

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 6 August 1952

Words inserted by the Committee are shown in roman with rule down side.

*Hon. Mr. Corbett*

## FOREST AND RURAL FIRES AMENDMENT

### ANALYSIS

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### 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 of the same, as follows:—

1. This Act may be cited as the Forest and Rural Fires Amendment Act 1952, and shall be read together with and deemed part of the Forest and Rural Fires Act 1947 (hereinafter referred to as the principal Act). Short Title. 1947, No. 34
- 10 2. Section two of the principal Act is hereby amended 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". Interpretation.

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:—

“22. (1) Within fourteen days after any notice is given under section twenty-one of this Act, the owner or  
15 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.

“2) On any such appeal the Tribunal, or any  
20 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  
25 member so appointed shall be final and conclusive.

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

(2) The following enactments are hereby conse-  
quentially repealed:—

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.

9. (1) Section twenty-six of the principal Act is  
35 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”.

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

“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  
45 shall be final and conclusive.

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

Repeal.

1948, No. 43

Appeals to Tribunal.

“(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”.

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Remuneration of persons assisting to extinguish fires.

10A. Section thirty of the principal Act is hereby amended by omitting from subsection five the words “who in response to a requirement pursuant to this section, or by arrangement with the Fire Officer, render assistance”, and substituting the words “who, having voluntarily placed their services at the disposal of the Fire Officer and by arrangement made with him at the time of the fire, or in response to a requirement pursuant to this section, render assistance under the control and direction of the Fire Officer”.

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.”

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

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

5 “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 expenditure which is not being met under section thirty-five of this Act,—

10 “(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:

15 “(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—

20 “(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:

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

30 “(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.

35 “(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:—

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

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

45 “(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:

“(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 this section, reconsider the proportions fixed previously and make a new award determining proportions.” 5

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— 10

“(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: 15

“(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:— 20

“(i) Any owner, lessee, licensee, or occupier of any land in the district: 25

“(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. 30

“(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. 35

“(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:— 40

“(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: 45

5 “(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:

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

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

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

15 15. The principal Act is hereby amended by inserting, after section thirty-five, the following section:— Awards imposing levies, and recovery of levies and other moneys.

15 “ 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.

20 “ (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.

25 “ (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.

30 “ (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.”

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

40 “ 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.

45 “ (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.

“(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:— 20

“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. 25 30

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

“(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. 35

“(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.

“(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