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ELIZABETHAE II REGINAE

A.D. 1960

No. 42 of 1960

An Act to provide for the prevention and control of bush fires and other fires, to repeal the Bush Fires Act, 1933-1957, and for other purposes.

[Assented to 10th November, 1960.]

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 MATTERS.

Short title.

1. This Act may be cited as the "Bush Fires Act, 1960".

**Commence-
ment.**

2. (1) The provisions of this Act other than sections 1 and 2 shall commence on a day to be fixed by the Governor by proclamation.

(2) Sections 1 and 2 of this Act shall commence on the day on which this Act is assented to.

Repeals.

3. The following Acts are repealed namely :—

Bush Fires Act, 1933, No. 2139 of 1933.

Bush Fires Act Amendment Act, 1935, No. 2258 of 1935.

Bush Fires Act Amendment Act, 1939, No. 27 of 1939.

Bush Fires Act Amendment Act, 1941, No. 24 of 1941.

- Bush Fires Act Amendment Act, 1942, No. 30 of 1942.
- Bush Fires Act Amendment Act, 1945, No. 19 of 1945.
- Bush Fires Act Amendment Act, 1946, No. 33 of 1946.
- Bush Fires Act Amendment Act, 1950, No. 23 of 1950.
- Bush Fires Act Amendment Act, 1952, No. 44 of 1952.
- Bush Fires Act Amendment Act, 1955, No. 58 of 1955.
- Bush Fires Act Amendment Act, 1956, No. 25 of 1956.
- Bush Fires Act Amendment Act, 1957, No. 48 of 1957.

4. Notwithstanding the repeals affected by this Act, the transitional provisions in the schedule to this Act shall have effect. Transitional provisions.

5. This Act is divided into Parts as follows :— Parts.

PART I.—Preliminary matters. Sections 1-7.

PART II.—Administration and Finance. Sections 8-37.

PART III.—Prevention and Control of Fires. Sections 38-95.

PART IV.—Supplementary Provisions. Sections 96-107.

6. (1) In this Act, unless the context otherwise requires— Interpretation.

“area” means municipality, or district council district :

“the Advisory Committee” means the Bush Fires Advisory Committee provided for in section 8 :

“the Chief Officer of Fire Brigades” means the person for the time being holding or acting in that office under the Fire Brigades Act, 1936-1958 :

“council” means municipal council or district council :

“the Deputy Chief Officer of Fire Brigades” means the person for the time being holding or acting in that office under the Fire Brigades Act, 1936-1958 :

“the Subsidies Committee” means the Bush Fires Equipment Subsidies Committee provided for in section 14 :

“financial year” means period of twelve months ending on the thirtieth day of June in any year :

“forest reserve” means Crown land proclaimed or held as a forest reserve :

“holding” means a continuous area of land occupied by one person, or by two or more persons jointly or in common. For purposes of this definition parcels of land separated only by a road shall be deemed to be continuous :

“insurer” means a corporation, person or firm required by the Stamp Duties Act, 1923-1956, to take out an annual licence under that Act :

“member” means member of a committee and includes the chairman :

“producer gas” means gas which is produced by the incomplete combustion of solid fuel and the active constituent of which is chiefly carbon monoxide :

“producer gas equipment” means equipment for the production of producer gas or for conducting producer gas to an engine :

“portable water spray” means portable apparatus in good working order for efficiently spraying water, comprising a water container of at least two gallons capacity and a pump :

“scrub” means trees, bushes, and underwood of all kinds and sizes, whether alive or dead, and whether standing or not standing, and any parts of trees, bushes or underwood whether severed or not severed, but does not include trees of such kinds or sizes as the Governor, by proclamation, declares not to be scrub within the meaning of this Act :

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

“spark arrester” means a device or arrangement which is in good working order and effectively prevents the escape of sparks, flame and burning material from the exhaust of an engine :

“the Subsidies Fund” means the Bush Fires Equipment Subsidies Fund.

(2) A period prescribed in this Act or in an order or resolution under this Act by reference to the first and last days thereof shall include both of those days.

(3) For purposes of this Act, a parcel of land separated from a holding only by a road shall be deemed to adjoin that holding.

7. (1) A body or person granting a permit or exemption under any provision of this Act may make the permit or exemption subject to any conditions which that body or person deems necessary or expedient for the prevention of injury or damage, or in the public interest.

Conditions in
permits and
exemptions.

(2) If any such condition is not observed the permit or exemption shall be void and be deemed to have been void from the time when it was granted.

PART II.

PART II.

ADMINISTRATION AND FINANCE.

*Bush Fires Advisory Committee.*Advisory
Committee.

8. (1) Subject to this Act, "The Bush Fires Advisory Committee" established under the Bush Fires Act, 1933-1957 shall continue to exist.

(2) The Advisory Committee shall consist of nine members appointed by the Governor.

(3) The persons to be appointed as members of the Advisory Committee shall be—

(a) the South Australian Railways Commissioner or a person nominated by him ;

(b) the Conservator of Forests or a person nominated by him ;

(c) the Commissioner of Police or a person nominated by him ; and

(d) six persons nominated by the Minister.

(4) The Governor shall appoint one of the members to be the chairman of the Advisory Committee.

(5) If the chairman is not present at a meeting of the Advisory Committee, the members present may elect one of their number to act as chairman at that meeting.

Term of
office of
Advisory
Committee.

9. (1) Subject to this Act, every member of the Advisory Committee, shall be entitled to hold his office as a member until the thirtieth of June in the fifth year after the year in which he was appointed : Provided that a member appointed to a casual vacancy shall hold office for the balance of the term of his predecessor.

(2) A member of the Advisory Committee retiring by effluxion of time shall be eligible for re-election.

(3) A member of the Advisory Committee may retire from office at any time by written notice to the Minister.

(4) The Minister may dismiss a member of the Advisory Committee for neglect of his duties as a member, mental or physical incapacity to perform those duties, or misconduct which shews him to be unfit to be a member of the Committee.

10. The Minister, out of money voted by Parliament for the purpose, may pay to any member of the Advisory Committee the amount of any travelling or other expenses incurred by the member in the exercise of his duties as a member.

Expenses of members.

11. (1) Five members of the Advisory Committee shall form a quorum for the transaction of business.

Quorum and power to act during vacancies.

(2) The Advisory Committee may act notwithstanding that the office of any member is vacant.

12. (1) Subject to the regulations, meetings of the Advisory Committee shall be called and conducted in accordance with such procedure as the Committee determines.

Conduct of business of Advisory Committee.

(2) The decision of a majority of those members of the Advisory Committee who are present at a duly held meeting of the Advisory Committee shall be a decision of the Advisory Committee.

13. The Advisory Committee shall—

Functions of Advisory Committee.

- (a) advise the Minister upon the administration of this Act ;
- (b) investigate and report to the Minister on methods of preventing and extinguishing bush fires ;
- (c) carry out such other duties as are entrusted to it by the Minister.

Bush Fires Equipment Subsidies Committee.

14. (1) The Bush Fires Fund Committee established under the Bush Fires Act, 1933-1957 shall continue to exist under the name of the "Bush Fires Equipment Subsidies Committee".

The Bush Fires Equipment Subsidies Committee.

(2) The Subsidies Committee shall consist of three members appointed by the Minister.

(3) One of the members shall be appointed on the nomination of the Fire and Accident Underwriters' Association of South Australia.

(4) The Minister shall appoint one of the members to be the chairman of the Subsidies Committee.

15. The members and the secretary of the Subsidies Committee shall be entitled to be paid from the Subsidies Fund such remuneration as is fixed by the Minister.

Remuneration of Subsidies Committee.

PART II.

Term of
office of
Subsidies
Committee.

16. (1) Subject to this Act, each member of the Subsidies Committee shall be entitled to hold office as a member for the term fixed by the Minister at or before the time of the appointment of the member.

(2) A member of the Subsidies Committee retiring by effluxion of time shall be eligible for re-election.

(3) A member of the Subsidies Committee may retire from office at any time by written notice to the Minister.

(4) The Minister may dismiss a member of the Subsidies Committee for neglect of his duties as a member, mental or physical incapacity to perform those duties, or misconduct which shews him to be unfit to be a member of that Committee.

Conduct of
business of
Subsidies
Committee.

17. (1) Meetings of the Subsidies Committee shall be called and conducted in accordance with such procedure as the Committee determines.

(2) The decision of two members of the Subsidies Committee on a matter before the Committee shall be a decision of the Committee.

The Subsidies
Fund.

18. (1) There shall be a fund called "The Bush Fires Equipment Subsidies Fund" which shall be held by the Treasurer.

(2) The Subsidies Fund shall—

(a) consist of the money in The Bush Fires Fund at the time of the commencement of this Act and the contributions paid by the Treasurer and insurers pursuant to this Act ; and

(b) be managed by the Subsidies Committee ; and

(c) be used for making grants to fire-fighting organizations and councils as provided in this Act and for paying the expenses of administration incurred in connection with the Fund.

Accounts and
audit.

19. (1) The Subsidies Committee shall keep complete and proper accounts of all its financial transactions.

(2) The accounts of the Subsidies Committee for each financial year shall be audited by the Auditor-General and a copy of them shall be laid before each House of Parliament.

Officers to
assist.

20. The Treasurer may make available to the Subsidies Committee the services of any employee of the Government for the purpose of assisting the Committee in the performance of its functions.

21. (1) In respect of each financial year the Subsidies Committee shall make a report to the Minister recommending—

Contributions
to the
Subsidies
Fund.

- (a) the contribution to be paid to the Subsidies Fund by the Treasurer for that financial year ;
- (b) the total of the contributions to be paid to the Subsidies Fund by insurers for that financial year.

(2) If the member of the Subsidies Committee nominated by the Fire and Accident Underwriters' Association of South Australia does not agree with a recommendation of that Committee, that association may make representations to the Minister and the Treasurer as to the amount of the contributions to be paid.

(3) After consideration of the recommendation of the Committee and the representations (if any) of the said association and after consultation with the Minister the Treasurer shall fix the amounts of the Treasurer's contribution, and the total of the contributions of the insurers.

(4) The amount fixed as the total of the contributions of the insurers in any year shall not exceed the amount fixed as the contribution of the Treasurer.

22. (1) The total of the contributions to be paid by insurers for each financial year shall be apportioned between the insurers as follows :—

Apportion-
ment of
insurers'
contribution.

- (a) There shall be ascertained the amount payable as stamp duty (other than stamp duty attributable to the life assurance business of the insurer), by each insurer in respect of the last annual licence taken out by him under section 33 of the Stamp Duties Act, 1923-1956 before the commencement of the financial year ;
- (b) There shall be ascertained the total of all such stamp duty payable by all the insurers ;
- (c) The contribution payable by each insurer shall be an amount bearing the same proportion to the total contributions payable by all insurers for the financial year as the stamp duty payable as aforesaid by that insurer bears to the total of the stamp duty payable as aforesaid by all the insurers.

(2) The Subsidies Committee shall determine the amount of the contribution of each insurer and that determination shall be final and conclusive and binding on the insurer.

PART II.

(3) The Commissioner of Stamp Duties shall supply to the Subsidies Committee any information necessary to enable the amount of stamp duty payable as aforesaid to be ascertained.

(4) Every insurer shall supply to the Subsidies Committee such information as that Committee requires in order to assist it in determining the amount of the insurer's contribution.

Time for
payment of
contributions.

23. The contribution of the Treasurer and of each insurer for each financial year shall be paid into the Subsidies Fund at such time in that financial year as the Treasurer directs.

Grants from
the fund to
organizations.

24. (1) The Subsidies Committee may make a grant out of the Subsidies Fund to any council or to any fire-fighting organization registered under this Act for the purpose of providing not more than two-thirds of the cost of any equipment and materials purchased or to be purchased by the council or organization for use in connection with fighting bush fires or other fires in parts of the State to which the Fire Brigades Act, 1956-1958 does not apply.

(2) No such grant shall be made except with the approval of the Minister.

Authority for
payments.

25. (1) The money which the Treasurer is required by this Act to contribute to the Subsidies Fund shall be paid by him out of the general revenue of the State.

(2) This section, without further appropriation, shall be sufficient authority for the Treasurer to make the payments mentioned in this Part, and for the Committee to make payments and grants from the Subsidies Fund in accordance with this Act.

Expenditure by Councils.

Power of
council to
expend
revenue.

26. A council may expend any portion of its revenue in defraying any expenditure incurred by it for the purpose of exercising its powers and performing its duties under this Act.

Registered Fire-Fighting Organizations.

Registration
of fire fighting
organizations.

27. (1) Every fire-fighting organization formed for the purpose of combating bush fires or other fires outside the parts of the State to which the Fire Brigades Act, 1936-1958 applies shall be registered with the Minister.

(2) Registration shall be effected in manner prescribed by the regulations.

(3) Every organization registered under this section shall supply to the Minister such information as is prescribed by regulation.

(4) This section does not make it obligatory to register a fire-fighting organization formed by an employer for the sole or main purpose of protecting premises of that employer, but any such organization may be registered under this section on the application of the employer.

Fire Control Officers.

28. (1) A council may appoint—

- (a) not more than fifteen persons to be its fire control officers ; and
- (b) not more than fifteen persons who are fire control officers of an adjoining area or of a portion of the State not within an area to be additional fire control officers ; and
- (c) not more than fifteen persons, who under a reciprocating authority of another State hold offices corresponding to that of fire control officer in this State, to be additional fire control officers.

Appointment
of fire control
officers by
councils.

(2) The expression “a reciprocating authority of another State” means an authority which under the laws of another State has the duty of preventing and controlling bush fires or other fires, and which has made an arrangement with a council providing that fire control officers of the council will be appointed to corresponding positions under that authority.

29. (1) If the Minister is satisfied that in order to meet the requirements of an area, it is desirable that the number of fire control officers for that area should be greater than the number prescribed by the preceding section, he may, by notice in writing, authorize the council to appoint additional fire control officers not exceeding a number fixed by him and the council may from time to time appoint additional fire control officers accordingly.

Power of
Minister to
authorize
additional
fire control
officers.

(2) The number of additional fire control officers which the Minister may authorize under this section shall not exceed the following :—

If the area of the council is less than six hundred square miles—fifteen ;

If the area of the council is six hundred square miles or more but less than eight hundred square miles—twenty ;

If the area of the council is eight hundred square miles or more—twenty-five.

(3) The Minister may revoke or vary an authority given by him under this section, but such revocation or variation shall not affect an appointment previously made.

Appointment
of fire control
officers by
Minister.

30. (1) The Minister may appoint fire control officers—

- (a) for any area the council of which has not, in the opinion of the Minister, appointed sufficient fire control officers ;
- (b) for any portion of the State not comprised within an area.

(2) A fire control officer appointed under paragraph (a) of subsection (1) of this section shall be deemed to have been appointed by the council of the area for which he was appointed.

Terms of
appointments.

31. The period of office and terms and conditions of appointment of a fire control officer shall be such as are fixed by the authority making the appointment.

Notice of
appointments.

32. Notice of the appointment of a fire control officer shall be published in the *Government Gazette*, and a fire control officer shall not exercise powers or perform duties under this Act until the notice is so published.

Annual return
of fire control
officers.

33. In the month of August in every year every council shall forward to the Minister—

- (a) a statement of the name, address, occupation and rank of each fire control officer of the council ;
- (b) the number of a telephone whereby each such officer may be communicated with ;
- (c) if any fire control officer is appointed to control a part of the area of the council, a definition or description of that part.

Ex officio
fire control
officers.

34. Every forester and assistant forester employed in the Woods and Forests Department of the State, and every foreman in charge of a Government forest and the Director of Emergency Fire Services shall by virtue of his office be a fire control officer.

Appointment
of mayors,
aldermen and
councillors as
fire control
officers.

35. A mayor, alderman or councillor—

- (a) may be appointed as a fire control officer ;
- (b) shall not be disqualified by such appointment from holding office as mayor, alderman or councillor ;

(c) shall not be entitled to any remuneration for his services as fire control officer.

36. (1) This section shall apply to—

- (a) every fire control officer appointed by a council or by the Minister for the area of a council ; and
- (b) every person appointed by a council as a member of the crew of a fire fighting appliance the property of or under the control of a council—

Compensation
for death and
injury of fire
control officers
and crews.

but shall not apply to any such officer or member who receives remuneration for his services as such officer or member.

(2) Subject to this section—

- (a) every fire control officer or member of a crew to whom this section applies shall be deemed to be a workman employed by the council which appointed him and that council shall be deemed to be his employer within the meaning of the Workmen's Compensation Act, 1932-1958 ; and
- (b) if any such officer or member is injured by, or dies as a result of, accident arising out of and in the course of his duties (including training) as such officer or member the said council shall be liable to pay compensation to him or his personal representatives or dependants under the said Act ; and
- (c) the provisions of the said Act shall extend and apply accordingly.

The word "training" in this section means taking part in any supervised practice drill or work conducted with the approval of the officer-in-charge of a fire-fighting organization for the purpose of instructing or training members of that organization or preparing the organization for fire-fighting.

(3) The amount of compensation payable on the death of or injury to a person to whom this section applies shall be computed on the basis that the weekly earnings of that person were at all relevant times an amount equal to the living wage plus a margin of one pound or such greater margin as the council may fix by resolution or shall be computed on the basis of the average weekly earnings of that person for the twelve months next preceding the date of death or injury as the case may be, whichever amount shall be the greater.

(4) The living wage referred to in this section is the living wage for adult male employees from time to time in force in the part of the State in which the accident occurred.

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(5) A council may by resolution fix and vary from time to time the amount of the margin referred to in subsection (3) of this section.

The amount as fixed or varied by any such resolution shall be taken into account in computing compensation in every case where the accident occurs while the resolution is in force.

Insurance
against
liability for
compensation.

37. (1) Every council under which a person holds office as a fire control officer or a member of the crew of a fire-fighting appliance shall—

(a) obtain from an insurer a policy of insurance insuring the council against all liability which it may incur under the preceding section ; and

(b) keep such a policy renewed and in force so long as any such officer or member of a crew holds his office.

(2) In this section “insurer” means a person or body of persons which carries on the business of indemnity insurance in the State and has complied with the laws of the Commonwealth relating to such insurers.

PART III.

PART III.

PREVENTION AND CONTROL OF BUSH FIRES.

Periods of Prohibited and Conditional Burning.

38. Subject to any alterations made under this Act, “the prohibited burning period” applicable under all provisions of this Act shall be the period commencing on the first day of November in each year and ending on the next ensuing fifteenth day of February, both days included.

Prohibited
burning
period.

39. Subject to any alterations made under this Act, “the conditional burning period” applicable under all provisions of this Act shall be the period commencing on the sixteenth day of February in each year and ending on the next ensuing thirtieth day of April, both days included.

Conditional
burning
period.

40. (1) The council of an area may by resolution and with the approval in writing of the Minister—

Alteration
of periods.

(a) alter the prohibited burning period, or the conditional burning period, or both, as regards the area of the council or any part of that area ;

(b) revoke any resolution made under paragraph (a) of this subsection.

(2) The Minister may, by order—

(a) alter any such period as regards any part of the State not within the area of a council ;

(b) revoke any such order.

(3) A resolution or order altering a period—

(a) shall state the first and last days of the period as altered ;

(b) shall unless it is otherwise stated in the resolution or order apply generally to all relevant provisions of this Act ; or

(c) may declare that the alteration shall apply only in relation to specified provisions of this Act.

(4) A resolution or order altering a conditional burning period may, with or without making any other alteration, declare that a period ending on the day before the first day of the prohibited burning period shall be included in and form part of the conditional burning period.

(5) Upon the revocation of a resolution or order, the period in force immediately before the resolution or order was made shall again be in force unless it is altered by another resolution or order.

(6) A resolution by a council under this section shall not have effect until notice of it has been—

(a) published once in the *Government Gazette* and once in a newspaper circulating in the area of the council ; and

(b) exhibited for at least seven days on the front door of the office of the council or on a notice board on or near that office.

(7) An order made by the Minister under this section shall not have effect until notice of it has been published once in the *Government Gazette* and once in a newspaper circulating in the portion of the State to which it applies.

Seasonal
alterations of
periods.

41. (1) If a council is of opinion that because of seasonal conditions it is desirable to alter the prohibited burning period or the conditional burning period, it may by resolution alter that period, but so that the commencing day or last day of the period as altered will be not more than fourteen days earlier or later than it was before the alteration.

(2) Every such resolution shall state whether the alteration is to be in force within the whole area of the council or a part thereof, and if in part only, shall state what part.

(3) If a Government forest or forest reserve is within the area of the council, the council shall consult with the Conservator of Forests before passing a resolution under this section.

(4) A resolution passed by a council under this section shall not have effect until notice of it has been—

(a) published once in the *Government Gazette* and in a newspaper circulating in the area of the council ; and

(b) exhibited for at least seven days on the front door of the office of the council or on a notice board on or near that office.

(5) A resolution under this section shall not have any effect after the thirtieth of June next after the passing thereof.

(6) The power of alteration conferred by this section may be exercised whether or not the prohibited burning period or the conditional burning period has been previously altered under the preceding section.

42. Where the prohibited or conditional burning period is altered under this Act, every reference to "the prohibited burning period" or "the conditional burning period" in any provision of this Act to which the alteration applies shall be construed so as to give effect to the alteration in relation to burning and fires in the area or part of the State as regards which the said period is altered.

Effect of alterations.

Control of Burning of Stubble.

43. Except as allowed by this Act, a person shall not burn standing stubble during the prohibited burning period or the conditional burning period.

Restriction on burning stubble.

Penalty: For a first offence—one hundred pounds; for a subsequent offence—two hundred pounds.

44. A person may burn standing stubble during the prohibited burning period if—

Burning stubble for firebreaks during prohibited period.

- (a) the stubble is burnt only for the purpose of clearing strips of land not more than two chains wide at any part thereof to act as firebreaks; and
- (b) the rules for burning stubble set out in section 49 are complied with.

45. (1) A council may cause standing stubble to be burnt during the prohibited burning period or the conditional burning period on any street, road or reserve vested in or under the control of the council or (with the consent in writing of the Minister of Lands) on any travelling stock reserve if—

Burning stubble on roads and reserves.

- (a) at least four men who are able and available to assist in controlling the fire are present at the fire, from the time it is lighted, until it is completely extinguished; and
- (b) during the said time the council provides at the fire adequate fire-fighting equipment and an adequate supply of water in order to prevent the spread of fire.

(2) For the purpose of burning stubble under this section the council may use the services of its regular employees or any other persons.

46. A person may burn standing stubble during the prohibited burning period in or on an irrigation channel or drainage channel or lucerne field if—

Burning stubble on channels and lucerne fields during prohibited period.

- (a) before the fire is lighted the consent of the council of the area in which the channel or lucerne field is situated is obtained; and

s. 43. *ROBERTS v. WEBB* (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austn. Digest 127. Notwithstanding compliance with the section a person lighting a fire does not escape liability for any injury occasioned by the fire.

(b) the rules for burning stubble set out in section 49 are complied with.

Burning stubble in irrigation areas during prohibited or conditional period.

47. (1) A person may burn standing stubble during the prohibited burning period or the conditional burning period in or on an irrigation channel or drainage channel situated on ratable land in an irrigation area if—

- (a) before the fire is lighted the land adjoining on all sides the whole of the land to be burnt off is cleared of all inflammable scrub, stubble and other material to a width of at least twelve feet ; and
- (b) not less than six hours before the fire is lighted notice of intention to burn the stubble, stating the date and the probable time at which the fire is to be lighted, is given to the clerk of the area in which the channel is situated.

(2) In this section—

“irrigation area” and “ratable land” have the same meaning as in section 6 of the Irrigation Act, 1930-1946.

Burning stubble during conditional period.

48. A person may burn standing stubble during the conditional burning period if the rules for burning stubble set out in section 49 are complied with.

Rules for burning stubble.

49. (1) The rules for burning stubble are as follows :—

- (a) Before the fire is lighted the land adjoining on all sides the whole of the land to be burnt off, must, along the whole length of every such side, either be ploughed and cleared of all inflammable scrub, stubble, and other material to a width of at least six feet, or be cleared of all inflammable scrub, stubble and other material to a width of at least twelve feet ;
- (b) Not more than forty-eight hours and not less than six hours before the fire is lighted, notice of intention to burn the stubble stating the date and probable time at which the fire is to be lighted must be given to the owner or occupier or person in charge of any land adjoining the holding whereon the burning is to take place, who resides within five miles of that holding. If notice as aforesaid cannot be given to a person to whom it is required by this paragraph

s. 49. VERRAN v. ROBERTS (1938) S.A.S.R. 256. Where the defendant omitted to give notice to an adjoining occupier but complied with the other requirements of subsection (2) of section 4 of the Bush Fires Act, 1933, held that, in the particular circumstances, the complaint was rightly dismissed on the ground of triviality.

to be given, by reason of his absence from his place of residence or for any other cause, the notice shall be given to the police constable stationed nearest to the holding whereon the burning is to take place ;

- (c) If the land to be burnt off is within an area notice as aforesaid must also be given to the clerk of the area in which the said holding is situated and to the fire control officer of that area who resides nearest to the said holding ;
- (d) If the land to be burnt off is within one mile of a Government forest or forest reserve, notice as aforesaid must also be given to the person in charge of that forest or reserve ;
- (e) At least four men who are able and available to assist in controlling the fire must be present at the fire, from the time it is lighted until it is completely extinguished ;
- (f) The fire must not be lighted before twelve o'clock noon, and must be completely extinguished before nine o'clock in the evening of the same day ;
- (g) The fire must be first lighted from the leeward side of the stubble to be burnt before it is lighted from the windward side of the stubble.

(2) Exemption (with or without conditions as provided in section 7 of this Act) from the rules in paragraphs (a), (e) and (f) of subsection (1) of this section may be granted under section 56.

50. A person may during the prohibited burning period or the conditional burning period burn standing stubble on an allotment of land situated within a municipality or within a township in a district council district if—

Burning stubble in township allotments during prohibited or conditional period.

- (a) before the lighting of the fire, the council has issued to that person a permit in writing to light the fire ; and
- (b) all the conditions of the permit are complied with ; and
- (c) not more than forty-eight hours and not less than six hours before lighting the fire the person has given notice of his intention to light the fire to the person in charge of the fire brigade nearest to the allotment or to the fire control officer resident nearest to the allotment.

PART III.

Burning stubble by direction of officers of Fire Brigades.

51. A person may burn standing stubble during a prohibited burning period or a conditional burning period if—

- (a) the stubble is burnt in accordance with a direction of the Chief Officer of Fire Brigades or the Deputy Chief Officer of Fire Brigades ; and
- (b) all conditions specified by the said Chief Officer or Deputy Chief Officer when giving the direction aforesaid are complied with.

Control of the Burning of Scrub.

Restriction on burning scrub.

52. Except as allowed by this Act, a person shall not burn scrub on any land during the prohibited burning period or the conditional burning period.

Penalty: For a first offence—one hundred pounds ; for a subsequent offence—two hundred pounds.

Burning scrub during conditional period.

53. A person may burn scrub on land during the conditional burning period if the rules for burning scrub set out in section 54 are complied with.

Rules for burning scrub.

54. (1) The rules for burning scrub are as follows :—

- (a) Before the fire is lighted, the land adjoining on all sides the whole of the land to be burnt off must throughout the whole length of every such side be cleared of all inflammable scrub, stubble and other material to a width of at least twelve feet ;
- (b) If the land to be burnt off is more than five hundred acres and is within the area of a council, notice of intention to burn the scrub must be given to the council at least fourteen days before the fire is lighted ;
- (c) Not more than forty-eight hours or less than six hours before the fire is lighted, notice of intention to burn the scrub stating the date and the probable time at which the fire is to be lighted must be given to the owner or occupier or person in charge of any land adjoining the holding whereon the burning is to take place, who resides within five miles of that holding. If notice as aforesaid cannot be given to a person to whom it is required by this paragraph to be given, by reason of his absence from his place of residence or for any other cause, the notice shall be given to the police constable stationed nearest to the holding whereon the burning is to take place ;

- (d) If the land to be burnt off is within an area notice as mentioned in paragraph (c) must also be given to the clerk of the area in which the said holding is situated, and to the fire control officer of that area who resides nearest to that holding ;
- (e) If the land to be burnt off is within one mile of the boundary between the area in which it is situated and another area, notice as mentioned in paragraph (c) must be given to the council of that other area at least fourteen days before the fire is lighted ;
- (f) If the land upon which the fire is to be lighted is within one mile of a Government forest or forest reserve, notice as aforesaid must also be given to the person in charge of the forest or reserve ;
- (g) At least four men who are able and available to assist in controlling the fire must be present at the fire from the time it is lighted until it is completely extinguished ;
- (h) Where notice is given to a council pursuant to paragraph (b), the council or its mayor or chairman may, within ten days after the giving of the said notice, give notice to the occupier of the land to be burnt off directing him to have present at the fire such number of men (not exceeding three) additional to the four men hereinbefore provided for as the council or mayor or chairman directs ;
- (i) The fire shall be lighted from the leeward side of the scrub to be burnt before it is lighted from the windward side of that scrub ;
- (j) The fire shall not be lighted before twelve o'clock noon.

(2) Exemption (with or without conditions as provided in section 7 of this Act) from the rules in paragraphs (a), (g) and (j) of subsection (1) may be granted under section 56.

Provisions Applying to Both Stubble and Scrub.

55. (1) A council or any other person may burn scrub or standing stubble during the prohibited burning period or the conditional burning period if a written permit is first obtained from the Minister for the purpose, and if all conditions specified in the permit are complied with.

Burning scrub or stubble during prohibited or conditional period under Minister's permit.

(2) A permit under this section relating to the burning of stubble within an area shall not be granted to a person other than the council of the area, except upon the recommendation of the council.

PART III.

Power of council to exempt from rules for burning stubble or scrub.

56. A council may, by writing, exempt a person intending to burn scrub or standing stubble within the area of the council from all or any of the following duties set out in the rules for burning scrub or stubble :—

- (a) the duty to clear land around the area to be burnt off ;
- (b) the duty to have four men present at the fire ;
- (c) the duty to refrain from lighting the fire before twelve o'clock noon.

Exemption Committee.

57. (1) A council may appoint two or more of its members to be a committee for purpose of section 56 and may delegate to the committee its powers to grant exemptions under that section.

(2) An exemption granted by such a committee shall have effect as an exemption granted by the council.

Permits to burn before noon on land adjoining railways.

58. (1) A council may authorize a fire control officer to grant permits under this section.

(2) If a fire control officer so authorized is satisfied that a person desires to make a fire-break between land occupied by him and adjoining land of the South Australian Railways Commissioner, and for that purpose desires to burn scrub or standing stubble before twelve o'clock noon at a time when scrub or stubble will be burnt upon that land of the South Australian Railways Commissioner, the officer may grant to the said person a permit authorizing him to commence burning scrub or standing stubble before twelve o'clock noon, subject to compliance with the other requirements of this Act applicable to such burning.

Burning on Sundays, Saturdays and Holidays.

Burning scrub or stubble on Sundays.

59. Notwithstanding any other provision of this Act a person shall not burn scrub or standing stubble on any Sunday during the prohibited burning period or the conditional burning period.

Penalty : For a first offence—fifty pounds ; for a subsequent offence—one hundred pounds.

Burning scrub or stubble on Saturdays and holidays.

60. (1) A council may make by-laws prohibiting the burning of scrub or standing stubble on any Saturday or public holiday during the prohibited burning period or the conditional burning period.

(2) Any such by-law may—

- (a) provide that it applies to the whole or any part of the area of the council and shall apply accordingly ;
- (b) prescribe fines recoverable summarily and not exceeding fifty pounds for breach of the by-law.

(3) Every such by-law shall be made in manner prescribed by Division I of Part XXXIX of the Local Government Act, 1934-1959, and shall be subject to the provisions of that Division other than those prescribing maximum penalty which may be fixed by by-laws.

Restriction on Certain Fires in the Open Air.

61. (1) A council may, by resolution published in the *Government Gazette*, declare that during the prohibited burning period and the conditional burning period or either of them it shall be unlawful to light or maintain a fire in the open air within the area of the council or a part of that area defined in the resolution, except in places, structures, or circumstances (if any) specified in the resolution.

Power of councils to restrict fires in open air.

(2) A council may by resolution published in the *Government Gazette* revoke or vary any resolution made under subsection (1) of this section.

(3) A person shall not light or maintain a fire contrary to the terms of a resolution in force under this section.

Penalty : For a first offence—fifty pounds ; for a subsequent offence—one hundred pounds.

(4) A resolution under subsection (1) of this section shall not apply to fires lighted or maintained in accordance with the other provisions of this Act for burning scrub or standing stubble.

62. (1) A person shall not during the prohibited burning period or the conditional burning period light or maintain a fire in the open air unless a space immediately around the fire and at least twelve feet wide is clear of all inflammable stubble, scrub and other material.

Clearance around certain fires in open air.

Penalty : For a first offence—fifty pounds ; for a subsequent offence—one hundred pounds.

(2) Subsection (1) of this section does not apply to—

- (a) a fire lighted or maintained in accordance with the other provisions of this Act for burning scrub or standing stubble or making lime or charcoal ;

s. 62. *OPIE v. MOUNT* (1942) S.A.S.R. 35. A fire lit out of doors in a tank having one open side and a hole in the top held to be a fire in the open air within the meaning of section 13 of the Bush Fires Act, 1933.

PART III.

(b) a fire lighted in an orchard or vineyard for the purpose of smudging for insect pests, or preventing damage by frost, or for any other prescribed purpose, if a space at least twelve feet wide around the fire is clear of all inflammable material other than growing fruit trees or vines.

(3) A person who during the prohibited burning period or the conditional burning period has lighted or maintained a fire in the open air shall not leave the fire unattended unless it has been completely extinguished.

Penalty : For a first offence—fifty pounds ; for a subsequent offence—one hundred pounds.

Fires for lime and charcoal burning.

63. A person shall not during the prohibited burning period or the conditional burning period light, or maintain a fire in the open air for the purpose of making lime or charcoal unless—

(a) before the fire is lighted the land adjoining on all sides the pit or place in which the fire is situated has been cleared of all inflammable stubble, scrub and other material to a width of at least fifty feet and is kept so cleared until the fire is completely extinguished ; or

(b) the fire is enclosed in a kiln of brick, iron, stone or earth, so constructed as to prevent the escape of fire or burning material therefrom.

Penalty : For a first offence—fifty pounds ; for a subsequent offence—one hundred pounds.

Fires in honey-houses, etc.

64. A person shall not during the prohibited burning period or the conditional burning period light or maintain a fire in a honey-house or in an appliance used for the purpose of taking honey from a beehive unless around the honey-house or beehive or the apiary in which the honey-house or beehive is situated there is a space at least twelve feet wide clear of all inflammable stubble, scrub and other material.

Penalty : Fifty pounds.

Control of Burning on Days of Serious Fire Risk.

Warning of day of serious fire risk.

65. (1) The Minister may by writing authorize any person to cause warnings to be broadcast under this section, and may, by writing, withdraw any such authority.

(2) The words "authorized person" in this section mean a person for the time being authorized under section (1).

(3) The Minister or an authorized person may cause to be broadcast from a broadcasting station in the State a warning stating—

(a) that the day or days specified in the warning is or are a day or days of serious fire risk throughout the State, or in a specified part of the State ; and

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

(4) Except as allowed by a permit under the next succeeding section, or by regulations under this Act a person shall not for any purpose whatever light, maintain, or permit to remain alight, any fire in the open air contrary to a warning broadcast under this section.

Penalty : For a first offence—one hundred pounds ; for a subsequent offence, two hundred pounds or three months imprisonment, or both such fine and imprisonment.

(5) In proceedings for an offence against this section a document purporting to be a certificate signed by the Minister and certifying that a warning was broadcast in accordance with this section from a broadcasting station in the State, and certifying the contents of the warning, shall be prima facie evidence of the matters so certified.

66. (1) A person may burn scrub contrary to a warning broadcast under the preceding section, if the fire is lit in accordance with a permit issued under this section and the conditions of the permit are complied with.

Burning scrub
on days of
serious fire
risk.

(2) A council may, if authorized by the Minister in writing to make appointments under this section, appoint persons as authorized persons to issue permits under this section for fires within the area of the council.

(3) The Minister shall not grant authority under subsection (2) of this section unless he is satisfied that it is in the public interest to do so, and that the councils of all areas adjoining the area of the council receiving the authority agree to it.

(4) The Minister may at any time withdraw an authority granted under subsection (2) of this section and thereupon any appointments made by virtue of that authority shall cease to have effect.

(5) The Minister may appoint persons as authorized persons to issue permits under this section for fires in places not within the area of a council.

(6) Any two authorized persons may issue a permit to a person permitting him to burn scrub on any specified day, notwithstanding that a warning applicable to that day has been broadcast under the preceding section.

(7) A person shall not join in issuing a permit unless he is satisfied that it is unlikely that the applicant could satisfactorily burn the scrub on any other day.

(8) A permit shall not be issued in respect of a day within the prohibited burning period.

(9) Every permit shall be in writing in the form prescribed by regulation and be subject to such conditions as are prescribed and such other conditions as the authorized persons deem necessary.

(10) The authorized persons who issue a permit shall—

(a) cause a copy to be supplied to the holder of the permit, the member of the police force in charge of the police station nearest to the land on which the scrub is to be burnt, the Minister and, if that land is within an area, to the clerk of the council of that area ; and

(b) shall cause the said clerk and member of the police force to be informed either orally or by telephone of the issue of the permit as soon as practicable after the issue thereof.

(11) A council may, by resolution, fix the fee to be paid to the council for any permit issued under this section by authorized persons appointed by the council, and if a fee is so fixed the authorized persons shall not issue a permit until the fee is paid.

Engines, Vehicles and Aircraft.

Requirements
as to
stationary
engines.

67. (1) In this section “stationary engine” means a steam or internal combustion engine operated in a stationary position.

(2) A person shall not during the prohibited burning period or the conditional burning period operate a stationary engine or cause or permit a stationary engine to be operated if in any particular the requirements of this section are not complied with at the time of such operation.

Penalty : Fifty pounds.

(3) If the stationary engine is not enclosed by non-inflammable material—

- (a) there must either be a space around the engine at least twelve feet wide clear of all inflammable material, or there must be a person in charge of the engine constantly present and supervising it; and
- (b) there must be provided on or within fifty feet of the engine a shovel or rake and a portable water spray fully charged with water; and
- (c) the engine must be equipped with a spark arrester.

(4) If the stationary engine is enclosed by non-inflammable material, any exhaust pipe of the engine projecting outside the material must be equipped with a spark arrester.

68. A person shall not during the prohibited burning period or the conditional burning period use an internal combustion engine for the purpose of harvesting an inflammable crop unless—

Equipment on engines used in harvesting.

- (a) the engine is fitted with a spark arrester; and
- (b) a shovel or rake and a portable water spray fully charged with water are attached to or carried on the engine or the machine drawn by the engine.

Penalty : Fifty pounds.

69. (1) A person shall not during the prohibited burning period or the conditional burning period drive a vehicle propelled by an internal combustion engine within six feet of any inflammable material unless the engine is fitted with a spark arrester.

Spark arresters on vehicles near inflammable material.

Penalty : Fifty pounds.

(2) This section does not apply to aircraft.

70. A person shall not during the prohibited burning period or the conditional burning period use a caravan outside a municipality or cause or permit a caravan outside a municipality to be used by any person for sleeping, eating or shelter unless an efficient chemical fire extinguisher is carried on the caravan.

Fire extinguishers on caravans.

Penalty : Twenty-five pounds.

71. A person shall not cause or permit an aircraft engaged in spraying or dusting operations to land on or take off from any

Use of aircraft for spraying.

land during the prohibited burning period or the conditional burning period unless—

- (a) the airstrip on which the aircraft lands or takes off is cleared of all inflammable material and the land surrounding that strip is either ploughed and cleared of all inflammable material to a width of at least six feet, or cleared of all inflammable material to a width of at least twelve feet ; or
- (b) there are on the said airstrip at the time when the aircraft lands or takes off two men able and available to assist in controlling fires, and two portable water sprays, and a motor vehicle in readiness to transport the men and water sprays.

Other Precautions Against Fires.

Smoking near inflammable matter.

72. (1) A person shall not during the prohibited burning period or the conditional burning period smoke in the open air within six feet of any inflammable vegetable matter, except by means of a pipe covered so as to prevent the escape of ash.

Penalty : Fifty pounds.

(2) This section does not apply within the boundary of any town.

Throwing burning material from vehicles.

73. (1) A person in a vehicle shall not during the prohibited burning period or the conditional burning period throw any burning material from the vehicle.

Penalty : Fifty pounds.

(2) In this section “burning material” includes any lighted cigarette, lighted cigar, burning tobacco ash, burning match or other burning material of any kind.

Using fire in rabbit fumigators

74. A person shall not during the prohibited burning period or the conditional burning period light or maintain a fire in a rabbit fumigator or any appliance used as a rabbit fumigator.

Penalty : Fifty pounds.

Blasting trees, etc.

75. A person shall not, during the prohibited burning period or the conditional burning period use an explosive substance to blast any tree, wood, or timber unless—

- (a) at least four men able and available to assist in controlling any fire which may arise are present during the blasting and for a reasonable time thereafter ; and

- (b) a portable water spray fully charged with water and a shovel or rake are within fifty feet of the place where the blasting takes place.

Penalty : Fifty pounds.

76. (1) In this section "firearm" means a gun, rifle, pistol or other firearm. Ignitable
wadding
prohibited.

(2) A person shall not during the prohibited burning period or the conditional burning period discharge a firearm using a cartridge or charge the wadding of which consists of ignitable paper, cotton, linen or other similar ignitable substance.

Penalty : Twenty-five pounds.

(3) If a person during the prohibited burning period or the conditional burning period carries a firearm on or over the land of any other person, the owner or occupier of that land, or his servant or agent, or a member of the police force, or a fire control officer, may examine any cartridge or charge in the firearm or otherwise in possession of the person carrying the firearm for the purpose of ascertaining the nature of the wadding used therein.

(4) A person carrying a firearm shall—

- (a) permit a person empowered to make an examination under subsection (3) of this section to make such an examination ;
- (b) on request made by any such person at the time of the examination disclose his true name and address to that person.

Penalty : Twenty-five pounds.

77. (1) This section shall apply to—

- (a) saw mills ; and
- (b) premises of any other class proclaimed by the Governor.

Fire protection
at sawmills
and other
premises.

(2) A council may serve on the owner of premises to which this section applies a notice in writing requiring the owner to provide at those premises, within a time specified in the notice, and in accordance with requirements set out in the notice as to quantity, number, size, design or specifications—

- (a) a supply of water continuously available for controlling fires in or arising from the mill or premises ;

- (b) dams, tanks or other containers for the water ;
- (c) outlets, mains, pipes, hoses, valves and other equipment for distributing the water ;
- (d) fire-fighting equipment ;
- (e) telephone communications.

(3) If the owner objects to any of the requirements of any such notice, he may lodge a notice of objection in the local court of full jurisdiction nearest to the sawmill or premises.

(4) Every such notice of objection shall be in writing and shall be lodged with the clerk of the local court and served upon the clerk of the council, within fourteen days after the service of the notice under subsection (2).

(5) The local court shall—

- (a) inquire into the objection ; and
- (b) hear the objector and the council and any evidence information and argument submitted by or on behalf of either of them ;
- (c) decide to what extent the requirements in the notice given by the council were reasonably necessary having regard to the risk of fire ;
- (d) confirm, vary or quash the notice given by the council.

(6) The powers conferred by section 28 of the Local Courts Act, 1926-1936, shall include power to make rules relating to objections under this section and for regulating the procedure to be followed in relation to such objections.

(7) The owner of premises in respect of which a notice is given under this section shall comply with—

- (a) the terms of the notice if it is not objected to ; or
- (b) if the notice is objected to and varied, the terms of the notice as so varied.

(8) The owner of premises to which this section applies shall maintain in good order and efficient working condition all water supplies and other equipment and appliances supplied pursuant to a notice under this section.

(9) The Governor may by proclamation declare that any class of premises shall be premises to which this section applies and may by proclamation revoke or vary any such proclamation.

78. (1) A person shall not sell, offer for sale, distribute or use matches the heads of which contain phosphorus or a sulphide of phosphorus.

Prohibition of sales of certain matches.

Penalty : Twenty-five pounds.

(2) The Governor may by proclamation—

(a) declare that subsection (1) of this section shall not apply to any part of the State mentioned in the proclamation ;

(b) declare that subsection (1) of this section shall not be in force during any period specified in the proclamation ;

(c) revoke or vary any proclamation made pursuant to paragraph (a) or paragraph (b) of this subsection.

(3) Subject to any proclamation made under subsection (2) of this section, subsection (1) shall apply throughout the State at all times.

79. (1) If as a result of work done by a person or body of persons on a road any inflammable debris is on the road and is likely to facilitate the starting or spread of bushfires, the said person or body shall remove the debris from the road forthwith upon the completion of such work.

Removal of debris from roads.

(2) If default is made in compliance with subsection (1) of this section, the Minister may—

(a) burn or remove and dispose of the inflammable debris ;
and

(b) recover from the said person or body by action in a local court the cost of the burning or removal and disposal.

80. A council may—

Power of council to clear roads.

(a) clear any roads vested in it of any material which is or may become inflammable ; and

(b) subject to this Act, light use and maintain fires for the purpose of such clearing ; and

(c) prevent the passing of vehicles, animals and persons along a road while such fires are alight.

PART III.

Power to order destruction of shrubs and bushes.

81. (1) If a council is of opinion that any shrubs or bushes on land within its area are likely to facilitate the starting or spreading of bushfires, the council may by notice in writing given to the occupier or the owner of that land, require him to root out or cut down those shrubs or bushes and burn them or remove them from the land within the time specified in the notice.

No such notice shall apply to shrubs or bushes distant more than one chain from a road or building.

(2) If an occupier or owner fails to comply with a notice given to him under this section, within the time specified in the notice, any person authorized by the council may—

- (a) root out or cut down and burn or remove the shrubs or bushes from the land specified in that notice, and for that purpose enter and remain on that land, and drive and use vehicles and equipment on that land ;
- (b) recover the costs of so doing by action in a local court as a debt due to the council by the said occupier or owner.

Provision of fire-fighting equipment by council.

82. (1) Every council shall provide adequate equipment for the prevention and control of fires within its area.

(2) In determining what is adequate equipment for the prevention and control of fires the council may take into account any such equipment of any other person or authority which is available for use in its area.

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

(4) A council which receives a notice under subsection (3) of this section shall comply with it within one month after such receipt, or within such extended time as the Minister allows.

Penalty : Fifty pounds.

Contributions by councils.

83. A council may—

- (a) contribute to the cost of any organization formed for the prevention or control of bushfires and other fires within its area or may itself form and maintain such an organization ;

- (b) contribute to the cost of any equipment owned by any occupier of land within its area which will be available for preventing or controlling bushfires and other fires within its area.

84. A council may erect or authorize the erection of a siren in any suitable place for the purpose of giving an alarm on the outbreak of a fire and may from time to time use and test any siren so erected.

Power to provide sirens

Powers of Fire Control Officers and Police.

85. A fire control officer may at any reasonable time enter any land whether private property or not for the purpose of examining any measures taken or proposed to be taken on that land for the prevention of fire or the protection of property or persons from fire.

Inspection of preventive and protective measures.

86. (1) This section applies only to fires which—

- (a) have been lighted or are maintained in contravention of this Act or some other law ; or
- (b) have occurred accidentally ; or
- (c) have ceased to be under control or are not adequately controlled ; or
- (d) are of a class prescribed by regulation.

Powers of fire control officer for controlling and extinguishing fires.

(2) This section does not apply to fires in a locality in which the Fire Brigades Act, 1936-1958 applies.

(3) For the purpose of controlling or extinguishing a fire or preventing the spread thereof, or preventing injury or damage from a fire, a fire control officer may, after consulting with the occupier of the land on which he proposes to take action under this section, if that occupier is present, do all or any of the following things which appear to him to be necessary or expedient, and practicable :—

- (a) Enter or break into any land or building ;
- (b) Remove or cause to be removed to such place as he thinks proper any dangerous combustible or inflammable material or substance found on or in any land or building ;
- (c) Take possession of, pull down wholly or partially, or destroy buildings fences or other structures ;

- (d) Pull down or shore up a wall or building which is damaged or is likely to be damaged by fire or which is near a fire and likely to become dangerous to life or property ;
- (e) Shut off or disconnect or cause to be shut off or disconnected the supply of gas, electricity or other source of light or power to any building or premises which are on fire or are adjacent to a fire ;
- (f) Cause firebreaks to be ploughed or cleared on any land ;
- (g) Light fires on any land for the purpose of clearing a firebreak ;
- (h) Take and use water (other than water contained in a tank at a dwelling house and apparently required for domestic purposes) and any other fire extinguishing material from any source on any land ;
- (i) With the consent of the owner or person in charge of any vehicle, tractor, bull-dozer or other machine, use that vehicle, tractor, bull-dozer or machine for the purpose of operations under this section ;
- (j) 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 ;
- (k) Accept and use the gratuitous services of any person to assist him in the exercise of any of the powers conferred by this section ; and
- (l) Do any other thing which in his opinion is incidental to the exercise of any of the foregoing powers.

(4) If a fire is within a Government forest or forest reserve and a forester or assistant forester or foreman in charge of a Government forest or forest reserve is present at the fire, the powers conferred by this section shall not be exercised within the Government forest by any other fire control officer except with the approval of and subject to the directions of the forester or assistant forester or foreman.

(5) The powers conferred by this section may be used on or in relation to any land whether owned by the Crown or any other authority or person.

(6) A fire control officer shall not exercise any powers under this section outside the area or portion of the State for which he was appointed unless—

- (a) he is acting under the control and directions of a fire control officer appointed for that area or portion of the State ; or

- (b) a fire control officer appointed for that area or portion of the State has not assumed control and direction of the measures taken to control and extinguish the fire.

87. On the outbreak of a fire to which the preceding section applies a vehicle driven by or in charge of a fire control officer may be driven at any speed which is reasonable in the circumstances for the purpose of transporting persons to places where they intend to perform fire fighting duties.

Use of vehicles by fire control officers.

88. A fire control officer, with or without assistants—

- (a) may enter and inspect any land or building where a fire to which section 86 applies has occurred, and examine the debris of that fire; and
- (b) may remove any materials which may tend to prove the origin or cause of the fire; and
- (c) retain possession of said materials for the purpose of any investigation or inquiry into the fire.

Power to enter premises and search debris of fire.

89. (1) If a fire control officer is satisfied that a fire has been lighted on any land contrary to this Act or that a fire on any land (whether lighted lawfully or not) is out of control, or is reasonably likely to get out of control, he may direct the person who lit the fire or the occupier of the land to take such reasonable measures as the fire control officer directs, to extinguish the fire.

Power of fire control officers as to certain fires.

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

Penalty: For a first offence—fifty pounds; for a subsequent offence—one hundred pounds, or three months imprisonment, or both such fine and imprisonment.

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

Power of fire control officer to prohibit fires.

- (a) that, during the prohibited burning period or the conditional burning period a person proposes to light a fire upon any land within the area of the council for the purpose of burning stubble or scrub; and
- (b) that because of weather conditions the fire if lighted might become out of control;

the fire control officer may, by notice in writing given to that person, direct that on the day specified in the notice, he shall refrain from lighting the fire.

(2) If a forester or assistant forester is satisfied—

(a) that during the prohibited burning period or the conditional burning period a person proposes to light a fire within one mile of a forest reserve for the purpose of burning stubble or scrub ; and

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

the forester or assistant forester may by notice in writing given to that person direct that on the day specified in the notice he shall refrain from lighting the fire.

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

Penalty : For a first offence—fifty pounds ; for a subsequent offence—one hundred pounds, or imprisonment for three months, or both such fine and imprisonment.

Hindering
fire control
officer.

91. (1) A person shall not wilfully hinder a fire control officer in the exercise or discharge of any power or duty of the fire control officer under this Act.

Penalty : Fifty pounds or imprisonment for two months.

(2) In this section “hinder” includes to obstruct, delay or interfere with in any way.

Power of
police to
block
traffic.

92. (1) Upon or after the outbreak of a fire any member of the police force may direct persons not to drive a vehicle or not to walk along a road near the fire.

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

Penalty : Twenty pounds.

Power to
demand name
and address.

93. (1) If a member of the police force or a fire control officer has reasonable cause to suspect that a person has committed an offence against this Act, he may demand that that person disclose his name and address.

(2) Upon such a demand being made to a person he—

(a) shall forthwith disclose his name and address ;

(b) shall not disclose a name or address which is false in any particular.

Penalty : Twenty pounds.

94. A person shall not—

Covering or
interfering
with fire
plugs, etc.

- (a) cover up, enclose or conceal a fire-plug or hydrant; or
- (b) remove or obliterate any mark, post, sign or letter used to indicate the position of a fire plug or hydrant.

Penalty: Not less than five or more than fifty pounds.

95. (1) A person shall not—

Misuse of
fire alarms.

- (a) destroy, damage or interfere with a fire alarm; or
- (b) give a false alarm of fire.

Penalty: For a first offence—ten pounds or seven days imprisonment; for a subsequent offence—imprisonment for six months.

(2) In this section “fire alarm” includes any device by which notice of fire is given or by which another device for giving such notice is put into operation.

PART IV.

PART IV.

SUPPLEMENTARY PROVISIONS.

Coronial
inquiry into
certain fires.

96. If a fire (other than a fire confined to a building) occurs by which injury or damage or loss has been caused to any person, and a request in writing for the holding of an inquest into the fire is made within twenty-eight days after the injury, damage or loss occurred, to the member of the police force in charge of the police station nearest to the fire by—

- (a) the council of the area in which the fire occurred ; or
- (b) an owner or occupier of real property damaged by the fire, or an owner or person in possession of personal property so damaged ;

an inquest shall be held into the fire.

Immunity of
fire control
officers.

97. (1) A fire control officer, or a person acting under the directions of a fire control officer shall not be liable for the consequences of anything done in good faith and without negligence in the exercise of powers conferred by this Act.

(2) In this section "fire control officer" includes a person lawfully exercising the powers of a fire control officer.

Saving of
remedies for
fire.

98. Except as provided in the preceding section this Act shall not take away or affect any right of action or other remedy, civil or criminal, for loss or damage occasioned by fire.

Liability of
South
Australian
Railways
Commissioner.

99. (1) If—

- (a) by reason of the escape of fire, sparks or other burning material from a locomotive of the South Australian Railways Commissioner a fire is caused on any land ; and
- (b) at the time of the fire there is on that land a fire-break or firebreaks cleared of all stubble, scrub and inflammable material and of the dimensions prescribed by regulation and constructed in such places as are so prescribed ;

the South Australian Railways Commissioner shall be liable to pay compensation for any damage caused by the fire.

(2) The Governor may make regulations prescribing for the purpose of this section the dimensions of firebreaks and the places in which they are to be constructed. Any such regulation may prescribe different requirements for different parts of the State.

s. 98. ROBERTS v. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austn. Digest 127. Civil and criminal remedies are available against a person lighting a fire even if the fire is lighted in accordance with the provisions of the Act.

PART IV.

100. (1) If—

Damage by
fire to
dividing fence

- (a) an owner or occupier of land clears all inflammable material from a strip at least twelve feet wide adjoining a fence dividing that land from land of another owner or occupier; and
- (b) that other owner or occupier does not clear a strip at least twelve feet wide adjoining the fence on his side thereof; and
- (c) the dividing fence is damaged by fire by reason of the failure of the other owner or occupier to clear such a strip;

that other owner or occupier shall, at his own expense, repair or re-erect such fence within one month after the day when it is so damaged, or within such extended time as is allowed by a special magistrate.

(2) An owner or occupier liable to repair or re-erect a fence under this section may after giving not less than seven days notice in writing to the other owner or occupier apply to a special magistrate sitting in chambers to extend the period of one month prescribed by subsection (1) and the magistrate may, after hearing the parties, order that the period be extended.

(3) If an owner or occupier who is liable to repair or re-erect a fence under this section does not do so within the said month or extended time (if any), the other owner or occupier may repair or re-erect the fence, and may recover the cost of so doing as money paid to the use of the owner or occupier so in default.

101. Where land adjoins a road, the occupier of the land, with the consent of the council of the area in which the road is situated, or of the Minister if the road is not situated within an area, may, for the protection of fences or other property on the said land provide a firebreak by clearing scrub and stubble from a strip of the road not more than nine feet wide adjoining the land to be protected or any part thereof.

Power of
occupier to
clear portions
of road.

102. In proceedings for an offence against this Act the occupier of land on which any stubble or scrub is burnt or any other fire is lit shall be deemed to have burnt the stubble or scrub or lit the fire unless he proves—

Prima facie
liability of
occupier.

- (a) that he did not burn the stubble or scrub and did not cause it to be burnt; or (as case may be)
- (b) that he did not light the fire and did not cause it to be lighted.

s. 102. *McINNES v. WARDLE* (1931) 45 C.L.R. 548; 38 A.L.R. 230; 9 Austn. Digest, 131, affirming *WARDLE v. McINNES* (1930) S.A.S.R. 450. As to the civil liability of an occupier where an offence is committed by an independent contractor.

PART IV.**Notices.**

103. (1) A notice under this Act may be given to an individual person—

- (a) by delivering to him personally or leaving at his place of residence a writing addressed to him and containing the matter to be notified ; or
- (b) by informing him orally of the matter to be notified.

(2) A notice under this Act may be given to a corporation—

- (a) by delivering to a manager or secretary of the corporation or leaving at his place of residence a writing addressed to the corporation and containing the matter to be notified ;
- (b) by informing a manager or secretary of the corporation orally of the matter to be notified.

(3) In this subsection the term “manager” includes a person employed by the corporation and in charge or apparently in charge of land of the corporation being land to which the notice relates.

Onus of proof.

104. In proceedings for an offence against this Act if it is proved that any stubble or scrub was burnt during the prohibited burning period or the conditional burning period, that stubble or scrub shall be deemed to have been burnt otherwise than as allowed by this Act unless the defendant proves that it was burnt in accordance with provisions of this Act authorizing such burning.

Procedure for offences.

105. Proceedings in respect of offences under this Act shall be disposed of summarily.

Appropriation of penalties.

106. (1) Subject to subsection (2) of this section all money received in payment of fines imposed for offences against this Act shall be paid to the Treasurer of the State for the public uses of the State.

(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 money received in payment of a fine imposed for that offence shall be paid to the council and form part of its revenue.

Regulations.

107. The Governor may make regulations for or with respect to—

- (a) the ranks, grades or classes of fire control officers ;
- (b) the duties and authorities of fire control officers of the various ranks, grades or classes ;

- (c) the issue of badges to fire control officers ;
- (d) the use, operation, charging and emptying of producer gas equipment used to provide gas for propelling motor vehicles ;
- (e) requiring persons to take precautions or measures additional to those prescribed in the other sections of this Act for the prevention and control of fires ;
- (f) prescribing any other matters which it is necessary or convenient to prescribe for carrying this Act into effect, or better promoting the objects of this Act ;
- (g) prescribing fines not exceeding fifty pounds for breach of any regulation.

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

J. M. NAPIER, Lieutenant-Governor.

THE SCHEDULE.

Transitional provisions.

- (1) Notwithstanding the repeal of the Bush Fires Act, 1933-1957—
- (a) every member of the Bush Fires Advisory Committee in office immediately before the repeal shall continue to hold office under and subject to this Act and his term of office shall be computed from the first day of July, 1960 ;
 - (b) every member of the Bush Fires Fund Committee holding office immediately before the repeal shall continue to hold office under and subject to this Act as a member of the Bush Fires Equipment Subsidies Committee for the remainder of the term of his appointment to the Bush Fires Fund Committee under the Bush Fires Act, 1933-1957 ;
 - (c) all money and other property owned or held by the Bush Fires Fund Committee under the repealed Acts shall upon the repeal be owned or held by the Bush Fires Equipment Subsidies Committee and dealt with under this Act ;
 - (d) any decision or report of the Bush Fires Fund Committee made under the repealed Acts and not carried into effect before the repeal shall remain in force after the repeal as if made under this Act ;
 - (e) all by-laws made by a council under subsection (2) of section 12 of the Bush Fires Act, 1933-1957 and in force at the time of the repeal of that Act shall, subject to any variation or revocation thereof, remain in force ;
 - (f) every appointment made by a council or the Minister under the repealed Acts and in force at the time of the repeal, shall continue in force and have effect as if made under this Act.
- (2) Upon the repeal of the Bush Fires Act, 1933-1957, every resolution previously made under subsection (1a) of section 13 of that Act shall cease to have effect as regards fires lighted after the repeal, but not otherwise.