

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,
6th November, 1947

Hon. Mr. Skinner

FOREST AND RURAL FIRES

ANALYSIS

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A BILL INTITULED

Title.	AN ACT to make better provision with respect to the Prevention and Suppression of Forest and Rural Fires and with respect to matters incidental thereto.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. This Act may be cited as the Forest and Rural Fires Act, 1947.	
Interpretation.	2. In this Act, unless the context otherwise requires,—	10
	“Apparatus” includes all engines, vehicles, horses, reels, buckets, hoses, pumps, ladders, escapes, tools, implements, and things used for or in connection with the prevention or suppression of fires or the protection of life or property in case of fire:	15
	“Brigade” or “Fire Brigade” means any body of men organized for public fire-prevention or fire-fighting purposes and established, maintained, or remunerated by a Fire Board or local authority:	20
	“Conservator of Forests” means a person appointed as a conservator under the Forests Act, 1921–22:	25
	“County area” means all the land in a county which is not included in—	
	(a) A rural fire district; or	
	(b) A soil conservation district; or	
	(c) A State forest within the meaning of the Forests Act, 1921–22:	30

- “ Director ” means the Director of Forestry:
- “ District ” means, as the case may require, a rural fire district, a soil conservation district, or a county area:
- 5 “ Fire Authority ” means,—
- (a) In relation to a rural fire district, the rural fire committee or, as the case may be, the Minister, in whom the administration of the district is vested;
- 10 (b) In relation to a soil conservation district, the Soil Conservation and Rivers Control Council or the committee appointed by it in respect of the district; and
- (c) In relation to a county area, the County Council:
- 15 “ Fire Officer ” means a Rural Fire Officer appointed by a Fire Authority under this Act:
- “ Fires Appeal Tribunal ” or “ Tribunal ” means the Fires Appeal Tribunal constituted under this Act:
- 20 “ Minister ” means the Commissioner of State Forests:
- “ Owner ”, in relation to any property, means the person who for the time being is entitled to the rack-rent thereof or who would be so entitled if the same were let at a rack-rent:
- 25 “ Rural fire committee ” means a rural fire committee constituted under the provisions of this Act:
- 30 “ Rural fire district ” means a rural fire district constituted under the provisions of this Act:
- “ Soil conservation district ” means a soil conservation district constituted under the provisions of the Soil Conservation and Rivers Control Act, 1941. 1941, No. 12
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Rural Fire Districts

3. (1) For the purpose of securing the safety of trees, flax, and other plants, gum-lands, sand-dune areas, and peat lands, from damage by fire, the Rural fire districts.

40 Governor-General may from time to time, by Order in Council, constitute and declare any part or parts of New Zealand to be a rural fire district, with such name and from such date as may be specified in the order.

(2) The Governor-General may, if he thinks fit, from time to time in like manner alter or re-define the boundaries of any rural fire district by the inclusion therein or the exclusion therefrom of any area, and may in like manner abolish any rural fire district.

Definition of property for protection of which rural fire district constituted.

4. (1) The Governor-General may by the Order in Council constituting any rural fire district, or by any subsequent Order in Council, specify or describe the property or the nature of the property for the protection of which the district is constituted or is in existence, and may describe or define the land on which the property is situated.

(2) The Governor-General may in like manner from time to time vary any Order in Council made pursuant to this section, or at any time revoke any such Order in Council.

Preliminary steps.

5. (1) Before any Order in Council is made constituting, or altering, or redefining the boundaries of, a rural fire district the Minister shall cause a plan showing the boundaries of the district as proposed to be constituted, altered, or redefined to be deposited in some convenient place for public inspection, and the Minister shall cause a notice to be advertised twice at least in some newspaper circulating in the locality stating where and at what times the plan is open for inspection and calling on any persons affected to set forth in writing any well-grounded objection and to send such writing to the Minister within one month after the first publication of the notice.

(2) Before any Order in Council is made specifying or describing, or varying the specification or description of, the property for the protection of which a rural fire district is constituted or is in existence the Minister shall cause to be prepared and deposited in some convenient place for public inspection a notice setting forth what is proposed, and the Minister shall cause a notice to be advertised twice at least in some newspaper circulating in the locality stating where and at what times the notice setting out what is proposed is open for inspection and calling on any persons affected to set forth in writing any well-grounded objection and to send such writing to the Minister within one month after the first publication of the notice.

(3) The Minister on receiving any well-grounded objection under either of the *last two preceding* subsections shall appoint a time and place at which the objector may appear before the Minister or some person appointed by him and support the objection by such evidence as the objector thinks fit.

(4) The Minister shall give due consideration to all objections duly made before he makes any recommendation to the Governor-General for the making of an Order in Council under either of the *last two preceding* sections.

Fire Authorities

6. (1) Each rural fire district shall be administered for the purposes of this Act either by the Minister or by a rural fire committee, constituted as hereinafter provided, as may be prescribed by the Governor-General by Order in Council.

Fire Authority
in rural fire
districts.

(2) The Governor-General may by Order in Council change the Fire Authority of any rural fire district and by the same or any subsequent Order in Council may make such consequential provision as may seem to him to be desirable with respect to the property, liabilities, and engagements of the Fire Authority in respect of the administration of the district.

7. (1) The Governor-General may from time to time by Order in Council make regulations constituting, or providing for the constitution, appointment, or election of a rural fire committee, as a body corporate:

Rural fire
committees.

Provided that all, or a majority of, the members of the committee shall be or represent owners of land on which is situated property for the protection of which the rural fire district is constituted or is in existence.

(2) Any such regulations may confer on the rural fire committee such functions and powers, and may contain such other provisions, not inconsistent with this Act, as the Governor-General may think fit.

8. The Fire Authority of each soil conservation district shall be the Soil Conservation and Rivers Control Council constituted under the Soil Conservation and Rivers Control Act, 1941, or, if any committee has been appointed by it in respect of the district, shall be the committee.

Fire Authority
in soil
conservation
districts.
1941, No. 12

County Councils
to be Fire
Authorities.

9. Each County Council shall be a Fire Authority for the purposes of this Act in respect of so much of the county as is not included in—

(a) A rural fire district; or

(b) A soil conservation district; or

(c) A State forest, within the meaning of the Forests Act, 1921–22.

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See Reprint
of Statutes,
Vol. III, p. 425

Duty of Fire
Authorities.

10. It shall be the duty of every Fire Authority to promote and carry out measures for the prevention, detection, control, and suppression of fires in the district of which it is the Fire Authority.

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Fire Officers
and other
servants.

11. (1) Each Fire Authority shall appoint one or more suitable persons as a Rural Fire Officer or as Rural Fire Officers. Where there are two or more Rural Fire Officers one shall be appointed as principal Rural Fire Officer. The Fire Officers appointed in respect of any rural fire district shall reside in the district throughout the whole of the closed fire season.

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(2) Each Fire Authority may appoint or employ all such other officers and servants as it deems necessary for the purposes of this Act.

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Joint action by
Fire
Authorities.

12. (1) Any two or more Fire Authorities may act together in the exercise of their powers under this Act, and may, upon such terms and conditions as they agree to between themselves, jointly appoint Rural Fire Officers and such other persons as they consider necessary for that purpose.

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(2) Any Fire Authority may from time to time arrange with any other Fire Authority or with any Catchment Board or with the Minister for that other Fire Authority or the Catchment Board and its officers or employees or, as the case may be, the Minister and Forest Officers to act on behalf of the first-mentioned Fire Authority in the exercise and performance of its powers and the powers of its Fire Officers, and in the enforcement of the provisions of this Act and of any regulations made thereunder.

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Supply of
apparatus and
fire-fighting
services.

13. (1) Any Fire Authority may arrange with any Fire Board, local authority within the meaning of the Fire Brigades Act, 1926, or fire brigade, or with the Crown, that the services of the whole or any part or parts of any specified brigade or brigades or

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apparatus shall be available in such circumstances and upon such terms and conditions as shall be agreed upon for the suppression and extinction of fires and the protection of life and property from loss or damage by
5 fire.

(2) Any Fire Board or local authority controlling a brigade which has received apparatus for emergency purposes from the Crown on loan or by way of gift shall, on call from the Director of Forestry or a Con-
10 servator of Forests acting as agent for a Fire Authority, make available any apparatus, together with an appropriate number of brigadesmen, which may be required for the suppression and extinction of fires and the protection of life and property from loss or damage
15 by fire:

Provided that the Fire Board or local authority shall not be required to make available members of the brigade or apparatus which are essential for its urgent local requirements.

(3) Payment for the use of apparatus and for the services of brigadesmen shall be made on such basis as may be agreed upon, or, in default of agreement, as may be prescribed by regulations under this Act or as
25 regulations or in cases where the regulations do not apply.

14. Any Fire Authority, Catchment Board, fire brigade, Fire Board, local authority, or Minister of the Crown may enter into and carry out such agree-
30 ments as it or he thinks fit for the purposes of either of the *last two preceding* sections, and the agreements may contain all such provisions as to the parties thereto seem necessary or expedient.

Power to enter into agreements.

Fire Prevention

15. (1) It shall be a function of the State Forest Service to observe weather and other conditions for the purpose of giving warning of the imminence of fire hazard conditions or giving any information in relation thereto.
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Fire prediction and warning service.

(2) Any warnings or information in this connection may be published in newspapers or broadcast from broadcasting stations or given in any other effective manner approved by the Director.
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Effect of
broadcast
warning.

16. On any day in respect of which the Minister or Director 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 whereby life and property may be endangered by the outbreak or spreading of fires in any specified area, no person shall 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. 5 10

Closed fire
season in rural
fire district.

17. The Governor-General may by the Order in Council constituting any rural fire district, or by any subsequent Order in Council, specify any period or periods to be a closed fire season or closed fire seasons in the district, and may at any time or from time to time in the same manner cancel or vary any closed fire season. 15

Prohibition of
certain
operations
during periods
of fire danger.

18. (1) When weather conditions arise which, in the opinion of a Fire Officer for the district, present an extreme fire hazard whereby life and property may be endangered by the outbreak or spreading of fires in any district, the Fire Officer may issue, or cause to be issued, by radio or other effective means an order in respect of such area as may be specified prohibiting the lighting of fires in the open air and prohibiting in whole or in part the carrying on or continuation of land clearing, logging, splitting, sawmilling, or any other operations whatsoever which may cause a fire to start in the area or directing that they may be carried on or continued only subject to such conditions and restrictions as the Fire Officer may impose. Any such order may direct that no person other than a person residing or working therein shall enter the whole or any specified part of the area except for the purposes or otherwise as prescribed by the order. 20 25 30 35

(2) Any order issued under this section shall come into force immediately it is issued and shall remain in force for such period (if any) as may be specified in the order or until it is revoked. 40

(3) Any order issued under this section may from time to time be amended or may at any time be revoked by a subsequent order.

(4) In any case where by reason of an order under this section men are required to cease their usual work and their employers are unable to find other employment for them the Fire Authority may, if it thinks fit and subject to such conditions as it may impose, make a contribution towards the wages of those men.

19. (1) No person shall, in any rural fire district during a closed fire season or in any county area while any order is in force under the *last preceding* section, set on fire or cause to be set on fire in the open air any trees or timber (whether standing or not), or any bracken, flax, gorse, broom, lupin, grass, or other plants whatsoever, or any debris from forest operations or land-clearing operations, or any other combustible material whatsoever, except pursuant to the written permit of a Fire Officer.

Permits required to light fires.

(2) Any such permit shall be subject to a condition that no fire shall be lit while a heavy wind is blowing or if conditions are such that the fire is likely to spread beyond the limits of the land the subject of the permit.

(3) Any such permit shall be subject to such other conditions as may be prescribed and may contain such further conditions and restrictions as the Fire Officer granting it thinks fit.

(4) Notwithstanding anything in the foregoing provisions of this section every permit granted under this section shall cease to be operative and shall be of no effect on any day in respect of which a broadcast warning has been given under section *sixteen* of this Act.

(5) Nothing in this section or in any permit granted under this section shall be deemed to relieve any person from liability from any actionable damage sustained by any other person in consequence of any act, matter, or thing done by the first-mentioned person under any such permit as aforesaid.

20. Every person commits an offence against this Act who throws, leaves, or drops any lighted match, pipe-ashes, lighted cigarette, lighted cigar, ashes from a gas-producer, or other burning or smouldering substance on any land at any time and omits before leaving the spot wholly to extinguish the fire of the burning or smouldering substance.

Offence to leave burning or smouldering substance.

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

- 21.** (1) Any Fire Authority of a rural fire district may at any time by notice in writing signed on its behalf by a Fire Officer require the owner of any land on which trees have been planted within the district—
- (a) To make and clear, within the time and in the manner specified in the notice, such fire-breaks on the land, and in such positions, as the Fire Officer considers necessary for the protection of neighbouring properties from the spreading of fire: 5
 - (b) To remove from any fire-breaks or other parts of the land on which no trees are standing, within the time specified in the notice, such grass, stubble, weeds, scrub, undergrowth, or other material of whatsoever kind, as in the opinion of the Fire Officer should be removed in order to prevent the spreading of fire. 10
- (2) Any such notice as aforesaid may be given—
- (a) By delivering it personally to the owner to whom it is directed; or 20
 - (b) By sending it by post in a registered letter addressed to the owner at his last known place of abode or business; or
 - (c) Where service in either of such ways is impracticable, by posting it in some conspicuous position on the land to which it relates. 25
- 22.** (1) Within fourteen days after any notice is given under paragraph (a) of subsection *one* of the *last preceding* section the owner or any other person having an estate or interest in the land may appeal against the requirements of the notice to the Fires Appeal Tribunal. 30
- (2) 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. 35
 - (3) Pending the determination of the appeal the notice shall be suspended.

Appeal from
notice to make
fire-break.

23. (1) If any owner to whom a notice is given under section *twenty-one* of this Act fails or refuses to comply with the requirements of the notice within the time specified therein or such further time as may be
 5 allowed on an appeal, the Fire Authority may carry out such work and do all such acts, matters, and things as may be necessary to comply with those requirements.

Power of Fire Authority on default of owner.

(2) All moneys expended by a Fire Authority under this section shall be payable to the Fire Authority by
 10 the owner to whom the notice was given and shall be recoverable as a debt in any Court of competent jurisdiction accordingly. Until paid the moneys aforesaid shall be a charge on the land.

(3) Every charge on land created by this section
 15 shall, save as hereinafter provided, have priority over all existing mortgages, charges, and encumbrances howsoever created, including mortgages, charges, and encumbrances in favour of the Crown. Notwithstanding anything to the contrary in any other enactment,
 20 if any land subject to a charge created by this Act is also subject to a charge created by that other enactment, the charges shall rank equally with each other unless by virtue of that other enactment the charge created thereby would be deferred to the charge created
 25 by this section.

(4) The exercise by the Fire Authority of the powers conferred by this section shall not relieve any person from liability to any penalty for failure to
 30 comply with the requirements of any notice under this Act.

24. (1) In any regulations constituting or providing for the constitution, appointment, or election of a rural fire committee, or in any regulations subsequently made, the Governor-General may require the committee
 35 to take such steps, whether by appointment of Fire Officers and other servants or by the provision and maintenance of apparatus or otherwise howsoever, as may be prescribed or referred to in the regulations for the purpose of preventing, detecting, controlling, and
 40 suppressing fires in the district.

Regulations may require maintenance of fire-fighting equipment by rural fire committees.

(2) Any such regulations as aforesaid may require the committee to submit to the Director from time to time particulars of all or any of the steps taken or proposed to be taken for the purpose aforesaid.

Restriction on
operation of
engines.

25. (1) No person shall in any rural fire district between the first day of August in any one year and the thirtieth day of April in the following year operate any locomotive engine, traction engine, portable engine, or stationary engine, or any other steam or internal combustion engine whatsoever, which is not provided with safe and efficient means for preventing the escape of dangerous sparks or flame from funnel or exhaust and for preventing the escape of live coals or fire from ash-pan or fire-box: 5 10

Provided that nothing in this subsection shall have any application to milking-machine plants, shearing plants, or engines used in the ordinary course of farming operations in the vicinity of farm buildings or yards.

(2) Every person in charge of any engine to which the *last preceding* subsection applies used or operated in a rural fire district shall at all times dispose of the ashes from the engine by dumping and totally extinguishing the same in such a manner as to prevent the outbreak of fire. 15 20

(3) No owner or other person having control or management of any tramway in a rural fire district shall, without the consent in writing of the Fire Officer for the district, use or cause to be used any steam-locomotive engine along the tramway during the period from the first day of August in any one year to the thirtieth day of April in the following year unless he shall have provided a patrol with adequate fire-extinguishing equipment to patrol the route followed by the engine not earlier than ten minutes nor later than thirty minutes after the passing of the engine, and to extinguish promptly any fires along the route. Any consent given by a Fire Officer under this subsection may be for such period and subject to such conditions and requirements as he thinks fit. 25 30 35

Maintenance
of apparatus
by persons
cutting timber.

26. (1) The Director may from time to time by notice in writing require that any person who is felling trees for any commercial or industrial purpose or who is producing timber in a sawmill in any area, whether within a rural fire district or not, shall provide, and maintain in effective working order, such apparatus and observe such other requirements as may be specified by the Director for the purpose of preventing, detecting, 40

controlling, and suppressing fires among the standing trees or the debris of the tree-felling operations or the refuse from the sawmilling operations.

(2) Any person who is dissatisfied with any requirements of the Director under this section may, within fourteen days after notice thereof has been given, appeal to the Tribunal which may vary or cancel the requirements. The decision of the Tribunal shall be final and conclusive.

10 **27.** (1) Any person who becomes aware of a fire burning unattended in the open air in a rural fire district during a closed fire season or in any county area while an order is in force under section *eighteen* of this Act shall do everything reasonably within his
 15 power to extinguish the fire, whether or not there is an immediate danger of it causing damage, and if he finds that he is unable to extinguish the fire he shall forthwith cause the nearest available Fire Officer to be notified of the outbreak, and shall then continue so far
 20 as possible to endeavour to control and extinguish the fire until it is brought under control or until he obtains the approval of the Fire Officer to desist.

Duty to endeavour to extinguish fires.

(2) Where a fire is burning in the open air on any land in a rural fire district during a closed fire season
 25 or in any county area while an order is in force under section *eighteen* of this Act the occupier of the land and any person having any right or licence in respect of the land, and all employees of the occupier or any such person as aforesaid, unless the fire was lawfully
 30 lighted, shall, immediately on becoming aware of the fire, take all possible steps to extinguish the fire and, if they are unable without assistance to extinguish the fire, shall forthwith cause the nearest available Fire Officer to be informed of the existence and locality of the fire,
 35 and shall then continue so far as possible to endeavour to control and extinguish the fire until it is brought under control or until he obtains the approval of a Fire Officer to desist.

Fire Suppression

40 **28.** For the purposes of extinguishing or restricting the spread of any fire or of protecting life and property in case of fire the Fire Officer of the district shall perform the following duties and may exercise the following powers:

Powers of Fire Officers at fires.

- (a) He shall upon being advised of the existence of a fire proceed, or arrange for a deputy to proceed, with all possible speed to the place where the fire is and, if in his opinion such fire constitutes a hazard to life and property, endeavour by all practicable means to extinguish the fire and prevent the spreading thereof and to save lives and property in danger: 5
- (b) He shall have the control and direction of any brigade present at the fire and of any persons who voluntarily place their services at his disposal or whose services he requires under the provisions hereinafter contained: 10
- (c) He, and any person acting under his control and direction and with his authority, may enter upon any land, house, building, or premises and, if necessary, break open any outer or inner doors of any house or building which may be on fire or in the near neighbourhood of any fire for the purpose of taking any steps which he deems necessary for any of the purposes aforesaid: 15 20
- (d) He may take or give directions for taking any apparatus required to be used at a fire into, through, or upon any land, house, building, or premises which he considers convenient for the purpose: 25
- (e) He may take any measures which in the circumstances are reasonable and which appear to him to be necessary or expedient for any of the purposes aforesaid, and, in particular, but without prejudice to the generality of the foregoing and subject to the provisions of section *thirty-two* of this Act, he may cause any trees, scrub, undergrowth, grass, stubble, weeds, or other vegetation to be burnt or otherwise destroyed or removed, and any house, building, or structure to be entered into, taken possession of, pulled down, or otherwise destroyed or removed, and any fences to be pulled down or otherwise destroyed or removed: 30 35 40

- 5 (f) He may cause water to be shut off from any main, pipe, channel, or other works of water-supply in order to obtain greater supply and pressure of water for the purpose of extinguishing or restricting the spread of the fire, and he may enter or give directions for entering any land or premises and may take or cause to be taken water from any river, creek, stream, watercourse, lake, lagoon, well, 10 dam, tank, main, or pipe, or other source of water-supply whatsoever; and no person or body of persons having the management of any water-supply shall be liable to any penalty or claim by reason of any interruption in the supply of water occasioned by any act, 15 matter, or thing done under this paragraph:
- (g) He may cause any street, road, private road, right-of-way, or thoroughfare in the vicinity of any fire or likely to be affected thereby 20 or by any fire-fighting operations to be closed for traffic during the continuance of the fire:
- (h) He may shut off or disconnect, or order any person having control thereof to shut off or disconnect, the supply of gas or electricity to 25 any building which is on fire or which is in the vicinity of any fire:
- (i) He may order to withdraw, and (in the event of a failure or refusal to withdraw) remove or direct any member of any fire brigade or 30 any constable present at the fire to remove, any persons who interfere by their presence or otherwise with the fire-fighting operations or who are on or in any land, building, or premises then burning or threatened by fire, 35 unless they have a pecuniary interest therein or in any goods or valuables whatsoever thereon:
- (j) He may, at the time of the fire or afterwards, 40 pull down or shore up any wall or building which is in his opinion so damaged by fire as to be or to be likely to become dangerous to life or property, and the expense of any such operation shall be borne by the owner of the building, and shall be paid by him to the Fire Authority. 45

Police to assist
Fire Officers.

29. Every constable present at any fire shall support and assist the Fire Officer in the maintenance of his authority and in enforcing due obedience by all persons to his orders in the execution of his duty.

Requisition of
assistance to
extinguish fires.

30. (1) In the event of a fire occurring in any rural fire district a Fire Officer may require any fit male person over the age of eighteen years residing or working within the rural fire district or within five miles of the boundary thereof to assist in extinguishing the fire. 5

(2) In any case where a fire occurs in a soil conservation district or in a county area while an order is in force under section *eighteen* of this Act in respect of any specified area a Fire Officer may require any fit male person over the age of eighteen years residing or working in the specified area, or within five miles of the boundary thereof to assist in extinguishing the fire. 10

(3) In any case where a fire occurs in a soil conservation district or in a county area while no order is in force under section *eighteen* of this Act, or if in the opinion of the Fire Officer the area affected by any such order as aforesaid is not great enough, and owing to weather or other conditions there is an extreme fire hazard whereby life and property may be endangered by the spreading of the fire, the Fire Officer may issue or cause to be issued, either by radio or by other effective means, a notice declaring that there is a local fire emergency in such area as may be specified, and in that case the Fire Officer may require any fit male person over the age of eighteen years residing or working in the specified area or within five miles of the boundary thereof to assist in extinguishing the fire. 15 20 25 30

(4) In exercising any power under the foregoing provisions of this section, the Fire Officer shall leave available a sufficient number of men to protect other property. 35

(5) All persons, other than members of a voluntary rural fire-fighting organization, who in response to a requirement pursuant to this section, or by arrangement with the Fire Officer, render assistance shall be entitled to be remunerated by the Fire Authority under such circumstances, at such rate, and subject to such conditions as may be prescribed by regulations under 40

5 this Act or as may be approved by the Minister if there are no such regulations or in cases where the regulations do not apply, and they shall be deemed for the purposes of the Workers' Compensation Act, 1922, while so acting to be employed by the Fire Authority.

See Reprint of Statutes, Vol. V, p. 597

(6) Regulations may be made under this Act for the purpose of prescribing the terms and conditions on or subject to which persons whose services are required under this section or who otherwise assist in fire-fighting operations shall serve the Fire Authority.

10 **31. (1)** When weather conditions exist which in the opinion of the Director or of any Conservator of Forests present an extreme fire hazard whereby life and property may be endangered by spreading forest or rural fires, or when any forest or rural fires have spread or appear to the Director or a Conservator of Forests to be likely to spread beyond the district of a single Fire Authority, the Director or the Conservator of Forests may take charge for the purposes of this Act of any area, whether included in more than one district or not.

Regional fire emergency.

(2) The Director or Conservator shall notify the Fire Authority of each district affected that he has taken charge of the area.

25 (3) In any case where the Director or any Conservator of Forests takes charge of any area as aforesaid he shall have in respect of that area all the powers, authorities, and immunity of a Fire Officer under this Act as if the whole of that area was a rural fire district, and all the provisions of this Act shall, with the necessary modifications, apply accordingly. All Fire Officers and other officers of the Fire Authorities of the districts affected shall be subject to the authority of the Director or Conservator of Forests and shall carry out all instructions given by him or on his behalf.

30 **32. (1)** Notwithstanding anything contained in the foregoing provisions of this Act no person shall in any rural fire district set fire to any vegetation (including crops cut or standing) for the purpose of stopping the spread of any fire except, in any case to which the *last preceding* section applies, the Director or Conservator of Forests or a person acting pursuant to specific directions given by the Director or Conservator, or, in any other case, the Fire Officer, or where there

Back burning.

are two or more Fire Officers for the district the principal Fire Officer, or a person acting pursuant to specific directions given by that Fire Officer.

(2) If pursuant to the *last preceding* subsection the Director or Conservator of Forests or the Fire Officer aforesaid, or any person acting pursuant to specific directions given by the Director, Conservator, or Fire Officer, sets fire to any vegetation (including crops cut or standing) for the purpose of stopping the spread of any fire, the amount of the loss or damage suffered by the owner of the land on which the vegetation exists as a direct result of that action shall for the purposes of this Act be deemed to be part of the cost incurred in the control and suppression of the fire for the prevention of the spread of which the vegetation was set on fire, and the amount of the loss or damage so suffered shall be refunded to the owner either by the Fire Authority or, in a case to which the *last preceding* section applies, out of moneys appropriated by Parliament for the purpose:

Provided that nothing in this subsection shall apply in respect of any loss of or damage to property the amount whereof is recoverable under any policy of insurance.

Financial Provisions

Levy to meet ordinary requirements of Fire Authority of rural fire district.

33. (1) 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.

(2) The amount of the estimated expenditure may be met as agreed upon by the persons interested in the operations of the Fire Authority or may be raised by the Fire Authority by a levy imposed as hereinafter provided in respect of property for the protection of which the rural fire district is in existence:

Provided that, 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 occupied for farming purposes, or any chattels thereon or therein.

(3) The levy shall be paid by the owners of land on which any such property as aforesaid is situated in accordance with the proportions determined under the *next succeeding* section. In any case where the
 5 Crown is the owner of any of the land the levy in respect of that land shall be paid out of moneys appropriated by Parliament for the purpose.

(4) The levy shall be imposed by resolution of the Fire Authority, and the date or dates for the payment
 10 thereof shall be fixed by the resolution.

34. (1) The Fire Authority may from time to time determine the proportion of the estimated expenditure referred to in the *last preceding* section which is to be paid in respect of each piece of land on which any such
 15 property as aforesaid is situated.

Proportions in which levies for ordinary requirements in rural fire district to be paid.

(2) In determining the proportions the Fire Authority shall have regard to the benefit likely to be derived from the operations of the Fire Authority, the risks of a fire occurring on the land or spreading into that land
 20 or from that land to adjacent land, the extent to which the owner or occupier of the land has taken appropriate steps to reduce those risks or to provide for the control or suppression of fires, and such other circumstances of whatsoever nature as the Fire Authority considers
 25 relevant.

(3) 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 a determination of proportions under this
 30 section, reconsider the proportions fixed previously and make a new determination of proportions.

(4) Notice of the determination of proportions by a Fire Authority in accordance with this section shall be given to each owner.

35. (1) In any case where there has been an outbreak of fire which has not spread beyond the land on which it occurred, the whole or a portion of any costs incurred by the Fire Authority in the control and suppression of that fire shall, if the Fire Authority so
 40 determines, be payable by the owner of the land.

Costs of fire-fighting.

(2) If there has been an outbreak of fire in any district, whether a rural fire district or not, and the fire has spread beyond the land on which it occurred the whole or a portion of the costs incurred by the Fire
 45 Authority in the control or suppression of that fire may

be met as agreed upon by the persons interested therein or may, if the Fire Authority thinks fit, be met by a levy imposed as hereinafter provided:

Provided that, 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 occupied for farming purposes, or any chattels thereon or therein. 5

(3) In any case to which the *last preceding* sub-section applies the Fire Authority shall by resolution determine the amount that shall be paid by way of levy by each owner of land in respect of which the Fire Authority considers that a levy should be imposed. The date or dates for the payment of the levy shall be fixed by resolution of the Fire Authority. 10 15

(4) In determining the amount of the levy the Fire Authority shall have regard to the value of the property which has been saved as a result of the control and suppression of the fire, the amount of assistance rendered by or on behalf of each owner in the fire-fighting operations, the extent of any loss suffered by any owner in any way as a result of the fire-fighting operations, and such other circumstances of whatsoever nature as the Fire Authority considers relevant. 20 25

(5) In any case where the Crown is the owner of any land in respect of which moneys are payable under this section, the amount shall be paid out of moneys appropriated by Parliament for the purpose.

(6) Notice of any determination of the Fire Authority under this section and the date or dates for the payment of any costs of fire-fighting or levy shall be given to each owner. 30

Appeal against
determinations
of Fire
Authority.

36. (1) Any owner who is dissatisfied with any determination of a Fire Authority under either of the *last two preceding* sections may, at any time within one month after notice of the determination has been served on him, appeal to the Fires Appeal Tribunal against the determination. 35

(2) On the hearing of the appeal the Tribunal may amend the determination of the Fire Authority in such manner and in respect of such owners as it thinks fit, and the decision of the Tribunal shall be final and conclusive. 40

37. Subject to the provisions of section *thirty-five* of this Act, all expenditure by any County Council for the purposes of this Act shall be charged against the General Account or against the Separate Account of
5 any riding or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven of the Counties Act, 1920, or may be apportioned by the Council among those accounts.

Expenditure
by County
Councils.

See Reprint
of Statutes,
Vol. V, p. 231

10 38. (1) In any case where the Director or any Conservator of Forests has taken charge of any area pursuant to section *thirty-one* of this Act the costs incurred by him or pursuant to his authority while he was so in charge in the control and suppression of the
15 forest or rural fires in the area shall be paid out of moneys appropriated by Parliament for the purpose.

Payment of
fire-fighting
costs in
regional fire
emergency.

(2) The Minister may in his absolute discretion determine what part of those costs shall be borne by the Fire Authorities of the districts in the area. The
20 Minister shall apportion that part of the costs between those Fire Authorities.

(3) The costs so apportioned shall be paid by each Fire Authority into the Public Account at such times and by such instalments as the Minister determines.
25 If any Fire Authority makes default in the payment of any moneys as required under this section, the amount thereof shall be recoverable from the Fire Authority in any Court of competent jurisdiction as a debt due to the Crown or, if the Fire Authority is a County
30 Council, may be deducted from any moneys payable out of public moneys to the County Council.

(4) If the Fire Authority is a rural fire committee and the committee makes default as aforesaid, the Director may exercise the powers of the committee
35 under section *thirty-five* of this Act, and take proceedings in the name of the committee against the owners for the amounts levied against them.

(5) The amount of the costs apportioned to each Fire Authority shall for the purposes of the foregoing
40 provisions of this Act be deemed to be costs incurred by the Fire Authority in the control and suppression of a fire.

Appeal against apportionment of fire-fighting costs in regional fire emergency.

39. (1) If a Fire Authority is dissatisfied with the apportionment by the Minister pursuant to the *last preceding* section of the costs incurred in the control and suppression of forest or rural fires in any area, it may, at any time within one month after notice of the apportionment has been given to it, appeal to the Fires Appeal Tribunal against the apportionment. 5

(2) On the hearing of the appeal the Tribunal may amend the apportionment in such manner and in respect of such Fire Authorities as it thinks fit, and the decision of the Tribunal shall be final and conclusive. 10

Right of recovery in certain cases.

40. The costs incurred by a Fire Authority or apportioned to a Fire Authority under the foregoing provisions of this Act in relation to the control and suppression of any fire shall be deemed to be loss suffered as a result of the fire, and, if the circumstances relating to the origin of the fire or the spread thereof are such that any person who suffers loss as a result of the fire has a right of action for damages in respect of that loss against any other person, then the Fire Authority or any owner on whom any portion of those costs are levied pursuant to this Act shall have a right of action for damages against that other person for the amount of the costs or the portion thereof levied as aforesaid. 15 20 25

Fires Appeal Tribunal

Fires Appeal Tribunal.

41. (1) There is hereby established a Fires Appeal Tribunal for the purposes of this Act.

(2) The Tribunal shall consist of three persons to be appointed by the Governor-General on the recommendation of the Minister, of whom— 30

- (a) One member shall be appointed as Chairman;
- (b) One member shall be appointed as a person experienced in land administration or land management; and 35
- (c) One member shall be appointed as a person who is a qualified forester.

(3) Each member of the Tribunal shall be appointed for a term not exceeding three years, but may be reappointed or may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister. 40

(4) There shall be paid to the members of the Tribunal out of moneys appropriated by Parliament for the purpose such remuneration by way of fees or allowances as the Minister in each case from time to time approves and travelling expenses and allowances at such rate as may be prescribed by regulations under this Act or, if there are no such regulations, as may be approved by the Minister of Finance.

42. (1) The Governor-General may appoint such person as he thinks fit as the deputy of any member of the Tribunal to act in any case of the temporary absence of that member or in any matter in respect of which that member has any financial interest otherwise than as a member of the public.

Deputy
members.

(2) While so acting any person appointed under this section may exercise all the powers of the member whose deputy he is.

(3) The appointment of any person under this section may be for such term, not exceeding the unexpired balance of the term of the appointment of the member whose deputy he is, as the Governor-General thinks fit, or may be for any specified period or periods of absence of that member, or may be in relation to any specified matter or matters or class of matters.

(4) The provisions of the *last preceding* section and any other provisions of this Act relating to members of the Tribunal shall, so far as applicable and with the necessary modifications, apply with respect to every person appointed under this section.

(5) The fact that any person purporting to act as deputy of a member of the Tribunal exercises any power, duty, or function of the member of the Tribunal shall be sufficient evidence of his authority so to do; and no person shall be concerned to inquire whether any occasion has arisen or continues requiring or authorizing him so to do, or be affected by notice that no such occasion has arisen.

43. (1) For the purposes of any appeal to the Tribunal the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable and with the necessary modifications, apply as if the Tribunal were a Commission of Inquiry appointed under that Act.

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

(2) The presence of the Chairman and of at least one other member shall be necessary to constitute a sitting of the Tribunal.

(3) The decision of a majority (including the Chairman) of the members present at a sitting of the Tribunal shall be the decision of the Tribunal. If the members are equally divided in opinion the decision of the Chairman shall be the decision of the Tribunal. 5

(4) Except as provided in this Act or as may be provided by regulations under this Act the Tribunal may regulate its own procedure in such manner as it thinks fit. 10

Miscellaneous Provisions

Damage in fire-fighting to be damage by fire within meaning of fire policy.

44. No liability shall attach to the Crown or any Fire Authority, Fire Board, local authority, or fire brigade, or to the Director or any Conservator of Forests, Fire Officer, officer or member of a fire brigade, or other person whatsoever in respect of any damage to property occasioned by the Director, Conservator, Fire Officer, officer or member of the fire brigade, or other person in the *bona fide* exercise of his powers, duties, or obligations at or in connection with any fire, but the damage shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the damaged property. 15 20 25

Saving of Fire Authorities and Fire Officers, &c., from liability in certain cases.

45. No liability shall attach to the Crown or to any Fire Authority or to the Director or any Conservator of Forests or Fire Officer in respect of any loss or damage sustained by any person as the result of the doing of any act, matter, or thing pursuant to any order, direction, requirement, or permit given, imposed, or granted by the Director or by any Conservator of Forests or Fire Officer pursuant to this Act if the order, direction, requirement, or permit was given, imposed, or granted in good faith. 30 35

No action against Fire Authority for failure to provide against fire.

46. (1) No action or proceedings shall be brought against the Crown or any Fire Authority or any officer thereof to recover damages for any loss or damage due to the failure or neglect of the Crown or the Fire Authority to make adequate provision for the suppression of fires and the protection of life and property against fires or due to the failure of any Fire Officer to take steps to suppress any fire. 40

(2) No member of a Fire Authority shall be personally liable for any act or omission of the Fire Authority of which he is a member.

5 **47.** Every Fire Officer shall, in any area in respect
of which he exercises his functions and duties, have
free access at all reasonable times to any building, land,
or premises, and to any part thereof, for the purpose
of ascertaining if any danger of fire or of the spreading
of fire exists therein or thereon, and of ascertaining
10 whether the requirements of this Act and of any orders,
directions, and requirements given or imposed there-
under are being properly and efficiently observed and
performed with respect to the building, land, and
premises.

Inspections for
purposes of
Act.

15 **48.** (1) In the case of a fire within any district, the
Minister of Justice may, if he thinks fit, request any
Magistrate to hold an inquest as to the cause and origin
of the fire or as to the effectiveness or otherwise of the
measures taken to deal with the fire, and that Magis-
20 trate shall hold an inquest accordingly. The Magistrate
holding the inquest shall be deemed to be acting as a
Coroner under the Coroners Act, 1908, and all the
provisions of that Act shall apply accordingly.

Inquest as to
fires.

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

See Reprint
of Statutes,
Vol. 11, p. 22

30 (3) At any such inquest the Fire Authority may be
represented by a member thereof, or by a Fire Officer
of the Fire Authority, or by any other person autho-
rized by the Fire Authority, who may adduce evidence
and examine and cross-examine witnesses.

49. (1) Every person commits an offence against
this Act who—

Offences.

35 (a) Acts in contravention of or fails to comply in
any respect with any provision of this Act or
any order, direction, requirement, condition,
or restriction given or imposed by or pur-
suant to this Act:

40 (b) Wilfully gives or causes to be given, or attempts
to give or cause to be given, to any Fire
Officer any false alarm of fire:

(c) Resists, obstructs, hinders, or deceives the Director or any Conservator of Forests, Fire Officer, or other officer or servant of a Fire Authority, or any officer or member of any brigade, or any other person in the exercise, or attempted exercise, of any power or the performance, or attempted performance, of any function or duty conferred or imposed by or under this Act. 5

(2) Every person who commits an offence against this Act shall be liable to such penalty as may be specially provided therefor in this Act or, if no penalty is specially provided, shall be liable,— 10

(a) In the case of an individual, to imprisonment for a term not exceeding *one* month, or to a fine not exceeding *one hundred* pounds and, if the offence is a continuing one, to a further fine not exceeding *ten* pounds for every day during which the offence continues, or to both such imprisonment and such fine: 15

(b) In the case of a body corporate, to a fine not exceeding *five hundred* pounds, and, if the offence is a continuing one, to a further fine not exceeding *fifty* pounds for every day during which the offence continues. 20

(3) All proceedings in respect of offences against this Act shall be taken in a summary way under the Justices of the Peace Act, 1927. 25

50. (1) The Director or any Conservator of Forests or Fire Officer may give public notice of the exercise of any of his powers under this Act or of any order, direction, restriction, requirement, or condition given or imposed by him under this Act, and all persons shall be bound thereby. For the purposes of this section “public notice” means a notice published in a newspaper circulating in the locality in which the matter of the notice arises or to which it relates. 30

(2) The Director or any Conservator of Forests or Fire Officer may, without public notice, give notice to any person of the exercise of any of his powers under this Act or of any order, direction, restriction, requirement, or condition as aforesaid, and every person to whom the notice is given shall be bound thereby. 35 40

See Reprint
of Statutes,
Vol. II, p. 351

Notices.

(3) Except where otherwise specially provided, any notice required to be given to any person for the purposes of this Act may be given in writing or orally or by telephone, telegraph, or any other means of communication, and if in writing may be given by causing it to be delivered to that person or to be left at his usual or last known place of abode or business or to be posted in a letter addressed to him at that place of abode or business.

10 (4) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly
15 addressed and posted.

(5) Any notice required to be given to any person for the purposes of this Act shall be sufficient if it purports to be given by a person authorized to give it and is authenticated by the signature or name of that
20 person.

51. (1) The Governor-General from time to time, Regulations.
by Order in Council, may make regulations for any purpose for which regulations are contemplated by this Act, and may make all such other regulations as may
25 in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may
30 be made under this section for the following purposes:—

(a) Prescribing measures to be taken and the equipment and fire patrols to be provided and maintained by sawmillers and other persons engaged in industrial operations in any
35 district for the prevention or suppression of fire or for diminishing the danger to life and property arising from fire:

(b) Prescribing forms and particulars of signs to be used by Fire Authorities for particular
40 purposes, and requiring the display of such signs.

(3) Any regulations under this Act may apply generally in respect of all districts or all industrial operations or may apply only in respect of specified districts or industrial operations or classes of districts or industrial operations. 5

(4) All regulations made under this Act shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session, and, if not, then within fourteen days after the commencement of the next ensuing session. 10

Miscellaneous amendments.

52. The enactments mentioned in the Schedule hereto are hereby amended in the manner indicated in that Schedule.

Repeals and savings.
See Reprint of Statutes, Vol. III, pp. 433, 449
1940, No. 18

53. (1) Section twenty-seven of the Forests Act, 1921-22, sections five and six of the Forests Amendment Act, 1925, and section twenty-eight of the Statutes Amendment Act, 1940, are hereby repealed. 15

(2) Notwithstanding the repeal of the enactments referred to in the *last preceding* subsection, every fire district created under any of the said enactments and in existence on the passing of this Act shall continue in existence until the expiration of twelve months after the passing of this Act or until a fire district is constituted under this Act including the same area or substantially the same area, whether with or without other areas, whichever is the earlier. So long as any fire district in existence on the passing of this Act continues in existence as aforesaid the enactments hereby repealed and the enactments amended by the *last preceding* section, and any regulations made under those enactments, shall continue to apply in respect of that district as if this Act had not been passed. 20
25
30

SCHEDULE

Schedule.
Section 52

MISCELLANEOUS AMENDMENTS

Title of Enactment.	Number of Section affected.	Nature and Extent of Amendment.
1921-22, No. 43— The Forests Act, 1921-22 .. (Reprint of Statutes, Vol. III, p. 439)	Section 44 Section 45 (as amended by section 27 of the Statutes Amendment Act, 1941) Section 48 (as amended by section 6 of the Forests Amendment Act, 1925) Section 63	By repealing paragraph (c) of subsection (1). By omitting from subsection (1) the words "or in any fire district", the words "or fire district, as the case may be," and the words "or fire district". By omitting from subsection (1) the words "or in any fire district". By omitting from paragraph (k) the words "and fire districts".
1941, No. 26— The Statutes Amendment Act, 1941	Section 28	By omitting from paragraph (a) of subsection (2) the words "or within a fire district". By omitting from paragraph (b) of subsection (2) the words "and fire districts".