

Acts reprinted pursuant to the Amendment Incorporation  
Act, 1937

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BUSH FIRES ACT, 1933-1957

HOMES ACT, 1941-1957

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With notes of judicial decisions affecting sections of the reprinted Acts



## **BUSH FIRES ACT, 1933-1957.**

BEING

BUSH FIRES ACT, 1933, No. 2139 OF 1933 [ASSENTED TO  
7<sup>TH</sup> DECEMBER, 1933.]

AS AMENDED BY

CRIMINAL LAW CONSOLIDATION ACT, 1935, No. 2252 OF 1935  
[ASSENTED TO 21<sup>ST</sup> DECEMBER, 1935.]

BUSH FIRES ACT AMENDMENT ACT, 1935, No. 2258 OF 1935  
[ASSENTED TO 2<sup>ND</sup> JANUARY, 1936.]

BUSH FIRES ACT AMENDMENT ACT, 1939, No. 27 OF 1939  
[ASSENTED TO 14<sup>TH</sup> DECEMBER, 1939.]

BUSH FIRES ACT AMENDMENT ACT, 1941, No. 24 OF 1941  
[ASSENTED TO 13<sup>TH</sup> NOVEMBER, 1941.]

BUSH FIRES ACT AMENDMENT ACT, 1942, No. 30 OF 1942  
[ASSENTED TO 26<sup>TH</sup> NOVEMBER, 1942.]

BUSH FIRES ACT AMENDMENT ACT, 1945, No. 19 OF 1945  
[ASSENTED TO 13<sup>TH</sup> DECEMBER, 1945.]

BUSH FIRES ACT AMENDMENT ACT, 1946, No. 33 OF 1946  
[ASSENTED TO 19<sup>TH</sup> DECEMBER, 1946.]

BUSH FIRES ACT AMENDMENT ACT, 1950, No. 23 OF 1950  
[ASSENTED TO 9<sup>TH</sup> NOVEMBER, 1950.]

BUSH FIRES ACT AMENDMENT ACT, 1952, No. 44 OF 1952  
[ASSENTED TO 4<sup>TH</sup> DECEMBER, 1952.]

BUSH FIRES ACT AMENDMENT ACT, 1955, No. 58 OF 1955  
[ASSENTED TO 8<sup>TH</sup> DECEMBER, 1955.]

BUSH FIRES ACT AMENDMENT ACT, 1956, No. 25 OF 1956  
[ASSENTED TO 15<sup>TH</sup> NOVEMBER, 1956.]

AND

BUSH FIRES ACT AMENDMENT ACT, 1957, No. 48 OF 1957  
[ASSENTED TO 14<sup>TH</sup> NOVEMBER, 1957.]

**An Act to make better provision for the prevention and control of bush fires and other fires, and for other purposes.**

**BE IT ENACTED** by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

**1.** This Act may be cited as the "Bush Fires Act, 1933-1957". Short title.

Repealing  
provision.

2. The Acts mentioned in the schedule are hereby repealed.

Interpretation.  
1123, 1913,  
s. 2.

3. (1) In this Act, unless a contrary intention clearly appears—

“area” means a municipality or district council district :

“council” means a municipal council or district council :

Inserted by  
24, 1941, s. 2.

“producer gas” means gas which is produced by the incomplete combustion of solid fuel and whose active constituent is chiefly carbon monoxide, but does not include gas produced at a fixed station and distributed through mains for consumption at a distance from the place of production :

Inserted by  
24, 1941, s. 2.

“producer gas equipment” means equipment for the production of producer gas or for conducting producer gas to an engine :

“scrub” includes trees, bushes, plants, and undergrowth of all kinds and sizes, whether alive or dead, and whether standing or not standing, and also includes any parts of any trees, bushes, plants, or underwood, and whether severed therefrom or not so severed, but does not include trees of such kinds or sizes as the Governor, by proclamation, declares not to be scrub within the meaning of this Act :

“stubble” includes stubble, hay, straw, grass, and herbage, whether alive or not alive, and whether standing or not standing.

(2) Wherever in this Act a period between one specified date and another specified date is fixed, such period does not include either of the said specified dates.

Advisory  
Committee.

Inserted by  
27, 1939,  
s. 2 and  
amended by  
19, 1945, s. 2.

3a. (1) There shall be a committee to be called the “Bush Fires Advisory Committee.”

(2) There shall be nine members of the committee who shall from time to time be appointed by the Governor on the recommendation of the Minister. One of the said members shall from time to time be appointed by the Governor on the said recommendation, as the chairman of the committee. One of the said members shall be a person who is a representative of the South Australian Railways Commissioner.

(3) The committee shall—

(a) report to the Minister from time to time as to the best means to be taken for preventing or extinguishing bush fires :

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

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

(4) The Minister may pay to any member of the committee any travelling or other expenses incurred by the member in the exercise of his office.

4. (1) Subject to subsections (2), (3), and (4), no person shall during the period between the fifteenth day of October and the first day of the following February, burn any stubble standing on any land, or light or maintain any fire with the intention of burning any stubble standing on any land.

Burning of stubble between 15th October and 1st February.  
1123, 1913, s. 6.  
1768, 1926, s. 2.  
2023, 1931, s. 3.

(2) Where the stubble is burned or the fire is lighted and maintained only for the purpose of clearing strips of land to act as firebreaks for preventing the spread of fire, it shall not be deemed a contravention of this section, provided that all the following conditions are strictly observed, namely :—

I. None of the strips shall be more than two chains in width at any part thereof :

II. Before the fire is lighted, the land immediately adjoining each strip shall, throughout the whole length of each side of such strip, either be ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet :

Amended by 27, 1939, s. 3 (a) and by 19, 1945, s. 3 (1) (a).

III. Not less than six hours before the fire is lighted, notice of intention to burn the strips, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the field or place wherein the strips are situated, who reside within five miles of such field or place. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall

Amended by 2258, 1935, s. 2 (a).

s. 4. ROBERTS v. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austn. Digest 127. Notwithstanding compliance with the section a person lighting a fire does not escape liability for any injury occasioned by the fire.

VERRAN v. ROBERTS (1938) S.A.S.R. 256. Where the defendant omitted to give notice to an adjoining occupier but complied with the other requirements of subsection (2) held that, in the particular circumstances, the complaint was rightly dismissed on the ground of triviality.

in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining a field or place as aforesaid notwithstanding that they are separated by a road :

Amended by  
23, 1950,  
s. 3 (1).

IV. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated, and to the nearest fire control officer of such area :

Inserted by  
27, 1939,  
s. 7 (1).

IVa. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest :

v. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the strips :

Amended by  
27, 1939,  
s. 3 (b).

VI. No such fire shall be lighted before twelve o'clock noon, and every such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day :

Inserted by  
27, 1939,  
s. 3 (c).

VII. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Amended by  
27, 1939,  
s. 3 (d) and  
(e), and by  
30, 1942, s. 2.

(3) It shall not be deemed a contravention of this section if a council causes stubble to be burnt, or a fire lighted and maintained for the purpose of burning any stubble on any street, road, or reserve vested in or under the control of the council or (with the consent in writing of the Commissioner of Crown Lands) on any travelling stock reserve in any case where all the following conditions are strictly observed, namely :—

At least four men shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place ; and during the said time the council shall provide adequate fire fighting appliances and an adequate supply of water in order to prevent any spread of fire.

(4) It shall not be deemed a contravention of this section if a person burns stubble or lights or maintains a fire for the purpose of burning any stubble in or on any irrigation channel or lucerne field in any case where the consent of the council or body corporate exercising the powers of a council in the part of the State in which the land is situated is obtained to such

burning and all the following conditions and all such further conditions as the said council or body corporate may prescribe are strictly observed, namely:—

I. Before the fire is lighted the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall, throughout the whole length of every such side, either be ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet :

Amended by  
19, 1945,  
s. 3 (1) (b).

II. Not less than six hours before the fire is lighted, notice of intention to burn the stubble shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon the burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road :

Amended by  
2255, 1935,  
s. 2 (b).

IIA. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest :

Inserted by  
27, 1939,  
s. 7 (1).

III. At least four men shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place :

IV. No such fire shall be lighted before twelve o'clock noon, and every such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day :

Amended by  
27, 1939,  
s. 3 (f).

v. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Inserted by  
27, 1939,  
s. 3 (g).

(4a) The council may by permit in writing given in any particular case, authorize the lighting of a fire without paragraphs II or v of subsection (2) or paragraphs I or III of subsection

Inserted by  
53, 1955, s. 2.

(4) being fully complied with but subject to such conditions as are specified by the council in the permit. Every such permit shall specify the conditions upon which the fire may be lighted.

It shall be a defence to any proceedings for a contravention of paragraph II or paragraph V of subsection (2) or of paragraph I or paragraph III of subsection (4) if proof is given that the fire was lighted in accordance with a permit in writing given as aforesaid.

Amended by  
23, 1950,  
s. 2 (1),  
and by 58,  
1955, s. 16.

(5) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not more than one hundred pounds and for every subsequent offence of not more than two hundred pounds.

Burning of  
stubble  
between 31st  
January and  
15th May.  
1123, 1913,  
s. 7,  
1768, 1926,  
s. 3.

5. (1) No person shall during the period between the thirty-first day of January and the fifteenth day of the following May, burn any stubble standing on any land, or light or maintain any fire with the intention of burning any stubble standing on any land, except subject to all the following conditions, namely :—

Amended by  
19, 1945,  
s. 3 (2).

I. Before the fire is lighted, the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall, throughout the whole length of every such side, either be ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet :

Amended by  
2253, 1935,  
s. 3.

II. Not less than six hours before the fire is lighted, notice of intention to burn the stubble, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon the burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as

aforesaid notwithstanding that they are separated by a road :

III. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated and to the nearest fire control officer of such area : Amended by 23, 1950, s. 3 (2).

IIIa. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest : Inserted by 27, 1939, s. 7 (2).

IV. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place :

V. No such fire shall be lighted before twelve o'clock noon, and any such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day : Amended by 27, 1939, s. 4 (a).

VI. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble. Inserted by 27, 1939, s. 4 (b).

(1a) The council may by permit in writing given in any particular case, authorize the lighting of a fire without paragraphs I, IV or V of subsection (1) being fully complied with but subject to such conditions as are specified by the council in the permit. Every such permit shall specify the conditions upon which the fire may be lighted. Inserted by 58, 1955, s. 5.

It shall be a defence to any proceedings for a contravention of paragraph I, paragraph IV or paragraph V of subsection (1), if proof is given that the fire was lighted in accordance with a permit in writing given as aforesaid.

(2) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds, and for every subsequent offence of not more than one hundred pounds. Amended by 23, 1950, s. 2 (2), and by 58, 1955, s. 16.

5a. It shall not be deemed a contravention of section 4 or section 5 if any person burns any stubble on any land or lights or maintains any fire with the intention of burning any stubble or if any council causes stubble to be burnt or a fire lighted or maintained for the purpose of burning any stubble on any street, road or reserve vested in or under the control of the council if, prior to the stubble being burnt or the fire lighted or maintained, permission in writing is obtained from the Minister for the purpose, and if all conditions specified by the Minister are fully complied with. The permission of Power of Minister to authorize burning of stubble. Inserted by 30, 1942, s. 3.

the Minister aforesaid may be given subject to such conditions as the Minister thinks sufficient or proper in the circumstances of the case. If application for permission as aforesaid is made by other than a council and if the land in respect of which the application is made is situated within an area, the Minister shall not give permission as aforesaid except upon the recommendation of the council of the area.

Burning of stubble in irrigation or drainage channels.  
Inserted by 44, 1952, s. 2.

**5b.** (1) It shall not be a contravention of section 4 or section 5 if any person burns any stubble or lights or maintains a fire for the purpose of burning any stubble in or on any irrigation channel situated within any ratable land in an irrigation area or in or on any drainage channel situated within any ratable land in an irrigation area if the following conditions are complied with, namely :—

- I. Before the fire is lighted the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet :
- II. Not less than six hours before the fire is lighted, notice of intention to burn the stubble, stating the date and the probable time at which the fire is to be lighted, shall be given to the clerk of the area in which the land is situated.

(2) In this section “irrigation area” means an irrigation area as defined by section 6 of the Irrigation Act, 1930-1946, and “ratable land” means ratable land as defined by the said section.

Burning of stubble in township allotments.  
Inserted by 58, 1955, s. 4.

**5c.** (1) It shall not be a contravention of section 4 or section 5 if any person burns any stubble or lights or maintains a fire for the purpose of burning any stubble on any allotment of land situated within a municipality or township within a district council district if—

- (a) prior to the lighting of the fire, the council has issued to that person a permit in writing to light the fire ;
- (b) all the conditions of the permit are fully complied with ; and
- (c) at least six hours prior to lighting the fire the person has given notice of his intention to light the fire to the person in charge of the fire brigade nearest to the allotment or to the fire control officer resident nearest to the allotment.

(2) The council may issue any such permit subject to such conditions as are thought fit by the council.

**5d.** It shall not be a contravention of section 4 or section 5 if a person burns any stubble on any land or lights or maintains a fire for the purpose of burning any stubble on any land if—

Burning of stubble by direction of Chief Officer of Fire Brigades.

(a) the fire is lighted in accordance with the direction of the Chief Officer of Fire Brigades or the Deputy Chief of Fire Brigades within the meaning of the Fire Brigades Act, 1936-1944 ; and

Inserted by 58, 1955, s. 4.

(b) any condition specified by the Chief Officer of Fire Brigades or, as the case may be, the Deputy Chief Officer of Fire Brigades when giving the direction aforesaid are fully complied with.

**6.** In any case where it is necessary to use a fire-rake in order to burn any stubble on any land, the occupier of such land may, with the consent of a fire control officer, burn such stubble during any period to which section 4 or section 5 applies, and in any such case the provisions of sections 4 and 5 shall not apply to any such burning : Provided that before the fire is lighted there is around the land upon which the fire is to be lighted a space cleared of all inflammable material to a width of twelve feet or a space ploughed to a width of six feet.

Burning of stubble without restriction under certain conditions.

**7.** (1) Any person who, during the period between the fifteenth day of October and the first day of the following February, burns any scrub on any land, or lights or maintains any fire with the intention of burning any scrub on any land, shall be guilty of an offence and liable to a penalty for a first offence of not more than one hundred pounds, and for every subsequent offence of not more than two hundred pounds.

Burning of scrub between 15th October and 1st February.  
1123, 1913, s. 8.

Amended by 58, 1955, s. 16.

(2) It shall not be deemed a contravention of this section if scrub is burnt on any land if permission in writing is, prior to the burning, obtained from the Minister for the purpose and if any conditions specified by the Minister in the permission in writing are fully complied with.

Inserted by 27, 1939, s. 5 and amended by 58, 1955, s. 5.

**8.** (1) No person shall, during the period between the last day of January and the first day of the following May, burn any scrub on any land, or light or maintain any fire with the intention of burning any scrub on any land, except subject to all the following conditions, namely :—

Burning of scrub between end of January and 1st May.  
1123, 1913, s. 9.

1768, 1926, s. 4.

2023, 1931, s. 4.

- i. Before the fire is lighted, a space of at least fifteen feet in width immediately adjoining on all sides the whole of the land whereon such burning is to take place, and throughout the whole length of every such side, shall be cleared of all scrub, stubble, and other inflammable material :

Para. I amended by 27, 1939, s. 6, and by 19, 1945, s. 3 (3).

Amended by  
2258, 1935,  
s. 4.

II. Not less than six hours before the fire is lighted, notice of intention to burn the scrub, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon such burning is to take place, who resides within five miles of the last mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road :

Amended by  
23, 1950,  
s. 3 (3).

III. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated, and to the nearest fire control officer of such area :

Inserted by  
27, 1939,  
s. 7 (3).

IIIA. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest :

IV. Not less than fourteen days before a fire is lighted for the purpose of burning an area of scrub of more than five hundred acres, notice of intention to burn the scrub shall, if the land is situated within an area, be given to the council thereof :

V. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place :

In any case where notice is given to a council pursuant to paragraph IV, and the council or mayor or chairman thereof is of opinion that more than four men will be necessary in order to control the fire and prevent it from spreading as aforesaid, the council or mayor or chairman may not later than ten days after the giving of the notice as aforesaid, give notice to the person aforesaid directing him to have present at the fire such number of men (but not exceeding three) additional to those hereinbefore provided for as the council or mayor or chairman thinks fit :

VI. The fire shall be first lighted from the leeward side of the scrub to be burnt before the fire shall be lighted from the windward side of such scrub :

VII. No such fire shall be lighted before twelve o'clock noon.

(2) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds, and for every subsequent offence of not more than one hundred pounds.

Amended by  
23, 1950,  
s. 2 (3) and by  
58, 1955, s. 16.

(3) It shall not be deemed a contravention of this section if any person burns any scrub on any land or lights or maintains any fire with the intention of burning any scrub if prior to the scrub being burnt or the fire lighted or maintained, permission in writing is obtained from the Minister for the purpose and if all conditions specified by the Minister in the permission in writing are fully complied with. The permission of the Minister aforesaid may be given subject to such conditions as the Minister thinks sufficient or proper in the circumstances of the case.

Inserted by  
30, 1942, s. 4.

(4) The council may by permit in writing given in any particular case, authorize the lighting of a fire without paragraphs I, V, or VII of subsection (1) being fully complied with but subject to such conditions as are specified by the council in the permit. Every such permit shall specify the conditions upon which the fire may be lighted.

Inserted by  
58, 1955, s. 6.

It shall be a defence to any proceedings for a contravention of paragraph I or paragraph V or VII of subsection (1) if proof is given that the fire was lighted in accordance with a permit in writing given as aforesaid.

**8aa.** The council may from time to time appoint from its members a committee consisting of two or more members and may delegate to the committee the power to grant permits under subsection (4a) of section 4, subsection (1a) of section 5, section 5c, and subsection (4) of section 8 and every permit granted by any such committee shall for the purposes of this Act be deemed to be granted by the council.

Delegation of  
power by  
council.

Inserted by  
48, 1957, s. 2.

**8a.** Notwithstanding the provisions of paragraph VI of subsection (2) or paragraph IV of subsection (4) of section 4 or of paragraph V of subsection (1) of section 5 or of paragraph VII of subsection (1) of section 8, a fire control officer authorized for the purpose by a council may authorize any person to light a fire before twelve o'clock noon for the purpose of burning stubble or scrub on any land in the area of the council which

Power to  
authorize  
burning of  
stubble or  
scrub before  
12 o'clock  
noon.

Inserted by  
19, 1945, s. 4.

adjoins any land of the South Australian Railways Commissioner in any case where the fire control officer is satisfied that, at the same time as the stubble or scrub aforesaid will be burnt, stubble or scrub will also be burnt upon the land of the South Australian Railways Commissioner and that the purpose of the burning to be authorized by him is to provide an effective fire break between the land of the South Australian Railways Commissioner and the said land. It shall not be deemed a contravention of sections 4, 5, or 8 if a fire is lighted before twelve o'clock noon in accordance with this section if the other provisions of sections 4, 5, or 8, as the case may require, applicable thereto are complied with.

Burning of  
scrub with  
fire rake.  
Inserted by  
44, 1952, s. 3.

**8b.** In any case where it is necessary to use a fire rake in order to burn any scrub on any land, the occupier of such land may, with the consent of a fire control officer, burn such scrub during any period to which section 8 applies, and in any such case the provisions of paragraphs i and v of subsection (1) of section 8 shall not apply to any such burning: Provided that before the fire is lighted there is around the land upon which the fire is to be lighted a space cleared of all inflammable material to a width of two chains.

Fires for  
charcoal  
burning  
between 31st  
October and  
1st May.  
1123, 1913,  
s. 11.  
1768, 1926,  
s. 5.  
Amended by  
58, 1955, s. 16.

**9.** Any person who lights, uses, or maintains any fire in the open air for the purpose of making charcoal or lime during the period between the thirty-first day of October and the first day of the following May, unless either—

- (a) a space of ground immediately round the pit or place in which the fire is situated, of the width of fifty feet at least in all parts, has before the fire is lighted been cleared, and is until the fire is completely extinguished, kept clear, of all stubble, scrub, and other inflammable material; or
- (b) the fire is enclosed in a kiln of brick, iron, stone, or earth, so constructed as to prevent the escape of fire or any burning material therefrom,

shall be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds; and for every subsequent offence, of not more than one hundred pounds.

Occupier of  
land *prima*  
*facie* liable  
for fire thereon.  
1123, 1913,  
12.

**10.** (1) Every occupier of any land whereon any offence under sections 4, 5, 7, 8, or 9 is committed shall be deemed guilty of such offence, unless he satisfies the court hearing the charge against him that the offence was not committed by him or by his authority.

s. 10. McINNES v. WARDLE (1931) 45 C.L.R. 548; 38 A.L.R. 230; 9 Austn. Digest 131, affirming WARDLE v. McINNES (1930) S.A.S.R. 450. As to the civil liability of an occupier where an offence is committed by an independent contractor.

(2) Nothing in this section shall be deemed to affect the liability of the actual perpetrator of the offence in respect of such offence.

11. (1) With the approval in writing of the Minister the council of any area may, as regards such area or any portion thereof, and the Minister may, as regards any part of the State (defined in a notice under subsection (2) hereof) which is not within any area, alter the periods or the hours, or the distances, or of any of them, mentioned in sections 4, 5, 7, 8, 9, 13, or 20, or any of those sections, and may by any such alteration fix earlier or later and longer or shorter periods or hours, or greater distances, or all or any of such altered periods and hours and distances.

Power to alter periods and hours for burning. 1123, 1913, s. 13. 1768, 1926, s. 6. Subsec. (1) amended by 27, 1939, s. 8, and by 44, 1952, s. 4 (a).

The power conferred by this section shall include power to provide that stubble may be burnt as provided by section 5 during any period either before or after or both before and after any period during which section 4 applies, and to provide that scrub may be burnt as provided by section 8 during any period either before or after or both before and after any period during which section 7 applies.

(2) No such alteration shall have any force until notice thereof has been—

Amended by 19, 1945, s. 5.

(a) published once in the *Government Gazette*, and once in some newspaper circulating in the area or defined part of the State; and

(b) in the case of an alteration made by a council, affixed for at least seven days on the front door or the notice board of the council making such alteration.

(3) Upon such publication and affixing, such alteration shall have the force of law within such area or portion thereof or defined part of the State, and shall therein have the same effect as if the periods and hours and distances fixed thereby were respectively fixed by such of the said sections 4, 5, 7, 8, 9, 13, or 20, as is or are applicable.

Amended by 27, 1939, s. 8 (d) and by 44, 1952, s. 4 (b).

(4) In every case where the Minister is of opinion that the alteration of periods, hours or distances as the case may be, to be made pursuant to any notice given under this section (whether given by a council or by the Minister) should have effect only for a time to be stated in the notice, the Minister may give directions in writing fixing the time during which the alterations shall continue and the time so fixed shall be stated in the notice aforesaid. Upon the expiration of the time so fixed, the periods, hours or distances, as the case may be, shall revert to the periods, hours, or distances, as the case

Substituted by 23, 1950, s. 4.

may be, which applied within the area, or portion thereof, or part of the State, as the case may be, immediately prior to the notice taking effect.

Inserted by  
27, 1939,  
s. 8 (e)

(5) In the case of an alteration by a council, the clerk of the council shall, after the notices provided for in subsection (2) or (4) have been given, furnish to the Minister a certificate that such notices have been given.

Inserted by  
58, 1955, s. 7,  
and amended  
by 25, 1956,  
s. 2.

(6) In any case where the council is of opinion that the seasonal conditions warrant a variation of the periods mentioned in section 4, 5, 7, 8, 9, 13 or 20, or any of those sections, the council, after consulting with the Conservator of Forests (if any Government forest is situated within the area of the council), may by resolution —

- (a) declare that the said periods or any of them shall, in respect of the area of the council or any part of the area, commence on a date not more than fourteen days earlier or not more than fourteen days later than the commencing date mentioned in the section to which the declaration relates ;
- (b) postpone for a period of up to fourteen days the final date of any such period in respect of the area of the council or any part thereof.

No such resolution shall have any force until notice thereof has been—

- (i) published once in some newspaper circulating in the area ; and
- (ii) displayed for at least seven days at the town office or district office of the council.

Notice of every such resolution shall forthwith after the passing thereof be forwarded by the council to the Minister.

This subsection shall authorize the council to vary the periods mentioned in sections 4, 5, 7, 8, 9, 13 or 20, or any of those sections, whether the period so varied is specified in such section or whether the period has been altered in manner provided by the preceding subsections of this section.

The power provided by this subsection to vary the periods mentioned in section 5 or section 8, shall not be exercised so that a period fixed under this subsection in respect of either of the said sections commences before the completion of the period fixed under section 4, or, as the case may be, section 7, whether that period is fixed by either of the said sections or by an alteration thereof made pursuant to the preceding subsections of this section.

**12.** (1) Notwithstanding any provision of this Act, any person who under any conditions lights any fire at any time on any Sunday, for any of the purposes mentioned in sections 4, 5, 7, 8, or 9, shall be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds, and for every subsequent offence, of not more than one hundred pounds.

Fires not to be lighted on Sunday.

1123, 1913, s. 14.

Amended by 58, 1955, s. 16.

(2) The council may make by-laws prohibiting the lighting of fires at any time on any Saturday or public holiday for any of the purposes mentioned in sections 4, 5, 7, 8 or 9.

Inserted by 58, 1955, s. 8.

All by-laws made pursuant to this subsection shall be made in manner prescribed by and be subject to the provisions of Division I of Part XXXIX of the Local Government Act, 1934-1954.

**12a.** (1) If a fire control officer authorized to give directions under this section by the council in the area of which any land is situated is satisfied—

Power of fire control officer to prevent burning.

Inserted by 19, 1945, s. 6.

(a) that, during any period during which section 4, 5, 7, 8, or 9 has effect, any person proposes to light any fire upon that land for any purpose mentioned in section 4, 5, 7, 8, or 9, as the case may be, or has lighted a fire for such a purpose; and

(b) that because of the weather conditions then prevailing, there would be danger of the fire becoming out of control,

the fire control officer so authorized, may, by notice in writing given to that person, direct that that person shall, on the day specified in the notice, refrain from lighting the fire, or as the case may be, shall take all reasonable steps to extinguish any fire already lighted.

(2) Any person who fails to comply with any such notice shall be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds and for every subsequent offence shall be liable to a penalty of not more than one hundred pounds or to imprisonment for a term of not more than three months or to both such penalty and imprisonment.

Amended by 58, 1955, s. 16.

**13.** (1) Any person who, during the period between the thirty-first day of October and the first day of the following May—

Fires for purposes other than those mentioned in sections 4 to 9.

1123, 1913, s. 15.

1768, 1926, s. 7.

2023, 1931, s. 5.

Amended by 58, 1955, s. 16.

(a) lights, uses, or maintains any fire in the open air for any purpose whatever, except those mentioned in sections 4, 5, 7, 8, and 9, unless a space of ground immediately around such fire of the width of twelve feet at least in all parts has been previously

s. 13. *OPIE v. MOUNT* (1942) S.A.S.R. 35. A fire lit out of doors in a tank having one open side and a hole in the top is a fire in the open air within the meaning of section 13.

cleared of all stubble, scrub, and other inflammable material; or

- (b) having lighted, used, or maintained any fire in the open air, neglects to completely extinguish such fire before leaving the same,

shall be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds, and for every subsequent offence of not more than one hundred pounds.

Inserted by  
27, 1939,  
s. 9 (a) and  
amended by  
44, 1952,  
s. 5, and by  
58, 1955, s. 16.

(1a) The council may by resolution published in the *Government Gazette*, declare that within the part of the area defined in the resolution, the lighting of fires in the open during the period between the thirty-first day of October and the first day of the following May, or during any other period specified in the resolution shall be prohibited except in a place or places to be specified in the resolution.

Any person who during the period specified in the resolution and within any such specified part of the area, lights any fire in the open in any place other than in a place specified in the resolution shall (notwithstanding compliance with paragraph (a) of subsection (1) of this section) be guilty of an offence and liable to a penalty for a first offence of not more than fifty pounds, and for any subsequent offence of not more than one hundred pounds.

(2) Nothing in this section shall be construed as varying any of the provisions of any of the sections mentioned in subsection (1).

Inserted by  
27, 1939,  
s. 9 (b).

(3) It shall be a defence to any proceedings under paragraph (a) of subsection (1) to show—

- (a) that the fire was lighted in any orchard or vineyard for the purpose of smudging for insect pests or the prevention of damage by frost or any other purpose prescribed by regulation; and
- (b) that at the time the fire was lighted, a space of ground immediately around the fire of the width of twelve feet was clear of all inflammable material, except fruit trees or vines or both.

Warning of  
day of extreme  
fire hazard.

Cf. Vic. 5040,  
1944, s. 41,  
Cf. Vic. 5191,  
1946, s. 29.

Inserted by 23,  
1950, s. 5 and  
substituted by  
58, 1955, s. 9  
and amended  
by 56, 1956,  
s. 3.

**13a.** (1) Whenever the Minister or a person authorized by the Minister pursuant to this section is of opinion that it is desirable so to do, the Minister or person authorized as aforesaid may cause to be broadcast from a broadcasting station in the State a warning of the likelihood of the occurrence of weather conditions conducive to the spread of bush fires in the whole of the State or any part of the State and a prohibition of the lighting and maintaining of fires in the open within the whole State or within any part of the State.

(2) Any person who on the day any such warning and prohibition is broadcast, lights, maintains, or permits to remain alight, any fire in the open contrary to the prohibition shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

(3) The Minister may, in writing, authorize any person as aforesaid, and may, in writing, withdraw any such authority.

(4) In any proceedings for an offence against this section, a certificate purporting to be signed by the Minister to the effect that a warning and prohibition were broadcast pursuant to this section from a broadcasting station in the State in respect of any specified day and in respect of the whole of the State or any specified part thereof shall be *prima facie* evidence of the facts set out therein.

**13b.** (1) It shall be a defence to any proceedings for an offence against section 13a if the defendant gives proof that the fire was lighted in accordance with a permit from persons duly appointed for the purpose (hereinafter in this section referred to as "authorized persons") to light a fire on the particular day for the purpose of burning scrub or newly cleared land.

Exemption  
from  
provisions of  
s. 13a.  
Inserted by  
48, 1957 s. 3.

(2) The council may, with the approval in writing of the Minister appoint any persons as authorized persons for the purpose of this section. The Minister shall not give any such approval unless he is satisfied that it is in the public interests so to do and that the councils of all areas adjoining the area of the council making the appointment agree thereto. Any such approval may be withdrawn by the Minister at any time.

(3) Every such permit shall be issued jointly by two authorized persons and shall be in writing in the form prescribed by regulation and be subject to such conditions as are set out in that form and may be granted subject to such other conditions, additional to those prescribed by this Act, as the authorized persons deem necessary.

(4) No permit shall be issued in respect of any day within any period during which, pursuant to section 4 or section 7, the lighting of fires is prohibited.

(5) An authorized person shall not issue a permit unless he is satisfied that it would be unlikely that the applicant could satisfactorily burn the scrub or newly cleared land in question on any other day.

(6) Every permit shall be made out in quadruplicate and a copy shall be supplied by one of the authorized persons

by whom it is issued to the holder of the permit, the clerk of the council, the nearest member of the police force, and the Minister, and the authorized person shall inform the said clerk and member of the police force either orally or by telephone of the issue of the permit as soon as practicable after the issue thereof.

Ignitable wadding prohibited from 30th September to 1st May.

1123, 1913, s. 16.

1768, 1926, s. 8.

Amended by 58, 1955, s. 16.

14. (1) Any person who, during the period between the thirtieth day of September and the first day of the following May, uses for the wadding of any gun, rifle, pistol, or other firearm used or carried by him, any paper, cotton, linen, or other ignitable substance, shall be guilty of an offence and liable to a penalty of not more than twenty-five pounds.

(2) If any person, within the period mentioned in subsection (1) hereof, uses or carries any gun, rifle, pistol, or other firearm upon or over the land of any other person, the owner or occupier of such land, or his servant or agent, or any member of the police force, may examine such gun, rifle, pistol, or other firearm, for the purpose of ascertaining the nature of the wadding used therein; and the person using or carrying such gun, rifle, pistol, or firearm who—

- (a) refuses to allow such examination; or
- (b) upon the occasion of such examination refuses to disclose his name and address, or either, to such owner or occupier, or servant or agent; or
- (c) gives a false name and address, or either,

shall be guilty of an offence and liable to a penalty of not more than twenty-five pounds.

Using stationary engine in open.

Substituted by 23, 1950, s. 6, and amended by 58, 1955, s. 16.

15. (1) If—

- (a) any person drives or uses in a stationary position any steam engine or internal combustion engine (other than a steam engine or internal combustion engine which is enclosed on all sides with non-inflammable material); and

(b) either—

- (i) a space of ground around the engine to a width of twelve feet at least is not cleared of all stubble, scrub, and other inflammable material; or
- (ii) some person is not present during the whole time the engine is driven or used; and

- (c) there is not provided with the engine during the time it is driven or used an effective water spray of the

knapsack pattern fully charged with water and a shovel,

the said person if whilst so driving or using the steam engine or internal combustion engine, he fails to comply with the provisions of either or both of paragraphs (b) and (c) hereof, and also any other person who causes the said person to so drive or use the steam engine or internal combustion engine, shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

(2) if—

- (a) any person drives or uses in a stationary position any internal combustion engine and the engine is enclosed on all sides with non-inflammable material ; and
- (b) any exhaust pipe from the engine projects outside the non-inflammable material ; and
- (c) the engine is not equipped with an effective spark arrester or muffler,

the said person and also any other person who causes the said person to so drive or use the internal combustion engine shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

**15a.** (1) Any person who, during the period between the thirtieth day of September and the first day of the following May, in the open air—

- (a) lights any fire in any producer gas equipment ; or
- (b) opens any entrance (other than any entrance used for the insertion of fuel) to any producer gas equipment which contains live coals, hot ashes, or any material from which sparks or fire may be emitted,

shall be guilty of an offence unless the space of ground immediately around the producer gas equipment and to a distance of twelve feet at least in all directions is clear of all stubble, scrub and other inflammable material.

(2) Any person who, during the period between the thirtieth day of September and the first day of the following May, whilst on any road outside of any municipality or township, empties from any gas producer equipment any live coals, hot ashes, or any material from which sparks or fire may be emitted, shall be guilty of an offence unless the live coals, hot

Use of  
producer gas  
equipment.  
Inserted by  
24, 1941, s. 3  
and amended  
by 58, 1955.

s. 15a. *TOLMER v. DARLING AND ANOTHER* (1943) S.A.S.R. 81. Where a motor car fitted with a gas producer was driven along a public road and over a deep drain at a speed of about ten miles per hour and a bolt and other parts of the hopper of the producer in which the live charcoal was placed came in contact with a stone or other obstacle causing damage to the hopper door and the escape of the charcoal, *quære* whether an offence against section 15a was committed.

ashes, or material is emptied into a receptacle containing water sufficient to extinguish completely the coals, ashes or material.

(3) Any person who, during the period between the thirtieth day of September and the first day of the following May, in the open air opens or empties or carries out any operation with respect to any part of any gas producer equipment so that there is emitted from the gas producer equipment any live coals, hot ashes, or any material from which sparks or fire may be emitted, shall be guilty of an offence unless the live coals, hot ashes or other material is immediately and completely extinguished.

(4) Any person who, during the period between the thirtieth day of September and the first day of the following May, in the open air—

(a) operates any producer gas equipment which is not fitted and mounted so as to prevent effectively the escape of fire, sparks, grit, cinders, ashes, coals and burning gas ; or

(b) operates any gas producer equipment which is so constructed that during the operation thereof any outside surface thereof is likely to reach a temperature sufficient to ignite any stubble, grass, leaves, wood, or other inflammable material which may come into contact therewith,

shall be guilty of an offence.

(5) Any person guilty of an offence against this section shall be liable to a penalty for a first offence of not more than fifty pounds, and for any subsequent offence of not more than one hundred pounds.

Prohibition of use on roads during summer months of vehicles fitted with producer gas equipment.

Inserted by 19, 1945, s. 8, and amended by 33, 1946, s. 2 and by 58, 1955, s. 16.

**15b.** (1) Any person who during the period between the thirty-first day of October and the following first day of March drives or causes to be driven on any street or road within any part of the State to which this section applies any vehicle which, at the time it is so driven, is wholly or partly propelled by means of producer gas, shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

(2) The Governor may by proclamation from time to time declare that this section shall apply within any part of the State specified in the proclamation. The Governor may by proclamation revoke or vary any such proclamation. In any proceedings for an offence against subsection (1) the allegation in the complaint that any street or road is within any part of the State to which this section applies shall, in

the absence of proof to the contrary, be sufficient evidence that the street or road is within a part of the State to which this section applies.

(3) If in any proceedings for an offence against subsection (1) evidence is given that, at the time of the commission of the alleged offence, any vehicle was equipped with any producer gas equipment and that at the said time a fire was alight in the producer gas equipment or the producer gas equipment contained any live coals or other incandescent material, the vehicle shall be deemed to have been propelled at the time aforesaid by means of producer gas.

16. Any person who during the period between the thirty-first day of October and the following first day of May, lights or maintains any fire in any appliance which is used for the purpose of taking honey from any beehive or lights or maintains any fire in any honey-house shall be guilty of an offence and liable to a penalty of not more than fifty pounds unless around the beehive or honey-house or around the apiary in which the beehive or honey-house is situated there is a space cleared of all inflammable material to a width of twelve feet or a space ploughed to a width of six feet.

Duty of beekeepers to clear space.  
Amended by 58, 1955, s. 16.

17. (1) Any person who uses any internal combustion engine for the purpose of harvesting any inflammable crop shall be guilty of an offence and liable to a penalty of not more than fifty pounds unless such internal combustion engine is fitted with an effective spark arrester and unless there is carried with the internal combustion engine an effective water spray of the knapsack pattern fully charged with water and a shovel.

Use of internal combustion engines in harvesting operations.  
Amended by 27, 1939, s. 10, by 19, 1945, s. 9 (a), by 23, 1950, s. 7 (a), and by 58, 1955, s. 16.

(2) Any person who uses any producer gas equipment for the purpose of reaping or cutting any inflammable crop shall be guilty of an offence and liable to a penalty of not more than fifty pounds unless the whole of the area to be so reaped or cut is bounded by one or other of the following, namely :—

Inserted by 30, 1942, s. 5, and amended by 19, 1945, s. 9 (b), and by 58, 1955, s. 16.

- I. A strip of land ploughed to a width of at least twelve feet :
- II. A strip of land cleared of all inflammable material to a width of at least twelve feet :
- III. An irrigation or drainage channel containing water to the width of at least six feet,

and unless there is carried with the producer gas equipment an effective water spray of the knapsack pattern fully charged with water.

Inserted by 30, 1942, s. 5, and amended by 19, 1945, s. 9 (c), and by 58, 1955.

(3) Any person who uses any producer gas equipment for the purpose of removing any inflammable crop from the place where the crop was reaped or cut, shall be guilty of an offence and liable to a penalty of not more than fifty pounds unless there is carried with the producer gas equipment an effective water spray of the knapsack pattern fully charged with water.

Inserted by 33, 1946, s. 3 and substituted by 25, 1956, s. 4.

(4) If any vehicle which is propelled by an internal combustion engine and which is not fitted with an effective spark arrester or muffler, is driven on any land or road through or within six feet of any inflammable stubble or other inflammable material, the person who so drives the vehicle and also any other person who causes the vehicle to be so driven shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

Subsection (5) inserted by 23, 1950, s. 7 (e) and repealed by 25, 1956, s. 4.

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Duty to provide fire extinguisher with caravan.

17a. Any person who during the period between the thirty-first day of October and the first day of the following May, has the possession of any caravan which is used for the purposes of habitation at any place situated outside a municipality and upon which caravan there is not carried an efficient chemical fire extinguisher, shall be guilty of an offence and liable to a penalty not exceeding twenty-five pounds.

Inserted by 44, 1952, s. 6 and amended by 58, 1955, s. 16.

Use of aircraft for spraying.

17b. If any spraying or dusting operation is carried out from any aircraft and if in the course of that operation the aircraft is landed upon any land upon which there is any stubble, the owner of the aircraft shall be guilty of an offence and liable to a penalty not exceeding fifty pounds unless—

Inserted by 58, 1955, s. 10.

- (a) at least one hand or power pump with adequate water and at least two effective water sprays of the knapsack pattern fully charged with water are at the place of landing ; or
- (b) the land on which the aircraft lands is, throughout the whole length of every side of that land, either ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet.

Smoking in the open air near stacks, etc., prohibited. 1123, 1913, s. 17. 1768, 1926, s. 9.

18. Any person who, during the period between the thirty-first day of October and the first day of the following May, smokes in the open air within twenty yards of any stable, or of any rick, stack, or field of hay, corn, straw, stubble, or other inflammable vegetation production, unless—

Amended by 58, 1955, s. 16.

- (a) within a town ; or

(b) with a pipe properly covered,  
shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

19. Any person who, while in any vehicle, during the period between the thirty-first day of October and the first day of the following May, throws out of such vehicle any lighted cigarette or cigar or any live tobacco ash, shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

Penalty for throwing lighted cigarettes, etc. from vehicles.  
Amended by 30, 1942, s. 6, by 23, 1950, s. 3, and by 58, 1955, ss. 11 and 16.

20. Any person who, during the period between the thirtieth day of November and the fourteenth day of the following February lights or maintains any fire in any appliance which is used as a rabbit fumigator, shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

Prohibition on using rabbit fumigator during summer.  
Cf. 2023, 1931, s. 6.  
Amended by 58, 1955, s. 16.

21. Any person who, during the period between the thirty-first day of October and the first day of the following May, employs gunpowder, or any other explosive substance, for the purpose of blasting any tree, wood, or timber, without having at least four men present to prevent any fire from arising therefrom and having near the place where the gunpowder or other explosive substance is employed an effective water spray of the knapsack pattern fully charged with water, shall be guilty of an offence and liable to a penalty of not more than fifty pounds.

Trees not to be blasted between 31st October and 1st May, except under conditions.  
1123, 1913, s. 18.  
1768, 1926, s. 10.  
Amended by 19, 1945, s. 10 and by 58, 1955, s. 16.

21a. (1) A council may, by notice in writing given to the owner of any sawmill or any other premises to which this section applies require the owner to provide and maintain at the sawmill or premises within the time specified in the notice all or any of the following, namely :—

Power to require fire protection at sawmill, etc.  
Inserted by 58, 1955, s. 12 and amended by 48, 1957, s. 4.

- I. A water supply adequate to deal with an outbreak of fire including the quantity of water to be continuously available, where water tanks are to be placed, and the number, type, and position of the outlets and water mains from those tanks;
- II. Such fire-fighting appliances as are specified in the notice ;
- III. Such telephonic communications as are specified in the notice.

(2) If the owner objects to any of the requirements of any such notice, he may appeal therefrom to the local court of full jurisdiction nearest to the sawmill or premises. Every such appeal shall be instituted by a notice of appeal in writing, which shall, within fourteen days after the service of the notice under subsection (1), be served upon the clerk of the council and the clerk of the local court.

(3) The local court shall hear and determine the appeal and shall make such order in the matter as the court deems fit.

(4) The powers conferred by section 28 of the Local Courts Act, 1926-1936, shall include power to make rules relating to appeals under this Act and for regulating the procedure to be followed in such appeals.

(5) If any owner of any sawmill or premises fails to comply with the requirements of any notice given under subsection (1) or of any order made under subsection (3), he shall be guilty of an offence and liable to a penalty not exceeding ten pounds for every day during which that default continues.

(6) The Governor may by proclamation declare that any class of premises shall be premises to which this section applies and may by proclamation revoke or vary any such proclamation.

**22.** (1) The Governor may, by proclamation, prohibit the placing on the ground of the substance or substances specified in the proclamation—

- (a) either at any time or during the periods of the year or the day specified in the proclamation ;
- (b) either anywhere in the State or within areas so specified ;
- (c) either for any purpose or for the purposes so specified ; and
- (d) either absolutely or except under conditions so specified.

(2) The Governor may, by proclamation, rescind, amend, or vary any proclamation made under subsection (1) hereof.

(3) Any proclamation made under this section shall be published—

- (a) in the *Government Gazette* ; and
- (b) if the proclamation is to have effect throughout the State, twice in a newspaper published in Adelaide, or if the proclamation is to have effect only within specified areas, twice in a newspaper circulating in such areas.

(4) Any person who, after the expiration of the period of fourteen days from the latest of the publications of any proclamation required by subsection (3) hereof, does anything contrary to the provisions of such proclamation, shall be guilty of an offence and liable to a penalty for a first offence of not more than ten pounds; and for every subsequent offence of not more than fifty pounds.

Amended by 58, 1955, s. 18.

23. (1) The Governor may, by proclamation, prohibit the sale, offering for sale, distribution, and use of any matches other than those made so as to strike only on a preparation affixed to the box containing the matches, or to a box containing matches of the same description—

Prohibition of sale of matches of certain kinds. 1123, 1913, s. 20.

- (a) either anywhere in the State or within the areas specified in the proclamation :
- (b) during the periods of the year so specified, being between the thirty-first day of October and the first day of the following May.

(2) The Governor may, by proclamation, rescind, amend, or vary any proclamation made under subsection (1) hereof.

(3) Any proclamation made under this section shall be published—

- (a) in the *Government Gazette*; and
- (b) if the proclamation is to have effect throughout the State, twice in a newspaper published in Adelaide, or, if the proclamation is to have effect only in specified areas, twice in a newspaper circulating in such areas.

(4) Any person who, after the expiration of the period of fourteen days from the latest of the publications of any proclamation required by subsection (3) hereof, does anything contrary to the provisions of such proclamation, shall be guilty of an offence and liable to a penalty for the first offence of not more than ten pounds; and for every subsequent offence of not more than fifty pounds.

Amended by 58, 1955, s. 18.

23a. Any member of the police force or any fire control officer, who has reasonable cause to suspect that any person has committed any offence against this Act, may demand that such person disclose his name and address. Any person who upon such demand fails to disclose his name and address or gives a false name or address shall be guilty of an offence and liable to a penalty of not more than twenty pounds.

Power to demand name and address. Inserted by 27, 1939, s. 11 and amended by 58, 1955, s. 16.

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s. 24 repealed by 2252, 1935, s. 4.

Damage by  
fire to dividing  
fence.  
1123, 1913,  
s. 22.

**25.** (1) If the owner or occupier of any land clears the same of all inflammable materials for the space of at least twenty feet from any fence dividing such land from the land of any other owner or occupier ; and

(a) such other owner or occupier does not clear his land contiguous to the said fence for the space of at least twenty feet ; and

(b) any damage from fire happens to such dividing fence through his failing so to do ;

such other owner or occupier shall, at his own costs and charges, repair or re-erect such fence within the period of one month from the day when the same is so damaged, or within such extended time as is allowed by a special magistrate, on application made to him in writing, of which application not less than seven days' notice in writing has been served on the owner or occupier who has cleared his land as aforesaid.

(2) If the owner or occupier who has so failed to clear his land fails to repair or re-erect such fence within such month or such extended time (if any), the owner or occupier of the first-mentioned land who has cleared the same as aforesaid may repair or re-erect such fence, and may recover the costs and expenses of so doing as money paid to the use of the owner or occupier so in default.

Power of  
occupier to  
clear portions  
of road.

**26.** Where any land adjoins any road, the occupier of the land, with the consent of the council of the area in which the road is situated or of the Minister if the road is not situated within an area, may, for the purposes of providing a firebreak for the protection of any fences or other property on the said land, clear all scrub from the whole or any portion of that part of the road to the width of nine feet which adjoins the said land.

Coronial  
inquiry into  
destruction  
of furze.  
Amended by  
19, 1945, s. 11.

**27.** In the event of any fire (other than a fire confined to any building or other premises) an inquest shall be held thereon in any case where a request in writing is made to the member of the police force in charge of the police station nearest to the fire within seven days of the outbreak of the fire by—

(a) the council of the area in which the fire occurred ;

(b) any owner or occupier of property who suffered loss by reason of the fire.

Power to order  
destruction  
of furze.  
Inserted by  
27, 1939, s. 12.

**27a.** (1) If the council is of opinion that the presence of the plant known as furze on any land within its area is or may be a source of danger from bush fires, the council may by notice in writing given to the occupier or the owner of

the land, require him to destroy and remove all furze plants from the land specified in the notice within the time specified in the notice.

No such notice shall apply to any land distant more than one chain from any road or building.

(2) If any such occupier or owner fails to comply with any such notice within the time specified in the notice, any person authorized by the council may enter upon the land and destroy and remove all furze plants from the land specified in the notice. The costs of so doing may, in any court of competent jurisdiction, be recovered by the council as a debt due to the council by the person to whom the notice was given.

**27b.** (1) It shall be the duty of every council or other authority to remove from any road any inflammable debris or material which results from the carrying out of any work upon that road by the council or authority and which is likely to be a source of danger from bush fires.

Removal of debris from roads.  
Inserted by 27, 1939, s. 12.

(2) If any council or authority fails to remove any such debris or material and the default continues for fourteen days or more, the Minister may cause the debris or material to be removed and may in any court of competent jurisdiction recover from the council or authority in default as a debt due to the Minister an amount equal to twice the amount of the expenses incurred by the Minister.

(3) The provisions of subsection (1) shall not impose on any council or authority any liability for damages which may result from any failure of the council or authority to comply with the provisions of subsection (1).

**28.** A council may expend any portion of its rates in paying for the clearing of any roads vested in it of stubble, scrub, and other inflammable material for the purpose of preventing the spread of fire or in the purchase of fire-preventing apparatus; and, subject to the provisions of this Act, may light, use, and maintain fires, or cause the same to be lighted, used, and maintained, for the purpose of such clearing; and may prevent the passing of vehicles of any kind, cattle, and beasts of draught or burden along any road whilst fire is being used for the purpose of such clearing.

Power for council to expend rates for prevention of fires.  
1123, 1913, s. 23.

**28a.** (1) Every council shall provide adequate fire-fighting appliances for the purpose of preventing and controlling bush fires within its area.

Provision of fire-fighting appliances by council.  
Enacted by 2258, 1935, s. 5, but repealed and re-enacted by 27, 1939, s. 13.

(2) For the purpose of deciding what fire-fighting appliances are adequate for the said purpose, the council may take into

regard any fire-fighting appliances within the area of any person other than the council which are available within the area generally for the purpose of preventing the spread of bush fires.

(3) A council may—

(a) contribute to the cost of any organization which is formed for the purpose of taking measures, and conducting operations for the control and extinguishing of bush fires, or may form such an organization :

(b) contribute to the cost of any fire-fighting appliances owned by any occupier of land within the area which the council is satisfied will be available within the area generally and are suitable for the control or extinguishing of bush fires.

(4) The council may expend any portion of its rates for the purposes of this section.

Amended by  
58, 1955, s. 16.

(5) If the Minister is of opinion that any council is neglecting to provide fire-fighting appliances as required by this section, he may from time to time give notice in writing to the council requiring the council to provide such fire-fighting appliances. If within one month after the giving of notice as aforesaid, the council neglects to provide fire-fighting appliances as required by this section, the council shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds.

Power to  
provide sirens.  
Inserted by  
23, 1950, s. 9.

**28b.** A council may erect or authorize the erection of any siren in any suitable place for the purpose of being used to give an alarm on the outbreak of any fire and may from time to time test any siren so erected.

Appointment  
of fire control  
officers.  
Substituted by  
27, 1939, s. 14.

**29.** (1) Any council may, from time to time, appoint such persons (not exceeding fifteen in number) as it thinks proper to be its fire control officers under this Act, and may from time to time appoint as additional officers any persons (but not exceeding fifteen in number) who are officers under this Act appointed in respect of any adjoining area.

Inserted by  
33, 1946,  
s. 4 (1) and  
amended by  
48, 1955, s. 5.

(1a) A council, the area of which abuts on the district of a local governing authority situated in another State or of any other authority constituted under the laws of another State to combat bush fires may appoint as fire control officers for the area of the council any persons who hold a corresponding office under such local governing or other authority. A fire control officer shall not be appointed as aforesaid unless the council has made reciprocal arrangements with such local

governing or other authority for the appointment of fire control officers of the council by such local government or other authority as corresponding officers of such authority.

The council shall not appoint as aforesaid more than fifteen fire control officers and the power to appoint such officers shall be in addition to any other powers to appoint fire control officers given by this Act.

(2) If the Minister is satisfied that in order to meet the requirements of any area, it is desirable that the number of fire control officers should be greater than the number authorized to be appointed pursuant to subsection (1), the Minister may, by notice in writing, authorize the council to appoint an additional number of fire control officers fixed by the Minister, and the council may from time to time appoint additional fire control officers, but not exceeding the number so authorized. The authority of the Minister may be revoked by the Minister by notice in writing.

Amended by  
23, 1950, s. 10.

The number of additional fire control officers which under this subsection may be authorized to be appointed by the Minister shall not exceed the following:—

Where the area of the council is less than six hundred square miles in extent—fifteen.

Where the area of the council is six hundred square miles or more but is less than eight hundred square miles in extent—twenty:

Where the area of the council is eight hundred square miles or more in extent—twenty-five.

(3) No appointment of a fire control officer shall have effect unless notice of the appointment is published in the *Government Gazette*.

(4) If the Minister is satisfied that any council has not appointed fire control officers sufficient for its area, the Minister may appoint fire control officers for such area, and any person so appointed shall be deemed to have been appointed by the council. Notice of every such appointment shall be published in the *Government Gazette*.

(5) The general powers of the council with respect to other officers appointed by it, shall apply with respect to its fire control officers appointed under this section.

(6) Any fire control officer appointed by a council may be appointed subject to any conditions thought fit by the council, and if thought fit by the council, the council may allot the control of any part of its area to any fire control officer or officers.

Inserted by  
30, 1942, s. 7.

(6a) Any councillor may be appointed as a fire control officer by any council or, in exercise of the powers conferred by subsection (4), by the Minister, if, under the conditions of the appointment, no payment is to be made to the councillor by any council as fees, salary, or wages for his services as fire control officer.

Notwithstanding the provisions of the Local Government Act, 1934-1941, no such appointment shall disqualify any councillor so appointed from being or continuing a councillor.

In this subsection "councillor" means mayor, alderman, or councillor in any council.

Inserted by  
30, 1942, s. 7,  
and amended  
by 33, 1946,  
s. 4 (2), by 44,  
1952, s. 7 and  
by 48, 1957,  
s. 5.

(6b) If any person (whether a person such as is referred to in subsection (6a) or not) is appointed as a fire control officer by a council or by the Minister in exercise of the powers conferred by subsection (4) or if any person is appointed by a council as a member of the crew of any fire fighting appliance which is the property of or under the control of the council, and, under the conditions of his appointment, no payment is to be made to such person as fees, salary, or wages for his services as fire control officer or as member of a crew as aforesaid, then for the purposes of any Act relating to the liability of employers in respect of injury to or the death of workmen employed by them, the person so appointed shall not be deemed to be employed as a workman by the council by which he is appointed or, as the case may be, deemed to be appointed and the provisions of any such Act shall not except as herein provided apply upon the injury or death of any such person.

A council by which any such person is appointed or, as the case may be, is deemed to be appointed, shall obtain from an insurance office a policy of insurance under which the following benefits shall be payable to such person or his personal representatives on the death or total or partial incapacity of such person when such death or incapacity is brought about by accident arising out of and in the course of such person's duties as a fire control officer or, as the case may be, member of a crew as aforesaid, namely:—Such amount or amounts as would have become payable in respect of such person under the Workmen's Compensation Act, 1932-1956, or any amendment thereof, if the accident had arisen out of and in the course of his ordinary employment in respect of which he was at the time of the accident insured by his employer in accordance with the provisions of that Act or where such person was not so insured:—

- (a) On the death or total incapacity of such person—an amount not less than one thousand pounds:—

- (b) On the partial incapacity of such person—an amount not less than ten pounds per week to be payable during such partial incapacity for a period of at least six months :
- (c) If any such person suffers any of the injuries mentioned in the first column of the table in section 26 of the Workmen's Compensation Act, 1932-1941—an amount being such ratio of the sum of one thousand pounds as is shown in the second column of the said table as being payable in respect of such injury: Provided that any amount payable in pursuance of paragraph (b) hereof shall be deducted from any amount payable under this paragraph.

(7) Every forester and assistant forester employed in the Woods and Forests Department of the State, and every foreman in charge of any Government forest, and the Director of Emergency Fire Services, shall *ex officio* be deemed to be a fire control officer under this Act, and shall have and may exercise throughout the whole State all the powers of a fire control officer under this Act.

Amended by  
58, 1955, s. 13.

(8) The Minister may appoint any person to be a fire control officer for any portion of the State not comprised within an area, and any person so appointed shall have and may exercise within such portion of the State all the powers of an officer under this Act.

(9) The Governor may make regulations prescribing—

- (a) the duties and powers of fire control officers :
- (b) the form of badges to be issued to fire control officers :
- (c) any other necessary matters.

**29a.** In the month of August in every year every council shall forward to the Minister—

Annual return  
of fire control  
officers.

- (a) a statement of the names, addresses, and occupations of each fire control officer of the council :
- (b) a statement of the means of transport available to each such officer and a telephone number whereby he may be communicated with :
- (c) if any fire control officer or officers are by their appointment by the council appointed to control any part of the area of the council, a statement of the particulars of such part and any order of priority of control given to such officers :

Inserted by  
27, 1939, s. 14.

- (d) a statement of the names and addresses of every occupier of land within the area who owns suitable fire-fighting appliances which are available within the area generally for the control or extinguishing of bush fires and of the telephone numbers whereby the said occupiers may be communicated with.

Duties and powers of fire control officers.

Inserted by 27, 1939, s. 14.

**29b.** (1) Any fire control officer shall, subject to such (if any) directions as are given by the council, and subject to anything prescribed by regulations, take any measures which appear to him to be necessary or expedient, and practicable, for—

- (a) preventing the outbreak of fire ;
- (b) protecting life and property in the case of any such outbreak ; and
- (c) controlling and extinguishing any fires or preventing the spread thereof.

(2) On the outbreak of any fire at any place within the area, any such officer shall proceed with all possible speed to such place, and, subject to anything prescribed by regulations, shall have control and the direction of the measures taken to control and extinguish such fire or to prevent it from spreading.

Inserted by 30, 1942, s. 8.

(2a) Notwithstanding any other provision of this Act, a fire control officer appointed for any area may on the outbreak of any fire at any place outside that area have control and the direction of the measures taken to control and extinguish such fire or to prevent its spreading as if he had been appointed a fire control officer for the area in which the outbreak of fire occurred ; but the powers hereby given to any such fire control officer shall be exercised only until such time as a fire control officer appointed for the area in which the outbreak of fire occurred assumes the control and direction of the measures aforesaid.

(3) For the purpose of controlling or extinguishing any fire or preventing the spread thereof, a fire control officer may, after consulting with the occupier of the land if he is present, 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, 1936, in so far as the same may be necessary or expedient, for extinguishing a fire which is already burning or for preventing the spread or extension thereof :
- (b) enter any land or building whether private property or not :

- (c) pull down, cut, and remove fences on any land, whether private property or not, when in his opinion the same is necessary or expedient for the purpose of taking effective measures for extinguishing a fire which is already burning, or for preventing the spread or extension thereof:
- (d) cause firebreaks to be ploughed or cleared on any land, whether private land or not, and take any other appropriate measures on any such land as he may deem necessary for the purpose of controlling or extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (e) light any fire on any land, whether private land or not for the purpose of clearing any strip of land to act as a firebreak for the purpose of controlling or extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (f) take and use water, other than that for use as an occupier's domestic supply contained in a tank at his dwelling house, and any other fire extinguishing material from any source whatever on any land, whether private property or not:
- (g) take charge of and give directions to any fire-fighting organization present at any fire with respect to its operations or activities in connection with the extinguishment or control of such fire, or the prevention of the spread or extension thereof:
- (h) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers; and
- (i) employ any person or use the voluntary services of any person to assist him, subject to his directions, in the exercise of any of the foregoing powers.

(4) If any fire is within any Government forest and any forester or assistant forester or foreman in charge of a Government forest is present at the fire, the said powers and authorities shall not be exercised within the Government forest by any other fire control officer except with the approval of and subject to the directions of the forester or assistant forester or foreman, whilst he continues to be present at the fire.

(5) This section shall only apply to fires which—

- (a) have been lighted or are maintained unlawfully (whether in contravention of this Act or not); or
- (b) have occurred accidentally; or

(c) have ceased to be under control or are not adequately controlled,

and to such other fires as are prescribed by regulation.

(6) This section shall not apply within any locality wherein the Fire Brigades Act, 1936, applies.

Power of fire control officer to enter land.  
Inserted by 27, 1939, s. 14.

**29c.** A fire control officer may at any reasonable time enter any land, whether private property or not, for the purpose of examining any measures taken or proposed to be taken on the land for protection from fire.

Power of police to block traffic.  
Inserted by 27, 1939, s. 14.

**29d.** (1) Upon or after the outbreak of any fire any member of the police may give any direction to any person to prevent such person from driving or passing along any road near the fire.

Amended by 58, 1955, s. 16.

(2) Any person who fails to obey any such direction of any member of the police force shall be guilty of an offence and liable to a penalty of not more than twenty pounds.

Hindering fire control officer.  
Cf. 2272, 1936, s. 66.

Inserted by 23, 1950, s. 11 and amended by 58, 1955, s. 16.

**29e.** Any person who in any way wilfully obstructs, hinders, delays, or interferes with any fire control officer in the exercise or discharge of any power or duty of the fire control officer under this Act shall be guilty of an offence and liable to a penalty not exceeding fifty pounds or to imprisonment for any term not exceeding two months.

Power of fire control officers as to certain fires.

Inserted by 58, 1955, s. 14.

**29f.** (1) If any fire control officer is of opinion that a fire has been lighted on any land contrary to this Act or that a fire on any land (whether lighted in accordance with this Act or otherwise) is out of control, the fire control officer may give directions to the occupier of the land to take such measures to extinguish the fire as the fire control officer deems necessary.

(2) If any fire control officer finds any fire upon any land which in his opinion has been lighted contrary to this Act or which (whether lighted in accordance with this Act or otherwise) may reasonably be expected to get out of control, the fire control officer may direct any person apparently responsible for the fire to take such measures to extinguish the fire as the fire control officer deems necessary.

(3) If any occupier or person fails to comply forthwith with any directions given under this section he shall be guilty of an offence and liable for a first offence to a penalty not exceeding fifty pounds and for a second or subsequent offence

to a penalty not exceeding one hundred pounds or imprisonment for a term not exceeding three months or to both such penalty and imprisonment.

**30.** Nothing in this Act shall be construed as taking away or affecting any right of action or other remedy, whether civil or criminal, which any person may have in respect of any loss or damage occasioned by fire, or for any trespass committed.

Act not to affect other remedies.  
1123, 1913, s. 25.

**30a.** (1) If by reason of the escape of fire, sparks or other burning material from any locomotive of the South Australian Railways Commissioner any fire is caused on any land, the South Australian Railways Commissioner shall be liable to pay compensation for any damage caused by the fire if at the time of the fire there is on the said land a firebreak or firebreaks cleared of all stubble, scrub and inflammable material and of the dimensions prescribed by regulation and constructed in such places as are so prescribed.

Liability of South Australian Railways Commissioner for fires.  
Inserted by 19, 1945, s. 12.

(2) The Governor may make regulations prescribing for the purpose of this section, the dimensions of firebreaks and the places in which they are to be constructed. Any such regulation may prescribe different requirements for different parts of the State.

**30b.** (1) All voluntary fire fighting organizations formed for the purpose of combating bush fires outside the parts of the State to which the Fire Brigades Act, 1936-1944, applies, shall be registered with the Minister.

Registration of voluntary fire fighting organizations.  
Inserted by 48, 1957, s. 6.

(2) Registration shall be effected in manner prescribed by regulation and such information as is prescribed by regulation relating to any fire fighting organization so registered shall from time to time be supplied to the Minister.

**31.** (1) The Governor may make all such regulations as may be necessary or convenient for giving effect to the provisions of this Act or more fully carrying out its objects.

Regulations.  
1123, 1913, s. 26.

(1a) Without limiting the effect of subsection (1), the Governor may, for the purpose of preventing the outbreak of fire, make regulations prescribing the conditions under and the manner in which producer gas equipment or any type of producer gas equipment may be used or operated or charged or emptied and prohibiting the use or operation or charging or emptying thereof except as prescribed in the regulations.

Inserted by 24, 1941, s. 4.

s. 30. ROBERTS v. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austn. Digest 127. Civil and criminal remedies are available against a person lighting a fire even if the fire is lighted in accordance with the provisions of this Act.

(2) Any regulation made under this Act may prescribe a penalty not exceeding twenty pounds in any case, for the breach of such regulation or of any other regulation under this Act.

Appropriation  
of penalties.  
1123, 1913,  
s. 27.

**32.** (1) Subject to subsection (2) all moneys received for or on account of penalties imposed for offences against this Act, shall be paid to the Treasurer for the public uses of the State.

(2) Moneys received in respect of an offence committed within any area the complaint for which was laid by the council thereof or any officer of the council, shall be paid over to, and for the use of, the council.

Evidence in  
proceedings.  
1123, 1913,  
s. 28.

**33.** (1) In any proceedings for an offence against this Act the allegation in the complaint—

(a) that a fire was lighted or maintained with the intention or for the purpose mentioned in such complaint; or

(b) that any stubble was not burned, or that any fire was not lighted, for the purpose mentioned in such complaint,

shall, if it is shown that the fire was lighted, or maintained, or that the stubble was burned (according to the nature of the charge), be taken to be proved, until the contrary is proved.

(2) In any proceedings for an alleged offence against this Act the burden of proving the observance of the conditions which would excuse the matter alleged in the complaint shall lie upon the defendant.

Inserted by  
24, 1941, s. 5.

(3) In any proceedings for an offence against this Act, the allegation in the complaint that any specified apparatus or equipment is producer gas equipment shall be taken to be proved, until the contrary is proved.

Procedure for  
offences.  
1123, 1913,  
s. 29.

**34.** All proceedings in respect of any offence against this Act shall be disposed of summarily.

Amended by  
27, 1939, s. 15.

Prohibition of  
any act to  
include  
assisting, etc.,  
and attempts.  
1123, 1913,  
s. 5.

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

**36.** Any notice required to be given to any person pursuant to this Act may be given in writing or orally to such person personally or may be given by leaving written notice thereof at the place of residence of such person.

Giving of notices.  
Amended by 27, 1939, s. 16.

**37.** In sections 37 to 48 (both inclusive) unless the context otherwise requires—

Interpretation.  
Inserted by 58, 1955, s. 15.

“committee” means the Bush Fires Fund Committee constituted pursuant to section 38 ;

“financial year” means the period of twelve months ending on the thirtieth day of June in any year ;

“fund” means the Bush Fires Fund ;

“insurer” means any corporate body, company, person, or firm of persons required by the provisions of the Stamp Duties Act, 1923-1954, to take out an annual licence under that Act ;

“member” means a member of the committee and includes the chairman.

**38.** (1) There shall be a committee called “The Bush Fires Fund Committee”.

Appointment of committee.  
Inserted by 58, 1955, s. 15.

(2) There shall be three members of the committee who shall be appointed by the Minister. One of the members shall be appointed from a panel nominated by the Fire and Accident Underwriters’ Association of South Australia.

(3) The members of the committee shall hold office for such term as the Minister from time to time directs.

(4) Meetings of the committee shall be conducted in accordance with such procedure as the committee determines and the decision of any two members shall be binding.

(5) The members shall be entitled to such fees to be paid from the fund as are from time to time fixed by the Minister.

**39.** The Minister shall appoint one of the members to be the chairman of the committee.

Chairman.  
Inserted by 58, 1955, s. 15.

**40.** (1) There shall be established a fund to be called “The Bush Fires Fund” which shall be held by the Treasurer.

Establishment of the fund.  
Inserted by 58, 1955, s. 15.

(2) The fund shall consist of contributions paid by the Treasurer and insurers pursuant to this Act.

(3) The fund shall be managed by the committee.

Accounts and  
audit.

Inserted by  
58, 1955, s. 15.

**41.** (1) The committee shall keep complete and proper accounts of all its financial transactions.

(2) The accounts of the committee for each financial year shall be audited by the Auditor-General and copies of the accounts shall be laid before both Houses of Parliament.

Officers to  
assist  
committee.

Inserted by  
58, 1955, s. 15.

**42.** The Treasurer shall make available to the committee the services of any public officer for the purpose of assisting the committee in the administration of this Act.

Contributions  
to fund during  
1955-1956.

Inserted by  
58, 1955, s. 15.

**43.** At such time during the financial year ending on the thirtieth day of June, nineteen hundred and fifty-six, as is fixed by the Treasurer, the following contributions shall be paid into the fund :—

(a) A contribution of five thousand pounds to be paid by the Treasurer ;

(b) Contributions to be paid by each insurer so that the total of such contributions shall amount to five thousand pounds.

Contributions  
for subsequent  
financial years.

Inserted by  
58, 1955, s. 15.

**44.** (1) For the purpose of every financial year subsequent to the financial year ending on the thirtieth day of June, nineteen hundred and fifty-six, the committee shall make a report to the Minister setting out what contributions are recommended by the committee to be made in respect of that financial year by the Treasurer and insurers respectively.

If the member of the committee appointed from the panel nominated by the Fire and Accident Underwriters' Association of South Australia does not agree with the recommendation of the committee, the said association may make representations to the Minister and the Treasurer as to the amount of contributions to be made. After consideration of the recommendation of the committee and the representations (if any) of the said association the Treasurer shall, after consultation with the Minister, fix the contributions to be made in respect of that financial year.

(2) In respect of every such financial year the following contributions shall, at such time in the financial year as is fixed by the Treasurer, be paid into the fund :—

(a) A contribution shall be paid by the Treasurer to the amount fixed as aforesaid to be paid by the Treasurer ;

(b) Contributions shall be paid by each insurer but so that the total of such contributions shall not exceed the amount fixed by the Treasurer as aforesaid to be paid by insurers.

The amount fixed by the Treasurer as the total contributions to be paid by insurers in any financial year shall not exceed the amount fixed to be paid by the Treasurer in that financial year.

**45.** (1) The contributions to be made by insurers shall be calculated as follows :—

Computation of contributions by insurers.

Inserted by 58, 1955, s. 15.

- I. There shall be ascertained the amount payable by each insurer as stamp duty (other than stamp duty attributable to life assurance business of the insurer) in respect of the annual licence last taken out by the insurer under section 33 of the Stamp Duties Act, 1923-1954 ;
- II. There shall be ascertained the total of all such stamp duty payable by all such insurers ;
- III. The contribution payable by any insurer shall bear the same proportion to the total contributions payable by all insurers in that financial year as the stamp duty payable as aforesaid by that insurer bears to the total of the stamp duty payable as aforesaid by all such insurers.

(2) The Commissioner of Stamp Duties is hereby authorized to supply to the committee any information necessary to enable the amount of stamp duty payable as aforesaid to be ascertained.

(3) The committee shall determine the amount of the contribution of each insurer and any such determination shall be final and conclusive and binding on the insurer.

(4) Every insurer shall supply to the committee such information as the committee may require in order to assist the committee in determining the amount of the insurer's contribution.

**46.** (1) For the purpose of providing up to two-thirds of the cost of any fire fighting equipment to be used for the purpose of fighting bush fires or other fires in parts of the State to which the Fire Brigades Act, 1936-1944, does not apply, the committee may from the fund make payments to any council or to any organization formed for the purpose of fighting such bush fires or other fires.

Payments from fund to volunteer fire fighting organizations.

Inserted by 58, 1955, s. 15, and amended by 25, 1956, s. 5.

(2) No such payments shall be made except with the approval of the Minister.

Financial provision.  
 Inserted by 58, 1955, s. 15.

47. (1) The money which the Treasurer is required or authorized by section 43 or section 44 to contribute to the committee shall be paid by him out of the general revenue of the State.

(2) The costs of the administration of the fund shall be paid out of the fund.

(3) This section, without further appropriation, shall be sufficient authority for making the payments mentioned in this section.

Protection of committee.  
 Inserted by 58, 1955, s. 15.

48. No act, matter, or thing *bona fide* done by the committee in the execution of this Part shall subject the committee or any of the members personally to any action, liability, claim or demand whatsoever.

THE SCHEDULE.

No. of Act Repealed.	Title of Act Repealed.
No. 1123 of 1913 .....	The Bush Fires Act, 1913.
No. 1768 of 1926 .....	Bush Fires Act Amendment Act, 1926.
No. 2023 of 1931 .....	Bush Fires Act Amendment Act, 1931.
No. 2027 of 1931 .....	Bush Fires Act Amendment Act (No. 2), 1931.



## HOMES ACT, 1941-1957.

BEING

HOMES ACT, 1941, No. 36 OF 1941  
[ASSENTED TO 20<sup>TH</sup> NOVEMBER, 1941]

AS AMENDED BY

HOMES ACT AMENDMENT ACT, 1947, No. 9 OF 1947  
[ASSENTED TO 16<sup>TH</sup> OCTOBER, 1947]

HOMES ACT AMENDMENT ACT, 1949, No. 18 OF 1949  
[ASSENTED TO 27<sup>TH</sup> OCTOBER, 1949]

HOMES ACT AMENDMENT ACT, 1950, No. 30 OF 1950  
[ASSENTED TO 30<sup>TH</sup> NOVEMBER, 1950]

HOMES ACT AMENDMENT ACT, 1951, No. 17 OF 1951  
[ASSENTED TO 11<sup>TH</sup> OCTOBER, 1951]

HOMES ACT AMENDMENT ACT, 1952, No. 38 OF 1952  
[ASSENTED TO 4<sup>TH</sup> DECEMBER, 1952]

HOMES ACT AMENDMENT ACT, 1956, No. 15 OF 1956  
[ASSENTED TO 1<sup>ST</sup> NOVEMBER, 1956]

AND

HOMES ACT AMENDMENT ACT, 1957, No. 18 OF 1957  
[ASSENTED TO 24<sup>TH</sup> OCTOBER, 1957]

**An Act to empower the Treasurer to give guarantees for the purpose of encouraging the building and purchase of dwelling-houses, and to confer upon certain institutions powers with respect to building, selling and enlarging dwelling-houses, and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Homes Act, 1941-1957". Short title.

2. In this Act, unless the context otherwise requires, or Interpretation.  
some other meaning is clearly intended—

“dwelling-house” includes the land on which a dwelling-house is erected and all appurtenances of the dwelling-house, outbuildings, fences and permanent provision for lighting, water supply, drainage and sewerage :

“guarantee” means guarantee given by the Treasurer under this Act :

“institution” means any of the following bodies, namely :—

The Co-operative Building Society of South Australia :

The Hindmarsh Loan Land and Building Investment Society on the Permanent Principle Incorporated :

The Permanent Economic Loan Land Building and Investment Society Incorporated :

The Imperial Permanent Building and Investment Society Incorporated :

The Savings Bank of South Australia ; and

South Australian Superannuation Fund Board :

and any of the following friendly societies namely :—

The Independent Order of Oddfellows Manchester Unity Friendly Society in South Australia :

The South Australian Ancient Order of Foresters Friendly Society :

The South Australian Grand United Order of Oddfellows Friendly Society :

The South Australian United Ancient Order of Druids Friendly Society :

The Independent Order of Odd Fellows :

The South Australian District, No. 81, Independent Order of Rechabites, Friendly Society :

The Albert District, No. 83, Independent Order of Rechabites, Salford Unity :

The Sons of Temperance, South Australian Grand Division, No. 24 :

Australian Natives' Association :

Hibernian Australasian Catholic Benefit Society, Adelaide District, No. 7 :

“Treasurer” means the person for the time being holding or acting in the office of Treasurer of the State :

“value” means value fixed by an officer appointed by the Treasurer as a valuer for the purposes of this Act or, in the case of The Savings Bank of South Australia, the value fixed by that bank.

*Guarantees by the Treasurer.*

3. (1) Subject to this Act, the Treasurer with the approval of the Governor may execute a guarantee in favour of any institution for— Guarantee by Treasurer.

- (a) the repayment of part of any loan made by the institution on the security of a dwelling-house ; or
- (b) the payment of part of any purchase money due to the institution under any contract made by the institution for the sale and purchase of a dwelling-house.

(2) Any such guarantee shall contain such provisions as are mutually agreed upon between the Treasurer and the institution.

4. The part of any loan or purchase money for which a guarantee is given— Limit of guarantee.

- (a) shall not exceed the amount by which the loan or the amount of purchase money, exclusive of any sum paid as a deposit, exceeds seven-tenths of the value of the dwelling-house to be mortgaged or to be sold under the contract for sale and purchase : and
- (b) shall not exceed one-fifth of that value.

5. (1) There shall be a fund kept by the Treasurer to be called "The Home Purchase Guarantee Fund". Duty of Treasurer to establish guarantee fund.

(2) Every institution to which a guarantee for the time being in force has been given shall pay into the said fund in each quarter in respect of every loan or the purchase money in respect of every dwelling house for which a guarantee is given, an amount equal to one quarter of one per centum of such part of the loan or purchase money as at the last day of the preceding quarter had been advanced by the institution and for the payment of which the Treasurer was liable under the guarantee. Subsection (2) substituted by 30, 1950, s. 2 (1)

6. (1) Any sums which become due and payable to an institution by the Treasurer under a guarantee shall be paid to the institution out of The Home Purchase Guarantee Fund. If there are insufficient moneys in that fund, the Treasurer shall pay the deficiency to the institution out of the general revenue of the State. Payment of guaranteed amount.

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s. 5 (2) Subsection (2) of section 2 of the Homes Act Amendment Act, 1950, provides that the amendments made by subsection (1) of that section to subsection (2) of section 5 shall be deemed to take effect as from the time of the passing of this Act.

(2) This section without any other appropriation, shall be sufficient authority for making any such payment as mentioned in subsection (1) of this section.

Conditions under which guarantee to be given.

Amended by 9, 1947, s. 3, by 18, 1949, s. 2, by 17, 1951, s. 2, by 38, 1952, s. 2, by 15, 1956, s. 2, and by 18, 1957, s. 2.

7. The Treasurer shall not execute a guarantee—

- (a) if the loan, or the amount of purchase money exclusive of any sum paid as a deposit, as the case may be, exceeds two thousand two hundred and fifty pounds ; or
- (b) if the interest charged on the loan or purchase money in respect of any period whilst the guarantee is in force exceeds six per centum per annum in a case where the interest is paid not later than fourteen days after it becomes due, or six and a half per centum where the interest is not so paid ; or
- (c) unless the loan or purchase money together with interest calculated and adjusted quarterly is repayable in fixed equal weekly, monthly or quarterly payments of such amount as will be sufficient to repay the loan or purchase money in full in a period not exceeding thirty years from the date of the mortgage or contract for sale and purchase ; or
- (d) if the borrower or purchaser or the wife or husband of the borrower or purchaser already owns a dwelling-house at the date of the mortgage or contract for sale and purchase ; or
- (e) unless the borrower or purchaser has declared that he intends to use the dwelling-house as a home for himself and his dependants ; or
- (f) if the Treasurer has previously given a guarantee in respect of a loan made to or purchase money owing by the borrower or purchaser or the wife or husband of the borrower or purchaser :

Provided that the Treasurer may exempt the borrower or purchaser from either or both of paragraphs (d) and (f) of this section if he thinks that just cause exist for doing so.

Abatement of guarantee.

8. (1) A guarantee may provide for periodical reductions to be made in the amount for which the Treasurer is liable thereunder.

(2) Unless it is otherwise provided in the terms of the guarantee, the Treasurer's liability thereunder shall be reduced from time to time as follows :—Whenever any money is paid

to the institution on account of principal money secured by the mortgage in respect of which the guarantee is in force, or purchase money payable under the contract of sale and purchase in respect of which the guarantee is in force, the amount for which the Treasurer is liable under the guarantee shall be reduced by an amount equal to one-half of the money so paid.

(3) A guarantee given to an institution in respect of money secured by mortgage shall terminate if a further advance is made by the institution in respect of that mortgage without the consent of the Treasurer.

9. (1) The Treasurer may appoint any suitable person to be a valuer for purposes of this Act. Valuation and fees.

(2) The Treasurer may require any person for whose benefit a guarantee is given under this Act to pay him such reasonable fees for valuing the property in respect of which the guarantee is given, as the Treasurer fixes.

#### *Erection, Sale and Enlargement of Dwelling-houses.*

10. (1) Sections 11 to 17 (inclusive) of this Act shall apply only to The Savings Bank of South Australia and to any other of the institutions mentioned in section 2 to which the Governor by proclamation declares that those sections shall apply: Provided that in no case shall sections 11 to 17 apply to the South Australian Superannuation Fund Board. Application of ss. 11 to 17.

(2) Nothing in sections 11 to 17 (inclusive) of this Act shall take away or restrict any power which any institution has apart from those sections.

(3) The powers conferred on an institution by sections 11 to 17 (inclusive) of this Act shall be in addition to any other powers which the institution has by law, and shall not be deemed to be restricted by the terms in which any other powers are conferred on the institution.

11. For the purpose of carrying out all or any of the provisions of sections 12 to 17 (inclusive) of this Act an institution may— Power to acquire and use lands.

(a) acquire any land; or

(b) use any land held by it, whether such land was acquired under this section or not.

Power of institutions to erect and sell houses.

**12.** An institution may at its discretion and upon such terms and conditions as it considers advisable do all or any of the following things :—

- (a) subdivide any such land into allotments ;
- (b) reserve for the purpose of roads, streets and footpaths and for similar purposes any parts of any such lands and make and construct any roads, streets, and footpaths ;
- (c) set apart any parts of any such land for any public purpose or as a reserve for any recreation, and sell or otherwise dispose of any land so set apart ;
- (d) set apart any parts of any such land for any charitable, religious, patriotic, recreational, or educational purposes and sell or otherwise dispose of any such parts ;
- (e) erect dwelling-houses on any such land or any part thereof and enter into and cause to be carried out contracts for any such erection ;
- (f) insure any dwelling-houses erected or in the course of erection ;
- (g) alter the levels of any such land and make provision for pipes, wires, apparatus, electric light and power, gas, sewers, drains, tunnels, conduits, poles, posts and fixtures on or under any such land and any other facilities or services ;
- (h) exercise any other powers necessary or convenient to carry sections 11 to 17 (inclusive) of this Act into effect.

Maximum expenditure per house.

**13.** The amount to be expended on any dwelling-house as aforesaid (including the value of the land) shall not exceed one thousand two hundred pounds.

Power to sell houses.

**14.** An institution may sell any dwelling-house upon such terms and conditions and subject to the payment of such cash deposit as it thinks fit.

Sale price.

**15.** The sale price of a dwelling-house sold pursuant to the last preceding section shall not exceed a sum equal to the value of the land together with the cost of erection of the dwelling-house : Provided that the institution may include in the cost of erection interest at a rate not exceeding five per centum per annum on any moneys expended by the institution

in the erection of the dwelling-house and in the exercise of any power conferred by paragraph (g) of section 12 of this Act. Such interest may be charged to the date of the sale, and shall be calculated from the respective dates when the moneys were so expended.

16. An institution may at the request of the owner of any land and at its discretion and upon such terms and conditions as it considers advisable—

Power of institutions to build and enlarge houses at request of owner.

- (a) erect complete or enlarge any dwelling-house on that land ;
- (b) enter into any contracts in connection therewith ;
- (c) require the said owner to give a mortgage to secure to the institution the repayment of any moneys expended by the institution under this section.

17. The cost to the institution of any dwelling-house erected under the last preceding section together with the value of the land used in connection therewith and the improvements thereon, shall not exceed one thousand two hundred pounds.

Limit of capital value.

#### *General Provisions.*

18. The powers conferred by this Act on an institution may be exercised by the board, committee or other body in which the management of the institution is vested, or by such number of members thereof as constitute a quorum for the transaction of the ordinary business of the institution.

How powers exercisable.

19. The Governor may make any regulations which are necessary or convenient for the administration and carrying into effect of this Act and may by any such regulation prescribe fines recoverable summarily and not exceeding twenty pounds for breach of any regulation.

Regulations.