

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

*House of Representatives, 13 October 1955*

Words struck out by the Committee are shown in italics within bold brackets; words inserted are shown in black or in roman with rule down side.

*Hon. Mr Smith*

## FOREST AND RURAL FIRES

### ANALYSIS

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### A BILL INTITULED

Title.	AN ACT to consolidate and amend certain enactments of the General Assembly relating to the prevention and suppression of forest and rural fires, and with respect to matters incidental thereto.	5
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:	
Short Title.	1. This Act may be cited as the Forest and Rural Fires Act 1955.	10
Interpretation. 1947, No. 34, s. 2 1949, No. 18, s. 86 1949, No. 19, s. 3 (3) 1952, No. 15, s. 2	2. In this Act, unless the context otherwise requires,— “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: “Brigade” or “Fire Brigade” means a group of persons organized and trained for the suppression and extinction of fires and responsible to an Urban Fire Authority for discipline and duty; and includes a volunteer fire brigade and an industrial fire brigade: “Conservator of Forests” means any Conservator of Forests appointed under the Forests Act 1949:	15 20 25
1949, No. 19		

“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 area; or
- (d) A district controlled by an Urban Fire Authority:

“Director” means the Director of Forestry:

“District” means, as the case may require, a rural fire district, a soil conservation district, a State area, or a county area:

“Fire Authority” means,—

(a) In relation to a rural fire district, the rural fire committee in which, or (as the case may be) the Minister in whom, the administration of the district is vested;

(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;

(c) In relation to a county area, the County Council; and

(d) In relation to any State area, the Minister or the committee appointed by him in respect of the area:

“Fire Officer” or “Rural Fire Officer”, in relation to any rural fire district or soil conservation district or county area, means a Rural Fire Officer appointed under this Act by the Fire Authority for the district or area; and, in relation to any State area, means a Forest Officer under the Forests Act 1949 or a person appointed by the Minister as a Rural Fire Officer for the area:

“Fires Appeal Tribunal” or “Tribunal” means the Fires Appeal Tribunal constituted under this Act:

“Forest produce” means trees and plants and the produce of trees and plants:

“Minister” means the Minister of 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 property were let at a rack rent; and includes any public or local authority which for the time being has control of the property:

“Principal Fire Officer”,

(a) In relation to any State area for which a Principal Rural Fire Officer is appointed by the Minister or any other district for which a Principal Rural Fire Officer is appointed by the Fire Authority, means that Officer: 5

(b) In relation to any district (other than a State area) for which there is only one Fire Officer, means that Officer:

(c) In relation to any State area for which no Principal Rural Fire Officer has been appointed by the Minister, means any Forest Officer under the Forests Act 1949: 10

1949, No. 19

“Rural fire committee” means a rural fire committee constituted under the provisions of this Act: 15

“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: 20

1941, No. 12

“State area”—

(a) Means—

(i) Any State forest land within the meaning of the Forests Act 1949; and any land or forest in respect of which the Minister acts as agent under section sixty-four of that Act; and 25

1952, No. 54

(ii) Any National Park within the meaning of the National Parks Act 1952; and 30

1948, No. 64

(iii) Any lands of the Crown within the meaning of section one hundred and seventy-six of the Land Act 1948; but

(b) Does not include any area included in a rural fire district or a soil conservation district or a district controlled by an Urban Fire Authority. 35

Act not to bind the Crown.

**3.** This Act shall not bind the Crown either in State areas or elsewhere.

*Rural Fire Districts*

4. (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 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.

Rural fire districts. 1947, No. 34, s. 3

(2) The Governor-General may, if he thinks fit, from time to time in like manner alter or redefine 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.

5. (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.

Definition of property for protection of which rural fire district constituted. 1947, No. 34, s. 4

(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.

6. (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 that writing to the Minister within one month after the first publication of the notice.

Preliminary steps. 1947, No. 34, s. 5

(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 that writing to the Minister within one month after the first publication of the notice. 5

(3) The Minister on receiving any well grounded objection under subsection *one* or subsection *two* of this section 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. 10 15

(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 section *four* or section *five* of this Act.

#### *Fire Authorities*

Fire Authority  
in rural fire  
districts.  
1947, No. 34,  
s. 6

7. (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. 20 25

(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. 30

Rural fire  
committees.  
1947, No. 34,  
s. 7

8. The Governor-General may from time to time, by Order in Council,—

(a) Constitute or provide for the constitution, appointment, or election of a rural fire committee as a body corporate: 35

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: 40

(b) Make regulations which may confer on the rural fire committee such functions and powers and contain such other provisions, not inconsistent with this Act, as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

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9. 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.  
1947, No. 34, s. 8  
1941, No. 12

10. The Fire Authority of each county area shall be the County Council of the county.

Fire Authority in county areas.  
1947, No. 34, s. 9  
1949, No. 18, s. 86

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11. (1) The Fire Authority of each State area shall be the Minister, or, if any committee has been appointed by him in respect of the area, shall be the committee.

Fire Authority in State areas.

(2) In any case where the Fire Authority of a State area is the Minister, he may from time to time, by writing under his hand, either generally or particularly, delegate to the Director or to any Conservator of Forests all or any of his powers as Fire Authority in respect of the area, but not the power to delegate under this section.

(3) Subject to any general or special directions given or conditions attached by the Minister, the Director or Conservator may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(4) Where the Director or any Conservator purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

(6) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister; and, in the event of the Director or Conservator to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding the office or, if there is no holder of the office or if the holder of the office is absent from duty, to the person for the time being directed under the *Public Service Act 1912* to act in the place of the holder of the office.

See Reprint of Statutes, Vol. VII, p. 522

Duties of Fire Authorities. 1947, No. 34, s. 10  
1948, No. 43, s. 2

Fire Officers and other servants. 1947, No. 34, s. 11  
1948, No. 43, s. 3

1949, No. 19

12. (1) 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 its district.

(2) Any Fire Authority may in its discretion promote and carry out such measures as it thinks fit for the prevention, detection, control, and suppression of fires in any area adjoining its district in which there is no Fire Authority, and for that purpose it may do anything which it could do if it were the Fire Authority for that area.

13. (1) In each district other than a State area the 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, unless the Fire Authority otherwise approves.

(2) The Fire Authority for each district other than a State area may appoint or employ all such other officers and servants as it deems necessary for the purposes of this Act.

(3) In each State area the Minister may appoint one or more suitable persons as a Rural Fire Officer or Rural Fire Officers, and may appoint one Rural Fire Officer as Principal Rural Fire Officer. Every Forest Officer under the Forests Act 1949 shall be a Rural Fire Officer for every State area, and (where no Principal Rural Fire Officer has been appointed for the area) shall have all the powers of a Principal Rural Fire Officer in respect of the area.



14. (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.

Joint action by Fire Authorities. 1947, No. 34, s. 12

(2) Any Fire Authority may from time to time arrange with any other Fire Authority or with any Catchment Board or with the Minister or **(in any area where there is no Catchment Board) with any River Board** for that other Fire Authority or the Catchment Board or River 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.

15. (1) Any Fire Authority may arrange with any Urban Fire Authority, local authority within the meaning of the Fire Services Act 1949, or fire brigade, or with the Crown, or any employer of an industrial fire brigade, that the services of the whole or any part or parts of any specified brigade or brigades or 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 fire.

Supply of apparatus and fire fighting services. 1947, No. 34, s. 13 1949, No. 18, s. 86 1949, No. 18

(2) Any Urban Fire Authority controlling a brigade which for the time being holds apparatus received for emergency purposes from the Crown on loan or by way of gift shall, on call from the Director of Forestry or a Conservator 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 by fire:

Provided that the Urban Fire Authority shall not be required to make available members of the brigade who are, and apparatus which is 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 may be approved by the Minister if there are no such regulations or in cases where the regulations do not apply.

Power to enter  
into  
agreements.  
1947, No. 34,  
s. 14  
1948, No. 18,  
s. 86

16. Any Fire Authority, Catchment Board, fire brigade, Urban Fire Authority, local authority, or Minister of the Crown, or **(in any area where there is no Catchment Board) any River Board**, may enter into and carry out such agreements as it or he thinks fit for the purposes of section *fourteen* or section *fifteen* of this Act, and the agreements may contain all such provisions as to the parties thereto seem necessary or expedient. 5

#### *Fire Prevention*

Fire prediction  
and warning  
service.  
1947, No. 34,  
s. 15

17. (1) It shall be a function of the New Zealand 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. 10

(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. 15

Effect of  
broadcast or  
other warning.  
1947, No. 34,  
s. 16  
1952, No. 15,  
s. 3

18. (1) 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 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, whether in a district or not, 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. 20 25

(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, whether in a district or not, 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. 30 35 40

19. (1) 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.

Closed fire season.  
1947, No. 34, s. 17  
1952, No. 15, s. 4

(2) [*The Fire Authority of a State area or a county area or a soil conservation district*]

*New*

In addition to any closed fire season which may be specified under subsection one of this section, it is hereby declared that the Fire Authority of any 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.

20. (1) When weather or other 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 (with the approval of the Fire Authority) 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.

Prohibition of certain operations during periods of fire danger.  
1947, No. 34, s. 18  
1948, No. 43, s. 4  
1952, No. 15, s. 5

(2) Where there is no Fire Authority for any part of any area to be affected by an order under this subsection, an order under this section in respect of such area as may be specified may be issued by a Fire Officer for a district adjoining that area or by a Conservator of Forests. While an order so issued by a Fire Officer remains in force the Fire Authority for the district to which that Fire Officer belongs shall be deemed the Fire Authority for the area specified and every Fire Officer for that district shall be

deemed a Fire Officer for that area. While an order so issued by a Conservator of Forests remains in force the Conservator of Forests shall be deemed to be the Fire Authority and the Fire Officer for that area.

(3) 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. 5

(4) Any order issued under this section may from time to time be amended or may at any time be revoked by a subsequent order. 10

(5) 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. 15

Permits  
required to  
light fires.  
1947, No. 34,  
s. 19  
1948, No. 43,  
s. 5  
1952, No. 15,  
s. 6

21. (1) No person shall, in any district during a closed fire season or while any order is in force under section *twenty* of this Act, 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 for the district: 25

Provided that any such Fire Officer may by a special permit sanction any such fire during a specified period in a closed fire season while weather or other conditions have so reduced the fire hazard as to make it reasonably safe to light the fire. 30

(2) A Fire Officer may in his discretion refuse to grant a permit in any case.

(3) Every 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. 35

(4) 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. 40

(5) 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 warning affecting that person has been given under section *eighteen* of this Act. 45

(6) Nothing in this section or in any permit granted under this section shall be deemed to relieve any person from liability for 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.

(7) In determining whether and on what conditions any permit should be granted, the Fire Officer shall take into account any relevant by-law made under the Soil Conservation and Rivers Control Act 1941, and any relevant Proclamation or regulations made under the Wildlife Act 1953.

(8) Every person who does any act for which an authority or permit is required under the provisions of this Act shall produce the authority or permit within a reasonable time after he is required to do so by a constable or Fire Officer.

22. (1) Every person commits an offence against this Act who at any time,—

(a) Lights or kindles any fire or assists to light or kindle any fire, or aids or abets any other person to light or kindle any fire, in—

(i) Any National Park without being authorized by the National Park Board; or

(ii) In any other State area without the written permit of a Fire Officer for the area:

(b) Lights or kindles any fire, or assists to light or kindle any fire, within one mile of any State area without the written permit of a Fire Officer for the area, or causes or permits any fire to spread to any State area, if (in any such case) any property or trees or plants in that area are thereby burnt or injured or are in danger of being burnt or injured or the fertility of the soil of the area is injuriously affected:

(c) Leaves, without having taken due precaution against its spreading or causing injury to any State area, any fire lit or kindled by him or in the lighting or kindling of which he has aided or abetted.

(2) In any proceedings under this section the onus of proving that the defendant had an authority or permit to do the act in respect of which the proceedings are laid shall lie on the defendant.

Unlawful lighting of fires in State areas.  
1949, No. 19, s. 46  
1953, No. 42, s. 3  
1948, No. 64, s. 176 (5)-(7)  
1952, No. 54, ss. 53, 54 (1)(a)

(3) In any such proceedings the averment that any lands in question are a National Park or State area shall be sufficient without proof of that fact, unless the defendant proves to the contrary, and all plans, maps, certificates, and copies certified as true by the Commissioner of Crown Lands for the district or the Chief Surveyor shall be sufficient evidence of their contents without production of original records and without the personal attendance of those officers or proof of their signatures. 5

(4) Any person convicted of an offence under this section shall, in addition to any penalty for which he may be liable under this section, pay the value of the damage done to the National Park or State area or to any property or trees or plants thereon. That value or damage shall be assessed by the Court in fixing the penalty and shall be recoverable in like manner as a fine. 10 15

Offence to leave burning or smouldering substance.  
1947, No. 34, s. 20  
1949, No. 19, s. 47

23. Every person commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding one hundred pounds who at any time 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 in a district so as to cause a fire hazard and omits before leaving the spot wholly to extinguish the fire of the burning or smouldering substance. 20 25

Fire Authority may require fire breaks to be made or cleared.  
1947, No. 34, s. 21  
1948, No. 43, s. 6  
1952, No. 15, ss. 7, 8 (2) (a)

24. (1) The Fire Authority of any district may at any time by notice in writing signed on its behalf by a Fire Officer require the owner of any land within the district on which exotic trees are allowed to grow for the purpose of producing timber— 30

(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: 35

(b) To remove from any fire break 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. 40

(2) The Fire Authority of any district may, at any time by notice in writing signed on its behalf by a Fire Officer, require the owner of any land in the district which is subdivided into allotments for the purposes of sale or for building purposes either before or after the passing of this Act, or which has an area of less than two acres, to remove at his own cost from that land such grass, stubble, weeds, scrub, undergrowth, rubbish, or other material of whatsoever kind as in the opinion of the Fire Authority should be removed in order to prevent or minimize the risk of the spreading of fire in that area.

(3) The owner of every exotic forest shall, so far as is reasonably practicable, provide and maintain at least two safe alternative routes whereby persons engaged in any forest or industrial operation may escape from the forest in the event of fire therein. If the owner of any exotic forest fails to provide and maintain such routes as aforesaid to the satisfaction of the Fire Authority for the district, a Fire Officer may by notice in writing require that owner, within such time as may be specified in the notice, to do such work to provide and maintain the routes as may be specified in the notice.

25. (1) Within fourteen days after any notice is given under section *twenty-four* 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.

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

1947, No. 34, s. 22

1952, No. 15, s. 8 (1)

(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.

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

26. (1) If any owner to whom a notice is given under section *twenty-four* 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 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.

1947, No. 34, s. 23

(2) All money expended by a Fire Authority under this section shall be payable to the Fire Authority by 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 money aforesaid shall be a charge on the land. 5

(3) Every charge on land created by this section 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, 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 by this section. 10 15

(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 comply with the requirements of any notice under this Act. 20

Regulations may require maintenance of fire fighting equipment by rural fire committees.  
1947, No. 34,  
s. 24

27. (1) In any regulations made by the Order in Council which constitutes or provides for the constitution, appointment, or election of a rural fire committee, or in any regulations subsequently made, the Governor-General may require the committee 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 suppressing fires in the district. 25 30

(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. 35

Restriction on operation of engines.  
1947, No. 34,  
s. 25

28. (1) Except with the consent in writing of a Fire Officer for the district or area, which consent may be given for such period or periods as the Fire Officer thinks fit, no person shall in any rural fire district or in or within



a mile of any State area 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  
5 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 ashpan or firebox:

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  
15 subsection *one* of this section applies used or operated in a rural fire district or in or within a mile of any State area shall at all times dispose of the ashes from the engine by dumping and totally extinguishing them in such a manner as to prevent the outbreak of fire.

(3) No owner or other person having control or  
20 management of any tramway in a rural fire district or in or within a mile of any State area shall, without the consent in writing of the Fire Officer for the district or area, use or cause to be used any steam locomotive engine  
25 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  
30 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.

(4) Where any land in a rural fire district is situated  
35 within a mile of any State area, then, in respect of that land for the purposes of this section, a consent by a Fire Officer for the district shall be deemed to be a consent by a Fire Officer for the State area.

Maintenance  
of apparatus  
by persons  
cutting timber.  
1947, No. 34,  
s. 26  
1948, No. 43,  
s. 8  
1952, No. 15,  
s. 9

29. (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 securing the safety of lives from fire and of preventing, detecting, controlling, and suppressing fires among the standing trees or the debris of the tree felling operations or the refuse from the sawmilling operations. 5 10

(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 (in writing setting out the grounds of the appeal) to the Tribunal against the requirements. 15

(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. 20

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

Duties of  
licensees, etc.,  
of State areas.  
1949, No. 19,  
s. 48

30. (1) Every holder of any licence, lease, permit, right, or authority who is conducting on any State area any operation which is likely to present a fire hazard shall take all such measures as may be necessary to prevent the spread of any fire and provide equipment which is suitable and adequate for the purpose of fighting fires and for securing the safety of lives from fire in the area, and shall place that equipment in localities and upon sites where it will be readily accessible and convenient for use, and shall provide such structures and do all such things as may be necessary for the protection of the equipment, and shall maintain the equipment in good order and condition and ensure that it is readily accessible and convenient for use at all times. 25 30 35

(2) Where any such holder is conducting any operation which in the opinion of any Fire Officer is likely to present a fire hazard, and where in the opinion of the Fire Officer the provisions of subsection *one* of this section are not 40

being complied with in any respect, the Fire Officer may from time to time, by notice in writing, require the holder to take such measures as may be specified in the notice for the purpose of complying with those provisions.

5 (3) Any person who is dissatisfied with any requirements of a Fire Officer under subsection *two* of this section may, within fourteen days after notice thereof has been given, appeal in writing setting out the grounds of the appeal to the Fires Appeal Tribunal.

10 (4) 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.

15 (5) Pending determination of the appeal the notice shall be deemed to be suspended.

*Fire Suppression*

31. (1) Any person who becomes aware of a fire burning unattended in the open air in or within one mile of any State area at any time, or in any other part of any other district during a closed fire season or while an order is in force under section *twenty* of this Act, shall immediately cease the work or other activity on which he is engaged or employed and shall do everything reasonably within his 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 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.

Duty to endeavour to extinguish fires. 1947, No. 34, s. 27 1949, No. 19, s. 49 1952, No. 15, s. 10

(2) Where a fire breaks out on any State area in respect of which any person holds a licence, lease, permit, right, or authority, or within one mile of that area, or along or within twenty chains of such portion of any route regularly traversed in the course of operations in connection with that area as is on or within a mile of any State area, that person and his servants, agents, and employees, if they discover or become aware of the outbreak of fire while they are on that area or on that portion of that route or within five miles of the boundary of that

area or of any part of that portion of that route, shall immediately cease the work or other activity on which they are engaged or employed and shall do everything reasonably within their power to extinguish the fire, whether or not there is an immediate danger of it causing damage; and if they find that they are unable to extinguish the fire they shall forthwith cause the nearest available Fire Officer to be notified of the outbreak and shall then continue so far as possible to endeavour to control and extinguish the fire until it is brought under control or until they obtain the approval of a Fire Officer to desist. 5 10

(3) Where a fire is burning on land within one mile of any State area, and the fire is in danger of spreading to that area, or where any fire which is not lighted in accordance with a written permit of a Fire Officer is burning in the open air on any other land in any other district during a closed fire season or while an order is in force under section *twenty* of this Act, any occupier of the land on which the fire is burning and any person having any right or licence in respect of that land and all employees of any such occupier or person, if they discover or become aware of the fire while they are on the last mentioned land or within five miles of the boundary of that land, shall, immediately upon becoming aware of the fire, take all possible steps to extinguish it; and if they are unable without assistance to do so shall forthwith cause the nearest available Fire Officer to be informed of the existence and locality of the fire and shall then continue so far as possible to endeavour to control and extinguish the fire until it is brought under control or until they obtain the approval of a Fire Officer to desist. 15 20 25 30

Powers of  
Principal Fire  
Officers at fires.  
1947, No. 34,  
s. 28  
1949, No. 18,  
s. 86

32. (1) For the purposes of extinguishing or restricting the spread of any fire or of protecting life or property in case of fire the Principal Fire Officer of the district shall perform the following duties and may exercise the following powers: 35

(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 the fire constitutes a hazard to life or property, endeavour by all practical means to extinguish the fire and prevent the spreading thereof and to save lives and property in danger: 40 45

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 Provided that, while under any such direction any brigade officer is serving in connection with any building which is on fire, the senior brigade officer so serving shall have the control and direction of any such brigade which is, and of any such persons who are, for the time being directed by the said Fire Officer to serve in connection with the building:

15 (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:

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-six* 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:

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- (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, water-course, lake, lagoon, well, 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, matter, or thing done under this paragraph: 5 10 15
- (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 or by any fire fighting operations to be closed for traffic during the continuance of the fire: 20
- (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 any building which is on fire or which is in the vicinity of any fire: 25
- (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 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, unless they have a pecuniary interest therein or in any goods or valuables whatsoever thereon: 30 35
- (j) He may, at the time of the fire or afterwards, 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. 40

(2) The person who is appointed as a deputy of a Principal Fire Officer under paragraph (a) of subsection one of this section shall be a Fire Officer or a brigade officer or a person who (in the opinion of the Principal Fire Officer) is otherwise competent in the circumstances to exercise the powers and perform the duties of a Principal Fire Officer under this section.

(3) While a deputy of a Principal Fire Officer is acting in the place of a Principal Fire Officer under paragraph (a) of subsection one of this section, the deputy shall have all the powers and duties conferred and imposed on the Principal Fire Officer by this section.

33. 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.

Police to assist Fire Officers.  
1947, No. 34,  
s. 29

34. (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.

Requisition of assistance to extinguish fires.  
1947, No. 34,  
s. 30  
1949, No. 19,  
s. 51

(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 *twenty* 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.

1952, No. 15,  
s. 11

(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 *twenty* 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.

(4) In the event of a fire occurring on or within a mile of any State area, a Fire Officer for the area may require any fit male person over the age of eighteen years residing or working on or within five miles of the boundary of any State area on which the fire is burning or to which it is likely to spread to assist in extinguishing the fire. 5

(5) In exercising any power under the provisions of this section, the Fire Officer shall not be able to compel any member of a brigade to render any assistance except in accordance with a scheme approved by the Fire Service Council; and shall leave available a sufficient number of men to protect other property. 10

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(6) All persons other than members of a voluntary rural fire fighting organization 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 shall be entitled to be remunerated by the Fire Authority by which the Fire Officer is employed under such circumstances, at such rate, and subject to such conditions as may be prescribed by regulations under 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. In any case where the Fire Authority is the Minister or a committee appointed by him, all remuneration payable under this subsection shall be paid out of money appropriated by Parliament for the purpose. 15 20 25 30

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

(7) 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. 35

(8) Every person who without sufficient cause, the proof whereof shall lie on him, fails to comply immediately with the request of a Fire Officer under this section commits an offence against this Act. 40



35. (1) When weather or other 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. 1947, No. 34, s. 31 1952, No. 15, s. 12

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

(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 Principal 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.

36. (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 section *thirty-five* of this Act 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 Principal Fire Officer, or a person acting pursuant to specific directions given by the Principal Fire Officer.

Back burning. 1947, No. 34, s. 32

(2) If pursuant to subsection *one* of this section the Director or Conservator of Forests or the Principal Fire Officer aforesaid, or any person acting pursuant to specific directions given by the Director, Conservator, or Principal 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 as a

direct result of that action by the owner of the land on which the vegetation exists 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 section *thirty-five* of this Act applies, out of money 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

37. 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.

38. (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-nine* of this Act,—

(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—

(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:

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

Estimate of proposed expenditure. 1947, No. 34, s. 33  
1952, No. 15, s. 13

Provision for meeting ordinary requirements of the Fire Authority of a rural fire district. 1947, No. 34, s. 34  
1952, No. 15, s. 14

(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.

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

39. (1) Subject to the provisions of section *forty* of this Act, in any case where a Fire Authority for any district other than a State area has incurred any costs of and incidental to fire fighting operations directed towards the control and suppression of a fire in its district—

- (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:
- (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:

Costs of fire fighting in districts other than State areas.  
1947, No. 34, s. 35  
1952, No. 15, s. 15

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

(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. 5

(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. 10

(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: 15

(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:

(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: 20

(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. 25

(4) In assessing the amount of the costs so incurred the Fire Authority may take into account the salaries and wages of its officers and servants during any period outside their normal hours of work while they were engaged in the control and suppression of the fire and in work arising from the fire. 30

Costs of fire fighting in State areas. 1949, No. 19, s. 52. 1953, No. 42, s. 4

40. (1) Notwithstanding anything to the contrary in section *thirty-nine* of this Act, in any case where there has been an outbreak of fire which has menaced any State area or anything thereon and which has been controlled or suppressed by any Fire Officer or other person duly authorized in that behalf, the whole or any portion of the costs incurred shall, if the Director (with the approval of the Minister) so determines, be payable by all or any of the following persons: 35 40

(a) Any owner, lessee, licensee, or occupier of the land on which the fire occurred:

(b) Any owner, lessee, licensee, or occupier of any property which was menaced by the fire. 45

(2) The amount of the costs so determined by the Director to be payable by any person shall be paid into the Public Account at such times and by such instalments as the Director determines, and that amount shall be recoverable in any Court of competent jurisdiction as a debt due to the Crown.

41. (1) Any award made under section *thirty-eight* or section *thirty-nine* of this Act and imposing a levy shall contain the date upon which the levy is payable.

10 (2) Notice of every award made under section *thirty-eight* or section *thirty-nine* 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.

15 (3) In every case where a levy has been imposed upon the Crown under section *thirty-eight* or section *thirty-nine* 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 money appropriated by Parliament for the purpose.

20 (4) All money 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.

25 42. (1) Any person upon whom a levy is imposed by any award made under section *thirty-eight* or section *thirty-nine* 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.

30 (2) If any owner, lessee, licensee, or occupier to whom paragraph (a) or paragraph (b) of subsection *one* of section *forty* of this Act applies is dissatisfied with the determination made by the Director pursuant to that subsection for the payment of costs incurred in the control or suppression of any fire, that owner, lessee, licensee, or occupier may, at any time within one month after notice of the Director's determination has been given to him, appeal in writing setting out the grounds of the appeal to the Fires Appeal Tribunal.

35 (3) On hearing the appeal the Tribunal may cancel or vary the award or determination 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.

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

1947, No. 34, s. 35A

1952, No. 15, s. 16

Appeals against awards and determinations.

1947, No. 34, s. 36

1952, No. 15, s. 17

1953, No. 42, s. 4

(4) Pending the determination of the appeal the award or determination appealed against shall be deemed to be suspended.

Expenditure by  
County  
Councils.  
1947, No. 34,  
s. 37

43. Subject to the provisions of sections *thirty-nine* and *forty* 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 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.

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

Payment of fire  
fighting costs in  
regional fire  
emergency.  
1947, No. 34,  
s. 38

44. (1) In any case where the Director or any Conservator of Forests has taken charge of any area pursuant to section *thirty-five* 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 forest or rural fires in the area shall be paid out of money appropriated by Parliament for the purpose.

(2) The Director (with the approval of the Minister) may in his discretion determine what part of those costs shall be borne by the Fire Authorities of the districts in the area; and 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 Director (with the approval of the Minister) determines. If any Fire Authority makes default in the payment of any money 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 Council, may be deducted from any money payable out of public money 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 under section *thirty-nine* 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 provisions of this Act be deemed to be costs incurred by the Fire Authority in the control and suppression of a fire.

45. (1) If a Fire Authority is dissatisfied with the apportionment by the Director pursuant to section *forty-four* of this Act 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 in writing setting out the grounds of the appeal to the Fires Appeal Tribunal against the apportionment.

Appeal against apportionment of fire fighting costs in regional fire emergency.  
1947, No. 34, s. 39  
1952, No. 15, s. 9

(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.

46. (1) 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, lessee, licensee, or occupier 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.

Right of recovery in certain cases.  
1947, No. 34, s. 40  
1949, No. 51, s. 18

(2) If any person makes default in the payment of any money payable by him to a Fire Authority under this Act, the amount thereof shall be recoverable from that person as a debt due to the Fire Authority.

47. (1) Notwithstanding anything to the contrary in the Local Bodies' Finance Act 1921-22, it shall be lawful for any Fire Authority, with the consent of the Minister, to borrow money from its bankers by way of overdraft, or from any person or persons, to provide for any expenditure or costs which the Fire Authority may lawfully incur or has lawfully incurred under this Act.

Fire Authority may borrow money.  
1947, No. 34, s. 18  
1949, No. 51, s. 19  
See Reprint of Statutes, Vol. V, p. 354

(2) In the case of any Fire Authority which is a local authority within the meaning of the Local Bodies' Finance Act 1921-22, the money borrowed shall be deemed to be borrowed in anticipation of revenue, but shall not be taken into account in determining the limits prescribed by section three of that Act. 5

(3) The amount required to repay any money borrowed to provide for any such expenditure or costs and the interest on the money shall be met as if that amount were required to meet the expenditure or costs, and all the provisions of this Act shall apply accordingly: 10

Provided that the amount may be raised by a levy imposed under this Act at any time before or after the money is borrowed.

*Fires Appeal Tribunal*

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Fires Appeal  
Tribunal.  
1947, No. 34,  
s. 41  
1951, No. 79,  
s. 10 (1)

48. (1) There shall be a Tribunal to be known as the Fires Appeal Tribunal.

(2) The Tribunal shall consist of three persons to be appointed by the Governor-General on the recommendation of the Minister, of whom— 20

(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

(c) One member shall be appointed as a person who is a qualified forester. 25

(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. 30

(4) There shall be paid out of money appropriated by Parliament for the purpose to each member of the Tribunal remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and the Tribunal shall be a statutory Board for the purposes of that Act. 35 40

1951, No. 79



49. (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.  
1947, No. 34,  
s. 42

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

10 (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  
15 of that member, or may be in relation to any specified matter or matters or class of matters.

(4) The provisions of section *forty-eight* of this Act and any other provisions of this Act relating to members of the Tribunal shall, so far as applicable and with  
20 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  
25 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.

50. (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, or a member of the Tribunal acting under subsection *two* of section  
30 *twenty-five* of this Act, were a Commission of Inquiry appointed under that Act.

Procedure of Tribunal.  
1947, No. 34,  
s. 43  
1952, No. 15,  
s. 18  
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.

40 (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.

(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.

(5) Upon the hearing of any appeal under this Act, the 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 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

#### *Miscellaneous Provisions*

Damage in fire fighting to be damage by fire within meaning of fire policy. 1947, No. 34, s. 44  
1949, No. 18, s. 86

51. Where damage to property is caused by the Director or any Conservator of Forests or Fire Officer, or by any officer or member of a fire brigade or any other person whatsoever in the exercise in good faith of his powers, duties, or obligations at or in connection with any fire or suspected fire (including any fire or suspected fire occurring beyond the area in which he has authority), the damage shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the damaged property: 20 25

1944, No. 15  
Provided that, where any fire or suspected fire is earthquake fire within the meaning of the Earthquake and War Damage Act 1944 or within the meaning of any policy or contract of insurance against damage by earthquake, that damage shall be deemed to be damage by earthquake fire for the purposes of that Act, policy, or contract. 30

Saving of Fire Authorities and Fire Officers, etc., from liability in certain cases. 1947, No. 34, s. 45

52. (1) No action or proceedings shall be brought against the Crown or any Fire Authority or any officer or servant of any of them, or against any brigade or officer or servant or member of a brigade, or any person whatsoever, to recover damages for any damage to 35

property occasioned by any officer or servant of a Fire Authority, or any officer or member of a fire brigade, or any other person, in the exercise in good faith of his powers, duties, or obligations at or in connection with any fire or suspected fire, including any fire or suspected fire occurring beyond the area in which he has authority:

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Provided that nothing in this subsection shall relieve any of them against, or in any way affect the liability of any of them for, any damage to property caused by or in connection with the use of any fire engine or other motor vehicle for transport purposes.

(2) No action or proceedings shall be brought against the Crown, or any Fire Authority, or any officer or servant of any of them, or against any brigade or officer or servant or member of a brigade, to recover damages for any loss or damage or bodily injury or death which is due directly or indirectly to fire, where the loss or damage or bodily injury or death is also due to or contributed to by any officer or servant of a Fire Authority or any officer or member of a brigade taking any action, or failing to take any action, while he is acting in good faith in performance of his duties and is in attendance at a fire.

(3) Nothing in subsections *one* and *two* of this section shall in any way affect any liability of any Fire Authority or Urban Fire Authority or other employer under the Workers' Compensation Act 1922.

53. (1) No action or proceedings shall be brought against the Crown or any Fire Authority or any officer or servant of any of them to recover damages for any loss or damage due to the failure or neglect of the Crown or the Fire Authority to make, or their negligence in making, 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.

No action against Fire Authority for failure to provide against fire. 1947, No. 34, s. 46

(2) No member of a Fire Authority shall be personally liable for any act done or omitted by the Fire Authority or any member thereof in good faith in pursuance or intended pursuance of the powers and authority of the Fire Authority.

Inspections for  
purposes of Act.  
1947, No. 34,  
s. 47

54. 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 whether the requirements of this Act and of any orders, directions, and requirements given or imposed thereunder are being properly and efficiently observed and performed with respect to the building, land, and premises. 5 10

Inquiries as to  
fires.  
1947, No. 34,  
s. 48  
1952, No. 15,  
s. 19

55. (1) The Minister may, at the request of the Fire Service 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 Act, and any other matter which the Minister may consider appropriate to the inquiry. 15

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. 20

(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. 25

(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. 30

Measures by  
local authorities  
and public  
bodies to  
remove certain  
fire hazards.  
1947, No. 34,  
s. 48A  
1951, No. 32,  
s. 2

56. Any local authority or other public body which owns or controls any land on which any forest or trees are growing may in its discretion, subject to the provisions of any other Act, do all or any of the following things: 35

(a) Take measures, on land which it owns or (with the consent of the owner) on any other land either within or beyond its jurisdiction, to avoid or remove or reduce fire hazards which may endanger the forest or trees: 40

(b) Enter into contracts, agreements, or arrangements for any such purpose as aforesaid:

(c) Expend money for any such purpose as aforesaid.

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

Offences.  
1947, No. 34,  
s. 49  
1951, No. 32,  
s. 3

(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 pursuant to this Act:

10 (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:

15 (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.

(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

25 provided, shall be liable on summary conviction,—  
(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, or to both; and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day during which the offence continues:

30 (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.

35 (3) Every person who is convicted of any offence against this Act shall be liable for any loss or damage which is suffered by any Fire Authority and is caused by  
40 the act constituting the offence in addition to the penalty for the offence, and the amount payable in respect of that liability may be awarded by the Court in fixing the

- penalty and may be recovered as a fine. In assessing the amount so payable the Court may take into account salaries, wages, and incidental expenses incurred in the investigation of the act constituting the offence and in remedying the damage caused by that act and all other relevant factors. Subject to subsection two of section one hundred and nine of the Public Revenues Act 1953, all amounts recovered as a fine under this subsection (other than the penalty for the offence) shall be paid to the Fire Authority. 5
- 1953, No. 73
- 1952, No. 54 (4) Where any money is recovered under section fifty-eight of the National Parks Act 1952 or under section ninety-two of the Reserves and Domains Act 1953 or under any other enactment in respect of any cost incurred by a Fire Authority in extinguishing or attempting to extinguish any fire, the money so recovered shall be paid to the Fire Authority. 10
- 1953, No. 69
58. Notwithstanding anything in the Justices of the Peace Act 1927, any information in respect of any offence against this Act or any regulation under this Act may be laid at any time within two years from the date on which the matter of the information arose. 15
- Time within which information may be laid. 1949, No. 19, s. 63  
See Reprint of Statutes, Vol. II, p. 351
- Notices. 1947, No. 34, s. 50
59. (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 the term "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. 20
- (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. 25

(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.

(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 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 person.

60. (1) The Governor-General from time to time, 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 in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

Regulations.  
1947, No. 34,  
s. 51  
1949, No. 18,  
s. 86  
1951, No. 32,  
s. 4

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of 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 district for the prevention or suppression of fire or for diminishing the danger to life or property arising from fire:

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

(c) Prescribing penalties, not exceeding those which may be imposed under paragraphs (a) and (b) of subsection *two* of section *fifty-seven* of this Act, for the breach of any regulations made under this Act.

(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.

(4) All regulations made under this Act shall be laid 5  
before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement 10  
of the next ensuing session.

Annual report.  
1949, No. 19

61. The Director of Forestry shall, in his annual report with respect to all operations under the Forests Act 1949, include a report with respect to the operation of this Act as if it formed part of and was included in that Act.

Repeals and  
savings.

62. (1) The enactments specified in the Schedule to 15  
this Act are hereby repealed.

See Reprint  
of Statutes,  
Vol. VIII,  
p. 568

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under 20  
the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made 25  
or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

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**SCHEDULE**

Schedule.

ENACTMENTS REPEALED

Section 62 (1)

1947, No. 34—

The Forest and Rural Fires Act 1947.

1948, No. 43—

The Forest and Rural Fires Amendment Act 1948.

1948, No. 64—

The Land Act 1948: Section 176 (2) (*e*).

1949, No. 18—

The Fires Services Act 1949: So much of the Fifth Schedule as relates to the Forest and Rural Fires Act 1947.

1949, No. 19—

The Forests Act 1949: Sections 46 to 53.

1949, No. 51—

The Statutes Amendment Act 1949: Sections 18 and 19.

1951, No. 32—

The Forest and Rural Fires Amendment Act 1951.

1951, No. 79—

The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Fires Appeal Tribunal; and so much of the Second Schedule as relates to the Forest and Rural Fires Act 1947.

1952, No. 15—

The Forest and Rural Fires Amendment Act 1952.

1952, No. 54—

The National Parks Act 1952: Sections 53 and 54 (1) (*a*).

1953, No. 42—

The Forests Amendment Act 1953: Sections 3 and 4.