

BUSH FIRES (AMENDMENT) ACT.

Act No. 39, 1963.

Elizabeth II, An Act to make provisions with respect to the appointment of emergency fire controllers; for this purpose to amend the Bush Fires Act, 1949-1958; and for purposes connected therewith. [Assented to, 17th October, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and citation.

1. (1) This Act may be cited as the "Bush Fires (Amendment) Act, 1963".

(2) The Bush Fires Act, 1949, as amended by subsequent Acts and by this Act, may be cited as the Bush Fires Act, 1949-1963.

Amendment of Act No. 31, 1949.

2. The Bush Fires Act, 1949, as amended by subsequent Acts, is amended—

Sec. 6.
(Interpre-
tation.)

(a) by inserting in section six next after the definition of "Eastern and Central Divisions" the following new definition:—

"Emergency fire controller" means an emergency fire controller appointed under section seventeen of this Act.

Sec. 16.
(Lighting of
fires pro-
hibited in
emergent
circum-
stances.)

(b) by omitting from subsection four of section sixteen the words "two years" and by inserting in lieu thereof the words "twelve months";

Subst. sec.
17.

(c) by omitting section seventeen and by inserting in lieu thereof the following section:—

Emergency
fire
controllers.

17. (1) As soon as practicable after the commencement of the Bush Fires (Amendment) Act, 1963, the Minister shall prepare and cause to be

be published in the Gazette a list (in this section ~~No. 39, 1963~~ referred to as "the list of emergency fire controllers") of persons who may be appointed as emergency fire controllers under this section in respect of any area or group of areas outside the County of Cumberland, or in respect of the County of Cumberland, the Western Division or Lord Howe Island.

The Minister may from time to time by notification published in the Gazette add to or remove from such list the name of any person.

(2) The mayor or president of an area, or person for the time being acting as mayor or president of an area, or the Minister, or a person authorised in writing by the Minister for the purposes of this section, may, if he is of opinion that a state of emergency exists and it is necessary or expedient in the interests of public safety to do so, appoint an emergency fire controller in accordance with the provisions of this section.

A state of emergency may be deemed to exist where the mayor or president, or person for the time being acting as mayor or president, or the Minister or person authorised in writing by the Minister, as the case may be, is of opinion that any bush fire has assumed such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning.

(3) A person whose name is included in the list of emergency fire controllers may be appointed as an emergency fire controller to take charge of bush fire fighting operations in any territory that comprises, or comprises part of—

(a) any area outside the County of Cumberland, by the mayor or president, or person for the time being acting as mayor or president, of that area;

(b)

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- (b) any two or more areas each of which is outside the County of Cumberland, jointly by the mayors or presidents, or persons for the time being acting as mayors or presidents, of such areas;
- (c) the County of Cumberland, the Western Division or Lord Howe Island, by the Minister, or by any person authorised in writing by the Minister under subsection two of this section;
- (d) the County of Cumberland, or the Western Division, and any area outside the County of Cumberland, jointly by the Minister, or any person authorised as aforesaid, and by the mayor or president, or person for the time being acting as mayor or president, of that area;
- (e) the County of Cumberland, or the Western Division, and any two or more areas outside the County of Cumberland, jointly by the Minister, or any person authorised as aforesaid, and by the mayors or presidents, or persons for the time being acting as mayors or presidents, of such areas.

(4) A person whose name is included in the list of emergency fire controllers shall not be appointed as an emergency fire controller to take charge of bush fire fighting operations in any territory that comprises, or comprises part of—

- (a) any area outside the County of Cumberland, unless his name is included in such list in respect of that area or in respect of a group of areas in which that area is included;
- (b) two or more areas outside the County of Cumberland, unless his name is included in such list in respect of—
 - (i) at least one of such areas; or
 - (ii) a group of areas in which at least one of such areas is included;
- (c)

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- (c) the County of Cumberland, the Western Division or Lord Howe Island, unless his name is included in such list in respect of the County of Cumberland, the Western Division or Lord Howe Island, as the case may be;
- (d) the County of Cumberland, or the Western Division, and any area outside the County of Cumberland, unless his name is included in such list in respect of—
 - (i) the County of Cumberland or the Western Division, as the case may be;
 - (ii) that area; or
 - (iii) a group of areas in which that area is included;
- (e) the County of Cumberland, or the Western Division, and two or more areas outside the County of Cumberland, unless his name is included in such list in respect of—
 - (i) the County of Cumberland or the Western Division, as the case may be;
 - (ii) at least one of such areas; or
 - (iii) a group of areas in which at least one of such areas is included.

(5) A person appointed as an emergency fire controller shall hold office as such for a period of seven days after his appointment, but may from time to time be re-appointed and shall hold office as such pursuant to any such re-appointment for a period of seven days thereafter.

(6) Where an emergency fire controller is appointed pursuant to this section all councils, captains, deputy captains, group captains and deputy group captains of bush fire brigades, fire control officers, fire patrol officers, officers and employees of the Board of Fire Commissioners of New

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New South Wales and the Forestry Commission of New South Wales, members of the Police Force and other persons, shall comply with any directions given to them by such emergency fire controller (which directions he is hereby empowered to give) in connection with the suppression or control of any fire which is burning in the territory in respect of which such emergency fire controller has been so appointed.

In addition to, and without limiting, the power conferred on emergency fire controllers by the foregoing provisions of this subsection an emergency fire controller shall have and may exercise all the powers conferred on a bush fire brigade captain by section twenty-two of this Act, without being subject to the proviso to subsection two of that section and without limitation as to the territory within which he may exercise such powers.

(7) For the purposes of this section, the whole of the Cities of Blue Mountains, Greater Wollongong, Liverpool and Penrith, the Municipality of Camden, the Shire of Hornsby, and such other areas as may be prescribed, shall be deemed to be included in the County of Cumberland and the whole of the Shires of Colo, Gosford and Wollondilly, and such other areas as may be prescribed, shall be deemed to be outside the County of Cumberland.

(8) Any person failing to observe any direction given pursuant to this section by an emergency fire controller shall be liable upon conviction to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment.

(9) The provisions of this section shall have effect notwithstanding anything contained in this or any other Act to the contrary.

**Sec. 18.
(Penalties.)**

(d) (i) by omitting from section eighteen the words "twelve months" and by inserting in lieu thereof the words "six months";
 (ii)

(ii) by omitting from the same section the words No. 39, 1963
"two years" and by inserting in lieu thereof —
the words "twelve months";

(e) by inserting in section forty-eight after the words Sec. 48.
"New South Wales," where secondly occurring the (Proceedings
not to lie
against
persons
acting bona
fide under
and for the
purposes of
Act.)
words "an emergency fire controller";

(f) (i) by omitting from section forty-nine the words Sec. 49.
"fifty pounds" and by inserting in lieu thereof (Penalties.)
the words "one hundred pounds";

(ii) by inserting at the end of the same section the
following new subsection :—
(2) All proceedings for offences against
this Act and the regulations shall be disposed
of summarily before a court of petty sessions
held before a stipendiary magistrate sitting
alone.

(g) (i) by inserting in subsection one of section fifty- Sec. 55.
five after the words "authority of" the words (Duty of
"an emergency fire controller or";
officers and
members of
police force

(ii) by inserting in subsection two of the same to support
section after the words "obstructs any" the authority
words "emergency fire controller";
of captains,
etc., of
bush fire
brigades and
fire control
officers.)

(h) by inserting in paragraph (m) of subsection two of Sec. 57.
section fifty-seven after the words "functions of" (Regula-
tions.)
the words "emergency fire controllers."