

## FOREST AND RURAL FIRES AMENDMENT BILL

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### EXPLANATORY NOTE

1. This Bill provides for a number of amendments to the Forest and Rural Fires Act 1947.

2. *Clause 2* amends the definition of the term "owner" so as to make it extend to any public or local authority which has control of any property. The effect will be that the authorities in control of land such as public reserves will be placed in the same position as owners of other land for the purposes of the legislation.

3. Section 16 of the principal Act forbids the lighting of any fire in the open air in any specified area on any day in respect of which the Minister or the Director of Forests has caused to be broadcast from any broadcasting station a warning of the likelihood of the occurrence of weather conditions which may present an extreme fire hazard. *Clause 3* extends the provision to cases where an extreme fire hazard may arise from conditions not wholly related to weather; and applies the operation of the section to cases where a Fire Officer gives individual notice instead of a broadcast warning.

4. *Clause 4* authorizes the Fire Authority of a county area or soil conservation district to declare a closed fire season in its district.

5. Section 18 of the principal Act authorizes a Fire Officer to prohibit certain operations in his district when weather conditions arise which in his opinion present an extreme fire hazard. *Clause 5* extends the provision to cases where an extreme fire hazard may arise from conditions not wholly related to weather. It requires a Fire Officer to obtain the approval of the Fire Authority before acting under the section.

6. *Clause 6* extends to all districts to which the principal Act applies the operation of section 19 of that Act, which relates to permits to light fires. It amends subclause (4) of that section to bring it into conformity with the amendment made by *clause 3* of the Bill which enables individual notices forbidding the lighting of fires to be given as well as broadcast warnings.

7. *Clause 7* extends to all districts to which the principal Act applies the provisions of section 21 (1) of that Act relating to the clearing of fire breaks. It also extends the operation of the provision so that fire breaks may be required in all cases where they are desirable for the purpose of preventing the spreading of fire. It varies the present provision so as to enable a Fire Authority to require an owner of land to make a fire break on adjoining land with the consent of the owner of that land. There will be cases where it is to the advantage of all parties to adopt this course rather than require the owner concerned to make the fire break on his own land.

8. *Clause 8* varies the provisions now contained in sections 21 (3), (4) and 22 of the principal Act relating to appeals from notices to make fire breaks or escape routes, or to remove combustible materials from small areas. All such appeals are in future to be made to the Fires Appeal Tribunal and are to be heard either by the Tribunal or by any member of the Tribunal appointed by it to hear the appeal. Appeals are to be made in writing setting out the grounds of the appeal.

9. *Clause 9* amends the provisions of sections 26 and 39 of the principal Act relating to appeals to the Fires Appeal Tribunal so as to provide for the appeals to be in writing setting out the grounds of the appeal, and so as to make it clear that the Tribunal has the fullest possible discretion to cancel or vary the notice or apportionment appealed against or to confirm it either absolutely or subject to such conditions and modifications as the Tribunal deems just. Pending determination of any such appeal, the notice or apportionment appealed against is to be deemed to be suspended.

10. *Clause 10* extends to all districts to which the principal Act applies the provisions of section 27 of that Act relating to the duty of all persons to endeavour to extinguish fires burning unattended in the open air.

11. Section 31 of the principal Act enables a regional fire emergency to be declared when weather conditions exist which present an extreme fire hazard. *Clause 11* extends the provision to cases where an extreme fire hazard may arise from conditions not wholly related to weather.

12. *Clauses 12 to 16* rewrite the provisions now contained in sections 33 to 36 of the principal Act relating to the method in which the expenses of Fire Authorities are to be met and the right of appeal against their determinations in this connection.

13. *Clause 12* repeats the present section 33 (1) of the Act, which requires Fire Authorities for rural fire districts to make periodical estimates of proposed expenditure.

14. *Clause 13* rewrites the provisions now contained in sections 33 (2)-(4) and 34 of the Act in a modified and rather simpler form. It relates to the method in which the ordinary expenses of the Fire Authority for a rural fire district are to be met. It gives the Fire Authority more discretion in respect of the persons who can be charged with a levy made under the section and enables a levy to be made against lessees, licensees, and occupiers of land on which is situate the property for the protection of which the district is in existence as well as on the owners of the land. A lessee or occupier in some cases is the person most concerned in the protection of the property.

15. *Clause 11* rewrites the provisions now contained in section 35 of the Act, relating to the expenses of fire fighting, in a modified and rather simpler form. It follows *clause 13* in giving a Fire Authority more discretion in respect of the persons who can be charged with a levy under the section and in enabling a levy to be made against lessees, licensees, and occupiers as well as against the persons previously liable.

16. *Clause 15* repeats several provisions relating to the making and collecting of levies which appear in the present sections 33 to 35 of the Act, and provides that levies and other moneys payable under the Act shall be recoverable as debts.

17. *Clause 16* rewrites section 36 of the Act, which relates to appeals in connection with levies. The necessity for revising this section arises mainly in consequence of the revision of sections 33 to 35 of the Act. The new provision requires appeals to be made in writing specifying the grounds of the appeal.

18. *Clause 17* gives the Fires Appeal Tribunal, or any member of it who is entitled to determine an appeal, jurisdiction to allow costs and witnesses' expenses, and to waive any failure to set out the grounds of appeal.

19. *Clause 18* repeals the provision in the Act relating to Coroner's inquests in connection with fires, and substitutes provisions whereby the Minister may appoint any person or persons (including the Fires Appeal Tribunal) to hold an inquiry into any fire. The Coroners Act 1951 took from Coroners their other jurisdiction in connection with fires.

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*Hon. Mr. Corbett*

## FOREST AND RURAL FIRES AMENDMENT

### ANALYSIS

Title.	10. Duty to endeavour to extinguish fires.
1. Short Title.	11. Regional fire emergency.
2. Interpretation.	12. Estimate of proposed expenditure.
3. Warnings of conditions presenting fire hazards.	13. Provision for meeting ordinary requirements of the Fire Authority of a rural fire district.
4. Closed fire seasons in counties and soil conservation districts.	14. Costs of fire fighting.
5. Prohibition of certain operations during periods of fire danger.	15. Awards imposing levies, and recovery of levies and other moneys.
6. Permits to light fires.	16. Appeals against awards.
7. Fire Authority may require fire breaks to be made or cleared in any district.	17. Jurisdiction of Fires Appeal Tribunal in connection with appeals.
8. Appeal from notice to make fire break or escape route or remove combustible material. Repeal.	18. Inquiries as to fires.
9. Appeals to Tribunal.	

### A BILL INTITULED

AN ACT to amend the Forest and Rural Fires Act 1947. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority  
5 of the same, as follows:—

1. This Act may be cited as the Forest and Rural Short Title.  
Fires Amendment Act 1952, and shall be read together  
with and deemed part of the Forest and Rural Fires 1947, No. 34  
Act 1947 (hereinafter referred to as the principal Act).
- 10 2. Section two of the principal Act is hereby amended Interpretation.  
by adding to the definition of the term "owner" the  
words "and includes any public or local authority which  
for the time being has control of the property".

Warnings of conditions presenting fire hazards.

3. (1) Section sixteen of the principal Act is hereby amended by inserting, after the word "weather", the words "or other".

(2) Section sixteen of the principal Act is hereby further amended by adding the following subsection as subsection two:— 5

"(2) On any day in respect of which a Fire Officer for the district has, by notice, given a warning to any person of the likelihood of the occurrence of weather or other conditions which may present an extreme fire hazard whereby life and property may be endangered by the outbreak or spreading of fires in any specified area, that person shall not in that area light any fire in the open air or cause or permit any such fire to be lighted, notwithstanding any permit, direction, or authority which may have been issued or given to him under this or any other Act." 10 15

Closed fire seasons in counties and soil conservation districts.

4. Section seventeen of the principal Act is hereby amended by adding the following subsection as subsection two:— 20

"(2) The Fire Authority of a county area or a soil conservation district may, by notice published in a newspaper circulating in the locality to which the notice relates, specify any period or periods to be a closed fire season in the area or district or in any specified part or parts of the area or district, and may in like manner from time to time cancel or vary any closed fire season." 25

Prohibition of certain operations during periods of fire danger.

5. Subsection one of section eighteen of the principal Act is hereby amended—

(a) By inserting, after the word "weather", the words "or other"; 30

(b) By inserting, before the words "may issue", the words "with the approval of the Fire Authority".

Permits to light fires.

6. Section nineteen of the principal Act is hereby amended— 35

(a) By omitting from subsection one the words "rural fire", and also the words "in any county area";

(b) By omitting from subsection four the words "broadcast warning", and substituting the words "warning affecting that person". 40

Fire Authority may require fire breaks to be made or cleared in any district.

7. (1) Section twenty-one of the principal Act is hereby amended by omitting from subsection one the words "a rural fire", and substituting the word "any". 45

(2) Section twenty-one of the principal Act is hereby further amended by repealing paragraph (a) of subsection one, and substituting the following paragraph:—

5 “(a) To make and clear, within the time and in the manner specified in the notice, such fire breaks on the land or (with the consent of the owner) on any other land, and in such positions, as the Fire Officer considers necessary to prevent the spreading of fire:”

10 8. (1) The principal Act is hereby amended by repealing section twenty-two, and substituting the following section:—

Appeal from notice to make fire break or escape route or remove combustible material.

15 “22. (1) Within fourteen days after any notice is given under section twenty-one of this Act, the owner or any other person having any estate or interest in the land or forest may appeal to the Fires Appeal Tribunal, in writing setting out the grounds of the appeal, against the requirements of the notice.

20 “(2) On any such appeal the Tribunal, or any member of the Tribunal appointed by it to hear the appeal, may cancel or vary the notice, or may confirm it, either absolutely or subject to such conditions and modifications as the Tribunal or the member so appointed deems just, and the decision of the Tribunal or of the member so appointed shall be final and conclusive.

25 “(3) Pending the determination of the appeal the notice shall be deemed to be suspended.”

(2) The following enactments are hereby sequentially repealed:—

Repeal.

30 (a) Subsections three and four of section twenty-one of the principal Act:

(b) Section seven of the Forest and Rural Fires Amendment Act 1948.

1948, No. 43

35 9. (1) Section twenty-six of the principal Act is hereby amended by omitting from subsection two all words after the word “given”, and substituting the words “appeal, in writing setting out the grounds of the appeal, to the Tribunal against the requirements”.

Appeals to Tribunal.

40 (2) Section twenty-six of the principal Act is hereby further amended by adding the following subsections:—

45 “(3) On any such appeal the Tribunal may cancel or vary the notice, or may confirm it, either absolutely or subject to such conditions and modifications as the Tribunal deems just, and the decision of the Tribunal shall be final and conclusive.

“(4) Pending determination of the appeal the notice shall be deemed to be suspended.”

(3) Section thirty-nine of the principal Act is hereby amended by inserting in subsection one, after the word “ appeal ”, the words “ in writing setting out the grounds of the appeal ”.

(4) Section thirty-nine of the principal Act is hereby further amended by repealing subsection two, and substituting the following subsections:—

“(2) On any such appeal the Tribunal may vary or cancel the apportionment, or may confirm it, either absolutely or subject to such conditions and modifications as the Tribunal deems just, and the decision of the Tribunal shall be final and conclusive.

“(3) Pending the decision of the Tribunal, payments under the apportionment shall be deemed to be suspended.”

Duty to endeavour to extinguish fires.

10. Section twenty-seven of the principal Act is hereby amended—

(a) By omitting from subsection one and also from subsection two the words “ a rural fire ”, and substituting in each case the word “ any ”:

(b) By omitting from subsection one and also from subsection two the words “ in any county area ”.

Regional fire emergency.

11. Section thirty-one of the principal Act is hereby amended by inserting in subsection one, after the word “ weather ”, the words “ or other ”.

Estimate of proposed expenditure.

12. The principal Act is hereby amended by repealing section thirty-three, and substituting the following section:—

“ 33. Every Fire Authority of a rural fire district shall periodically cause an estimate to be prepared of its proposed expenditure for the next ensuing period. Any deficiency at the end of any period shall be carried forward into and be regarded as expenditure for the next period. Any surplus shall be allowed for in assessing the requirements of the next period.”

Provision for meeting ordinary requirements of the Fire Authority of a rural fire district.

13. The principal Act is hereby amended by repealing section thirty-four, and substituting the following section:—

“ 34. (1) Where a Fire Authority of any rural fire district requires any amount to meet its expenditure for any period of not less than twelve months as provided for in any such estimate, or to meet any special expendi-

ture which is not being met under section thirty-five of this Act,—

5 “(a) The whole or any portion of the amount may be met by all or any of the persons on whom a levy could be imposed under this section, as they mutually agree:

“*(b)* Failing any such agreement or so far as any such agreement does not extend, the Fire Authority may from time to time make an award under this section—

10 “(i) Imposing a levy on all or any of the owners, lessees, licensees, and occupiers of the land upon which is situate the property for the protection of which the district is in existence:

15 “(ii) Determining the proportion of any such levy which is to be met by the persons on whom it is so imposed.

20 “(2) Except in the case of a district in which the whole or substantially the whole of the land is occupied for farming purposes, no levy shall be imposed in respect of any land normally tilled or grazed, or any building (including a dwellinghouse) occupied for farming purposes, or any chattels thereon or therein.

25 “(3) In determining the persons on whom the levy is to be imposed and the proportions in which it is to be met by those persons, the Fire Authority shall have regard to the following matters:—

30 “(a) The benefit likely to be derived from the operations of the Fire Authority:

“*(b)* The risks of a fire occurring on the land or spreading on to that land or from that land to adjacent land:

35 “*(c)* The extent to which steps have been taken by or on behalf of any person upon whom a levy may be imposed under this section to reduce the risk of fire occurring on that land or spreading on to or from that land:

40 “*(d)* Such other circumstances of whatsoever nature as the Fire Authority considers relevant.

“*(4)* The Fire Authority may from time to time when it considers that any relevant circumstances may have changed, and shall, not later than five years after it last made an award determining proportions under 45 this section, reconsider the proportions fixed previously and make a new award determining proportions.”



Costs of fire  
fighting.

14. (1) The principal Act is hereby amended by repealing section thirty-five, and substituting the following section:—

“35. (1) In any case where a Fire Authority has incurred any costs of and incidental to fire fighting operations directed towards the control and suppression of a fire in its district - 5

“(a) The whole or any portion of those costs may be met by all or any of the persons on whom a levy could be imposed under this section, as they mutually agree: 10

“(b) Failing any such agreement or so far as any such agreement does not extend, the Fire Authority may, for the purpose of recovering the whole or any part of those costs, make an award in accordance with this section imposing a levy for such sum or sums as it may specify in the award on all or any of the following persons:— 15

“(i) Any owner, lessee, licensee, or occupier of any land in the district: 20

“(ii) Any owner, lessee, licensee, or occupier of any property which was in the district at the time of the fire and was menaced by the fire. 25

“(2) Except in the case of a district in which the whole or substantially the whole of the land is occupied for farming purposes, no levy shall be imposed under this section in respect of any land normally tilled or grazed, or any building (including a dwellinghouse) occupied for farming purposes, or any chattels thereon or therein. 30

“(3) In determining whether a levy is to be imposed under this section and the amount of any such levy, the Fire Authority shall have regard to the following matters:— 35

“(a) The value of the property which has been saved and for the protection of which the fire fighting operations were to any extent directed: 40

“(b) The extent of the assistance in connection with the fire fighting operations rendered by or on behalf of any person upon whom the Fire Authority may be entitled to impose the levy: 45

“(c) The extent of any loss suffered by any such person as a result of the fire fighting operations:

“(d) Such other circumstances as the Fire Authority considers relevant.”

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(2) Section nine of the Forest and Rural Fires Amendment Act 1948 is hereby consequentially repealed. 1948, No. 43

15. The principal Act is hereby amended by inserting, after section thirty-five, the following section:—

10 “35A. (1) Any award made under section thirty-four or section thirty-five of this Act and imposing a levy shall contain the date upon which the levy is payable.

Awards imposing levies, and recovery of levies and other moneys.

15 “(2) Notice of every award made under section thirty-four or section thirty-five of this Act shall be given to each person upon whom a levy is imposed by the award or who is liable to meet a levy affected by the award.

20 “(3) In every case where a levy has been imposed upon the Crown under section thirty-four or section thirty-five of this Act, or expenses have been or are to be incurred by the Crown under this Act the amount shall be paid out of moneys appropriated by Parliament for the purpose.

25 “(4) All moneys payable to or by any person or Fire Authority under any of the provisions of this Act and all costs allowed on any appeal under this Act may be recovered as a debt in any Court of competent jurisdiction.”

30 16. The principal Act is hereby amended by repealing section thirty-six, and substituting the following section:—

Appeals against awards.

35 “36. (1) Any person upon whom a levy is imposed by any award made under section thirty-four or section thirty-five of this Act, or who is liable to meet any levy affected by any award so made, may, at any time within one month after notice of the award has been given to him, appeal, in writing setting out the grounds of the appeal, to the Fires Appeal Tribunal against the award.

40 “(2) On hearing the appeal the Tribunal may cancel or vary the award, or may confirm it, either absolutely or subject to such conditions and modifications as the Tribunal deems just, and the decision of the Tribunal shall be final and conclusive.

45 “(3) Pending the determination of the appeal the award shall be deemed to be suspended.”

Jurisdiction of  
Fires Appeal  
Tribunal in  
connection with  
appeals.

17. Section forty-three of the principal Act is hereby amended by adding the following subsections:—

“(5) Upon the hearing of any appeal under this Act, the Fires Appeal Tribunal, or any member of the Tribunal who is entitled under this Act to determine the appeal, may allow such costs and witnesses’ expenses as the Tribunal or member thinks fit. 5

“(6) In any case where any person is authorized under this Act to appeal to the Fires Appeal Tribunal in writing setting out the grounds of the appeal, the Tribunal, or any member of the Tribunal who is entitled under this Act to determine the appeal, may, if good and sufficient grounds are shown to it or to him, waive any failure to set out the grounds of the appeal on such terms and conditions as the Tribunal or the member so entitled thinks fit.” 10 15

Inquiries as  
to fires.

18. The principal Act is hereby amended by repealing section forty-eight, and substituting the following section:—

“48. (1) The Minister may, at the request of the Fire Services Council or of any Fire Authority or of his own motion, appoint any person or persons (including the Fires Appeal Tribunal) to hold an inquiry into and report upon the circumstances of and the steps taken to deal with any fire in any district, whether it occurred before or after the commencement of this section, and any other matter which the Minister may consider appropriate to the inquiry. 20 25

“(2) The person or persons or the Tribunal holding any such inquiry shall, for the purposes thereof be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this section, the provisions of that Act shall apply accordingly. 30

“(3) In any such case the Fire Authority may, pending the holding of the inquiry as to that fire, take and retain possession of any property damaged, or the remains of any property destroyed, by the fire. 35

“(4) At any such inquiry the Fire Authority may be represented by a member thereof, or by a Fire Officer of the Fire Authority, or by any other person authorized by the Fire Authority, who may adduce evidence and examine and cross-examine witnesses.” 40

See Reprint  
of Statutes,  
Vol. I, p. 1036