by Act No. 10 of 1991 s.3.
- ⁷. Title substituted under section 7 (3) (h) of the *Reprints Act 1984*.
- ⁸. Now see *Workers' Compensation and Rehabilitation Act 1981*.

