

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 74, 1976.

An Act to amend the Bush Fires Act, 1949, and the Workers' Compensation Act, 1926, to change the name of the Fund under the Bush Fires Act, 1949; to make further provisions relating to fire breaks, to increase penalties, and for certain other purposes; and to validate certain matters. [Assented to, 2nd December, 1976.]

BE

Bush Fires (Amendment).

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:—

1. This Act may be cited as the "Bush Fires ~~Short title.~~
(Amendment) Act, 1976".

2. (1) This section and sections 1 and 3 shall commence ~~Commencement.~~
on the date of assent to this Act.

(2) Sections 4 and 5 shall, in their application to a provision of a Schedule, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Except as provided in subsections (4), (5) and (6), Schedules 1–3 shall commence on the date of assent to this Act.

(4) Schedule 1 (2) shall be deemed to have commenced on 9th December, 1949.

(5) Schedule 1 (10) (b) and (d) shall be deemed to have commenced on 5th June, 1975.

(6) Schedule 3 (1) shall be deemed to have commenced on 3rd January, 1975.

3. This Act contains the following Schedules :— ~~Schedules.~~

**SCHEDULE 1.—AMENDMENTS TO THE BUSH FIRES
ACT, 1949.**

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 2.—AMENDMENTS TO THE BUSH FIRES ACT, 1949, RELATING TO PENALTIES.**SCHEDULE 3.—AMENDMENTS TO THE WORKERS' COMPENSATION ACT, 1926.**

Amendment of Act No. 31, 1949. 4. The Bush Fires Act, 1949, is amended in the manner set forth in Schedules 1 and 2.

Amendment of Act No. 15, 1926. 5. The Workers' Compensation Act, 1926, is amended in the manner set forth in Schedule 3.

Sec. 4.**SCHEDULE 1.****AMENDMENTS TO THE BUSH FIRES ACT, 1949.****(1) Section 2—**

Omit the matter relating to Part VI, insert instead :—

PART VI.—NEW SOUTH WALES BUSH FIRE FIGHTING FUND.**(2) Section 6, definition of “Fund”—**

Omit “Eastern and Central Divisions Bush Fire Fighting Fund”, insert instead “account”.

(3) Section 13 (1)—

Omit “(or where there is no occupier, the owner)”, insert instead “or owner”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE BUSH FIRES ACT, 1949—continued.

(4) Section 14A—

After section 14, insert :—

14A. Where—

- (a) the occupier and the owner of the land in respect of which a notice is given under section 13 are not the same person; and
- (b) the owner of that land has been prosecuted under section 13 (3) or an action for recovery of expenses has been taken against him under section 14 (1),

Defence
to court
proceedings.

it is a defence to that prosecution or action if the court is satisfied that that owner had no legal right, as between himself and the occupier of that land, to enter that land and comply with the requirements of the notice.

(5) (a) Section 22 (2), first proviso—

Omit paragraph (a), insert instead :—

- (a) the Public Transport Commission of New South Wales—unless permission has been granted by the Commission or some person authorised by the Commission in that behalf;

(b) Section 22 (3B)—

Omit “Commissioner for Railways”, insert instead “Public Transport Commission of New South Wales”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE BUSH FIRES ACT, 1949—*continued.*

(c) Section 22 (3B)—

Omit “Commissioner” where secondly and thirdly occurring, insert instead “Commission”.

(d) Section 22 (3D)—

After section 22 (3C), insert :—

(3D) Any member of a bush fire brigade or any other person acting under the authority of a captain, deputy captain, group captain or deputy group captain of a bush fire brigade or any person acting under the authority of the Co-ordinating Committee or a Fire Prevention Association may, with the permission of the occupier of any land to which subsection (3A), (3B) or (3C) does not apply, enter upon that land and do all or any of the following things, namely, plough, burn, clear or otherwise establish fire breaks on the land or remove, burn or destroy any inflammable matter or other material upon the land.

(6) Part VI, heading—

Omit “EASTERN AND CENTRAL DIVISIONS”, insert instead “NEW SOUTH WALES”.

(7) Section 29 (1A), (1B)—

After section 29 (1), insert :—

(1A) As from the date of assent to the Bush Fires (Amendment) Act, 1976, the name of the account established and kept under subsection (1) shall be the “New South Wales Bush Fire Fighting Fund”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE BUSH FIRES ACT, 1949—*continued.*

(1B) A reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, being a reference to, or a reference to be construed as a reference to, or deemed or taken to refer to, the Eastern and Central Divisions Bush Fire Fighting Fund shall, except in so far as the context or subject-matter otherwise indicates or requires, be construed as a reference to the New South Wales Bush Fire Fighting Fund.

(8) (a) Section 30 (1)—

Omit “Before the end of each financial year the Minister shall”, insert instead “In respect of each financial year, the Minister shall, before or as soon as practicable after the end of the preceding financial year.”.

(b) Section 30 (1) (a)—

Omit “during the then ensuing financial year”.

(9) (a) Section 37 (1) (f) (iv)—

Omit “Chief Secretary’s Department”, insert instead “State Emergency Services and Civil Defence Organisation referred to in the State Emergency Services and Civil Defence Act, 1972.”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE BUSH FIRES ACT, 1949—*continued.*

(b) Section 37 (6)—

After section 37 (5), insert :—

(6) A council shall take care of and maintain in good condition any fire fighting apparatus, buildings, water storage tanks or lookout towers vested in it under subsection (3).

(10) (a) Section 39 (2) (b), (c)—

Omit the paragraphs, insert instead :—

(b) one, who shall be nominated by the Minister on the recommendation of the Minister for the time being administering the Forestry Act, 1916, shall be the Commissioner appointed under that Act or some other person representing that Commissioner;

(c) one, who shall be nominated by the Minister on the recommendation of the Minister for the time being administering the National Parks and Wildlife Act, 1974, shall be the Director of National Parks and Wildlife or some other person representing the Director of National Parks and Wildlife;

(b) Section 39 (2) (f)—

Omit “Fire and Accident Underwriters’ Association of New South Wales”, insert instead “Insurance Council of Australia”.

SCHEDULE

Act No. 74, 1976.

Bush Fires (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE BUSH FIRES ACT, 1949—continued.

(c) Section 39 (2) (g)—

Omit the paragraph, insert instead :—

(g) one, who shall be nominated by the Minister on the recommendation of the Minister for the time being administering the Western Lands Act, 1901, shall be the Western Lands Commissioner or some other person representing the Western Lands Commissioner;

(d) Section 39 (2) (j)—

Omit “Association of Local Government Clerks of New South Wales”, insert instead “Town Clerks Society of New South Wales”.

(11) Section 39A (1)—

Omit “(g)”, insert instead “(h)”.

(12) Section 42 (1)—

Omit “Metropolitan Water, Sewerage, and Drainage Act, 1924–1949”, insert instead “Metropolitan Water, Sewerage, and Drainage Act, 1924, or the Hunter District Water, Sewerage and Drainage Act, 1938”.

(13) Section 51 (4)—

Omit “seventeen”, insert instead “17 or 41F”.

SCHEDULE

*Bush Fires (Amendment).***SCHEDULE 1—continued.****AMENDMENTS TO THE BUSH FIRES ACT, 1949—continued.****(14) Section 57 (4)—**

Omit the subsection, insert instead :—

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Sec. 4.**SCHEDULE 2.****AMENDMENTS TO THE BUSH FIRES ACT, 1949, RELATING TO PENALTIES.****(1) (a) Section 10 (1)—**

At the end of the subsection, insert :—

Penalty : \$500 or imprisonment for 6 months.

(b) Section 10 (2)—

At the end of the subsection, insert :—

Penalty : \$1,000 or imprisonment for 12 months.

(2) (a) Section 12 (1)—

Omit “this Part of this Act”, insert instead “this Act and be liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE BUSH FIRES ACT, 1949, RELATING TO
PENALTIES—*continued.*

(b) Section 12 (3)—

Omit “this Part of this Act”, insert instead “this Act and be liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months”.

(3) Section 13 (3)—

At the end of the subsection, insert :—

Penalty : \$1,000 or imprisonment for 12 months.

(4) (a) Section 16 (4)—

Omit “four hundred dollars”, insert instead “\$1,000”.

(b) Section 16 (4)—

Omit “or to both such penalty and imprisonment”.

(5) (a) Section 17 (10)—

Omit “four hundred dollars”, insert instead “\$1,000”.

(b) Section 17 (10)—

Omit “or to both such penalty and imprisonment”.

Bush Fires (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE BUSH FIRES ACT, 1949, RELATING TO
PENALTIES—*continued.*

(6) Section 18—

Omit “for a first offence to a penalty not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment and for any subsequent offence to a penalty not exceeding four hundred dollars or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment”, insert instead “to a penalty not exceeding \$1,000”.

(7) (a) Section 34 (3)—

Omit “ten dollars”, insert instead “\$20”.

(b) Section 34 (3)—

Omit “two hundred dollars”, insert instead “\$500”.

(8) Section 34A (3)—

Omit “two hundred dollars”, insert instead “\$500”.

(9) Section 36A (4)—

Omit “one hundred dollars”, insert instead “\$200”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE BUSH FIRES ACT, 1949, RELATING
TO PENALTIES—continued.**

(10) (a) Section 41F (4)—

Omit “four hundred dollars”, insert instead
“\$1,000”.

(b) Section 41F (4)—

Omit “or to both such penalty and
imprisonment”.

(11) Section 44 (2)—

Omit “one hundred dollars”, insert instead “\$200”.

(12) (a) Section 49 (1)—

After “this Act” where thirdly occurring, insert
“, other than Part II,.”.

(b) Section 49 (1)—

Omit “two hundred dollars or to imprisonment
for a term not exceeding six months or to both
such penalty and imprisonment”, insert instead
“\$500”.

(13) Section 50—

Omit “one hundred dollars”, insert instead “\$200”.

Bush Fires (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE BUSH FIRES ACT, 1949, RELATING
TO PENALTIES—*continued.*

(14) Section 52—

At the end of the section, insert :—

Penalty : \$500 or imprisonment for 6 months.

(15) Section 55 (2)—

Omit “liable to a penalty not exceeding one hundred dollars”, insert instead “guilty of an offence against this Act and be liable to a penalty not exceeding \$500 or to imprisonment for a term not exceeding 6 months”.

Sec. 5.

SCHEDULE 3.

AMENDMENTS TO THE WORKERS' COMPENSATION ACT, 1926.

(1) Section 17G—

Omit “Chief Secretary”, insert instead “Minister administering the Bush Fires Act, 1949”.

SCHEDULE

Bush Fires (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE WORKERS' COMPENSATION ACT, 1926
—*continued.*

(2) Section 17G—

Omit “Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949”, insert instead “New South Wales Bush Fire Fighting Fund referred to in the Bush Fires Act, 1949”.

(3) Section 17G—

Omit “, as so amended.”.
