

BUSH FIRES AND FIRE BRIGADES (AMENDMENT) ACT.

Act No. 24, 1965.

An Act to make further provisions with respect to the declaration of bush fire danger periods and the fighting of fires in New South Wales by members of certain fire brigades established outside New South Wales; for these and other purposes to amend the Bush Fires Act, 1949, the Fire Brigades Act, 1909, and certain other Acts; and for purposes connected therewith.
[Assented to, 17th December, 1965.]

BE

No. 24, 1965

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 and Fire Brigades (Amendment) Act, 1965".

(2) The Bush Fires Act, 1949, as amended by subsequent Acts and by this Act, may be cited as the Bush Fires Act, 1949-1965.

(3) The Fire Brigades Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Fire Brigades Act, 1909-1965.

Amendment of Act No. 31, 1949.

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

Sec. 7.
(Bushfire danger period.)

(a) (i) by omitting subsection two of section seven and by inserting in lieu thereof the following subsections:—

(2) Subject to subsection three of this section, the council of an area may by resolution, or where he has been so authorised under section 530A of the Local Government Act, 1919, as amended by subsequent Acts, the mayor or deputy-mayor or the president or deputy-president of an area may by instrument in writing, declare—

(a) any period commencing on or after the first day of April and ending on or before the thirtieth day of September in any year to be a bush fire danger period in that area or in such part of that area as may be specified in the resolution or instrument;

(b)

(b) the bush fire danger period referred to No. 24, 1965 in subsection one of this section to be revoked in respect of that area or such part of that area as may be specified in the resolution or instrument for such period as may be so specified.

(2A) The council of an area may by resolution, or a delegate of a council may by instrument in writing, revoke any declaration made under subsection two of this section by the council or any delegate of the council.

(2B) A person authorised as mentioned in subsection two of this section is in this section referred to as a delegate of a council.

- (ii) by omitting from paragraph (b) of subsection three of the same section the words "The council of a special area shall not exercise the power conferred upon it by paragraph (b) of subsection two of this section unless it has first obtained" and by inserting in lieu thereof the words "The council of a special area or the delegate of such a council shall not exercise the power conferred by paragraph (b) of subsection two of this section unless it or he has first obtained";
- (iii) by inserting in subparagraphs (i) and (ii) of the same paragraph after the word "resolution" wherever occurring the words "or instrument";
- (iv) by inserting in paragraph (a) of subsection five of the same section after the word "resolution" where firstly occurring the words ", or by a delegate of a council in an instrument,";
- (v) by inserting in the same paragraph after the word "resolution" where secondly occurring the words "or instrument";
- (vi)

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(vi) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection :—

(6) Where any resolution is passed by a council, or an instrument is made by a delegate of a council, under subsection two of this section, the council or delegate shall—

(a) forward to the Minister within twenty-four hours of the meeting at which the resolution was passed or after the making of the instrument, as the case may be, a copy of the resolution or instrument, together with, where the council is the council, or the delegate is the delegate of the council, of a special area and the resolution is passed or the instrument is made pursuant to paragraph (b) of that subsection, a copy of the written concurrence of the Forestry Commission of New South Wales or of a person authorised in that behalf by that Commission ; and

(b) within the prescribed time cause a notice in the prescribed form of the resolution or instrument to be published in at least one newspaper circulating in the area of the council.

(vii) by inserting in subsection seven of the same section after the word "passed" the words " , or instrument made , " ;

(b) by inserting next after subsection five of section ten the following new subsections :—

(5A) The council of an area may by resolution, or where he has been so authorised under section 530A of the Local Government Act, 1919, as amended by subsequent Acts, the mayor or deputy-mayor or the president or deputy-president of an area

Sec. 10.
(Requirements to be
complied
with by per-
sons lighting
certain
classes of
fires.)

area may by instrument in writing, determine that, ~~No. 24, 1965~~ because of the seriousness of the bush fire danger in the area or any part of the area, no permit shall, during such period as may be specified in the resolution or instrument, be issued under paragraph (a) of subparagraph (ii) of paragraph (a) of subsection two of this section authorising the lighting, maintenance or use, within that area or that part of that area, of fires referred to in subsection one of this section.

(5B) The council of an area may by resolution, or a person authorised as mentioned in subsection (5A) of this section may by instrument in writing, revoke any determination made under that subsection by that council or any person so authorised.

(5C) During the period that any determination under subsection (5A) of this section is in force—

- (a) no permit shall be issued under paragraph (a) of subparagraph (ii) of paragraph (a) of subsection two of this section in contravention of the determination; and
- (b) notwithstanding any other provision of this section, a public authority which has been given notice, in the prescribed manner, of the determination shall not light, maintain or use a fire if a permit for the lighting, maintenance or use of the fire by any other person may not be issued by virtue of paragraph (a) of this subsection.
- (c) (i) by omitting from paragraph (b) of subsection Sec. 12. one of section twelve the words “permits a (Offences.) fire to escape from his own land” and by inserting in lieu thereof the words “being the owner or occupier of any land, permits a fire to escape from that land”;
- (ii)

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(ii) by inserting at the end of paragraph (b) of subsection three of the same section the following word and new paragraph :—

; or

(c) sells, offers for sale, ignites, throws down or drops any firework;

(iii) by inserting next after the same subsection the following new subsection :—

(4) Where the council of an area has approved in writing of the use of fireworks during any period specified in that approval at any organised display to be conducted on any land within that area and specified in that approval, a person shall not be guilty of an offence under subsection three of this section by reason only of—

(a) his igniting, throwing down or dropping any firework or burning or incandescent material, if he proves that he did so on that land during that period; or

(b) his selling any firework, or offering any firework for sale, if he proves that he sold the firework, or offered the firework for sale, for use at that display.

Sec. 14.
(Councils
may
authorise
persons to
enter land
and make
fire breaks
or clear
inflammable
material.)

(d) by inserting next after subsection one of section fourteen the following new subsection :—

(1A) The provisions of the Local Government Act, 1919, as amended by subsequent Acts, with respect to—

(a) the charge of a rate under such Act on the land in respect of which it is levied; and

(b)

(b) the time within which proceedings for the No. 24, 1965 recovery of the rate may be taken,

shall, mutatis mutandis, apply to and in respect of any judgment recovered under this section against the owner of land by the council and recorded in the books thereof, as if the amount of the judgment and of any costs awarded to the council in respect of its claim were a rate levied under that Act, as so amended, in respect of the land concerned.

(e) by inserting in subsection two of section seventeen Sec. 17. after the word "assumed" the words "or is likely to (Emergency assume"; fire controllers.)

(f) by inserting in section forty-eight after the word Sec. 48. "brigade," the words "a member of an interstate (Proceedings fire brigade acting in pursuance of section 51A of not to lie against persons acting bona fide under and for the purposes of this Act.);

(g) by inserting next after section fifty-one the following New sec. 51A. new section :—

51A. (1) A member of an interstate fire brigade Interstate assistance who is present at a fire within the territory of a at fires. bush fire brigade formed or organised under this Act and is there for the purpose of the control and suppression of that fire shall—

(a) obey any orders given to him by any person acting under this Act who is in charge of fire fighting operations and is present at the fire, and place any gear or equipment in his charge at the disposal of that person; and

(b) where he has charge of other members of the interstate fire brigade at the fire and while a person referred to in paragraph (a) of

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of this subsection is not present at the fire, have and may exercise and perform all the powers, authorities, duties and functions conferred or imposed by or under this Act on the captain of that bush fire brigade.

(2) A member of an interstate fire brigade who is present at a fire outside the territory of a bush fire brigade formed or organised under this Act or a fire district under the Fire Brigades Act, 1909, as amended by subsequent Acts, and is there for the purpose of the control or suppression of that fire shall have and may exercise and perform all the powers, authorities, duties and functions that, if the fire were in the territory of a bush fire brigade, the captain of that bush fire brigade would have and be capable of exercising and performing.

(3) In this section "interstate fire brigade" means a fire brigade, by whatever name called, established for any area within the State of Queensland, Victoria or South Australia or the Australian Capital Territory.

**Sec. 57.
(Regula-
tions.)**

(h) by inserting next after paragraph (w) of subsection two of section fifty-seven the following new paragraph :—

(x) the conditions under which fires may be lit, maintained or used for or in connection with the demolition of buildings or the destruction of old building materials or for any like purpose.

(2) The amendments made by paragraphs (a) and (b) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The repeal of subsection two of section seven of the Bush Fires Act, 1949, as amended by subsequent Acts, effected by subparagraph (i) of paragraph (a) of subsection one

one of this section does not affect the operation of any resolution of a council made before the commencement of that subparagraph and any such resolution shall be deemed to have been made under the said subsection two as substituted by that subparagraph. No. 24, 1965

3. The Fire Brigades Act, 1909, as amended by subsequent Acts, is amended— Amendment of Act No. 9, 1909.

- (a) by inserting in section thirty-two after the words Sec. 32. “fire brigade officer,” the words “or any member of (Damage caused to an interstate fire brigade referred to in section 32A be a damage of this Act,);”
- (b) by inserting next after section thirty-two the following new section :—

32A. (1) A member of an interstate fire brigade Interstate assistance at fires. who is present at a fire within a fire district and is there for the purpose of endeavouring to extinguish that fire or to save such lives and property as may there be in danger shall—

(a) obey any orders given to him by any person acting under this Act who is in charge of fire fighting operations and is present at the fire, and place any gear or equipment in his charge at the disposal of that person; and

(b) where he has charge of other members of the interstate fire brigade at the fire and while a person referred to in paragraph (a) of this subsection is not present at the fire, have and may exercise and perform all the powers, authorities, duties and functions conferred or imposed by or under this Act on the chief officer.

(2) A member of an interstate fire brigade who fails to comply with any of the provisions of subsection one of this section shall be liable to a penalty

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

(3) In this section "interstate fire brigade" means a fire brigade, by whatever name called, established for any area within the State of Queensland, Victoria or South Australia or the Australian Capital Territory.

Sec. 46.
(Bona fide
exercise of
powers
protected.)

(c) (i) by omitting from section forty-six the words "or an officer of the board" and by inserting in lieu thereof the words "an officer of the board, or any member of an interstate fire brigade referred to in section 32A of this Act";

(ii) by inserting in the same section after the word "officer" where lastly occurring the words "or member".