



ANNO TERTIO

GEORGI VI REGIS.

A.D. 1939.

No. 27 of 1939.

An Act to amend the Bush Fires Act, 1933-1935.

[Assented to 14th December, 1939.]

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

1. (1) This Act may be cited as the "Bush Fires Act Amendment Act, 1939". Short titles.

(2) The Bush Fires Act, 1933-1935, as amended by this Act, may be cited as the "Bush Fires Act, 1933-1939".

(3) The Bush Fires Act, 1933-1935, is hereinafter referred to as "the principal Act".

2. The principal Act is amended by inserting therein after section 3 thereof the following section :— Amendment of principal Act—

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

(2) There shall be seven 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.

(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 :

Bush Fires Act Amendment Act, 1939.

(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.

Amendment of
principal Act,
s. 4—
Burning of
stubble.

3. Section 4 of the principal Act is amended—

(a) by striking out the words “ or immediately before the fire is lighted all inflammable material on the land immediately adjoining the strip is thoroughly sprayed or wetted with water to a width of at least twelve feet ” in paragraph II. of subsection (2) thereof :

(b) by striking out the words “ two o'clock in the afternoon ” in paragraph VI. of subsection (2) thereof and by inserting in lieu thereof the words “ twelve o'clock noon ” :

(c) by adding at the end of subsection (2) thereof the following paragraph :—

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.

(d) by striking out the word “ district ” wherever occurring in subsection (3) thereof :

(e) by striking out the words “ Two fire control officers and ” and the word “ other ” in the seventh line of subsection (3) thereof :

(f) by striking out the words “ two o'clock in the afternoon ” in paragraph IV. of subsection (4) thereof and by inserting in lieu thereof the words “ twelve o'clock noon ” :

(g) by adding at the end of subsection (4) thereof the following paragraph :—

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.

Amendment of
principal Act,
s. 5—
Burning of
stubble.

4. Section 5 of the principal Act is amended—

(a) by striking out the words “ two o'clock in the afternoon ” in paragraph v. of subsection (1) thereof and by inserting in lieu thereof the words “ twelve o'clock noon ” :

(b) by adding at the end of subsection (1) thereof the following paragraph :—

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.

5. Section 7 of the principal Act is amended by adding at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof) :—

Amendment of principal Act, s. 7—
Burning of scrub.

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

6. Section 8 of the principal Act is amended by striking out the word "thirty-three" in the first and second lines of paragraph i. of subsection (1) thereof and by inserting in lieu thereof the word "fifteen".

Amendment of principal Act, s. 8—
Burning of scrub.

7. (1) Section 4 of the principal Act is amended—

Amendment of principal Act, ss. 4, 5 and 8—
Notice to person in charge of Government forest.

(a) by inserting after paragraph iv. of subsection (2) thereof the following paragraph :—

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 :

(b) by inserting after paragraph ii. of subsection (4) thereof the following paragraph :—

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 :

(2) Section 5 of the principal Act is amended by inserting after paragraph iii. of subsection (1) thereof the following paragraph :—

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 :

Bush Fires Act Amendment Act, 1939.

(3) Section 8 of the principal Act is amended by inserting therein after paragraph III. of subsection (1) thereof the following paragraph:—

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 :

Amendment of
principal Act,
s. 11—
Alteration of
burning
periods.

8. Section 11 of the principal Act is amended—

(a) by striking out the passage “ or 9 ” in the seventh line thereof, and by inserting in lieu thereof the passage “ 9, or 20 ” :

(b) by striking out the words “ or less ” in the ninth line thereof, and by striking out all the words in subsection (1) thereof from and including the words “ No such alteration ” in the tenth line thereof :

(c) by adding at the end of subsection (1) thereof the following passage:—

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.

(d) by striking out the passage “ or 9 ” in the last line of subsection (3) thereof and by inserting in lieu thereof the passage “ 9, or 20 ” :

(e) by adding at the end thereof the following subsection:—

(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.

Amendment of
principal Act,
s. 13—
Lighting of fires
in the open.

9. Section 13 of the principal Act is amended—

(a) by inserting therein after subsection (1) thereof the following subsection:—

(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 shall be prohibited except in a place or places to be specified in the resolution.

Any person who during the said period 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 less than two pounds nor more than fifty pounds, and for any subsequent offence of not less than five pounds nor more than one hundred pounds.

(b) by adding at the end thereof the following subsection :—

(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.

10. Section 17 of the principal Act is amended by striking out all the words therein occurring after the words " effective spark arrester " in the fifth line thereof.

Amendment of principal Act, s. 17—

Use of internal combustion engine.

11. The principal Act is amended by inserting therein after section 23 the following section :—

Amendment of principal Act—

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 five pounds.

Power to demand name and address.

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Amendment of
principal Act—

12. The principal Act is amended by inserting therein after section 27 the following sections :—

Power to
order
destruction of
furze.

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.

Removal of
debris from
roads.

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.

(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).

Amendment of
principal Act—

13. Section 28a of the principal Act is repealed and the following section is enacted in lieu thereof :—

Provision of
fire-fighting
appliances by
council.

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

(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 costs 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.

(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 ten pounds.

14. Section 29 of the principal Act is repealed and the following sections are enacted in lieu thereof :—

Repeal of
principal Act,
s. 29—

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.

Appointment
of fire control
officers.

Bush Fires Act Amendment Act, 1939.

(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, but not exceeding fifteen, 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.

(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.

(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, 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.

(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 :
- (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.

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—

Duties and powers of fire control officers.

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

(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 :—

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- (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.

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 fire control officer to enter land.

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.

Power of police to block traffic.

(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 five pounds.

15. Section 34 of the principal Act is amended by striking out the words " officers against any provision of this Act other than section 24 " and by inserting in lieu thereof the words " any offence against this Act ".

Amendment of principal Act, s. 34—
Procedure for offences.

16. Section 36 of the principal Act is amended by striking out the passage " sections 4, 5, or 7 " in the second line thereof and by inserting in lieu thereof the words " this Act ".

Amendment of principal Act, s. 36—
Notice.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.