



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 116 of 1976

An Act to provide for the prevention and suppression of bush fires and other fires; to repeal the Bush Fires Act, 1960-1972; and for other purposes.

[Assented to 23rd December, 1976]

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

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Country Fires Act, 1976". Short title.
2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commence-
ment.
(2) Notwithstanding the provisions of subsection (1) of this section, the Governor may, in the proclamation made for the purposes of that subsection, suspend the operation of any specified provisions of this Act until a later day specified in that proclamation, or until a day to be fixed by subsequent proclamation.
3. This Act is arranged as follows:— Arrangement
of Act.

PART I—PRELIMINARY

PART II—ADMINISTRATION

- DIVISION I—THE COUNTRY FIRE SERVICES BOARD
- DIVISION II—OFFICERS OF THE BOARD
- DIVISION III—REGIONAL AND DISTRICT ASSOCIATIONS
- DIVISION IV—C.F.S. FIRE BRIGADES AND C.F.S. GROUP COMMITTEES
- DIVISION V—DISSOLUTION OF REGISTERED C.F.S. ORGANIZATIONS
- DIVISION VI—FIRE CONTROL OFFICERS AND FIRE PARTY LEADERS
- DIVISION VII—COMPENSATION
- DIVISION VIII—FIRE-FIGHTING ADVISORY COMMITTEE

PART III—PROVISIONS RELATING TO THE FUND AND EXPENDITURE ON COUNTRY FIRE SERVICES

DIVISION I—THE COUNTRY FIRE SERVICES FUND

DIVISION II—OBLIGATION OF COUNCILS TO PROVIDE FIRE-FIGHTING FACILITIES AND EQUIPMENT

DIVISION III—EXEMPTION FROM CERTAIN RATES AND TAXES

PART IV—PREVENTING AND EXTINGUISHING FIRES

DIVISION I—FIRE DANGER SEASON

DIVISION II—LIGHTING AND MAINTAINING OF FIRES IN THE OPEN AIR DURING THE FIRE DANGER SEASON

DIVISION III—POWER OF BOARD TO IMPOSE ADDITIONAL RESTRICTIONS ON THE LIGHTING AND MAINTAINING OF FIRES

DIVISION IV—PROHIBITION AGAINST LIGHTING AND MAINTAINING OF FIRES IN THE OPEN AIR ON DAYS OF EXTREME FIRE DANGER

DIVISION V—RESTRICTIONS RELATING TO USE OF CERTAIN FIRES AND APPLIANCES

DIVISION VI—PERMITS

DIVISION VII—OTHER PRECAUTIONS AGAINST FIRES

DIVISION VIII—POWERS OF FIRE CONTROL OFFICERS, FIRE PARTY LEADERS, AND POLICE

DIVISION IX—RECOGNIZED INTERSTATE FIRE-FIGHTING ORGANIZATIONS

PART V—MISCELLANEOUS.

Repeal and transitional provisions.

4. (1) The following Acts are repealed:—

the Bush Fires Act, 1960;

the Bush Fires Act Amendment Act, 1968;

the Bush Fires Act Amendment Act, 1972.

(2) The Bush Fires Equipment Subsidies Fund constituted under the repealed Act is dissolved and the moneys constituting that fund shall, upon the commencement of this Act, be transferred to the Country Fire Services Fund constituted under this Act.

(3) Any person holding office as a fire control officer immediately before the commencement of this Act shall be deemed to have been appointed as a fire control officer under this Act, and, subject to this Act, shall continue to hold that office.

Interpretation.

5. In this Act, unless the contrary intention appears—

“area” means a municipality or district as defined in the Local Government Act, 1934-1976, and includes any area in relation to which a body corporate is, by virtue of any Act, vested with the powers of a municipal or district council:

- “the Board” means the Country Fire Services Board constituted under this Act:
- “burning off” means the burning of bush or standing grass for the purpose of clearing land:
- “bush” means any trees, scrub, underwood or shrubs of any kind, or any parts thereof, (whether alive or dead and whether standing or not):
- “bush fire” means a fire in bush or grass and includes any such fire that has escaped to any other property:
- “council” means a municipal council, or district council, and includes any body corporate that is, by virtue of any Act, vested with the powers of a municipal, or district, council:
- “Country Fire Services” or “C.F.S.” means the Board and the associations and brigades registered under this Act:
- “C.F.S. fire brigade” means a fire-fighting organization registered under this Act as a C.F.S. fire brigade:
- “C.F.S. organization” means a regional fire-fighting association, a district fire-fighting association, a C.F.S. group committee or a C.F.S. fire brigade:
- “day of extreme fire danger” means a day declared to be a day of extreme fire danger in a warning broadcast under Division IV of Part IV of this Act:
- “the Director” means the person for the time being holding, or acting in, the office of Director of Country Fire Services under this Act:
- “fire brigade district” means a fire district constituted under the Fire Brigades Act, 1936-1976:
- “fire control officer” means a person holding the office of fire control officer under this Act:
- “fire danger season” means—
- (a) in relation to a part of the State in respect of which no alteration of the fire danger season has been made in pursuance of this Act—the period commencing on the first day of November in each year and ending on the thirtieth day of April of the following year;
- and
- (b) in relation to a part of the State in respect of which an alteration of the fire danger season has been made in pursuance of this Act—the period as so altered:
- “fire-fighting” means any activity directed towards preventing, controlling or extinguishing fires:
- “fire party leader” means a person holding the office of fire party leader under this Act:
- “forester” means a person holding office as a forester under the Public Service Act, 1967-1975:
- “the Fund” means the Country Fire Services Fund established under this Act:

PART I

“government reserve” means—

(a) any land that constitutes a forest reserve under the Forestry Act, 1950-1974;

(b) any reserve administered under the National Parks and Wildlife Act, 1972-1974;

or

(c) any other prescribed land:

“grass” means grass, stubble, straw, hay or herbage (whether alive or dead and whether standing or not):

“insurer” means any person carrying on the business of insurance in this State:

“the Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor, and includes any other Minister of the Crown for the time being discharging the duties of that Minister:

“owner”—

(a) in relation to land alienated from the Crown by grant—means the owner of an estate in fee simple in the land;

(b) in relation to land held of the Crown by lease or licence—means the lessee or licensee;

and

(c) in relation to land held of the Crown in pursuance of an agreement to purchase—means the person entitled to exercise the right of purchase,

and includes the occupier.

Application of this Act.

6. Except as otherwise expressly provided, this Act applies throughout the State.

Duty of the Crown.

7. (1) It is the duty of the Minister in whom the control or management of Crown lands is vested to take reasonable steps to reduce the danger of the outbreak of fire on those lands, or the spread of fire through those lands.

(2) It is the duty of a Minister or other instrumentality of the Crown in which the ownership of any lands is vested to take reasonable steps to reduce the danger of the outbreak of fire on those lands, or the spread of fire through those lands.

PART II

PART II

ADMINISTRATION

DIVISION I

DIVISION I—THE COUNTRY FIRE SERVICES BOARD

The Country Fire Services Board.

8. (1) There shall be a Board entitled the “Country Fire Services Board”.

(2) The Board—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of holding, acquiring, dealing with, and disposing of, real or personal property;

(c) shall be capable of acquiring or incurring any other rights and liabilities and of suing and being sued;

and

(d) shall hold its property on behalf of the Crown.

(3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed, in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly fixed to that document.

9. (1) The Board shall consist of ten members, appointed by the Governor, of whom— Membership of the Board.

(a) one (the chairman) shall be a person nominated by the Minister;

(b) one shall be the Director;

(c) two shall be persons who are, at the time of their appointment, members of councils whose areas are wholly or partially outside fire brigade districts and who are, in the opinion of the Governor, suitable persons to represent the interests of all such councils;

(d) four shall be persons who are, in the opinion of the Governor, suitable persons to represent the interests of regional associations;

(e) one shall be an officer of the Public Service with extensive knowledge of forestry, nominated by the Minister of Forests;

and

(f) one shall be a person who is, in the opinion of the Governor, a suitable person to represent insurers.

(2) The Governor may appoint a suitable person to be a deputy of any member of the Board, and any person so appointed shall, in the absence of the member of whom he has been appointed a deputy, have all the powers and functions of that member.

10. (1) A member of the Board shall be appointed for a term of four years unless he is one of the persons first appointed as members of the Board in which case he shall be appointed for such term of office (not exceeding four years) as is specified in the instrument of his appointment. Terms and conditions upon which members of the Board hold office.

(2) The Governor may remove a member of the Board from office for—

(a) any breach of, or non-compliance with, a condition of his appointment;

(b) mental or physical incapacity;

(c) neglect of duty;

or

(d) dishonourable conduct.

(3) The office of a member of the Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

PART II
DIVISION I

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (2) of this section.

(4) Upon the office of a member of the Board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Quorum, etc.

11. (1) Six members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting of the Board unless a quorum is present.

(2) Subject to this section, each member of the Board shall have one vote upon any matter arising for the decision of the Board.

(3) A decision carried by a majority of the votes of members present at a meeting of the Board shall be a decision of the Board.

(4) The chairman shall preside at any meeting of the Board at which he is present, and in the absence of the chairman from a meeting of the Board, the members present shall decide who is to preside at that meeting.

(5) In the event of an equality of votes upon any matter arising for the decision of the Board, the person presiding at the meeting shall have a second or casting vote.

(6) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

**Validity
of acts of
the Board
and immunity
of its members.**

12. (1) An act or decision of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member of the Board, shall be as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge or his or its duties under this Act.

**Appointment
of sub-
committees.**

13. (1) The Board may, by resolution, appoint such sub-committees (which may consist of, or include, persons who are not members of the Board) as it thinks necessary or expedient to assist or advise it in the performance of its functions under this Act.

(2) Subject to any direction of the Board, the procedure of any such sub-committee shall be as determined by the sub-committee.

**Power of
delegation.**

14. (1) The Board may, by instrument in writing, and subject to such conditions as may be specified in the instrument, delegate any of its functions to a sub-committee appointed under this Act, or to any person specified in the instrument.

(2) A delegation under this section is revocable at will by the Board, and does not prevent the exercise or performance of any function by the Board itself.

PART II
DIVISION I

Allowances
and expenses.

15. A member of the Board, or of any sub-committee appointed by the Board, is entitled to be paid such allowances and expenses as may be determined by the Minister.

16. (1) The Board shall—

(a) advise the Minister upon any matter affecting the administration of this Act referred by the Minister to the Board for advice, or upon any matter that should, in the opinion of the Board, be brought to the attention of the Minister;

Functions of
the Board.

(b) keep methods of fire-fighting under constant review and report to the Minister from time to time upon the most modern and effective methods of fire-fighting;

and

(c) carry out such other functions as are assigned to the Board by or under this Act.

(2) The Board may test and appraise fire-fighting equipment and other equipment that may be of use for fire-fighting and publish the results of the appraisal for the benefit of C.F.S. organisations.

17. (1) The Board shall, on or before the thirty-first day of October in each year, submit a report to the Minister upon the administration of this Act during the year ending on the preceding thirtieth day of June.

Annual
report of the
Board.

(2) The Minister shall, as soon as practicable after receipt of the report under this section, cause a copy of the report to be laid before each House of Parliament.

DIVISION II—OFFICERS OF THE BOARD

DIVISION II

18. (1) There shall be a Director of Country Fire Services.

(2) The Director shall be a person of wide knowledge of, and experience in, fire-fighting appointed by the Board with the approval of the Minister.

The Director
of Country
Fire Services
and other
officers of
the Board.

(3) The Director shall be the chief executive officer of the Board.

(4) The Board may, with the approval of the Minister, appoint such other officers as it considers necessary or expedient for the proper administration of this Act.

(5) An officer of the Board is not, in his capacity as such, subject to the Public Service Act, 1967-1975.

(6) The Board may, with the approval of the Minister administering any department of the Public Service of the State, upon terms mutually arranged, make use of the services of any officer or use any plant, equipment or premises of that department.

(7) The terms and conditions upon which the Director or any other officer holds office shall be determined by the Board with the approval of the Minister.

19. The Board is a public authority within the meaning of the Superannuation Act, 1974-1976, and any full-time officer of the Board may, subject to and in accordance with arrangements made between the Board and the South Australian Superannuation Board, become a contributor to the South Australian Superannuation Fund.

Super-
annuation.

PART II
DIVISION III

Fire control
regions and
regional
associations.

DIVISION III—REGIONAL AND DISTRICT ASSOCIATIONS

20. (1) The Governor may, on the recommendation of the Board, by proclamation—

(a) declare that a part of the State specified in the proclamation constitutes a fire control region for the purposes of this Act;
and

(b) establish a regional fire-fighting association, under a name specified in the proclamation, in relation to that region.

(2) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

(3) A regional fire-fighting association is a body corporate authorized—

(a) to exercise a general oversight of measures taken to facilitate fire-fighting within the region;

(b) to advise the Board upon any matters referred to the association for advice, or upon any matters affecting the administration of this Act that should, in the opinion of the association, be brought to the attention of the Board;

and

(c) to perform such other functions as may be assigned to the association by its constitution or by regulation under this Act.

District
associations.

21. (1) The Board may—

(a) upon the application of an association seeking registration as a district fire-fighting association;

and

(b) with the consent of the council for an area,

register the association as a district fire-fighting association for the area.

(2) The Board may register an organization as a district fire-fighting association without application being made under this section where the organization was registered, immediately before the commencement of this Act, under the repealed Act.

(3) The Board may require any organization that should, in the opinion of the Board, be registered as a district association, to apply for registration under this section.

(4) A registered district fire-fighting association is a body corporate authorized—

(a) to exercise a general oversight of measures taken to facilitate fire-fighting within the area;

(b) to advise the Board, or a regional association whose region includes the area, upon any matters referred to the district association for advice or upon any matters that should, in the opinion of the district association, be brought to the attention of the Board or of the regional association;

and

(c) to perform such other functions as may be assigned to the association by its constitution, or by regulation under this Act.

DIVISION IV—C.F.S. FIRE BRIGADES AND C.F.S. GROUP COMMITTEES

PART II
DIVISION IV

22. (1) The Board may, upon the application of an organization seeking registration under this section, register the organization as a C.F.S. fire brigade.

C.F.S. fire
brigades and
C.F.S. group
committees.

(2) The Board may register an organization as a C.F.S. fire brigade without application being made under this section where the organization was registered, immediately before the commencement of this Act, under the repealed Act.

(3) The Board may require any organization formed for the purpose of fire-fighting to apply for registration under this section.

(4) A C.F.S. fire brigade is a body corporate authorized to perform such functions as are assigned to it by its constitution, or by regulation under this Act.

(5) The constitution of a registered C.F.S. fire brigade shall nominate a fire station or fire stations from which the brigade is authorized to operate.

23. (1) Where the Board is satisfied that it is in the interests of efficient administration to do so, it may, upon the joint application of a number of C.F.S. fire brigades, register an organization as a C.F.S. group committee in relation to those C.F.S. fire brigades.

C.F.S. group
committees.

(2) The Board may register an organization as a C.F.S. group committee without application being made under this section where the organization was registered, immediately before the commencement of this Act, under the repealed Act.

(3) A C.F.S. group committee shall not be registered unless the councils of the areas within which the C.F.S. fire brigades are established have approved of the constitution of a C.F.S. group committee in relation to those fire brigades.

(4) A registered C.F.S. group committee is a body corporate authorized to perform such functions as are assigned to it by its constitution, or by regulation under this Act.

DIVISION V—DISSOLUTION OF REGISTERED C.F.S. ORGANIZATIONS

DIVISION V

24. (1) Where—

(a) a registered C.F.S. organization does not desire to continue as such;

or

(b) in the opinion of the Board—

(i) a registered C.F.S. organization has become defunct;

or

(ii) a registered C.F.S. organization is not properly performing its functions as such,

the Board may, by instrument published in the *Gazette*, cancel the registration and dissolve the organization.

(2) Where a registered C.F.S. organization is dissolved in pursuance of this section, the assets of the organization are vested in the Board, and the Board may dispose of them in such manner as it considers will best promote the objects of this Act.

Dissolution of
registered
C.F.S.
organizations.

PART II
DIVISION VI

DIVISION VI—FIRE CONTROL OFFICERS AND FIRE PARTY LEADERS

Fire control
officers.

25. (1) The Board or a council may appoint suitable persons to be fire control officers.

(2) Notice of any such appointment shall be published in the *Gazette*.

(3) A mayor, alderman or councillor is not disqualified by his office as such from appointment as a fire control officer.

(4) The following persons are fire control officers—

(a) the Director;

(b) every forester;

and

(c) every person holding a prescribed office.

Fire party
leaders.

26. (1) The Board or a council (or any person acting under the authority of the Board or a council) may appoint suitable persons to be fire party leaders.

(2) A mayor, alderman or councillor is not disqualified by his office as such from appointment as a fire party leader.

DIVISION VII

DIVISION VII—COMPENSATION

Compensation.

27. (1) This section applies to—

(a) a fire control officer or a fire party leader appointed under this Act;

or

(b) a member of a C.F.S. fire brigade,

who receives no remuneration by reason of his office as a fire control officer, or fire party leader or by reason of his membership of a C.F.S. fire brigade.

(2) The Workmen's Compensation Act, 1971-1974, applies in relation to a person to whom this section applies as if—

(a) his functions and duties as a fire control officer, fire party leader or member of a C.F.S. fire brigade constituted his employment;

(b) he were receiving a prescribed wage in respect of that employment;

and

(c) his employer were the Board.

(3) The Board has an absolute discretion to enter into contracts of insurance in respect of its liability to pay workmen's compensation to persons to whom this section applies with such insurer or insurers as it thinks fit but it shall not enter into any such contracts until it has, by public advertisement, called for tenders from insurers in relation thereto and has considered all tenders submitted in response to the advertisement.

DIVISION VIII

DIVISION VIII—FIRE-FIGHTING ADVISORY COMMITTEE

Fire-fighting
Advisory
Committee.

28. (1) There shall be a committee entitled the "Fire-fighting Advisory Committee".

(2) The Committee shall consist of five members appointed by the Governor of whom—

- (a) one (the Chairman) shall be appointed on the nomination of the Minister;
- (b) two shall be appointed on the nomination of the Fire Brigades Board;
- and
- (c) two shall be appointed on the nomination of the Country Fire Services Board.
- (3) The members of the committee shall hold office at the pleasure of the Governor.
- (4) The functions of the committee are as follows:—
- (a) to advise the Minister, the Fire Brigades Board and the Country Fire Services Board on any matter affecting the co-ordination or rationalization of fire-fighting services in the State;
- and
- (b) to advise the Minister, the Fire Brigades Board and the Country Fire Services Board on any matter referred to the Committee for advice.

PART III

PART III

PROVISIONS RELATING TO THE FUND AND EXPENDITURE
ON COUNTRY FIRE SERVICES

DIVISION I—THE COUNTRY FIRE SERVICES FUND

DIVISION I

29. (1) The Board shall establish and maintain a fund entitled the "Country Fire Services Fund".

The Country
Fire Services
Fund.

- (2) The Board shall pay into the Fund—
- (a) any moneys appropriated by Parliament for the administration of this Act;
- and
- (b) any moneys received or recovered by the Board in the administration of this Act.
- (3) The Fund shall be applied by the Board in the administration of this Act.
- (4) The Board may invest any moneys not immediately required for the administration of this Act in such manner, and upon such terms and conditions, as may be approved by the Treasurer.
- (5) The Board may borrow moneys for the purposes of the Fund upon such terms and conditions as may be approved by the Treasurer.

30. (1) The Board shall cause proper accounts to be kept of its financial affairs.

Audit of
accounts.

(2) The accounts of the Board must distinguish between moneys applied in making grants or paying subsidies and moneys otherwise applied in the administration of this Act.

PART III
DIVISION I

(3) The Auditor-General may, at any time, and shall, at least once in every calendar year, audit the accounts of the Board.

(4) For the purpose of the audit, the Auditor-General shall have, and may exercise, in relation to the accounts of the Board, and the officers of the Board, the same powers as are vested by the Audit Act in the Auditor-General in relation to public accounts and accounting officers.

(5) A copy of the accounts of the Board, as audited by the Auditor-General, shall be included in the annual report of the Board.

Contribution
to the Fund
by insurers.

31. (1) Before the commencement of each financial year, the Treasurer shall make an estimate of the total expenditure to be incurred in the administration of this Act for that financial year.

(2) The Board may, with the approval of the Treasurer, by notice published in the *Gazette*, recommend an amount (being not less than one-quarter and not more than one-half of the Treasurer's estimate made under subsection (1) of this section) to be contributed by insurers towards the cost of the administration of this Act in that financial year.

(3) A prescribed association of insurers may appeal to the Treasurer against any such recommendation.

(4) After consideration of the recommendation of the Board, and the representations of the appellant, the Treasurer may—

(a) reduce the amount of the contribution recommended by the Board;

or

(b) dismiss the appeal.

(5) The decision of the Treasurer upon an appeal under this section shall be final.

Apportionment
of insurers'
contribution.

32. (1) An insurer is liable to pay to the Board as his share of the total contribution to be made by insurers for each financial year an amount determined in accordance with the following formula:—

$$A = B \times \frac{C}{D}$$

where—

A = the contribution to be made by the insurer

B = the total contribution to be made by all insurers

C = the premium income received by the insurer during the previous financial year in respect of the insurance of property outside fire brigade districts

D = the total premium income received by all insurers during the previous financial year in respect of the insurance of property outside fire brigade districts.

(2) An insurer shall, at the request of the Board, supply the Board with such information as it may require in order to assist it in determining the amount of the insurer's contribution.

Penalty: Five hundred dollars.

(3) The Board shall determine the amount to be contributed by each insurer, and the Board's determination shall be final and binding on the insurer.

(4) If an insurer fails to pay to the Board a contribution determined under subsection (3) of this section within one month after the date on which the Board serves a notice personally or by post on him requiring him to pay that contribution, the Board may proceed to recover that contribution, as a debt due to it, in any court of competent jurisdiction.

DIVISION II—OBLIGATION OF COUNCILS TO PROVIDE FIRE-FIGHTING FACILITIES AND EQUIPMENT DIVISION II

33. (1) Every council whose area lies wholly or partially outside a fire brigade district is responsible for providing adequate equipment for fire-fighting within its area. Provision of fire-fighting equipment by council.

(2) If the Board is of the opinion that a council has not provided adequate equipment as required by this section, the Board may give notice in writing to the council requiring it to provide such equipment as is specified in the notice.

(3) A council may appeal to the Minister against any such requirement and the Minister may vary the requirement in such manner as he considers just.

(4) A council shall comply with a requirement made under this section, or with any such requirement as varied by the Minister under this section, within such time as is stipulated in the requirement.

(5) If a council fails to comply with a requirement under this section, the Board may procure the equipment to which the requirement relates and recover the cost of so doing, as a debt, from the council.

34. A council may expend any portion of its revenue—

(a) in defraying the cost of any action taken by it under this Act;

(b) in contributing to the expenses of any C.F.S. organization that operates in its area;

and

(c) in subsidising the purchase of any equipment by the owner of any land in its area which will be available for fire-fighting within its area.

Power of council to expend revenue.

35. (1) The Board may, with the approval of the Treasurer, make a grant out of the Fund to any council or C.F.S. organization for the purpose of providing—

(a) a proportion of the cost incurred by the council or C.F.S. organization in providing any building, equipment or materials reasonably required for fire-fighting;

or

Grants from Fund to various organizations.

PART III
DIVISION II

(b) a proportion of the cost of any working expenses incurred by the council or C.F.S. organization in relation to providing fire-fighting services.

(2) A grant may be made under this section unconditionally or upon condition that contributions determined by the Board be made to the Fund.

(3) A council whose area lies wholly or partially outside a fire brigade district is liable to contribute to the Board an amount determined by the Treasurer for the insurance of—

(a) fire control officers;

(b) fire party leaders;

and

(c) members of C.F.S. fire brigades,

who may be engaged in fire-fighting within the area of the council.

Proceeds of
sale of
equipment.

36. (1) A council or C.F.S. organization shall not sell or dispose of any building or equipment, constructed or purchased with the assistance of a grant provided by the Board, without the consent of the Board.

(2) The Board may give its consent under this section upon such terms and conditions as it thinks fit.

(3) The Board may by conditions imposed under this section require that moneys realized upon the sale of any building or equipment be applied towards the purchase of a building or equipment to replace that which is to be sold.

DIVISION III

Exemption
from certain
rates and
taxes.

DIVISION III—EXEMPTION FROM CERTAIN RATES AND TAXES

37. The Board and any C.F.S. organization are exempt from—

(a) rates under the Local Government Act, 1934-1976;

(b) rates under the Waterworks Act, 1932-1975, or the Sewerage Act, 1929-1975;

and

(c) land tax under the Land Tax Act, 1936-1976.

PART IV

PART IV

PREVENTING AND EXTINGUISHING FIRES

DIVISION I

Alterations of
fire danger
season by
Board.

DIVISION I—FIRE DANGER SEASON.

38. (1) The Board may, by order—

(a) alter the fire danger season in relation to the whole, or any part, of the State;

or

(b) revoke any such order previously made.

(2) The Board shall not make an order, in relation to the area of a council, under this section, except after consultation with the council concerned.

(3) Where a council is of the opinion that, because of seasonal conditions, it is desirable to alter the fire danger season in relation to the whole, or a part, of its area, it may, by instrument in writing, request the Board to alter the fire danger season in the manner set out in the request.

(4) The Board shall comply with a request under subsection (3) of this section unless, in its opinion, there is good reason for not doing so.

(5) An order made under this section must be published in the *Gazette* and in a newspaper circulating generally throughout the State, or in that part of the State to which the order relates.

DIVISION II—LIGHTING AND MAINTAINING OF FIRES IN THE OPEN AIR DURING THE FIRE DANGER SEASON DIVISION II

39. (1) Subject to subsection (2) of this section, a person shall not light or maintain a fire in the open air during the fire danger season.

Restriction on lighting of fires in the open air during the fire danger season.

Penalty: For a first offence five hundred dollars; for a subsequent offence one thousand dollars.

(2) Subject to this Act, a person may light or maintain a fire in the open air during the fire danger season as follows:—

(a) he may burn off standing grass at any time before the prescribed day for the purpose of clearing a strip of land, not more than 40 metres in width, to act as a fire break provided that he complies with the rules for burning off land;

(b) he may burn off bush or standing grass at any time after the prescribed day provided that he complies with the rules of burning off land;

(c) he may burn off bush or standing grass within fourteen days after the commencement of the fire danger season or within fourteen days before the prescribed day provided that—

(i) he is authorized to do so by an order of the Board or a resolution of the council in whose area the land to be burnt off is situated;

and

(ii) he complies with the rules for burning off land;

(d) he may light or maintain a fire in the open air (other than a fire for the purpose of burning off land) provided that—

(i) the space immediately around the fire is cleared of all flammable bush, grass and other material for a radius of at least 4 metres;

and

(ii) a person who is able to control the fire is present at the fire from the time it is lighted until the time it is completely extinguished;

and

- (e) he may light or maintain a fire in the open air provided that he does so—
- (i) in accordance with regulations permitting him to do so;
 - or
 - (ii) in accordance with a permit issued under this Act.
- (3) The rules for burning off land are as follows:—
- (a) before the fire is lighted, the land adjoining the land to be burnt off must be cleared in accordance with the regulations;
 - (b) notice of intention to burn off the land must be given, in accordance with the regulations, to any persons or authorities stipulated by the regulations;
 - (c) at least four persons who are able to assist in controlling the fire must be present at the fire from the time it is lighted until it has been completely extinguished;
- and
- (d) any rules prescribed by regulation.
- (4) In this section—
- “the prescribed day”, in relation to any part of the State, means the sixteenth day of February in each year or such other day as may be fixed by the Board in relation to the whole, or that part, of the State.
- (5) The Board may, by order published in the *Gazette*, fix a day as the prescribed day for the purposes of this section in relation to the whole, or a specified part, of the State.
- (6) The Board shall not make an order in relation to the area of a council under subsection (5) of this section except after consultation with the council.
- (7) The Board may by order published in the *Gazette*, and a council may, by resolution published in the *Gazette*, give an authorization for the purposes of paragraph (c) of subsection (2) of this section.
- (8) An authorization given under subsection (7) of this section shall—
- (a) where the authorization is given by the Board—apply throughout the part of the State defined in the order;
 - or
 - (b) where the authorization is given by a council—apply throughout the area of the council or a part of that area defined in the resolution.
- (9) An order or resolution under subsection (7) of this section must be published—
- (a) in a newspaper circulating generally throughout the State;
 - or
 - (b) in a newspaper circulating generally in the part of the State to which it applies.

40. (1) Subject to subsection (2) of this section, a person shall not burn off bush or standing grass during the fire danger season on any Sunday, or any other public holiday.

Penalty: For a first offence five hundred dollars; for a subsequent offence one thousand dollars.

(2) This section does not prevent burning off—

(a) in circumstances permitted by the regulations;

or

(b) where the burning off is authorized by a permit issued under this Act.

PART IV
DIVISION II
Prohibition on burning off bush or standing grass on Sundays and other public holidays.

DIVISION III—POWER OF BOARD TO IMPOSE ADDITIONAL RESTRICTIONS ON THE LIGHTING AND MAINTAINING OF FIRES

DIVISION III

41. (1) The Board may, by order published in the *Gazette*, prohibit the lighting or maintaining of fires in the open air in a portion of the State specified in the order during the fire danger season except in circumstances (if any) specified in the order.

Power of Board to restrict lighting of fires in the open air.

(2) The Board shall not make a prohibition under this section in relation to the area of a council without prior consultation with the council.

(3) The Board may, by subsequent order published in the *Gazette*, vary or revoke a prohibition imposed under subsection (1) of this section.

(4) Subject to subsection (5) of this section, a person shall not light or maintain a fire contrary to the terms of an order in force under this section.

Penalty: For a first offence five hundred dollars; for a subsequent offence one thousand dollars.

(5) A prohibition under this section does not prevent the lighting or maintaining of a fire—

(a) in circumstances permitted by the regulations;

or

(b) where the lighting or maintaining of the fire is authorized by a permit issued under this Act.

DIVISION IV—PROHIBITION AGAINST LIGHTING AND MAINTAINING OF FIRES IN THE OPEN AIR ON DAYS OF EXTREME FIRE DANGER

DIVISION IV

42. (1) The Board may, by instrument in writing, authorize any person to cause warnings to be broadcast under this section, or withdraw any such authority previously given.

Warning of days of extreme fire danger.

(2) The Board, or a person authorized under subsection (1) of this section, may cause to be broadcast from a broadcasting station in this State a warning stating—

(a) that the day or days specified in the warning is or are a day or days of extreme fire danger;

and

(b) that the lighting or maintaining of fires in the open air for any purpose whatever on the day or days specified is banned throughout the whole State, or any specified part of the State.

PART IV
DIVISION IV

(3) Subject to subsection (4) of this section, a person shall not light or maintain a fire in the open air contrary to the terms of a warning broadcast under this section.

Penalty: For a first offence one thousand dollars; for a subsequent offence two thousand dollars.

(4) This section does not prevent the lighting or maintaining of a fire—

(a) in circumstances permitted by the regulations;

or

(b) where the lighting or maintaining of the fire is authorized by a permit issued under this Act.

(5) In any proceedings for an offence against this section, an apparently genuine document purporting to be under the hand of a member of the Board, and to certify that a warning in the terms specified in the certificate was broadcast from a broadcasting station in this State on a date and at a time specified in the certificate shall, unless the contrary is proved, be proof of the matters so certified.

DIVISION V

**DIVISION V—RESTRICTIONS RELATING TO USE OF
CERTAIN FIRES AND APPLIANCES**

Provisions
dealing with
certain fires.

43. A person shall not, during the fire danger season, light or maintain in the open air a fire of a prescribed kind unless he complies with the provisions of the regulations applicable to fires of that prescribed kind.

Penalty: For a first offence two hundred dollars; for a subsequent offence four hundred dollars.

Restriction
on the use
of certain
engines,
vehicles,
appliances and
materials.

44. A person shall not, during the fire danger season, operate in the open air an engine, vehicle or appliance of a prescribed kind, or use any flammable or explosive material of a prescribed kind, except in accordance with the relevant regulations.

Penalty: For a first offence two hundred dollars; for a subsequent offence four hundred dollars.

DIVISION VI

DIVISION VI—PERMITS

Permit to
light and
maintain fire
on days of
extreme fire
danger.

45. (1) The Board, a council, or an authorized officer may issue a permit authorizing a person to light or maintain a fire in the open air in circumstances in which the lighting or maintaining of the fire would otherwise be unlawful by virtue of a provision of this Act.

(2) A permit shall not be issued under this section unless the authority by which it is to be issued is satisfied that—

(a) the lighting or maintaining of the fire is, in all the circumstances of the case, justified;

and

(b) adequate precautions will be taken to prevent the spread of fire.

(3) A permit issued under this section shall include—

(a) the prescribed conditions;

and

(b) such other conditions as the authority issuing the permit thinks fit to include in the permit.

(4) Unless issued in accordance with an authorization granted under subsection (5) of this section, a permit shall not authorize a person to light or maintain a fire on a day of extreme fire danger.

(5) The Board may, by instrument in writing, and subject to such restrictions and conditions as may be stipulated in the instrument, authorize the issue of permits for the lighting and maintaining of fires in the open air, on days of extreme fire danger, in parts of the State designated in the authorization.

(6) Notice of the issue of a permit under this section shall be given in the manner provided by the regulations to such persons and authorities as may be stipulated by the regulations.

(7) In this section—

“authorized officer” means—

(a) a person authorized by the Board;

or

(b) a person authorized by a council, with the approval of the Board, to issue permits under this section.

DIVISION VII—OTHER PRECAUTIONS AGAINST FIRES.

DIVISION VII

46. (1) A person shall not, during the fire danger season, use a caravan unless an efficient chemical fire extinguisher that complies with the regulations is carried in the caravan.

Fire extinguishers to be carried on caravans.

Penalty: One hundred dollars.

(2) This section does not apply within the boundaries of a municipality or township.

47. (1) A person shall not, during the fire danger season, smoke in the open air within two metres of any flammable bush or grass.

Smoking near flammable bush or grass.

Penalty: One hundred dollars.

(2) This section does not apply within the boundary of any municipality or township.

48. A person shall not, during the fire danger season, throw any burning material from a vehicle.

Throwing burning material from vehicles.

Penalty: Two hundred dollars.

49. (1) The Board, or a council, may serve notice upon the owner of any premises of a prescribed class, situated outside a fire brigade district, requiring him to take steps specified in the notice to prevent the outbreak of fire at those premises, or the spread of fire from those premises.

Fire protection at premises.

(2) If the owner objects to any of the requirements of the notice, he may, within fourteen days after the day on which he receives the notice, lodge a notice of objection with the Minister.

(3) The Minister may consider any such objection and may vary the requirement in any manner that he thinks fit.

(4) A person shall comply with a requirement under this section, or the requirement as varied by the Minister.

Penalty: One thousand dollars.

PART IV

DIVISION VII

Removal of
debris from
roads

50. (1) If as a result of any work done by any person or body of persons flammable debris is left on or in the vicinity of a road that person or body shall remove the debris from the road—

(a) upon being required to do so by the Board or a council;

or

(b) where no such requirement is made, upon the completion of the work.

Penalty: Five hundred dollars.

(2) If default is made in compliance with subsection (1) of this section, the Board or the council of the area may—

(a) burn or remove the flammable debris;

and

(b) recover the cost of so doing as a debt due to it from that person or body in any court of competent jurisdiction.

Power of
Board or
council to
order clearing
of land.

51. (1) If the Board is of the opinion that the clearing of bush or grass from any land is necessary in order to prevent or inhibit the outbreak or spread of fire, it may, by instrument in writing—

(a) where the land is under the care, control or management of a council, require the council to take such steps to clear the land as may be specified in the instrument;

or

(b) in any other case, require the owner to take such steps to clear the land as may be specified in the instrument.

(2) If a council is of the opinion that the clearing of bush or grass from any land within its area is necessary in order to prevent or inhibit the outbreak or spread of fire, the council may, by instrument in writing, require the owner to take such steps to clear the land as may be specified in the instrument.

(3) A person (including a council) of whom a requirement has been made under this section may within fourteen days after service of the requirement upon him appeal to the Minister against the requirement.

(4) The appeal shall be instituted by instrument in writing setting out in detail the grounds of the appeal and lodged at the office of the Minister or sent by post addressed to the Minister at his office.

(5) The Minister shall consider any appeal under subsection (3) of this section and may vary the requirement in such manner as he considers fair and reasonable.

(6) If a person fails to comply with a requirement made under this section or the requirement as varied by the Minister, he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(7) If a person fails to comply with a requirement under this section, the Board or council may proceed to carry out the terms of the requirement and may recover the expenses incurred thereby as a debt due to it from the person of whom the requirement was made in any court of competent jurisdiction.

DIVISION VIII—POWERS OF FIRE CONTROL OFFICERS, FIRE PARTY LEADERS,
AND POLICE.

52. (1) This section applies in relation to fires outside fire brigade districts that—

Power of
fire control
officer in
controlling and
suppressing
fires.

- (a) have been lighted or are maintained in contravention of this Act or of some other law;
 - (b) have occurred accidentally;
 - (c) are not under control or are likely to get out of control;
 - or
 - (d) are of a kind prescribed by regulation,
- or where there is imminent danger of any such fire.

(2) A fire control officer or a fire party leader may take, or cause to be taken, any of the following action that appears to him to be necessary or expedient for the purpose of fire-fighting or of protecting life or property from injury or damage:—

- (a) enter or break into any land or building;
- (b) remove or cause to be removed from any land or building any flammable material on or in any land or building;
- (c) take possession of, protect, remove or destroy any structure;
- (d) shut off or disconnect any supply of fuel, gas or electricity;
- (e) cause fire breaks to be ploughed or cleared on any land;
- (f) subject to the directions (if any) of a member of the police force prohibit or regulate the movement of persons, vehicles or animals;
- (g) take and use water or any other fire extinguishing material from any land;
- (h) with the consent of the owner or person in charge of any vehicle or machine use that vehicle or machine for the purpose of fire fighting;
- (i) remove or cause to be removed to such place as he thinks proper any person who obstructs or interferes with, or threatens to obstruct or interfere with, any operations under this section;
- (j) make use of the gratuitous services of any person;
- and
- (k) exercise any prescribed power.

(3) Notwithstanding any other provision of this Act, a fire control officer may, for the purpose of controlling an existing fire, light, or cause to be lit, another fire.

(4) Before a fire control officer or a fire party leader proceeds to exercise a power conferred by this section on any land he shall (where practicable) consult with the owner or occupier of the land.

(5) Before a fire control officer lights, or causes to be lit, a fire in pursuance of this section within two kilometres of a government reserve, he shall (where practicable) consult with the person in charge of that reserve.

(6) Where there is a fire upon a government reserve, and the person in charge of the reserve, being a prescribed officer or a forester, is present at the scene of the fire, a fire control officer shall not exercise any power conferred by this section upon the reserve except with the approval, and subject to any directions, of that person.

PART IV

DIVISION VIII

Powers of fire control officer, or member of police force to direct a person to extinguish a fire.

53. (1) Subject to subsection (2) of this section, if a fire control officer or a member of the police force is satisfied that a fire has been lit on any land contrary to this Act, or that a fire on any land (whether lit lawfully or not) is out of control, or is likely to get out of control, he may—

(a) direct the person who lit the fire, or the owner of the land, to extinguish the fire or to take such other steps in relation to the fire as he thinks necessary or expedient;

or

(b) himself extinguish the fire, or take such other steps in relation to the fire as he thinks necessary or expedient.

(2) A member of the police force shall not exercise the powers conferred by this section in relation to a fire if a fire control officer is present at the scene of the fire.

(3) A person to whom a direction is given under this section shall comply with it forthwith.

Penalty: For a first offence five hundred dollars; for a subsequent offence one thousand dollars.

Power of fire control officer to prohibit fires.

54. (1) If a fire control officer authorized in writing by a council to give directions under this section is satisfied—

(a) that a person proposes to light a fire upon any land within the area of the council;

and

(b) that because of weather conditions the fire, if lighted, might get out of control,

the fire control officer may direct that person to refrain from lighting a fire during a period specified in the notice.

(2) If a fire control officer authorized in writing by the Board to give directions under this section is satisfied—

(a) that a person proposes to light a fire either within or outside the area of the council;

and

(b) that because of weather conditions the fire, if lighted, might get out of control,

he may direct that person to refrain from lighting a fire during a period specified in the direction.

(3) A person shall not light a fire contrary to a direction given to him under this section.

Penalty: For a first offence five hundred dollars; for a subsequent offence one thousand dollars.

Power of police and fire control officers to enter premises and search debris, etc.

55. (1) A fire control officer or a member of the police force may (with or without assistance)—

(a) enter and inspect any land, premises or object for the purpose of determining the cause of a fire;

(b) remove any object that may tend to prove the cause of a fire;

or

(c) retain possession of any such object for the purpose of any investigation or inquiry into the cause of the fire.

(2) A person shall not hinder a fire control officer, or a member of the police force, acting in pursuance of this section.

Penalty: Five hundred dollars.

56. (1) A fire control officer may at any reasonable time enter any land or premises for the purpose of determining what measures have been taken on that land or in those premises for the prevention or control of fire.

Power of
fire control
officer to
inspect
premises.

57. (1) A person shall not hinder a fire control officer, a fire party leader or a member of a C.F.S. fire brigade in the exercise of any power or function under this Act.

Hindering
of officers.

Penalty : Five hundred dollars.

(2) A person shall not falsely pretend to be a fire control officer, a fire party leader or a member of a C.F.S. fire brigade.

Penalty: Five hundred dollars.

58. (1) Where a fire control officer, a fire party leader or a member of the police force has reasonable cause to believe that a person has committed an offence against this Act, he may require that person to disclose his name and address.

Disclosure of
information to
police and fire
control
officers.

(2) A person of whom a requirement is made under subsection (1) of this section shall forthwith disclose his name and address.

Penalty: Five hundred dollars.

DIVISION IX—RECOGNIZED INTERSTATE FIRE-FIGHTING ORGANIZATIONS

DIVISION IX

59. (1) Where there is a fire in the vicinity of a border of this State, a member of a recognized interstate fire-fighting organization, who is present at the scene of the fire, shall, if there is no fire control officer in charge of the fire-fighting operations, have all the powers of a fire control officer.

Recognized
interstate
fire-fighting
organizations.

(2) In this section—

“recognized interstate fire-fighting organization” means an organization formed outside this State which has been declared by the Board, by notice published in the *Gazette*, to be a recognized interstate fire-fighting organization.

PART V

PART V

MISCELLANEOUS

Power to
provide sirens.

60. A council or a C.F.S. organization may erect a siren in a suitable place for the purpose of giving warning of the outbreak of a fire, and may test and use the siren.

Interference
with fire
plugs, etc.

61. A person shall not—

(a) cover up or conceal a fire plug or hydrant;

or

(b) remove or obliterate any mark, sign or letter used to indicate the position of a fire plug or hydrant.

Misuse of fire
alarms, etc.

Penalty: Five hundred dollars.

62. (1) A person shall not—

(a) destroy, damage or interfere with a fire alarm;

or

(b) give a false alarm of fire.

Penalty: One thousand dollars.

(2) In this section "fire alarm" means any device by which notice of fire is given.

(3) A person shall not, without lawful authority, destroy, damage or interfere with any vehicle or fire-fighting equipment of a C.F.S. organisation.

Penalty : One thousand dollars.

Immunity of
officers, etc.

63. A person incurs no civil liability for any act done in pursuance of this Act if he acted in good faith and without negligence.

Onus of proof.

64. In any proceedings for an offence against this Act in which it is established that the defendant lit or maintained a fire during the fire danger season or on a day of extreme fire danger, the onus shall lie on the defendant to prove that he was lawfully authorized to light or maintain the fire.

Proceedings.

65. Proceedings in respect of an offence under this Act shall be disposed of summarily.

Minimum
penalty.

66. A court, in imposing a monetary penalty for an offence against this Act, shall impose a penalty of not less than one-quarter of the maximum penalty prescribed for that offence unless, in the opinion of the court, there are special circumstances justifying a lesser penalty.

67. (1) Subject to subsection (2) of this section all moneys recovered as fines for offences against this Act shall be paid into the General Revenue of the State.

Appropriation
of penalties.

(2) Where an offence was committed within an area, and the complaint was laid by the council of that area, or an officer of that council, any fine recovered from the defendant shall be paid into the general revenue of that council.

68. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

Regulations.

(2) Without limiting the generality of the foregoing, those regulations may—

- (a) make any provision with respect to the constitution and rules of C.F.S. organizations, or any class of C.F.S. organizations;
- (b) require C.F.S. organizations to maintain records of their membership and to furnish the Board from time to time with information in relation thereto;
- (c) require councils to furnish the Board with periodic returns containing information relevant to fire-fighting within their respective areas;
- (d) provide for the holding of coronial inquests into the cause of fires of a specified class;
- (e) make provision as to who is to take command of fire-fighting operations in relation to fires generally, or any class of fires;
- (f) prescribe the ranks and grades of fire control officers, fire party leaders, and C.F.S. fire brigade members, and provide for the appointment and promotion of such officers;
- (g) prescribe the duties and authorities of fire control officers, fire party leaders and C.F.S. fire brigade members of the various ranks or grades;
- (h) prescribe the design and regulate the use of badges issued to fire control officers, fire party leaders and C.F.S. fire brigade members;
- (i) provide for the clearing of firebreaks along dividing fences and provide that failure to clear a firebreak in accordance with the regulations constitutes evidence of negligence in any action for recovery of damages, or compensation, in respect of destruction of, or damage to, the dividing fence by fire;
- (j) regulate the design, construction, and maintenance of fire warning devices;
- (k) make any other provision necessary or expedient for preventing or controlling the outbreak of fire;
- (l) provide that any persons, or that persons of a specified class, are, subject to the conditions (if any) stipulated in the regulations, exempt from any specified provision or provisions of this Act;

(m) prescribe any form, and regulate any procedure, for the purposes of this Act;

and

(n) prescribe fines not exceeding five hundred dollars for breach of any regulation.

This Act does not restrict operation of Fire Brigades Act.

69. This Act does not limit any power conferred by the Fire Brigades Act, 1936-1976.

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

D. NICHOLLS, Governor