



BUSH FIRES ACT, 1933-1939.

BEING

BUSH FIRES ACT, 1933, No. 2139 OF 1933 [ASSENTED TO
7TH DECEMBER, 1933.]

AS AMENDED BY

CRIMINAL LAW CONSOLIDATION ACT, 1935, No. 2252 OF 1935
[ASSENTED TO 21ST DECEMBER, 1935.]

BUSH FIRES ACT AMENDMENT ACT, 1935, No. 2258 OF 1935
[ASSENTED TO 2ND JANUARY, 1936.]

AND

BUSH FIRES ACT AMENDMENT ACT, 1939, No. 27 OF 1939
[ASSENTED TO 14TH DECEMBER, 1939.]

An Act to make better provision for the prevention and control of bush fires and other fires, and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Bush Fires Act, 1933-1939".

Repealing provision.

2. The Acts mentioned in the schedule are hereby repealed.

Interpretation.
1128, 1913,
s. 2.

3. (1) In this Act, unless a contrary intention clearly appears—

"area" means a municipality or district council district:

"council" means a municipal council or district council:

"scrub" includes trees, bushes, plants, and undergrowth of all kinds and sizes, whether alive or dead, and whether standing or not standing, and also includes any parts of any trees, bushes, plants, or underwood, and whether severed therefrom or not so severed, but does not include trees of such kinds or sizes as the Governor, by proclamation, declares not to be scrub within the meaning of this Act:

“stubble” includes stubble, hay, straw, grass, and herbage, whether alive or not alive, and whether standing or not standing.

(2) Wherever in this Act a period between one specified date and another specified date is fixed, such period does not include either of the said specified dates.

3a. (1) There shall be a committee to be called the “Bush Fires Advisory Committee”.

Advisory
Committee.
Inserted by
27, 1939,
s. 2.

(2) There shall be seven members of the committee who shall from time to time be appointed by the Governor on the recommendation of the Minister. One of the said members shall from time to time be appointed by the Governor, on the said recommendation, as the chairman of the committee.

(3) The committee shall—

- (a) report to the Minister from time to time as to the best means to be taken for preventing or extinguishing bush fires:
- (b) perform and undertake such powers and duties as may be entrusted to it by the Minister:
- (c) generally advise the Minister upon the administration of this Act.

(4) The Minister may pay to any member of the committee any travelling or other expenses incurred by the member in the exercise of his office.

4. (1) Subject to subsections (2), (3), and (4), no person shall, during the period between the fifteenth day of October and the first day of the following February, burn any stubble standing on any land, or light or maintain any fire with the intention of burning any stubble standing on any land.

Burning of
stubble
between 15th
October and
1st February.
1123, 1913,
s. 6.
1768, 1926,
s. 2.
2023, 1931,
s. 3.

(2) Where the stubble is burned or the fire is lighted and maintained only for the purpose of clearing strips of land to act as firebreaks for preventing the spread of fire, it shall not be deemed a contravention of this section, provided that all the following conditions are strictly observed, namely:—

- i. None of the strips shall be more than two chains in width at any part thereof:

s. 4. ROBERTS v. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austr. Digest 127. Notwithstanding compliance with the section a person lighting a fire does not escape liability for any injury occasioned by the fire.

VERRAN v. ROBERTS (1938) S.A.S.R. 256. Where the defendant omitted to give notice to an adjoining occupier but complied with the other requirements of subsection (2) held that, in the particular circumstances, the complaint was rightly dismissed on the ground of triviality.

Bush Fires Act, 1933-1939.

Amended by
27, 1939,
s. 3 (a).

II. Before the fire is lighted, the land immediately adjoining each strip shall, throughout the whole length of each side of such strip, either be ploughed to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet:

Amended by
2258, 1935,
s. 2 (a).

III. Not less than six hours before the fire is lighted, notice of intention to burn the strips, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the field or place wherein the strips are situated, who reside within five miles of such field or place. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining a field or place as aforesaid notwithstanding that they are separated by a road:

iv. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated, or to the nearest fire control officer of such area:

Inserted by
27, 1939,
s. 7 (1).

iva. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:

v. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the strips:

Amended by
27, 1939,
s. 3 (b).

vi. No such fire shall be lighted before twelve o'clock noon and every such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day:

Inserted by
27, 1939,
s. 3 (c).

vii. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Amended by
27, 1939,
s. 3 (d) and
(e).

(3) It shall not be deemed a contravention of this section if a council causes stubble to be burnt, or a fire lighted and maintained for the purpose of burning any stubble on any

street, road, or reserve vested in or under the control of the council in any case where all the following conditions are strictly observed, namely:—

At least four men shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place; and during the said time the council shall provide adequate fire fighting appliances and an adequate supply of water in order to prevent any spread of fire.

(4) It shall not be deemed a contravention of this section if a person burns stubble or lights or maintains a fire for the purpose of burning any stubble in or on any irrigation channel or lucerne field in any case where the consent of the council or body corporate exercising the powers of a council in the part of the State in which the land is situated is obtained to such burning and all the following conditions and all such further conditions as the said council or body corporate may prescribe are strictly observed, namely:—

I. Before the fire is lighted the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall, throughout the whole length of every such side, either be ploughed to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet:

II. Not less than six hours before the fire is lighted, notice of intention to burn the stubble shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon the burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road:

IIa. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:

Amended by
2258, 1935,
s. 2 (b).

Inserted by
27, 1939,
s. 7 (1).

iii. At least four men shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place:

Amended by
27, 1939,
s. 3 (f).

iv. No such fire shall be lighted before twelve o'clock noon, and every such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day:

Inserted by
27, 1939,
s. 3 (g).

v. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

(5) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not less than two pounds nor more than twenty pounds, and for every subsequent offence of not less than five pounds nor more than fifty pounds.

Burning of
stubble
between 31st
January and
15th May.
1123, 1913,
s. 7.
1768, 1926,
s. 3.

5. (1) No person shall during the period between the thirty-first day of January and the fifteenth day of the following May, burn any stubble standing on any land, or light or maintain any fire with the intention of burning any stubble standing on any land, except subject to all the following conditions, namely:—

i. Before the fire is lighted, the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall, throughout the whole length of every such side, either be ploughed to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet:

Amended by
2256, 1935,
s. 3.

ii. Not less than six hours before the fire is lighted, notice of intention to burn the stubble, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon the burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road:

III. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated or to the nearest fire control officer of such area:

IIIA. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:

Inserted by
27, 1939,
s. 7 (2).

IV. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place:

V. No such fire shall be lighted before twelve o'clock noon, and any such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day:

Amended by
27, 1939,
s. 4 (a).

VI. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Inserted by
27, 1939,
s. 4 (b).

(2) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not less than two pounds nor more than twenty pounds, and for every subsequent offence of not less than five pounds nor more than fifty pounds.

6. In any case where it is necessary to use a fire-rake in order to burn any stubble on any land, the occupier of such land may, with the consent of a fire control officer, burn such stubble during any period to which section 4 or section 5 applies, and in any such case the provisions of sections 4 and 5 shall not apply to any such burning: Provided that before the fire is lighted there is around the land upon which the fire is to be lighted a space cleared of all inflammable material to a width of twelve feet or a space ploughed to a width of six feet.

Burning of
stubble with-
out restric-
tion under
certain con-
ditions.

7. (1) Any person who, during the period between the fifteenth day of October and the first day of the following February, burns any scrub on any land, or lights or maintains any fire with the intention of burning any scrub on any land, shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence, of not less than ten pounds nor more than fifty pounds.

Burning of
scrub between
15th October
and 1st
February.
1123, 1913,
s. 8.

Inserted by
27, 1939,
s. 5.

(2) It shall not be deemed a contravention of this section if scrub is burnt on any land for the purpose of providing a firebreak if permission in writing is, prior to the burning, obtained from the Minister for the purpose and if all conditions specified by the Minister in the permission in writing are fully complied with.

Burning of
scrub between
end of
January and
1st May.
1123, 1913,
s. 9.
1768, 1926,
s. 4.
2023, 1931,
s. 4.
Para. I.
amended by
27, 1939,
s. 6.

8. (1) No person shall, during the period between the last day of January and the first day of the following May, burn any scrub on any land, or light or maintain any fire with the intention of burning any scrub on any land, except subject to all the following conditions, namely:—

Amended by
2258, 1935,
s. 4.

- I. Before the fire is lighted, a space of least fifteen feet in width immediately adjoining on all sides the whole of the land whereon such burning is to take place, and throughout the whole length of every such side, shall either be ploughed or be cleared of all scrub, stubble, and other inflammable material:
- II. Not less than six hours before the fire is lighted, notice of intention to burn the scrub, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon such burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road:
- III. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated, or to the nearest fire control officer of such area:
- IIIA. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:
- IV. Not less than fourteen days before a fire is lighted for the purpose of burning an area of scrub of more

Inserted by
27, 1939,
s. 7 (3).

than five hundred acres, notice of intention to burn the scrub shall, if the land is situated within an area, be given to the council thereof:

- v. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place:

In any case where notice is given to a council pursuant to paragraph iv., and the council or mayor or chairman thereof is of opinion that more than four men will be necessary in order to control the fire and prevent it from spreading as aforesaid, the council or mayor or chairman may not later than ten days after the giving of the notice as aforesaid, give notice to the person aforesaid directing him to have present at the fire such number of men (but not exceeding three) additional to those hereinbefore provided for as the council or mayor or chairman thinks fit:

- vi. The fire shall be first lighted from the leeward side of the scrub to be burnt before the fire shall be lighted from the windward side of such scrub:
- vii. No such fire shall be lighted before twelve o'clock noon.

(2) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty pounds, and for every subsequent offence of not less than ten pounds nor more than fifty pounds.

9. Any person who lights, uses, or maintains any fire in the open air for the purpose of making charcoal or lime during the period between the thirty-first day of October and the first day of the following May, unless either—

- (a) a space of ground immediately round the pit or place in which the fire is situated, of the width of fifty feet at least in all parts, has before the fire is lighted been cleared, and is until the fire is completely extinguished, kept clear, of all stubble, scrub, and other inflammable material; or
- (b) the fire is enclosed in a kiln of brick, iron, stone, or earth, so constructed as to prevent the escape of fire or any burning material therefrom,

Fires for charcoal burning between 31st October and 1st May.
1123, 1913.
s. 11.
1768, 1926.
s. 5.

shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds, nor more than twenty-five pounds; and for every subsequent offence, of not less than ten pounds nor more than fifty pounds

Occupier of
land *prima*
facie liable
for fire
thereon.
1123, 1913,
s. 12.

10. (1) Every occupier of any land whereon any offence under sections 4, 5, 7, 8, or 9 is committed shall be deemed guilty of such offence, unless he satisfies the court hearing the charge against him that the offence was not committed by him or by his authority.

(2) Nothing in this section shall be deemed to affect the liability of the actual perpetrator of the offence in respect of such offence.

Power to
alter periods
and hours
for burning.
1123, 1913,
s. 13.
1768, 1926,
s. 6.
Subsec. (1)
amended by
27, 1939,
s. 8.

11. (1) With the approval in writing of the Minister the council of any area may, as regards such area or any portion thereof, and the Minister may, as regards any part of the State (defined in a notice under subsection (2) hereof) which is not within any area, alter the periods or the hours, or the distances, or of any of them, mentioned in sections 4, 5, 7, 8, 9, or 20, or any of those sections, and may by any such alteration fix earlier or later and longer or shorter periods or hours, or greater distances, or all or any of such altered periods and hours and distances.

The power conferred by this section shall include power to provide that stubble may be burnt as provided by section 5 during any period either before or after or both before and after any period during which section 4 applies, and to provide that scrub may be burnt as provided by section 8 during any period either before or after or both before and after any period during which section 7 applies.

(2) No such alteration shall have any force until notice thereof has been—

(a) published once in the *Government Gazette*, and twice in some newspaper circulating in the area or defined part of the State; and

(b) in the case of an alteration made by a council, affixed for at least thirty days on the front door or the notice board of the council making such alteration.

Amended by
27, 1939,
s. 8 (d).

(3) Upon such publication and affixing, such alteration shall have the force of law within such area or portion thereof or defined part of the State, and shall therein have the same

s. 10. *McINNES v. WARDLE* (1931) 45 C.L.R. 548; 38 A.L.R. 230; 9 Austn. Digest 131, affirming *WARDLE v. McINNES* (1930) S.A.S.R. 450. As to the civil liability of an occupier where an offence is committed by an independent contractor.

effect as if the periods and hours and distances fixed thereby were respectively fixed by such of the said sections 4, 5, 7, 8, 9, or 20, as is or are applicable.

(4) In any case in which the Minister by reason of any special circumstances thinks fit, the Minister may in writing authorize any council to make any such alteration as afore-said, and may direct that the notice required by paragraph (b) of subsection (2) shall be given for seven days only, but in any such case the alterations made by such notice shall continue only until such time as the Minister directs, which shall be stated in the notice.

(5) In the case of an alteration by a council, the clerk of the council shall, after the notices provided for in subsection (2) or (4) have been given, furnish to the Minister a certificate that such notices have been given.

Inserted by
27, 1939,
s. 8 (e).

12. Notwithstanding any provision of this Act, any person who under any conditions, lights any fire at any time on any Sunday, for any of the purposes mentioned in sections 4, 5, 7, 8, or 9, shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence, of not less than ten pounds, nor more than fifty pounds.

Fires not to
be lighted on
Sunday.
1123, 1913,
s. 14.

13. (1) Any person who, during the period between the thirty-first day of October and the first day of the following May—

Fires for
purposes
other than
those men-
tioned in sec-
tions 4 to 9.

(a) lights, uses, or maintains any fire in the open air for any purpose whatever, except those mentioned in sections 4, 5, 7, 8, and 9, unless a space of ground immediately around such fire of the width of twelve feet at least in all parts has been previously cleared of all stubble, scrub, and other inflammable material; or

1123, 1913,
s. 15.
1768, 1926,
s. 7.
2023, 1981,
s. 5.

(b) having lighted, used, or maintained any fire in the open air, neglects to completely extinguish such fire before leaving the same,

shall be guilty of an offence and liable to a penalty for a first offence of not less than two pounds, nor more than twenty pounds, and for every subsequent offence of not less than five pounds nor more than fifty pounds.

(1a) The council may by resolution published in the *Government Gazette*, declare that within the part of the area defined in the resolution, the lighting of fires in the open

Inserted by
27, 1939,
s. 9 (a).

during the period between the thirty-first day of October and the first day of the following May shall be prohibited except in a place or places to be specified in the resolution.

Any person who during the said period and within any such specified part of the area, lights any fire in the open in any place other than in a place specified in the resolution shall (notwithstanding compliance with paragraph (a) of subsection (1) of this section) be guilty of an offence and liable to a penalty for a first offence of not less than two pounds nor more than fifty pounds, and for any subsequent offence of not less than five pounds nor more than one hundred pounds.

(2) Nothing in this section shall be construed as varying any of the provisions of any of the sections mentioned in subsection (1).

(3) It shall be a defence to any proceedings under paragraph (a) of subsection (1) to show—

(a) that the fire was lighted in any orchard or vineyard for the purpose of smudging for insect pests or the prevention of damage by frost or any other purpose prescribed by regulation; and

(b) that at the time the fire was lighted, a space of ground immediately around the fire of the width of twelve feet was clear of all inflammable material, except fruit trees or vines or both.

Inserted by
27, 1939,
s. 9 (b).

Ignitable
wadding
prohibited
from 30th
September
to 1st May.
1123, 1913,
s. 16.
1768, 1926,
s. 8.

14. (1) Any person who, during the period between the thirtieth day of September and the first day of the following May, uses for the wadding of any gun, rifle, pistol, or other firearm used or carried by him, any paper, cotton, linen, or other ignitable substance, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than ten pounds.

(2) If any person, within the period mentioned in subsection (1) hereof, uses or carries any gun, rifle, pistol, or other firearm upon or over the land of any other person, the owner or occupier of such land, or his servant or agent, or any member of the police force, may examine such gun, rifle, pistol, or other firearm, for the purpose of ascertaining the nature of the wadding used therein; and the person using or carrying such gun, rifle, pistol, or firearm who—

(a) refuses to allow such examination; or

(b) upon the occasion of such examination refuses to disclose his name and address, or either, to such owner or occupier, or servant or agent; or

(c) gives a false name and address, or either, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than ten pounds.

15. (1) Every stationary steam engine (other than a steam engine enclosed on four sides with non-inflammable material) shall be placed so that the space of ground around the steam engine to the width of twelve feet at least is cleared of all stubble, scrub, and other inflammable material.

Penalty for using stationary steam engine or internal combustion engine in open.

(2) Every stationary internal combustion engine (other than an internal combustion engine enclosed on four sides with non-inflammable material) shall be placed so that the space of ground around the internal combustion engine to a width of twelve feet at least is cleared of all stubble, scrub, and other inflammable material.

(3) Any person who drives or uses any steam engine or internal combustion engine in any manner contrary to this section shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

16. Any person who during the period between the thirty-first day of October and the following first day of May, lights or maintains any fire in any appliance which is used for the purpose of taking honey from any beehive or lights or maintains any fire in any honey-house shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds unless around the beehive or honey-house or around the apiary in which the beehive or honey-house is situated there is a space cleared of all inflammable material to a width of twelve feet or a space ploughed to a width of six feet.

Duty of beekeepers to clear space.

17. Any person who uses any internal combustion engine for the purpose of harvesting any inflammable crop shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds unless such internal combustion engine is fitted with an effective spark arrester.

Use of internal combustion engines in harvesting operations. Amended by 27, 1939, s. 10.

18. Any person who, during the period between the thirty-first day of October and the first day of the following May, smokes in the open air within twenty yards of any stable, or of any rick, stack, or field of hay, corn, straw, stubble, or other inflammable vegetable production, unless—

Smoking in the open air near stacks, etc., prohibited. 1123, 1913, s. 17. 1768, 1926, s. 9.

(a) within a town; or

(b) with a pipe properly covered,

shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Penalty for throwing lighted cigarettes, etc., from vehicles.

19. Any person who, while being conveyed in any moving vehicle in any part of the State outside any municipality or town, during the period between the thirty-first day of October and the first day of the following May, throws out of such vehicle any lighted cigarette or cigar, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Prohibition on using rabbit fumigator during summer.
Cf. 2023, 1931, s. 6.

20. Any person who, during the period between the thirtieth day of November and the fourteenth day of the following February lights or maintains any fire in any appliance which is used as a rabbit fumigator, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Trees not to be blasted between 31st October and 1st May except under conditions.
1123, 1913, s. 18.
1768, 1926, s. 10.

21. Any person who, during the period between the thirty-first day of October and the first day of the following May, employs gunpowder, or any other explosive substance, for the purpose of blasting any tree, wood, or timber, without having at least four persons present to prevent any fire from arising therefrom, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Prohibition of placing of substances on the ground.
1123, 1913, s. 19.

22. (1) The Governor may, by proclamation, prohibit the placing on the ground of the substance or substances specified in the proclamation—

- (a) either at any time or during the periods of the year or of the day specified in the proclamation;
- (b) either anywhere in the State or within areas so specified;
- (c) either for any purpose or for the purposes so specified; and
- (d) either absolutely or except under conditions so specified.

(2) The Governor may, by proclamation, rescind, amend, or vary any proclamation made under subsection (1) hereof.

(3) Any proclamation made under this section shall be published—

- (a) in the *Government Gazette*, and
- (b) if the proclamation is to have effect throughout the State, twice in a newspaper published in Adelaide,

or if the proclamation is to have effect only within specified areas, twice in a newspaper circulating in such areas.

(4) Any person who, after the expiration of the period of fourteen days from the latest of the publications of any proclamation required by subsection (3) hereof, does anything contrary to the provisions of such proclamation, shall be guilty of an offence and liable to a penalty for a first offence of not less than one pound, nor more than five pounds; and for every subsequent offence of not less than two pounds nor more than twenty pounds.

23. (1) The Governor may, by proclamation, prohibit the sale, offering for sale, distribution, and use of any matches other than those made so as to strike only on a preparation affixed to the box containing the matches, or to a box containing matches of the same description—

Prohibition of
sale of
matches of
certain kinds.
1123, 1913,
s. 20.

(a) either anywhere in the State or within the areas specified in the proclamation:

(b) during the periods of the year so specified, being between the thirty-first day of October and the first day of the following May.

(2) The Governor may, by proclamation, rescind, amend, or vary any proclamation made under subsection (1) hereof.

(3) Any proclamation made under this section shall be published—

(a) in the *Government Gazette*; and

(b) if the proclamation is to have effect throughout the State, twice in a newspaper published in Adelaide, or, if the proclamation is to have effect only in specified areas, twice in a newspaper circulating in such areas.

(4) Any person who, after the expiration of the period of fourteen days from the latest of the publications of any proclamation required by subsection (3) hereof, does anything contrary to the provisions of such proclamation, shall be guilty of an offence and liable to a penalty for the first offence of not less than one pound, nor more than five pounds; and for every subsequent offence of not less than two pounds nor more than twenty pounds.

Power to demand name and address. Inserted by 27, 1939, s. 11.

23a. Any member of the police force or any fire control officer, who has reasonable cause to suspect that any person has committed any offence against this Act, may demand that such person disclose his name and address. Any person who upon such demand fails to disclose his name and address or gives a false name or address shall be guilty of an offence and liable to a penalty of not more than five pounds.

S. 24 repealed by 2252, 1936, s. 4.

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Damage by fire to dividing fence. 1128, 1918, s. 22.

25. (1) If the owner or occupier of any land clears the same of all inflammable materials for the space of at least twenty feet from any fence dividing such land from the land of any other owner or occupier; and

(a) such other owner or occupier does not clear his land contiguous to the said fence for the space of at least twenty feet; and

(b) any damage from fire happens to such dividing fence through his failing so to do;

such other owner or occupier shall, at his own costs and charges, repair or re-erect such fence within the period of one month from the day when the same is so damaged, or within such extended time as is allowed by a special magistrate, on application made to him in writing, of which application not less than seven days' notice in writing has been served on the owner or occupier who has cleared his land as aforesaid.

(2) If the owner or occupier who has so failed to clear his land fails to repair or re-erect such fence within such month or such extended time (if any), the owner or occupier of the first-mentioned land who has cleared the same as aforesaid may repair or re-erect such fence, and may recover the costs and expenses of so doing as money paid to the use of the owner or occupier so in default.

Power of occupier to clear portions of road.

26. Where any land adjoins any road, the occupier of the land, with the consent of the council of the area in which the road is situated or of the Minister if the road is not situated within an area, may, for the purposes of providing a firebreak for the protection of any fences or other property on the said land, clear all scrub from the whole or any portion of that part of the road to the width of nine feet which adjoins the said land.

Coronial inquiry into certain fires.

27. In the event of any fire (other than a fire confined to any building or other premises) an inquest shall be held thereon in any case where a request in writing is made to

the member of the police force in charge of the police station nearest to the fire within three days of the outbreak of the fire by—

- (a) the council of the area in which the fire occurred:
- (b) any owner or occupier of property who suffered loss by reason of the fire.

27a. (1) If the council is of opinion that the presence of the plant known as furze on any land within its area is or may be a source of danger from bush fires, the council may by notice in writing given to the occupier or the owner of the land, require him to destroy and remove all furze plants from the land specified in the notice within the time specified in the notice.

Power to order destruction of furze.
Inserted by 27, 1939, s. 12.

No such notice shall apply to any land distant more than one chain from any road or building.

(2) If any such occupier or owner fails to comply with any such notice within the time specified in the notice, any person authorized by the council may enter upon the land and destroy and remove all furze plants from the land specified in the notice. The costs of so doing may, in any court of competent jurisdiction, be recovered by the council as a debt due to the council by the person to whom the notice was given.

27b. (1) It shall be the duty of every council or other authority to remove from any road any inflammable debris or material which results from the carrying out of any work upon that road by the council or authority and which is likely to be a source of danger from bush fires.

Removal of debris from roads.
Inserted by 27, 1939, s. 12.

(2) If any council or authority fails to remove any such debris or material and the default continues for fourteen days or more, the Minister may cause the debris or material to be removed and may in any court of competent jurisdiction recover from the council or authority in default as a debt due to the Minister an amount equal to twice the amount of the expenses incurred by the Minister.

(3) The provisions of subsection (1) shall not impose on any council or authority any liability for damages which may result from any failure of the council or authority to comply with the provisions of subsection (1).

28. A council may expend any portion of its rates in paying for the clearing of any roads vested in it of stubble, scrub, and other inflammable material for the purpose of preventing the spread of fire or in the purchase of fire-

Power for council to expend rates for prevention of fires.
1128, 1913, s. 23.

preventing apparatus; and, subject to the provisions of this Act, may light, use, and maintain fires, or cause the same to be lighted, used, and maintained, for the purpose of such clearing; and may prevent the passing of vehicles of any kind, cattle, and beasts of draught or burden along any road whilst fire is being used for the purpose of such clearing.

Provision of fire-fighting appliances by council. Enacted by 2258, 1935, s. 5, but repealed and re-enacted by 27, 1939, s. 13.

28a. (1) Every council shall provide adequate fire-fighting appliances for the purpose of preventing and controlling bush fires within its area.

(2) For the purpose of deciding what fire-fighting appliances are adequate for the said purpose, the council may take into regard any fire-fighting appliances within the area of any person other than the council which are available within the area generally for the purpose of preventing the spread of bush fires.

(3) A council may—

(a) contribute to the costs of any organization which is formed for the purpose of taking measures, and conducting operations for the control and extinguishing of bush fires, or may form such an organization:

(b) contribute to the cost of any fire-fighting appliances owned by any occupier of land within the area which the council is satisfied will be available within the area generally and are suitable for the control or extinguishing of bush fires.

(4) The council may expend any portion of its rates for the purposes of this section.

(5) If the Minister is of opinion that any council is neglecting to provide fire-fighting appliances as required by this section, he may from time to time give notice in writing to the council requiring the council to provide such fire-fighting appliances. If within one month after the giving of notice as aforesaid, the council neglects to provide fire-fighting appliances as required by this section, the council shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Appointment of fire control officers. Substituted by 27, 1939, s. 14.

29. (1) Any council may, from time to time, appoint such persons (not exceeding fifteen in number) as it thinks proper to be its fire control officers under this Act, and may from time to time appoint as additional officers any persons (but not exceeding fifteen in number) who are officers under this Act appointed in respect of any adjoining area.

(2) If the Minister is satisfied that in order to meet the requirements of any area, it is desirable that the number of fire control officers should be greater than the number authorized to be appointed pursuant to subsection (1), the Minister may by notice in writing, authorize the council to appoint an additional number of fire control officers fixed by the Minister, but not exceeding fifteen, and the council may from time to time appoint additional fire control officers, but not exceeding the number so authorized. The authority of the Minister may be revoked by the Minister by notice in writing.

(3) No appointment of a fire control officer shall have effect unless notice of the appointment is published in the *Government Gazette*.

(4) If the Minister is satisfied that any council has not appointed fire control officers sufficient for its area, the Minister may appoint fire control officers for such area, and any person so appointed shall be deemed to have been appointed by the council. Notice of every such appointment shall be published in the *Government Gazette*.

(5) The general powers of the council with respect to other officers appointed by it, shall apply with respect to its fire control officers appointed under this section.

(6) Any fire control officer appointed by a council may be appointed subject to any conditions thought fit by the council, and if thought fit by the council, the council may allot the control of any part of its area to any fire control officer or officers.

(7) Every forester and assistant forester employed in the Woods and Forests Department of the State, and every foreman in charge of any Government forest, shall *ex officio* be deemed to be a fire control officer under this Act, and shall have and may exercise throughout the whole State all the powers of a fire control officer under this Act.

(8) The Minister may appoint any person to be a fire control officer for any portion of the State not comprised within an area, and any person so appointed shall have and may exercise within such portion of the State all the powers of an officer under this Act.

(9) The Governor may make regulations prescribing—

- (a) the duties and powers of fire control officers:
- (b) the form of badges to be issued to fire control officers:
- (c) any other necessary matters.

Annual return
of fire control
officers.
Inserted by
27, 1939,
s. 14.

29a. In the month of August in every year every council shall forward to the Minister—

- (a) a statement of the names, addresses, and occupations of each fire control officer of the council;
- (b) a statement of the means of transport available to each such officer and a telephone number whereby he may be communicated with;
- (c) if any fire control officer or officers are by their appointment by the council appointed to control any part of the area of the council, a statement of the particulars of such part and any order of priority of control given to such officers;
- (d) a statement of the names and addresses of every occupier of land within the area who owns suitable fire-fighting appliances which are available within the area generally for the control or extinguishing of bush fires and of the telephone numbers whereby the said occupiers may be communicated with.

Duties and
powers of fire
control
officers.
Inserted by
27, 1939,
s. 14.

29b. (1) Any fire control officer shall, subject to such (if any) directions as are given by the council, and subject to anything prescribed by regulations, take any measures which appear to him to be necessary or expedient, and practicable, for—

- (a) preventing the outbreak of fire;
- (b) protecting life and property in the case of any such outbreak; and
- (c) controlling and extinguishing any fires or preventing the spread thereof.

(2) On the outbreak of any fire at any place within the area, any such officer shall proceed with all possible speed to such place, and, subject to anything prescribed by regulations, shall have control and the direction of the measures taken to control and extinguish such fire or to prevent it from spreading.

(3) For the purpose of controlling or extinguishing any fire or preventing the spread thereof, a fire control officer may, after consulting with the occupier of the land if he is present, do all or any of the following things:—

- (a) exercise any of the appropriate powers of the Chief Officer of Fire Brigades under the Fire Brigades Act, 1936, in so far as the same may be necessary or expedient, for extinguishing a fire which is already burning or for preventing the spread or extension thereof:

- (b) enter any land or building whether private property or not:
- (c) pull down, cut, and remove fences on any land, whether private property or not, when in his opinion the same is necessary or expedient for the purpose of taking effective measures for extinguishing a fire which is already burning, or for preventing the spread or extension thereof:
- (d) cause firebreaks to be ploughed or cleared on any land, whether private land or not, and take any other appropriate measures on any such land as he may deem necessary for the purpose of controlling or extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (e) light any fire on any land, whether private land or not, for the purpose of clearing any strip of land to act as a firebreak for the purpose of controlling or extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (f) take and use water, other than that for use as an occupier's domestic supply contained in a tank at his dwelling house, and any other fire extinguishing material from any source whatever on any land, whether private property or not:
- (g) take charge of and give directions to any fire-fighting organization present at any fire with respect to its operations or activities in connection with the extinguishment or control of such fire, or the prevention of the spread or extension thereof:
- (h) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers; and
- (i) employ any person or use the voluntary services of any person to assist him, subject to his directions, in the exercise of any of the foregoing powers.

(4) If any fire is within any Government forest and any forester or assistant forester or foreman in charge of a Government forest is present at the fire, the said powers and authorities shall not be exercised within the Government forest by any other fire control officer except with the approval of and subject to the directions of the forester or assistant forester or foreman, whilst he continues to be present at the fire.

(5) This section shall only apply to fires which—

- (a) have been lighted or are maintained unlawfully (whether in contravention of this Act or not);
- or

(b) have occurred accidentally; or

(c) have ceased to be under control or are not adequately controlled,

and to such other fires as are prescribed by regulation.

(6) This section shall not apply within any locality wherein the Fire Brigades Act, 1936, applies.

Power of fire control officer to enter land.
Inserted by 27, 1939, s. 14.

29c. A fire control officer may at any reasonable time enter any land, whether private property or not, for the purpose of examining any measures taken, or proposed to be taken on the land for protection from fire.

Power of police to block traffic.
Inserted by 27, 1939, s. 14.

29d. (1) Upon or after the outbreak of any fire any member of the police may give any direction to any person to prevent such person from driving or passing along any road near the fire.

(2) Any person who fails to obey any such direction of any member of the police force shall be guilty of an offence and liable to a penalty of not more than five pounds.

Act not to affect other remedies.
1123, 1913, s. 25.

30. Nothing in this Act shall be construed as taking away or affecting any right of action or other remedy, whether civil or criminal, which any person may have in respect of any loss or damage occasioned by fire, or for any trespass committed.

Regulations.
1123, 1913, s. 26.

31. (1) The Governor may make all such regulations as may be necessary or convenient for giving effect to the provisions of this Act or more fully carrying out its objects.

(2) Any regulation made under this Act may prescribe a penalty not exceeding twenty pounds in any case, for the breach of such regulation or of any other regulation under this Act.

Appropriation of penalties.
1123, 1913, s. 27.

32. (1) Subject to subsection (2) all moneys received for or on account of penalties imposed for offences against this Act, shall be paid to the Treasurer for the public uses of the State.

(2) Moneys received in respect of an offence committed within any area the complaint for which was laid by the council thereof or any officer of the council, shall be paid over to, and for the use of, the council.

s. 30. ROBERTS v. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austrn. Digest 127. Civil and criminal remedies are available against a person lighting a fire even if the fire is lighted in accordance with the provisions of this Act.

33. (1) In any proceedings for an offence against this Act the allegation in the complaint—

Evidence in proceedings.
1123, 1913,
s. 28.

- (a) that a fire was lighted or maintained with the intention or for the purpose mentioned in such complaint; or
- (b) that any stubble was not burned, or that any fire was not lighted, for the purpose mentioned in such complaint,

shall, if it is shown that the fire was lighted, or maintained, or that the stubble was burned (according to the nature of the charge), be taken to be proved, until the contrary is proved.

(2) In any proceedings for an alleged offence against this Act the burden of proving the observance of the conditions which would excuse the matter alleged in the complaint shall lie upon the defendant.

34. All proceedings in respect of any offence against this Act shall be disposed of summarily.

Procedure for offences.
1123, 1913,
s. 29.
Amended by
27, 1939,
s. 15.

35. Wherever in this Act there is a prohibition of the doing of anything, such prohibition shall be read as including a prohibition of the assisting in or in any way aiding or abetting the doing of such thing, and of the causing or suffering of the doing thereof, and of any attempt to do such thing, or cause it to be done, or to assist in or aid or abet the doing thereof.

Prohibition of any act to include assisting, etc., and attempts.
1123, 1913,
s. 5.

36. Any notice required to be given to any person pursuant to this Act may be given in writing or orally to such person personally or may be given by leaving written notice thereof at the place of residence of such person.

Giving of notices.
Amended by
27, 1939,
s. 16.

THE SCHEDULE.

No. of Act Repealed.	Title of Act Repealed.
No. 1123 of 1913 . . .	The Bush Fires Act, 1913.
No. 1768 of 1926 . . .	Bush Fires Act Amendment Act, 1926.
No. 2023 of 1931 . . .	Bush Fires Act Amendment Act, 1931.
No. 2027 of 1931 . . .	Bush Fires Act Amendment Act (No. 2), 1931.