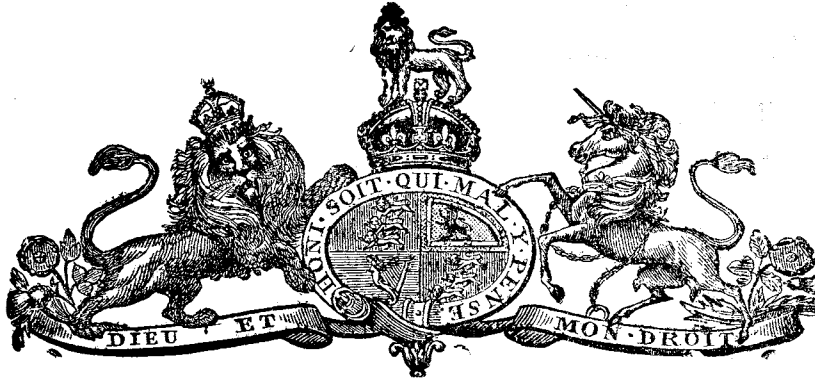


TASMANIA.



1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 36.

ANALYSIS.

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Short title. 2. Repeal of 18 Vict. No. 10. 3. Interpretation. 4. Application of this Act. 5. Permit to light fires in certain cases. 6. Governor to proclaim fire season. 7. Notification of fire danger days. 8. Fires in danger areas prohibited. 9. Appointment of fire patrol. 10. Powers and duties of fire officers. 11. Provisions relating to burning of stubble or scrub. 12. Fires on Crown land. 13. Provisions relating to steam and other engines. 14. Mills and wood-using plants. | <ol style="list-style-type: none"> 15. Areas of extreme hazard. 16. Fires on Crown land. 17. Wilfully causing risk of fire a crime. 18. Offences relating to fire during summer period. 19. Offences on private property. 20. Miscellaneous offences. 21. Penalties for certain repeated offences. 22. Payment of damages occasioned by offence. 23. Duties of the public. 24. Evidence. 25. Proclamation of hazardous areas. 26. Regulations. 27. Expiry of Act. |
|--|--|

AN ACT to make provision for the Prevention of Bush Fires and of Damage resulting therefrom. [18 October, 1935.]

A.D.
1935.
--

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 This Act may be cited as the *Bush Fires Act* 1935.

Short title.

Bush Fires.

A.D. 1935.

Repeal of 18
Vict. No. 10.
Interpretation.

2 The *Bush Fires Act 1854* is hereby repealed.

3—(1) In this Act, unless the contrary intention appears—

“Clear space” means an area of ground free from all dry grass, vegetation, stubble, and other inflammable material for the width specified in the context:

“Conservator” means the Conservator of Forests:

“Fire patrol” means a person appointed under this Act as a fire patrol in respect of any particular area, or generally:

“Forest officer” means any officer of the Forestry Department:

“Scrub” includes any uncut herbage:

“Summer period” means the period beginning on the fifteenth day of October and ending on the fifteenth day of March in the next following year.

(2) Wherever in this Act a clear space of a specified width is prescribed it shall be sufficient compliance with such requirement if the space is covered by water not less than half of that width or is ploughed for the like width.

(3) Where in respect of any area or locality a proclamation declaring a fire danger period is in force, the expression “summer period” used in this Act shall, as regards any area or locality to which such proclamation extends, be construed to include the period so proclaimed.

Application of
this Act.

4 Except where specially provided, this Act shall not apply to any fire in any enclosed building.

Permit to light
fires in certain
cases.

5—(1) The Conservator, or any forest officer authorised by him so to do, may grant and issue permits under this Act in a prescribed form and subject to prescribed conditions authorising the holder thereof to make and use fire in accordance with the tenor thereof and subject to the prescribed conditions.

(2) Such permits may vary according to the period during which, and the circumstances in which, they are to take effect.

Governor to
proclaim fire
season.

6 If at any time the Governor is of the opinion that the lighting of fires in any locality would create an excessive risk of damage, he may by proclamation declare a fire danger period to have commenced in respect of the area specified in such proclamation, and such fire danger period shall continue until terminated by a further proclamation by the Governor.

Notification of
fire danger days.

7—(1) If on any day during the summer period, in the opinion of the Conservator or a forest officer, the weather and general conditions are such that exceptional risk of damage would be created by the lighting of a fire in any prescribed area, the Conservator or such officer may declare such day to be a fire danger day throughout such prescribed area.

Bush Fires.

(2) Whenever during the summer period a forest officer has reason to believe, on the result of a prescribed test, that the relative humidity of the atmosphere on any day is likely to be of or below forty per centum of relative humidity, he shall declare such day to be a fire danger day for the area concerned. A.D. 1935.

(3) The Conservator or such officer shall forthwith give notice of such declaration to the nearest police officer and to the council clerk of the municipality, and shall cause notice thereof to be sent to all persons who have signified, to a forest officer, or fire patrol, their intention of burning stubble or scrub on that day.

8 Except as provided under this Act, no fire shall be lighted, used, or maintained in the open for any purpose whatsoever on any fire danger day or during any fire danger period within the area in respect of which such day or period, as the case may be, is declared. Fires in danger areas prohibited.

9—(1) The Conservator may, whenever he considers it necessary, appoint any person as a temporary fire patrol for such period as he may think necessary, and any person so appointed shall have the powers of a fire patrol under this Act. Appointment of fire patrol.

(2) Every forest officer shall be a fire patrol without further appointment than this Act.

10—(1) It shall be the duty of every fire patrol, subject to the directions of the Conservator, and subject also to such directions and conditions as may be prescribed, to take such measures and precautions as he may think necessary or expedient and practicable for— Powers and duties of fire officers.

- I. The prevention or suppression of outbreaks of fire on Crown land or on any land within one mile of any Crown land :
- II. The protection of life and property when any such outbreak has occurred :
- III. The control and direction of fire-fighting operations for controlling and extinguishing any such outbreak—

and for that purpose he shall have and may exercise the powers of the superintendent of a fire brigade under the *Fire Brigades Act* 1920, so far as the same are applicable, and such other powers as may be prescribed. 11 Geo.V. No. 61.

(2) At any time during the summer period, any fire patrol or any police officer may require the owner or occupier or any person in charge of any land within one mile of any Crown land—

- I. To refrain from lighting any fire on such first-mentioned land :
- II. To extinguish any fire thereon : or
- III. To take such steps as such officer may direct to extinguish such fire or to prevent the same from spreading or causing injury—

and such owner, occupier, or person shall comply with such requirement whether or not he holds any permit or authority to light any such fire.

Bush Fires.

A.D. 1985.

(3) Where an outbreak of fire occurs within the area controlled by a fire patrol, it shall be the duty of such patrol to proceed forthwith to the scene of such outbreak and to take charge of the operations for controlling the same.

(4) A fire patrol may require any able-bodied male person who is between the ages of eighteen and sixty years, and is physically fit, to assist in controlling or extinguishing any fire which occurs within the area under the control of such fire patrol, but no such requirement shall be made in the case of any person who is—

- i. An officer in the permanent employ of the Commonwealth;
- ii. A medical practitioner: or
- iii. A railway officer—

and every person so assisting shall be paid such remuneration as may be prescribed.

(5) The provisions of subsections (3) and (4) of this section shall apply only in respect of fires which have—

- i. Been unlawfully or accidentally started: or
- ii. Ceased to be under proper control or which, by reason of inadequate control, constitute, in the opinion of the fire patrol, a public danger—

and in respect of any area not within the jurisdiction of a fire brigade board.

Provisions relating to burning of scrub.

11—(1) Every person who intends to light or use any fire during the summer period for the purpose of burning any scrub within one mile of any State Forest or timber reserve shall, before proceeding so to do, comply with the provisions set forth in subsection (2) hereof.

(2) Every such person shall—

- i. Give twenty-one days' notice to the nearest forest officer or fire patrol of his intention to burn the same; but such burning may be effected at any time within fourteen days after the expiry of such notice: and
- ii. If the fire is to be lighted or used within the area comprised in the schedule, give three days' notice in writing to the forest officer in charge of such area before lighting such fire.

(3) Every such person shall ensure that not less than two men or such greater number as may be required shall be present from the time the fire is lighted until it is finally extinguished, for the purpose of keeping it under control and preventing it from spreading beyond the land on which it is so lighted.

(4) No such fire shall be lighted before eleven of the clock in the forenoon on any day.

(5) No such fire shall be lighted during a fire danger period or on a fire danger day of which such person as aforesaid has notice.

Fires on Crown land.

12—(1) It shall not be lawful to set out, light, use, or maintain, any fire for any purpose on Crown land except as provided by this Act.

Bush Fires.

(2) A fire may be set out, lighted, used, or maintained on Crown land for cooking or preparing food, or for providing necessary warmth, if—

A.D. 1985.

i. There is completely surrounding such fire, a clear space of the width of at least—

(a) Eight feet, if the fire takes place in the summer period : or

(b) Four feet, if otherwise : and

ii. The prescribed conditions relating thereto are fully observed—

but no such fire shall be lighted or used on any fire danger day or between the hours of nine of the clock in the forenoon and six of the clock in the afternoon during any fire danger period proclaimed in respect of the place where such fire is situated nor within any area of extreme fire hazard declared under section fifteen.

13—(1) Every locomotive and every traction engine operating on or within half a mile of any Crown land shall, during the summer period, be equipped with efficient devices for arresting sparks and for preventing the escape of fire or live coals from all ashpans and fireboxes thereof.

Provisions relating to steam and other engines.

(2) Every stationary engine, portable engine, and logging engine, operating or being upon or within half a mile of any Crown land, shall be subject to such requirements as may be prescribed for the protection of adjoining property.

(3) Every locomotive, traction engine, portable engine, logging engine, and stationary engine, operating or being upon or within half a mile of any Crown land, shall be properly equipped with such fire extinguishers, fire pumps, hoses, tools, and other fire-fighting appliances as may be prescribed, and all such equipment shall comply with such regulations as may be prescribed.

(4) The person controlling any such engine shall be responsible that all fires are properly banked or drawn and all reasonable precautions taken for the prevention of fire before leaving such engine.

(5) On every fire danger day every railway locomotive operated with solid fuel and running within any part of the area comprised in the schedule shall be immediately followed by a patrol car driven by an internal combustion engine and equipped with fire-fighting appliance and sufficient staff to operate the same.

(6) Subsections (4) and (5) of this section shall bind the Crown.

14—(1) Every burner or destructor operated at or near any saw-mill or other factory or plant for destroying any wood waste or other inflammable material and every chimney, smoke-stack, or other spark-emitting outlet used in connection therewith shall be properly equipped with efficient devices for arresting sparks, and such equipment shall comply with the prescribed requirements.

Mills and wood-using plants.

(2) Where a fire is maintained in the open for the destruction of any such waste or material as aforesaid at any sawmill or other wood-using or wood-working plant upon or within half a mile of any

Bush Fires.

A.D. 1935.

Crown land, the person maintaining such fire shall take proper and effective precautions for the control of such fire and for the prevention of damage to any adjoining property therefrom, and during the summer period such precautions shall include the provision of a clear space of the width of at least fifteen feet completely surrounding such fire, and such precautions as may be prescribed shall be taken so long as such fire remains alight.

Areas of extreme hazard.

15—(1) At any time during the summer period the Conservator, by notice published in a newspaper, as prescribed, may declare any area of Crown land to be an area of extreme fire hazard.

(2) The owner or person in control on any considerable area of land may apply in writing to the Conservator to define such area as an area of extreme fire hazard during the summer period or any part thereof, and the Conservator if he thinks fit may advertise the same accordingly as provided by subsection (1) at the cost of the applicant.

(3) No person, other than a fire patrol or forest officer, shall enter upon any part of an area advertised under this section unless he is the holder of a permit in the prescribed form and signed by a prescribed authority for that purpose.

Penalty: Twenty pounds.

Fires on Crown land.

16 No person shall—

- i. Light or burn any scrub, forest, or dry vegetation on any Crown land, except in accordance with the conditions of a permit granted for that purpose under section five: or
- ii. Set out, light, use, or maintain any fire on any Crown land, except as provided by this Act.

Penalty: Fifty pounds.

Wilfully causing risk of fire a crime.

17 If any person unlawfully and maliciously puts or places any match or any combustible or inflammable material in such a position that—

- i. A fire is likely to be caused: or
- ii. The thing so placed may be ignited, exploded, or set on fire either through the action of the sun's rays or by friction or any other mechanical or natural means—

for the purpose of causing a fire and with intent thereby to injure any person or property, the person so putting or placing such thing shall be deemed to be guilty of the crime of attempting unlawfully to set fire to property and shall be punishable upon indictment accordingly.

Offences relating to fire during summer period.

18—(1) No person at any time during the summer period or during any fire danger period shall—

- i. Light, maintain, or use any fire when required under this Act to refrain from so doing:

Bush Fires.

- A.D. 1935.
- ii. Fail, when required so to do by an officer authorised to require the same, to take effective measures to extinguish or prevent from spreading any fire which he has lighted, maintained, or used, or caused or permitted to be lighted, maintained, or used :
 - iii. Drive, use, or operate any steam locomotive, traction engine, logging engine, portable engine, or stationary engine upon or within half a mile of any Crown land except as provided by section thirteen ; or fail to make effective use, whenever necessary, of any appliance or device with which the same is equipped for the prevention or control of fire :
 - iv. Burn or destroy any waste or other inflammable material at or near any sawmill or other factory or plant in any burner or destructor having a chimney, smoke-stack, or other spark-emitting outlet except as provided by section fourteen :
 - v. Set out, light, use, or maintain any fire in the open upon or within one-half mile of any Crown land for the burning of any waste or inflammable material except as provided by section fourteen :
 - vi. Knowing that a fire danger period has been proclaimed or that a fire danger day has been declared, light, use, or maintain any fire in the open air during such season or on such day, as the case may be, in any place to which such season or fire danger day relates, except as may be prescribed :
 - vii. Set out, light, use, or maintain any fire for the purpose of burning stubble or scrub except as provided by this Act.
- (2) No person, at any time during the summer period, shall—
- i. Light, use, or maintain any fire in the open air not being a fire for any of the purposes mentioned in section eleven unless there is a clear space wholly surrounding such fire at least eight feet in width :
 - ii. Having lighted, used, or maintained any such fire, fail to extinguish the same completely before leaving it : or
 - iii. Light, use, or maintain any fire within the area comprised in the schedule without a permit for that purpose in the prescribed form signed by the prescribed authority.

Penalty : Ten pounds.

19—(1) No person, at any time during the summer period, shall wilfully or negligently light, or cause or procure to be lighted, any fire—

Offences on private property.
18 Vict. No. 10.

- i. Upon land of which he is not the owner : or
- ii. Upon land of which he is the owner unless he takes such precautions as shall effectually prevent such fire from extending to any adjoining or adjacent land of which he is not the owner.

Penalty : Fifty pounds.

Bush Fires.

A.D. 1935.

(2) For the purposes of this section the term "owner" shall include any person lawfully occupying the land in relation to which it is used.

Miscellaneous offences.

20 No person shall—

i. Outside the boundaries of a city or town, on any fire danger day or at any time during a fire danger period proclaimed in relation to the place where such person then is—

(a) Smoke any pipe, cigar, or cigarette :

(b) Strike any match : or

(c) Use any fire—

in the open air within twenty feet of any stack, rick, or store of hay, corn, or straw, or of any timber stack or rack :

ii. At any time during the summer period, drop, throw down, or leave in any open space any lighted match, tobacco, cigar, or cigarette without having first completely extinguished the same.

Penalty : Five pounds.

Penalties for certain repeated offences.

21 If any person is convicted of any offence under any of the provisions of—

i. Section sixteen : or

ii. Paragraphs i. to vi. of subsection (1) of section eighteen—

having at any time previously been convicted of the like offence under this Act, he shall be liable to a penalty of one hundred pounds, and either in addition to, or in substitution for, such penalty he shall be liable to imprisonment for six months.

Payment of damages occasioned by offence.

22—(1) The court before which any person is convicted of an offence under any of the provisions of section sixteen and section seventeen, or subsection (1) of section eighteen, may make an order that such person, in addition to any penalty imposed upon him, shall pay such sum as the court may assess as the amount of any damage which may be proved to have been caused to any property of the Crown through such person's offence.

(2) Any sum so ordered to be paid shall be paid to the Conservator and credited to the Forestry Fund.

Duties of the public.

23—(1) It shall be the duty of every adult person who finds that a fire is burning on any Crown land to do everything that is reasonably within his power to prevent such fire from spreading, and to report the occurrence of such fire as soon as is reasonably practicable to the nearest fire patrol or police officer or to the warden of the municipality in which such fire occurs, unless he believes on reasonable grounds that the existence of such fire is already known to such officials or to any of them.

(2) The provisions of subsection (1) hereof shall not apply to any person who is not a resident of this State.

Bush Fires.

24 In any proceedings in respect of an offence against this Act, an allegation in the complaint that a fire—

I. Was : or

II. Was not—

lighted, used, or maintained for a particular purpose shall, on proof that the fire was lighted, used, or maintained, be sufficient evidence of the fact so alleged until the contrary is proved.

A.D. 1935.
Evidence.

25 The Governor by proclamation at any time may declare that any area specified in such proclamation shall be deemed to be comprised in the schedule, and thereupon the provisions of this Act shall apply in respect of the area so specified as if the same were included in the schedule.

Proclamation of hazardous areas.

26—(1) The Governor may make regulations for the purposes of this Act, and, where he thinks fit, may prescribe different conditions in respect of different localities.

Regulations.

(2) If in the opinion of the Governor the summer period as defined in section three should be extended or curtailed, either in respect of a particular season or generally, the Governor may prescribe such altered definition as he may think fit, and the same shall take effect in lieu of the definition in that section.

(3) The regulations may provide for the burning-off of debris and waste left by sawmillers, splitters, and timber-getters, and may require any such persons to carry out the prescribed requirements in respect thereof at such times and in such manner as may be prescribed.

27 This Act shall expire on the thirty-first day of December, one thousand nine hundred and thirty-seven.

Expiry of Act.

THE SCHEDULE

The whole of the catchment area of the Russell Falls River to the Ellendale Road bridge. The whole of the catchment area of the Styx River to a point on that river being the south-east corner of Lot 22 (667 acres) in the name of Henry Stephenson Hurst thence in a straight line in a general north-westerly direction to the Ellendale Road bridge over the Russell Falls River at Westerway. The catchment area above the following:—The Main Ellendale-Ouse Road to its junction with Dawson's Road thence following Dawson's Road to the junction of the Broad River with the Derwent River. Thence the catchment areas of all tributary streams of the Derwent River from its right bank up to and including the Florentine River.

