
RURAL FIRES ACT 1976

ANALYSIS

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**RURAL FIRES**

No. 90 of 1976

AN ACT to amend the Rural Fires Act 1967.

[30 November 1976]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Rural Fires Act 1976*.

Short title and
citation.

(2) The *Rural Fires Act 1967*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

2 Section 4 of the Principal Act is amended—

(a) by inserting after the definition of “brigade captain” the following definitions:—

“ ‘conservation area’ means a conservation area within the meaning of the *National Parks and Wildlife Act 1970*;

“ ‘Director’ means the Director of the National Parks and Wildlife Service;”; and

(b) by inserting after the definition of “State forest” the following definition:—

“ ‘State reserve’ means a State reserve within the meaning of the *National Parks and Wildlife Act 1970*;”.

Representation of insurance interests on Board.

3 Section 7 of the Principal Act is amended—

(a) by omitting paragraph (b) of subsection (3) and substituting therefor the following paragraph:—

“(b) one shall be a person nominated by the Insurance Council of Australia;”; and

(b) by inserting after subsection (4) the following subsection:—

“(4A) If an organization named in paragraph (b), paragraph (i), paragraph (j), paragraph (l), or paragraph (m) of subsection (1) ceases to exist, or ceases to exist under the name mentioned in the paragraph, the Governor may, by order, amend that paragraph by substituting for the name of that organization the name of some organization that he is satisfied represents for the purposes of this Act substantially the same interests as those represented by the organization first-mentioned.”.

Fire-fighting teams in special areas (other than Hobart).

4 Section 24 of the Principal Act is amended by inserting after subsection (5) the following subsection:—

“(5A) Subject to any directions given by the Board, an area committee may organize teams for the taking of action required for the purpose of extinguishing or preventing the spread of fires in its special fire area, and in relation to any team so organized shall provide for the detailing of a person to take charge of any such team.”.

5 Section 25A of the Principal Act is amended—

- (a) by omitting from subsection (8) the words “vegetation that is” and substituting therefor the words “living trees that are”;
- (b) by omitting from that subsection the word “contains” and substituting the word “contain”; and
- (c) by omitting subsection (9).

Removal of protection for certain vegetation on compulsory formation of firebreaks.

6 After section 25A of the Principal Act the following section is inserted:—

“25B—(1) Subject to this section, a person who occupies land may, with the consent of the Minister administering the *Crown Lands Act* 1976, take, or cause to be taken, such steps as are necessary to form a firebreak on Crown land designed to arrest fires that may spread on to land in his occupation or to facilitate the suppression of fires that are likely to spread on to that land.

Formation of firebreaks on Crown land by adjoining occupiers.

“(2) For the purpose of taking such steps as are referred to in subsection (1) a person may enter on Crown land with such vehicles and other equipment as may be required for the purpose.

“(3) A person may not under subsection (1) take, or cause to be taken, steps to form a firebreak on land that is more than 60 metres from a boundary of land that he occupies.

“(4) Nothing in this section authorizes the entry upon, or the formation of a firebreak on—

- (a) any Crown land that is occupied or is being used or managed by, or for the purposes of, any department or instrumentality of the State; or
- (b) any Crown land that is subject to any estate, interest, or right pursuant to which the holder thereof has the right to occupy or use the land, or to carry out any operations thereon, or to take any products thereof or materials therein, including materials beneath the surface.”.

7 Section 26 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting therefor the following subsections:—

“(1) Where, in the opinion of a responsible fire officer a fire constitutes, or, if it is not promptly extinguished or controlled, is likely to constitute, a fire danger, he may

Ordering of landowners to extinguish fires.

order the occupier of any land on which the fire is burning or from which it has spread to take, or assist in the taking of, such steps as are specified in the order for the extinguishment or control of the fire.

“(1A) An order under subsection (1) is sufficient authority for the person to whom it is addressed to take, or assist in taking, as required by the order, the steps specified in the order and, for that purpose, to enter upon any land, except that he is not entitled by virtue of the order to enter upon, or do anything on, any land contrary to the express directions given to him by the occupier of that land.

“(1B) A person who fails to comply with an order given him under subsection (1) is guilty of an offence, but it is a defence in proceedings for an offence under this subsection to show that the failure arose from the directions given him by the occupier of the land that it was necessary for him to enter in order to comply with the order.”; and

(b) by inserting after subsection (2) the following subsection:—

“(2A) No expenses are recoverable under subsection (2) from any person in respect of any action that he was prevented from taking by reason of directions given him by an occupier of land that it was necessary to enter in order to take the action.”.

Duties of
officers in charge
at fires.

8 Section 31 of the Principal Act is amended—

(a) by omitting from subsection (1) the words “ sections thirty-two, thirty-three, and thirty-four ” and substituting therefor the words “ sections 32, 33, 34, and 34A ”;

(b) by inserting in subsection (1) (b), after sub-paragraph (iv), the following sub-paragraph:—

“(iva) remove any person, vehicle, or thing whose presence, in his opinion, interferes with the operations being carried out, or required to be carried out;”;

(c) by omitting from subsection (1) (b) (vii) the word “ and ” (occurring at the end thereof);

(d) by adding at the end of subsection (1) (b) the following sub-paragraph:—

“(ix) take any other measures that appear to him expedient for the protection of life or property; and”;

(e) by inserting in subsection (2) (b), after the word “ parties ”, the words “ or sections ”; and

(f) by omitting subsection (4) and substituting the following subsection:—

“(4) Where, under any provision of this Act, a person (whether an officer appointed under this Act or not) has supreme control and charge of the operations for the extinguishment of a fire, that person has the control and direction of the persons (including members and officers of rural brigades and urban brigades) whose services are at his disposal at the fire and has otherwise, in respect of the operations for the extinguishment of the fire, the like powers as if he were a brigade captain having supreme control and charge of the operations; and any such powers exercisable in respect of those operations by any other person shall be exercised in accordance with his directions.”.

9 Section 32 of the Principal Act is amended—

(a) by omitting from subsection (1) the words “ sections thirty-three and thirty-four ” and substituting therefor the words “ sections 33, 34, and 34A ”; and

(b) by omitting from subsection (3) all the words following the words “ extinguishment of the fire ” (second occurring).

Chain of
command at
fires.

10 Section 33 of the Principal Act is amended—

(a) by inserting at the beginning of that section the following subsections:—

“(1) Subject to this Part, a forest officer may take such steps as he considers necessary to ascertain whether any fires are burning on any of the land specified in subsection (2) and to control or extinguish any fires so burning, and, for that purpose, he may enter upon any such land taking with him such persons to assist him as he may require.

Extension of
powers of
forest officers.

“(2) The land referred to in subsection (1) is—

- (a) any land within a fire protected area within the boundaries of which the whole or any part of a State forest or timber reserve, or any Crown land, is included; and
- (b) any land in, or within 3 kilometres of the boundaries of, any State forest or timber reserve.”;
- (b) by re-numbering the existing subsections (1), (1A), and (1B), as (3), (4), and (5);
- (c) by omitting from subsection (4), as so re-numbered, the words “ subsection (1) of this section ” and substituting therefor the words “ subsection (3) ”; and
- (d) by omitting subsections (1C), (1D), and (2).

Powers of
officers of
Hydro-Electric
Commission.

11 Section 34 of the Principal Act is amended—

- (a) by inserting after the words “ twenty-two, any ” the word “ authorized ”;
- (b) by omitting all the words following the words “ extinguishment of the fire ”; and
- (c) by adding at the end of the section the following subsection:—

“(2) For the purposes of this section an authorized officer of the Hydro-Electric Commission means an officer of the Commission authorized by the Commission to exercise the powers of an authorized officer of the Commission under this section.”.

12 After section 34 of the Principal Act the following sections are inserted:—

Powers of
officers of
National Parks
and Wildlife
Service.

“ 34A—(1) Notwithstanding anything in section 32, but subject to sections 33 and 34, an authorized national parks officer who is present at a fire burning within a fire protected area within the boundaries of which there is included the whole or part of a State reserve, shall take supreme control and charge of the operations for the extinguishment of the fire.

“(2) For the purposes of this section an authorized national parks officer means a person authorized by the Director to exercise the powers of an authorized national parks officer under this section.

Chain of
command in
special areas
(other than
Hobart).

“ 34B Except where, pursuant to the foregoing provisions of this Part, some other person has the supreme control and charge of operations for the extinguishment of a fire burning in a special fire

area established under section 24, the person who, pursuant to subsection (5A) of that section, has been detailed to take charge of the team engaged in extinguishing the fire has supreme control and charge of the operations for the extinguishment of that fire.”.

13 Section 35 of the Principal Act is amended by omitting paragraph (e) of subsection (6) and substituting therefor the following paragraph:—

Duty of police to assist at fires.

“(e) any person, not referred to in the foregoing provisions of this subsection, who has under this Act supreme control and charge of the operations for the extinguishment of the fire.”.

14 Section 38 of the Principal Act is amended by omitting from subsection (1) the word “finds” and substituting therefor the words “becomes aware of”.

Duty of occupiers of land on which a fire occurs during a fire danger period.

15 Section 39 of the Principal Act is amended—

(a) by inserting in subsection (2) after the word “reserve,” the words “a conservation area,”; and

Permits to light fires on or near State reserves during fire danger periods.

(b) by omitting subsection (4) and substituting therefor the following subsection:—

“(4) A permit shall not be granted under this section in respect of land in a fire protected area referred to in subsection (2) without the approval—

(a) if the area contains the whole or a part of a conservation area, of the Director or some person authorized by him to give his approval for the purposes of this section; and

(b) if the area contains the whole or a part of a State forest or a timber reserve or any Crown land not within a conservation area, of a forest officer.”.

16 Section 40 of the Principal Act is amended by omitting subsection (4) and substituting therefor the following subsection:—

Revocation of permits in respect of conservation areas, &c.

“(4) In this section ‘appropriate officer’ means—

(a) in respect of a permit relating to land in a fire protected area referred to in section 39 (1) (a)—

(i) if the area contains the whole or a part of a conservation area, the Director or a person authorized by him, generally or in the particular case, to revoke the permit; or

- (ii) if the area contains the whole or part of a State forest or a timber reserve, or any Crown land not within a conservation area, the forest officer in charge of the fire protected area; and
- (b) in respect of a permit relating to other land—
 - (i) if the land is in an urban fire district, the first officer of the urban brigade of that district or some other officer or member of that brigade nominated by him for the purposes of this section; and
 - (ii) in any other case, the brigade captain of the rural fire brigade the headquarters of which are situated nearest to the land.”.

Entry into areas of extreme fire hazard.

17 Section 42 of the Principal Act is amended by adding at the end thereof the following subsection:—

“(4) Nothing in this section prevents—

- (a) the entry on to any lands vested in, or occupied by, the Hydro-Electric Commission of any person acting in the course of his employment with, or with the authority of, the Commission; or
- (b) the entry on to any lands in a conservation area by any person acting in the course of his duties as an officer of the National Parks and Wildlife Service or with the authority of the Director.”.

Protection of National Parks and Wildlife officers.

18 Section 64 of the Principal Act is amended—

- (a) by omitting from subsection (1) the words “ fire-fighting operations ” and substituting therefor the words “ any of the operations specified in subsection (2A) ”;
- (b) by omitting from subsection (2) the words “ fire-fighting operations ” and substituting therefor the words “ any of the operations specified in subsection (2A) ”;
- (c) by inserting after subsection (2) the following subsection:—
 - “(2A) The operations referred to in subsections (1) and (2) are those directed to the extinguishment, or the prevention of the spread of, a fire, or preventing, or reducing the risk of, a fire occurring or to the training of persons in the carrying out of any such operations.”;
- (d) by omitting from paragraph (e) of subsection (3) the word “ and ”;

(e) by adding at the end of paragraph (f) of that subsection the word “and”; and

(f) by adding at the end of that subsection the following paragraph:—

“(g) an officer of the National Parks and Wildlife Service.”.

19 Section 73 of the Principal Act is amended—

Regulations.

(a) by inserting after subsection (2) (a) the following paragraph:—

“(ab) require internal combustion engines to comply with specified requirements with regard to the emission of sparks or exhaust materials likely to cause fires or to be equipped with specified devices for the arrest, suppression, or prevention of the emission of any such sparks or materials;

“(ac) prohibit the use or operation of anything referred to in paragraph (a) or paragraph (ab) that is not equipped as prescribed or does not comply with prescribed requirements;”;

(b) by omitting paragraphs (d) and (e) of subsection (2) and substituting therefor the following paragraphs:—

“(d) regulate, restrict, control, or prohibit the operation of engines, motors, or machines (whether stationary or fixed on, or used for the propulsion of, a vehicle), or of any equipment, apparatus, or device in the operation of which combustion takes place or sparks or other materials are, or may be, emitted that are likely to cause fires, either generally or during fire danger periods or on days of total fire ban;

“(e) provide for, and regulate, the inspection by prescribed persons of any of the things referred to in paragraph (a), paragraph (ab), or paragraph (d);”.

20—(1) Each of the provisions of the Principal Act specified in the first column of Part I of the Schedule is amended by omitting therefrom the words set out against that provision in the second column thereof and substituting therefor the words so set out in the third column thereof.

Formal
amendments
of Principal
Act.

(2) The Principal Act is amended by omitting therefrom the words "of this section" and "of this subsection" wherever they occur.

(3) Subsection (2) does not apply to those sections set out in Part II of the Schedule.

(4) Each of the provisions of the Principal Act specified in Part III of the Schedule is amended by omitting therefrom any expression denoting a number of dollars and substituting therefor the symbol "\$" followed by that number expressed in figures.

(5) Except as provided in the foregoing provisions of this section, each of the provisions of the Principal Act specified in Part IV of the Schedule is amended by omitting therefrom any numeral (other than "one" or "two") expressed in words and substituting therefor the same numeral expressed in figures.

21 Nothing in this Act affects the term of office of any member of the Rural Fires Board holding office at the commencement of this Act, and the member who immediately before that commencement held office under section 7 (3) (b) of the Principal Act shall continue to hold office as if he had been appointed on the nomination of the Insurance Council of Australia.

Saving for existing members of Rural Fires Board.

THE SCHEDULE

PART I

Specific formal Amendments

Provision	Omission	Substitution
Section 4—The definition of—		
“brigade captain”	section fifty	section 50
“fire control officer”	section sixteen A	section 16A
“fire permit officer”	section twenty-one	section 21
“group captain”	section fifty	section 50
“group of brigades”	section forty-nine	section 49
“municipal fire committee”	section twenty	section 20
“municipal fire officer”	section twenty A	section 20A
“region”	section nineteen	section 19
“regional fire control officer”	section sixteen	section 16

Provision	Omission	Substitution
"rural fire brigade"	section forty-eight	section 48
"special fire area"	section twenty-four	section 24
"State Fire Control Officer"	section twenty-five	section 25
	section fifteen	section 15
Section 13	subsection (7) of section ten	section 10 (7)
Section 14 (1)	thirtieth day of June	30th June
Section 16 (4) (c)	section thirty-nine	section 39
Section 20 (1A)	paragraph (b) of subsection (1)	subsection (1) (b)
Section 20 (5)	paragraph (i) of subsection (2)	section 73 (2) (i)
	of section seventy-three	
Section 20 (7)	section twenty-one	section 21
	paragraph (a) of subsection (6)	subsection 6 (a)
	section thirty-nine	section 39
Section 21 (4)	sections twenty-seven and thirty-nine	sections 27 and 39
Section 21 (5)	subsection (7) of section twenty	section 20 (7)
Section 22 (3)	section twenty	section 20
Section 24 (6)	section twenty-five	section 25
Section 25 (4)	section twenty-four	section 24
Section 25A (2)	section twenty-four or section twenty-five	section 24 or section 25
Section 28 (1) (a)	sub-paragraph (ii), or sub-paragraph (iii), or sub-paragraph (iv) of paragraph (l) of subsection (1) of section five hundred and ninety-nine	section 599 (1) (l) (ii), or section 599 (1) (l) (iii), or section 599 (1) (l) (iv)
Section 28 (2)	section six hundred and ten	section 610
Section 31 (3)	paragraph (b) of subsection (1)	subsection (1) (b)
Section 33 (3)	section thirty-two	section 32
	section thirty-four	section 34
Section 34	subsection (2) of section twenty-two	section 22 (2)
Section 35 (4)	paragraph (b) of subsection (3)	subsection (3) (b)
Section 37	section thirty-nine	section 39
Section 38 (2) (a)	section thirty-nine	section 39
Section 38 (2) (b)	section forty-three	section 43
Section 39 (2)	paragraph (a) of subsection (1)	subsection (1) (a)
Section 39 (3)	paragraph (b) of subsection (1)	subsection (1) (b)
Section 39 (5)	paragraph (a) of subsection (2)	subsection (2) (a)
Section 40 (1)	section thirty-nine	section 39
Section 40 (2)	section thirty-nine	section 39
Section 41 (1)	section thirty-six	section 36
Section 41 (1A)	paragraph (a) of subsection (1)	subsection (1) (a)
Section 45	section forty-four	section 44

Provision	Omission	Substitution
Section 46 (1)	section forty-four subsection (1) of section forty-one	section 44 section 41 (1)
Section 46 (2)	section forty-one	section 41
Section 48 (6)	section thirty-six	section 36
Section 49 (1)	section forty-eight	section 48
Section 51 (1)	thirty-first day of May first day of July	31st May 1st July
Section 51 (2) (b)	thirtieth day of June	30th June
Section 51 (2) (d)	section fifty-eight	section 58
Section 51 (2) (e)	section twenty-four	section 24
Section 51 (2) (f)	section twenty-five	section 25
Section 53 (2)	section twenty-four or section twenty-five	section 24 or section 25
Section 54 (1)	sixteenth day of August	16th August
Section 56 (1)	paragraphs (d), (e), and (f) of subsection (2) of that section	section 51 (2) (d), section 51 (2) (e), and section 51 (2) (f)
Section 56 (2) (a)	section fifty-one fifty per cent	section 51 50 per cent
Section 56 (2) (b)	fifty per cent	50 per cent
Section 56 (6)	section fifty-one	section 51
Section 57 (1)	section fifty-six (as defined in subsection (8) of that section)	section 56 (as defined in section 56 (8))
Section 57 (4)	section fifty-six	section 56
Section 58 (1)	section twenty-five	section 25
Section 59 (1)	section twenty-five	section 25
Section 59 (6)	thirty-first day of May	31st May
Section 60	section twenty-four	section 24
Section 61 (1)	section twenty	section 20
Section 61 (3)	subsection (5) of section thirty-nine	section 39 (5)
Section 65 (2A)	section twenty, twenty-four, or twenty-five	section 20, section 24 or section 25
Section 67 (3) (a)	subsection (2) of section forty-two	section 42 (2)
Section 67 (3) (b)	section forty-three	section 43
Section 67 (3) (c)	section forty-five	section 45
Section 67 (3) (d)	section sixty-three	section 63
Section 67 (3) (e)	paragraphs (g) and (h) of sub- section (1) of section sixty- nine	section 69 (1) (g) and section 69 (1) (h)
Section 70	section sixty-eight	section 68
Section 73 (2) (i)	section twenty	section 20

PART II

Exemptions from section 20 (2)

Sections 25A (5) and 69 (1A).

PART III

Sums of Money

Sections 52 (2); 57 (3) and (5); 69 (2) (a), (2) (b), and 3; 73 (2) (k).

PART IV

Substitution of figures for numerals

Sections 7 (5); 8 (a) and (b); 9 (2) (b); 10 (5); 14 (1) and (2); 20 (1) (b); 25 (3); 39 (6); 43 (2) (b) and (4); 69 (1) (f).

