

LOCAL GOVERNMENT (BUSH FIRES) AMENDMENT ACT.

Act No. 41, 1932.

An Act to confer on councils of shires and municipalities further powers for the prevention and mitigation of bush fires; to amend the Local Government Act, 1919, and the Bush Fires Act, 1930; and for purposes connected therewith. [Assented to, 16th December, 1932.]

George V.
No. 41, 1932.

BE it enacted by the King'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 "Local Government (Bush Fires) Amendment Act, 1932." Short title.

2. (1) The Local Government Act, 1919, as amended by subsequent Acts, is amended— Amendment of Act No. 41, 1919.

(a) by omitting the subsections of section four hundred and ninety-four inserted by paragraph (a) of section four of the Bush Fires Act, 1930, and by inserting in lieu thereof the following new subsections:— Sec. 494. (Fires, etc.)

(4) (a) The council may authorise such person (in this section referred to as the bush-fire brigade captain) as it thinks proper to control and manage any bush-fire brigade or section thereof organised by the council in pursuance of this section, and may authorise any person (in this section referred to as the deputy bush-fire brigade captain) to act in the place of such bush-fire brigade captain during such time as he

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is prevented by absence, illness, or otherwise from exercising any power or carrying out any duty under this section.

(b) The bush-fire brigade captain, deputy bush-fire brigade captain, or any member of a bush-fire brigade shall not merely by reason of the authority granted him to exercise any powers or carry out any duties under this section be deemed to be a servant of the council.

(c) The exercise of the powers conferred upon the bush-fire brigade captain, or deputy bush-fire brigade captain, under this section, shall be subject to the provisions of any ordinance made in that behalf, and to any directions (not being inconsistent with any such ordinance) given by the council.

cf. Act No. 9,
1909, s. 29.

(5) In any area or in any part of any area which is not within a fire district constituted under the Fire Brigades Act, 1909-1927, the council, the bush-fire brigade captain, or the deputy bush-fire brigade captain, may destroy or remove or cause to be destroyed or removed any buildings, fences, or structures or any living or dead vegetation, and may use or direct to be used any water where such destruction, removal, or use is advisable or in its or his opinion is advisable to protect life or property from any existing or imminent danger from a bush-fire.

(6) (a) The Careless Use of Fire Act, 1912, as amended by subsequent Acts, shall not apply to, nor shall any right of action lie against, the council, the bush-fire brigade captain, or the deputy bush-fire brigade captain, or against any member of a bush-fire brigade or any person acting under the direction of such captain or deputy captain, in respect of anything done bona fide under and for the purposes of this section.

Ibid., s. 32.

(b) Any damage to property caused by any person purporting bona fide to exercise any power conferred or to perform any duty imposed on him by or under this section shall be deemed to

to be a damage by fire within the meaning of any policy of insurance against fire covering the property so damaged. No. 41, 1932.

(7) (a) The authority of the bush-fire brigade captain, or deputy bush-fire brigade captain, shall be recognised by all officers and members of the police force and other persons. It shall be the duty of officers and members of the police force to support the authority of such captain or deputy captain and to assist him and any person acting under his direction in enforcing compliance with any directions given in pursuance of this section or in pursuance of any ordinance. cf. Act No. 9, 1909, s. 31.

(b) Any person who obstructs any bush-fire brigade captain, or deputy bush-fire brigade captain or person acting under his directions, in the lawful exercise of his powers under this section shall be liable to a penalty not exceeding ten pounds. See s. 635; cf. also Act No. 9, 1909, s. 46.

(c) In case of emergency the bush-fire brigade captain, or deputy bush-fire brigade captain or any person acting under his direction, may exercise his powers and enforce the provisions of this section in any area or part thereof. cf. Act No. 9, 1909, s. 20 (f).

(8) Nothing in this section shall be construed as taking away 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. cf. Bush Fires Act, 1913 (S.A.), s. 25; also Rural Fires Act (Qld.), s. 20.

(b) by omitting subsection one of section four hundred and ninety-five and by inserting in lieu thereof the following subsection:— Sec. 495. (Fire-breaks.)

(1) The council may direct the owner or occupier of any land to make and maintain thereon fire-breaks at such places and of such kinds and dimensions as may be specified in such direction, and such owner or occupier shall comply with such direction within the time stated therein.

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Such owner or occupier may, within the time stated in the notice, appeal to the nearest court of petty sessions against such direction.

Such court may determine whether the direction of the council is reasonable in all the circumstances of the case, and whether it shall or shall not be carried out either in its entirety or with modifications, or may extend the time within which anything is to be done.

The costs of the appeal shall be in the discretion of the court.

Any order for the payment of costs made by a court of petty sessions under this subsection shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such under the provisions of that Act.

Sec. 513.
(Ordinances.)

(c) by omitting paragraph (s) of section five hundred and thirteen and by inserting in lieu thereof the following new paragraphs:—

(s) prescribing the powers and duties of bush-fire brigade captains and all matters and things which may be necessary or convenient for enforcing the authority of such captain;

cf. Rural
Fires Act
(Qld.), s. 29
(1).

(t) prescribing all matters or things which may be necessary for carrying out the objects and provisions of section four hundred and ninety-four of the Act.

Amendment
of Act
No. 14, 1930.

(2) The Bush Fires Act, 1930, is amended by omitting paragraph (a) of section four.

INTEREST.