

South Australia



**STATUTES AMENDMENT (LOCAL GOVERNMENT AND FIRE  
PREVENTION) ACT 1999**

**No. 12 of 1999**

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**ELIZABETHAE II REGINAE**

A.D. 1999

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**No. 12 of 1999**

**An Act to amend the Country Fires Act 1989, the Local Government Act 1934 and the South Australian Metropolitan Fire Service Act 1936.**

*[Assented to 18 March 1999]*

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Statutes Amendment (Local Government and Fire Prevention) Act 1999*.

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Interpretation**

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2  
AMENDMENT OF COUNTRY FIRES ACT 1989**

**Amendment of s. 40—Private land**

4. Section 40 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (2) and substituting:

Maximum penalty: \$5 000.;

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

(4a) A notice under subsection (4) may include directions concerning the storage of inflammable materials on the land (or in any building on the land).;

(c) by striking out the penalty provision at the foot of subsection (5) and substituting:

Maximum penalty: \$10 000.;

(d) by inserting after subsection (7) the following subsections:

(7a) If a notice under subsection (4) or (6) is directed to an occupier of land, the responsible authority must take reasonable steps to serve a copy of the notice on the owner.

(7b) Service under subsection (7a) may be effected—

(a) personally; or

(b) by post.;

(e) by striking out the penalty provision at the foot of subsection (18) and substituting:

Maximum penalty: \$10 000 or imprisonment for 2 years.

### PART 3 AMENDMENT OF LOCAL GOVERNMENT ACT 1934

#### Repeal of Part XXXII

5. Part XXXII of the principal Act is repealed.

#### Amendment of s. 667—By-laws

6. Section 667 of the principal Act is amended by striking out paragraph 6 of subsection (1).

### PART 4 AMENDMENT OF SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT 1936

#### Insertion of s. 60B

7. The following section is inserted in Part 7 of the principal Act before section 61:

#### Fire prevention on private land

**60B.** (1) In this section—

"authorised person" means an authorised person under the *Local Government Act 1934*;

"District Court" means the Administrative and Disciplinary Division of the District Court;

"owner"—

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

(b) in relation to land held from the Crown by lease, licence or agreement to purchase—means the lessee, licensee or purchaser,

and includes the occupier;

**"private land" means—**

- (a) land alienated from the Crown in fee simple; or
- (b) land held from the Crown by lease, licence or agreement to purchase,

other than land under the care, control or management of a council or a Minister, agency or instrumentality of the Crown.

(2) If a council believes that conditions on private land in a fire district are such as to cause an unreasonable risk of the outbreak of fire on the land, or the spread of fire through the land, due to the presence of inflammable undergrowth or other inflammable or combustible materials or substances, the council may, by notice in writing that complies with any prescribed requirement, require the owner to take specified action to remedy the situation within such time as may be specified in the notice.

(3) A notice under subsection (2) may include directions concerning the storage of inflammable or combustible materials or substances on the land (or in a building on the land).

(4) A person to whom a notice under subsection (2) is addressed must not, without reasonable excuse, fail to comply with the notice.

Maximum penalty: \$10 000.

(5) The council may, by further notice in writing, vary or revoke a notice under this section.

(6) A notice under subsection (2) or (5) may be given—

- (a) personally; or
- (b) by post; or
- (c) if the council cannot, after making reasonable inquiries, ascertain the name and address of the person to whom the notice is to be given—
  - (i) by publishing the notice in a newspaper circulating in the area of the land; and
  - (ii) by leaving a copy of the notice in a conspicuous place on the land.

(7) If a notice under subsection (2) or (5) is directed to the occupier of land, the council must take reasonable steps to serve a copy of the notice on the owner.

(8) Service under subsection (7) may be effected—

- (a) personally; or
- (b) by post.

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(9) An authorised person may, for purposes connected with the administration or enforcement of this section, after giving reasonable notice to the occupier of land, enter and inspect the land.

(10) If a person fails to comply with the requirements of a notice under this section, the council will proceed to carry out those requirements and may recover the expenses incurred as a debt due to it from the person to whom the notice was addressed.

(11) Any expenses recoverable under subsection (10) will be a charge against the land to which they relate and may be recovered as if they were rates in arrears.

(12) A person to whom notice is addressed may appeal against a requirement of the notice to the District Court.

(13) An appeal must be instituted within 14 days of the requirement being imposed unless the District Court, in its discretion, allows an extension of time for instituting the appeal.

(14) The appellant must send a copy of the notice of appeal to the council that issued the notice to which the appeal relates.

(15) Subject to a determination of the District Court, if an appeal is instituted, the requirement being appealed against is suspended until the appeal is determined or withdrawn.

(16) The District Court may (but need not), in exercising its jurisdiction under this section, be constituted of a Magistrate.

(17) The District Court may, on hearing an appeal under this section—

- (a) confirm the requirement; or
- (b) vary the requirement in such manner as it thinks fit; or
- (c) cancel the requirement; or
- (d) substitute a new requirement; or
- (e) refer the matter back to the council for further consideration.

(18) If the District Court confirms, varies or substitutes a requirement, the person to whom the requirement is addressed must comply with the requirement within a period specified by the District Court.

Maximum penalty: \$10 000 or imprisonment for 2 years.

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

E. J. NEAL Governor