

RURAL FIRES.

No. 75 of 1967.

AN ACT to amend the law relating to the prevention and control of rural fires, to make provision with respect to matters incidental thereto, and to repeal certain enactments.

[20 December 1967.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Rural Fires Act 1967*. Short title.

2—(1) Except as provided in subsections (2) and (3) of this section, this Act shall commence on a day to be fixed by proclamation (in this section referred to as the “appointed day”). Commencement.

(2) Part II shall commence on the day on which the Governor assents to this Act.

(3) The repeal effected by section three shall take effect—

(a) in relation to Part II of the *Rural Fires Act 1950*, on the day on which the Governor assents to this Act; and

(b) in relation to the remaining provisions of that Act, on the appointed day.

3 The *Rural Fires Act 1950*, the *Rural Fires Act 1961*, and the *Rural Fires Act 1963* are repealed. Repeal.

4 In this Act, unless the contrary intention appears— Interpretation.
 “Board” means the Rural Fires Board constituted under this Act;

- “brigade captain” means a person who has been elected, pursuant to section fifty, to the office of brigade captain of a rural fire brigade and who is, for the time being, the holder of that office;
- “equipment” includes engines, vehicles, reels, buckets, hoses, ladders, escapes, tanks, tools, radio, equipment, and other implements and things used for or in connection with the extinguishment of fire or the protection of life or property in case of fire;
- “fire-fighting operations” includes any acts or operations that are necessary or expedient for or directed towards—
- (a) the extinguishment of a fire;
 - (b) the prevention of the spread of a fire;
 - (c) the saving of life, or the prevention of injury to persons by a fire;
 - (d) the prevention of the destruction of property by a fire; or
 - (e) the provision of sustenance for persons performing any of those acts or carrying out any of those operations;
- “fire permit officer” means a person who is appointed as a fire permit officer pursuant to section twenty-one;
- “forest officer” means an officer or temporary employee in the Forestry Department authorized to act as a forest officer for the purposes of this Act—
- (a) by warrant under the seal of the Forestry Commission; or
 - (b) by notification by the Forestry Commission in the *Gazette*;
- “group captain” means a person who has been elected, pursuant to section fifty, to the office of group captain of a group of brigades and who is, for the time being, the holder of that office;
- “group of brigades” means any two or more rural fire brigades in respect of which a certificate of registration under section forty-nine is for the time being in force;
- “insurance company” means a company, partnership, or other association that carries on in the State the business of insuring against loss of, or damage to, property, either alone or in conjunction with any other business;
- “Minister” means the Minister of the Crown to whom the administration of the *Fire Brigades Act 1945* is for the time being committed;
- “occupier” includes a person having the care, control, or management of any land;

- “region” means a fire control region created pursuant to section nineteen;
- “regional fire control officer” means a person who is appointed pursuant to section sixteen to the office of regional fire control officer for a region and who is, for the time being, the holder of that office;
- “repealed Act” means the *Rural Fires Act 1950*;
- “rural fire brigade” means a rural fire brigade in respect of which a certificate of registration under section forty-eight is for the time being in force;
- “State Fire Control Officer” means the person who is appointed under section fifteen to the office of State Fire Control Officer and who is, for the time being, the holder of that office;
- “State forest” means a State forest as defined in the *Forestry Act 1920*;
- “timber reserve” means a timber reserve as defined in the *Forestry Act 1920*;
- “urban brigade” means a fire brigade established under the *Fire Brigades Act 1945*;
- “vegetation” includes trees, bushes, plants, and undergrowth of any kind (whether alive or dead) and any parts of any trees, bushes, plants, or undergrowth (whether severed therefrom or not), but does not include trees of such kinds, species, or sizes as the Governor, by proclamation, declares not to be vegetation within the meaning of this Act.

- 5** Except as otherwise expressly provided in this Act— Application
of Act.
- (a) this Act applies throughout the whole of the State; Ibid., s. 4.
and
- (b) the provisions of this Act relating to restrictions on the lighting of fires do not apply to or in relation to the lighting of a fire in an enclosed building.

- 6** This Act binds the Crown. Act binds
the Crown.
Ibid., s. 5.

PART II.

ADMINISTRATION.

Division I—The Rural Fires Board.

- 7**—(1) There shall be a board, to be known as the Rural Fires Board. Constitution
of the
Board.
Ibid., s. 7
- (2) The Board shall consist of sixteen members appointed by the Governor, one of whom shall be appointed as the chairman of the Board. (1), (2),
(6), (7),
(8).

(3) Of the members of the Board (other than the chairman)—

- (a) one shall be the Chief Commissioner for Forests or a person nominated by him;
- (b) one shall be the officer of the Forestry Department certified by the Chief Commissioner for Forests to be the officer for the time being in charge of the fire protection activities of that Department;
- (c) one shall be the Commissioner of Police or an officer of the Police Department nominated by the Commissioner;
- (d) one shall be a person nominated by the Fire Brigades Commission of Tasmania (being a person who is a member of that Commission);
- (e) one shall be a person actively engaged as a principal or executive officer in the trade of pulp and paper making;
- (f) one shall be a person actively engaged as a principal or executive officer in the trade of saw-milling;
- (g) one shall be the Commissioner of the Hydro-Electric Commission or a person nominated by the Commissioner;
- (h) one shall be a person nominated by the Fire and Accident Underwriters' Association of Tasmania;
- (i) one shall be a person nominated by the Tasmanian Farmers' Federation;
- (j) one shall be a person nominated by the Tasmanian Farmers' Stockowners' and Orchardists' Association;
- (k) two shall be persons nominated by the Municipal Association of Tasmania;
- (l) one shall be a person nominated by the Australian Workers' Union;
- (m) one shall be a person nominated by the Timber Workers' Union; and
- (n) one shall be a person who is a member of a rural fire brigade.

(4) One of the members of the Board referred to in subsection (3) of this section shall be appointed as the deputy-chairman of the Board.

(5) If a nomination required by this section is not made within thirty days after the relevant person or body is required by the Minister to make the nomination, the Governor, without any nomination, may, on the recommendation of the Minister, appoint a person as a member of the Board to represent that person or body.

(6) The chairman of the Board—

- (a) shall devote to the performance of his duties as chairman of the Board such part of his time as is specified in the instrument of his appointment; and
- (b) is entitled—
 - (i) to such leave of absence, and for such purposes; and
 - (ii) to receive such remuneration, as the Governor determines.

8 Subject to this Act—

- (a) the chairman of the Board shall hold office for a term of five years; and
- (b) the remaining members of the Board shall hold office for a term of four years.

Terms of
office of
members of
the Board.

9—(1) The office of a member of the Board becomes vacant if the holder thereof—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes bankrupt or makes an assignment or arrangement for the benefit of his creditors or otherwise takes advantage of a law relating to bankruptcy;
- (d) becomes of unsound mind;
- (e) being a member who is appointed by reason of his holding a particular office, ceases to hold that office; or
- (f) is removed from office pursuant to subsection (2) of this section.

Vacation of
office.
Ibid. s. 8.

(2) If a member of the Board—

- (a) in the opinion of the Governor—
 - (i) has become incompetent or incapacitated or has for any reason become incapable of performing the duties of his office; or
 - (ii) has been guilty of misconduct of such a nature that his continuance in office as a member of the Board would be undesirable; or
- (b) is absent, without leave granted by the Board, from three or more consecutive meetings of the Board,

the Governor may remove that member from his office as a member of the Board.

(3) Notwithstanding anything in the *Acts Interpretation Act 1931*, a member of the Board may be removed from office pursuant to subsection (2) of this section without a recom-

mendation or consent made or given by the person or body by whom or by which he was nominated for membership of the Board.

Proceedings
of the
Board.
Ibid., s. 7
(13).

10—(1) The Board shall meet at such times and places as the Board considers necessary or as the Minister may direct.

(2) The chairman of the Board shall preside at all meetings of the Board at which he is present and has a deliberative vote.

(3) In the absence of the chairman from a meeting of the Board, the deputy-chairman, if present, shall preside at the meeting.

(4) In the absence of both the chairman and the deputy-chairman from a meeting of the Board, the members present shall elect one of their number to preside at the meeting.

(5) Nine members constitute a quorum of the Board.

(6) A question arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question and, in the event of an equality of votes, the chairman or other member presiding at the meeting has a second or casting vote.

(7) The Board may, by resolution, appoint such committees of its members as it thinks fit to assist or advise the Board in relation to the exercise and performance of its functions and duties under this Act.

(8) Subject to this section, the regulations may prescribe and regulate the appointment of members of the Board and the meetings, proceedings, and conduct of the business of the Board.

Remuneration
of members.
Ibid., s. 7
(12).

11—(1) Subject to this section, a member of the Board (other than the chairman) may be paid such remuneration as the Minister determines.

(2) No remuneration shall be paid to a member of the Board who is an officer or employee to whom the *Public Service Act* 1923 applies except on the recommendation of the Public Service Commissioner.

Functions,
&c., of the
Board.
Ibid., s. 7
(10).

12 Subject to the directions of the Minister, the functions and duties of the Board are—

(a) to advise the Minister in relation to the administration of this Act;

(b) to execute and carry out such works for the prevention and extinguishment of fires in rural areas and for the protection of persons and property from any such fires, and such works incidental thereto, as the Board thinks necessary or desirable;

- (c) to make investigations into the use of fire in rural areas; to instruct the public in the wise use of fire, and to disseminate information regarding fire protection measures and matters incidental thereto;
- (d) to collect and record information or statistics regarding outbreaks of fire in rural areas and other matters relating thereto;
- (e) to encourage and assist in the formation, development, and improvement of rural fire brigades and to assist in the training of, and the provision of equipment for use by, members of those brigades;
- (f) to take such measures for the standardization of the equipment used by rural fire brigades as it considers necessary for the efficient and economical operation of those brigades; and
- (g) to exercise and perform such other functions and duties as the Minister may direct or as may be prescribed.

13—(1) The Board may, with the approval of the Minister, by instrument in writing delegate to a person specified in the instrument of delegation or to a committee appointed under subsection (7) of section ten such of the functions and duties of the Board as may be specified therein. Delegation.
Ibid., s. 9.

(2) A delegation under this section may be made either generally or in respect of a particular matter or class of matters or in respect of a particular part of the State and may be subject to such conditions as the Board, with the approval of the Minister, determines and specifies in the instrument of delegation.

(3) A delegation under this section is revocable at the will of the Board, and does not prevent the exercise or performance of a function or duty by the Board itself.

14—(1) The Board shall, as soon as is practicable after the thirtieth day of June in each year, submit to the Minister a report on the administration of this Act and on the exercise and performance by the Board of its functions and duties under this Act during the period of twelve months ended on that day and, if the Board thinks fit, there may be included in or attached to the report a plan of rural fire control for the ensuing twelve months. Annual
report of
Board.
Ibid., s. 7
(14).

(2) The Minister shall cause each report under this section to be laid on the table of each House of Parliament within the first ten sitting days of the House after the report is received by him.

Division II—Officers of the Board.

State Fire
Control
Officer.

15—(1) The Board shall appoint a person as the State Fire Control Officer for the purposes of this Act.

(2) The person appointed under this section shall be a person who appears to the Board to have had adequate training and experience in the principles of fire control and to have had wide experience, and to have shown capacity, in administration.

(3) An appointment under this section has no effect until it is confirmed by the Minister.

(4) The functions and duties of the State Fire Control Officer are—

- (a) to act as the chief executive officer of, and technical adviser to, the Board;
- (b) to undertake the general direction and supervision of the training of members of rural fire brigades;
- (c) to supervise the performance by regional fire control officers of their duties and functions under this Act;
- (d) to inspect, from time to time, all rural fire brigades and the equipment used by them and to make to the Board such reports and recommendations with respect to the provision or improvement of any such equipment as appear to him to be necessary or desirable;
- (e) to make such inquiries, with respect to such matters, as the Board may direct and submit such reports to the Board in respect of those inquiries and matters as the Board may direct or as may appear to him to be desirable; and
- (f) to exercise and perform such other functions and duties as are conferred or imposed on him by this Act or as the Board may direct, either generally or in particular cases.

Regional
fire control
officers.

16—(1) The Board shall appoint a regional fire control officer for each region.

(2) Unless the Board otherwise approves, a person who is appointed as a regional fire control officer shall, while he continues to hold that office, reside within the region for which he is so appointed.

(3) An appointment under this section has no effect until it is confirmed by the Minister.

(4) The functions and duties of a regional fire control officer are—

- (a) to promote the formation of rural fire brigades in the region for which he is appointed;

- (b) subject to the general direction and supervision of the State Fire Control Officer—
 - (i) to direct and supervise the training of members of rural fire brigades in that region; and
 - (ii) to inspect at regular intervals the equipment used by each rural fire brigade in that region and to assist in the maintenance of that equipment;
- (c) to assist and advise fire permit officers appointed by the corporation of municipalities within that region in relation to the granting of permits under section thirty-nine;
- (d) to attend meetings of the municipal fire committees established within that region; and
- (e) to exercise and perform such other functions and duties as are conferred or imposed on him by this Act or as the Board may direct, either generally or in particular cases.

17—(1) In addition to the officers referred to in sections fifteen and sixteen, the Board may, with the approval of the Minister, appoint such other officers as it considers necessary for the due administration of this Act. General provisions relating to officers of the Board.

(2) An officer appointed under section fifteen, or section sixteen, or subsection (1) of this section—

- (a) in his capacity as such an officer, is not subject to the provisions of the *Public Service Act 1923*;
- (b) is an employee within the meaning of the *State Employees (Long-Service Leave) Act 1950* and the *Superannuation Act 1938*; and
- (c) may—
 - (i) be paid such remuneration; and
 - (ii) be granted such annual leave of absence and such leave on account of sickness, as the Minister, on the recommendation of the Board, determines,

but if an officer or employee in the Public Service is so appointed, he is entitled to his existing and accruing rights as if his service as an officer under this Act were a continuation of his service as an officer or employee in the Public Service.

(3) For the purposes of this Act, the Board, subject to subsections (4) and (5) of this section, may, with the approval of the Minister and the consent of the Minister administering the relevant Department, make use of the services of any officer or employee employed in a Department of the Public Service.

(4) The services of an officer or employee who is subject to the provisions of the *Public Service Act 1923* shall not be made available to the Board except on the recommendation of the Public Service Commissioner.

(5) The services of an officer of the Hydro-Electric Commission shall not be made available to the Board except on the recommendation of the Commissioner of the Hydro-Electric Commission.

Division III—General.

Certificates of appointment, &c., of certain officers.

18—(1) On confirming the appointment of a person as the State Fire Control Officer or as a regional fire control officer, the Minister shall furnish to that person a certificate of his appointment.

(2) On approving of the election of a person as a brigade captain or as a group captain, the Board shall furnish that person with a certificate of his election.

(3) Where a person ceases to hold an office referred to in subsection (1) or subsection (2) of this section he shall forthwith surrender to the Minister or to the Board, as the case may be, the certificate furnished to him pursuant to this section.

(4) Where, in the exercise or performance of his powers or duties under this Act, an officer referred to in subsection (1) or subsection (2) of this section—

- (a) seeks to enter any land or building he shall, if required by the occupier thereof to do so, produce to the occupier; or
- (b) demands the name and address of a person he shall, if required by that person to do so, produce to that person,

the certificate furnished to the officer pursuant to this section.

Fire control regions.

19—(1) On the recommendation of the Board, the Governor may, by proclamation—

- (a) create such number of fire control regions as he thinks desirable, being regions comprising such parts of the State respectively as are specified in the proclamation; and
- (b) at any time by proclamation—
 - (i) abolish any such region;
 - (ii) create a new region or new regions; or
 - (iii) add any area to, or excise any area from, any such region.

(2) The boundaries between fire control regions shall, as nearly as is practicable, be coincident with the boundaries of municipalities.

Municipal fire committees.

20—(1) The corporation of each municipality shall appoint a municipal fire committee (in this section referred to as "the committee"), which shall consist of—

- (a) the regional fire control officer for the region in which the municipality is included; and

(b) such other persons (being not less than three persons) as the corporation considers appropriate.

(2) The corporation shall appoint one of the members of the committee as the chairman thereof and the member so appointed shall preside at all meetings of the committee at which he is present, and has a deliberative vote.

(3) A question arising at a meeting of the committee shall be decided by a majority of the votes of the members present and voting on the question and, in the event of an equality of votes on a question, the question passes in the negative.

(4) The committee may appoint a person to act with the committee in an advisory capacity, and a person so appointed shall deliberate with and advise the committee when required by it to do so, but is not entitled to vote on any question arising at a meeting of the committee.

(5) Subject to this section and to the regulations made under paragraph (i) of subsection (2) of section seventy-three, the committee may regulate its own procedure.

(6) The functions of a municipal fire committee are—

(a) either of its own motion or when requested by the Board to do so, to advise the Board on questions arising with respect to the declaration of fire danger periods and days of acute fire danger in relation to the municipality;

(b) to consider, and make to the corporation such reports and recommendations and tender such advice as it thinks desirable with respect to—

(i) the policy to be observed in relation to the granting of permits under sections twenty-seven and thirty-nine, either generally or at particular times; and

(ii) the removal of fire hazards occurring within the municipality;

(c) to promote the formation of rural fire brigades within the municipality;

(d) to consider, and make recommendations to the corporation with respect to, the provision by the corporation of moneys towards the purchase of equipment by rural fire brigades established within the municipality; and

(e) to exercise such other powers and perform such other duties as the corporation may, after consultation with the Board, delegate to the committee.

(7) The committee shall furnish each fire permit officer appointed for the municipality under section twenty-one with full details of all advice tendered by the committee to the Board pursuant to paragraph (a) of subsection (6) of this

section and of all reports and recommendations made, and advice tendered, by the committee to the corporation pursuant to paragraph (b) of that subsection.

Fire permit
officers.

21—(1) The corporation of each municipality shall appoint such number of fire permit officers for the municipality as it considers necessary for the purposes of this Act.

(2) A person may be appointed under this section whether or not he is an employee of the corporation.

(3) An appointment under this section has no effect until it has been confirmed by the Board.

(4) The functions of a fire permit officer are, subject to this Act, to consider and determine applications for permits under sections twenty-seven and thirty-nine.

(5) In the exercise of his functions under this Act, a fire permit officer—

(a) before determining an application for a permit under section thirty-nine—

(i) shall, if practicable, confer with the brigade captain or, in his absence, the deputy brigade captain of the rural fire brigade the headquarters of which are nearest to the land to which the application relates; or

(ii) if there is no rural fire brigade in the municipality in which the land is situated, shall, if practicable, confer with the appropriate regional fire control officer,

and shall refuse the application if the brigade captain, deputy brigade captain, or regional fire control officer, as the case may be, considers that the prevailing conditions are such that a fire lit in pursuance of the permit, if granted, might spread to other land or might be beyond the capacity of a rural fire brigade to control; and

(b) shall have regard to any advice tendered by the municipal fire committee to the Board pursuant to paragraph (a) of subsection (6) of section twenty or any report or recommendations made, or advice tendered, by that committee to the corporation pursuant to paragraph (b) of that subsection.

PART III.

PREVENTION AND EXTINGUISHMENT OF RURAL FIRES.

Fire
protected
areas.
Ibid., s. 20.

22—(1) The Board may, by notice in the *Gazette*, declare a specified locality to be a fire protected area for the purposes of this Act, and may, in like manner, alter the boundaries of a fire protected area or revoke the notice declaring an area to be a fire protected area.

(2) Land that is vested in or occupied by the Hydro-Electric Commission or acquired under the authority of the *Hydro-Electric Commission Act 1944* or any enactment repealed by that Act for hydro-electric works or purposes shall, for the purposes of this Act, be deemed to be a fire protected area, and continues to be a fire protected area so long as it remains vested in or occupied by the Commission or required for hydro-electric works or purposes.

(3) An area in respect of which a notice under section twenty of the repealed Act is in force on the date of the commencement of this section shall be deemed to have been declared to be a fire protected area under subsection (1) of this section.

23—(1) The Board may, by order in writing, direct the occupier of land within a fire protected area to burn off or remove, within such time as is specified in the order, any inflammable material on that land, or to take such other action as the Board may direct to abate the danger of fire occurring on, or spreading from, that land, and such an order may specify the conditions subject to which the burning off or removal of the material or the taking of that other action shall be effected (including the making of such firebreaks as the Board may consider necessary).

Orders to burn off, &c., within a fire protected area.
Ibid., s. 21.

(2) A person to whom an order under this section is given who fails to comply with the requirements of the order within the time specified therein is guilty of an offence against this Act.

(3) If a person to whom an order under this section is given fails to comply with the requirements of the order within the time specified therein, the Board may, at the expense of that person, cause the inflammable material to which the order relates to be burned off or removed, and may recover from that person the expenses incurred by the Board in doing so by action in a court of competent jurisdiction.

(4) Expenses that are payable by a person under subsection (3) of this section are in addition to any penalty that may be imposed on him for failing to comply with an order of the Board under this section.

24—(1) Where, in relation to a particular area (other than the Hobart special fire area), it appears to the Board—

Special fire areas.

(a) that—

- (i) the area is sparsely populated and the establishment of a rural fire brigade in the area would not be practicable; or
- (ii) the ratable value of property within the area is such that expenditure in connection with the prevention or extinguishment of fires in the area could not reasonably be required to be incurred

by the corporation or corporations of the municipality or municipalities within the boundaries of which the area is situated; and

- (b) that a special scheme for the prevention and extinguishment of fires occurring in the area should be devised and put into operation,

the Board, after consultation with the relevant corporation or corporations, may, with the approval of the Minister, by notice in the *Gazette*, declare the area to be a special fire area for the purposes of this Act, and may, by that notice, assign a name to the special fire area so declared.

(2) Where an area is declared pursuant to this section to be a special fire area, the Minister shall appoint a committee for the area (in this section referred to as "the area committee").

(3) The area committee shall consist of—

- (a) the regional fire control officer for the region in which the special fire area is included;
- (b) a person appointed by the Minister on the nomination of the Forestry Commission;
- (c) persons nominated as provided by subsection (4) of this section; and
- (d) such other persons, if any, as the Minister on the recommendation of the Board, may think it desirable to appoint as members of the area committee.

(4) Each municipal fire committee established in a special fire area shall, at the request of the Minister, nominate a person who is a member of that committee for appointment as a member of the area committee, in default whereof the Minister may, without any nomination, appoint such of the members of that municipal fire committee as he thinks fit as a member of the area committee.

(5) The area committee shall—

- (a) prepare and submit to the Board a scheme for the prevention and extinguishment of fires in the special fire area;
- (b) subject to the directions of the Board, do such acts and things, and carry out such works, as the area committee considers necessary to prevent, or lessen the risk of, fires occurring in the special fire area, and prepare and submit to the Board annual work programmes for those purposes and estimates of the expenditure likely to be incurred in relation to the carrying out of those programmes; and
- (c) perform such other duties in relation to the protection of the special fire area from damage by fire as the Board may direct.

(6) In this section, "Hobart special fire area" means the area referred to in subsection (1) of section twenty-five.

25—(1) The area comprising—

Hobart special fire area.

- (a) such parts of the cities of Hobart and Glenorchy and of the municipality of Kingborough as are not included within a district constituted under the *Fire Brigades Act 1945*; and
- (b) such parts of the municipalities of New Norfolk and Huon as may be specified by the Minister, by notice in the *Gazette*,

is a special fire area for the purposes of this Act under the name of the Hobart special fire area.

(2) There shall be a committee for the Hobart special fire area (in this section referred to as "the committee").

(3) The committee shall consist of six persons appointed by the Minister, of whom—

- (a) one shall be appointed as the chairman of the committee;
- (b) one shall be the State Fire Control Officer or an officer of the Board nominated by him;
- (c) one shall be the city engineer of the city of Hobart;
- (d) one shall be a person nominated by the corporation of the city of Glenorchy (being an engineer);
- (e) one shall be a person nominated by the corporation of the municipality of Kingborough (being an engineer); and
- (f) one shall be a person nominated by the Hobart fire brigades board.

(4) The committee shall perform, in relation to the Hobart special fire area, the same duties as are required by section twenty-four to be performed by a committee established under that section, and in addition shall, subject to the directions of the Board, take steps to organize and equip a rural fire brigade or rural fire brigades to carry on operations for the prevention and extinguishment of fires in that area.

26—(1) Where, in the opinion of a regional fire control officer or a brigade captain, a fire burning on any land constitutes, or, if not promptly extinguished, is likely to constitute, a fire danger, the officer or captain may order the occupier of that land forthwith to take diligent steps to extinguish the fire, and if the occupier fails to comply with the order, he is guilty of an offence against this Act.

Power of certain officers to order fires to be extinguished. *Ibid.*, s. 22.

(2) If a person to whom an order under this section is given fails to comply with the requirements of the order, the regional fire control officer or brigade captain may, at the expense of that person, do all such acts and things as may be

necessary for extinguishing the fire, and may, by action in a court of competent jurisdiction, recover from that person the costs and expenses incurred in so doing.

(3) Expenses that are payable by a person under subsection (2) of this section are in addition to any penalty that may be imposed on him for failing to comply with an order under subsection (1) of this section.

Provisions
as to
lighting
fires near
State forests,
&c.
Ibid. s. 23.

27—(1) No person shall, during a fire danger period, light a fire in the open air at a place in a fire protected area within the boundaries of which the whole or any part of a State forest or timber reserve, or any Crown land, is included, except under the authority and in accordance with the conditions of a permit for that purpose granted to him by a fire permit officer under this section.

(2) Subject to subsection (3) of this section, a fire permit officer may, on the application of a person, grant, or refuse to grant, a permit under this section to that person.

(3) A fire permit officer shall not grant a permit under this section to a person except with the consent of a forest officer.

(4) A permit under this section may be granted unconditionally or upon and subject to such conditions as the officer granting the permit determines or as are prescribed.

(5) Without limiting the generality of subsection (4) of this section, the conditions subject to which a permit under this section may be granted may include the condition that a forest officer may assist in controlling the fire by placing free of charge at the disposal of the holder of the permit the services of any persons or the use of any equipment or in such other manner as the forest officer thinks fit.

(6) The grant to a person of a permit under this section is no excuse for that person failing to comply with all relevant provisions of this Act.

(7) Notwithstanding the foregoing provisions of this section, a person may, without obtaining a permit under this section, light a fire in the open air in any place specially constructed for the purpose, but this subsection does not relieve a person from liability for any failure by him to comply with all relevant provisions of this Act.

(8) If a fire permit officer refuses to grant a permit under this section to a person who applies for such a permit, that person may appeal from the refusal to the regional fire control officer for the region within which the land to which the application relates is situated.

(9) An appeal under subsection (8) of this section may be made verbally or in writing, and shall be heard and determined in such manner as the regional fire control officer thinks appropriate.

(10) If the regional fire control officer allows an appeal under this section, he may grant a permit to the appellant, either unconditionally or subject to such conditions (if any) as he may impose and as are specified in the permit.

(11) The decision of a regional fire control officer on the hearing of an appeal under this section is final.

28—(1) Where, in the opinion of the Board—

Fire hazards.
Of. *Ibid.*,
s. 25.

- (a) there is on any land such a building or structure as is referred to in sub-paragraph (ii), or sub-paragraph (iii), or sub-paragraph (iv) of paragraph (1) of subsection (1) of section five hundred and ninety-nine of the *Local Government Act 1962*;
- (b) there are on any land such materials as are, or there is on any land such an escape of inflammable liquid or vapour as is, referred to in paragraph (m) of that subsection; or
- (c) there is on any land such growth as is referred to in paragraph (o) of that subsection,

the Board may, by notice in writing to the corporation of the municipality in which that land is situated, request the corporation to exercise, in relation to the building, structure, materials, liquid, vapour, or growth, the powers conferred on it by Division XVII of Part XVI of that Act.

(2) If the corporation fails or refuses to comply with a request of the Board under subsection (1) of this section, the Board may, by its servants, enter on the land in question and do all such acts and things as the corporation could have done under section six hundred and ten of the *Local Government Act 1962*.

(3) The expenses incurred by the Board in exercising the powers referred to in subsection (2) of this section are a debt due from the corporation to the Board and are recoverable in a court of competent jurisdiction.

(4) Where, during a period that is declared, pursuant to the *Rural Fires Act 1967*, to be a fire danger period in relation to any part of the State, there is on any land within that part of the State any building, structure, material, or thing that, in the opinion of the Board, constitutes a fire risk, the Board may, by its servants, enter on that land and do all such acts and things as it considers necessary to remove that risk.

(5) The expenses incurred by the Board in the exercise of the powers conferred on it by subsection (4) of this section are a debt due by the occupier of the land to the Board and are recoverable in a court of competent jurisdiction.

29 Nothing in the foregoing provisions of this Part relieves an occupier of Crown land from any liability or obligation to which he may be subject under the provisions

Liability of
occupiers of
Crown land.
Ibid., s. 26.

of the *Crown Lands Act 1935*, and this Part shall be construed as in addition to, and not in derogation of, the provisions of that Act.

Powers of
Hydro-
Electric
Commission
in relation
to lands
subject to
wayleave
easements.
Ibid., s. 27.

30 Notwithstanding any Act or law to the contrary, the Hydro-Electric Commission (in this section referred to as "the Commission") shall, for the purposes only of this Act, be deemed to be the occupier of any land that is subject to a wayleave easement or affected by a wayleave contract acquired or entered into by the Commission pursuant to the *Hydro-Electric Commission Act 1944* or any enactment repealed by that Act, and the Commission or an officer of the Commission authorized by it to do so may, if it or he thinks it necessary for the purpose of protecting any transmission lines, poles, or other equipment or works of the Commission, cause any vegetation or inflammable material on that land to be burned off or removed, but, in the exercise of the powers conferred by this section, the Commission or such an officer is subject, in all respects, to the provisions of this Act.

Duty and
powers of
brigade
captains, &c.,
of a rural
fire brigade
present at
a fire.
Ibid., s. 38.

31—(1) Subject to this section and to sections thirty-two, thirty-three, and thirty-four, the brigade captain of a rural fire brigade shall take all necessary steps to extinguish or prevent from spreading or otherwise keep within bounds any fire that, in his opinion, is burning without control or is likely to spread and cause danger to life or property, and, without limiting the generality of this subsection, has and may exercise all or any of the following powers and functions, namely:—

- (a) He has the control and direction of the rural fire brigade and of any other persons whose services are at his disposal at the fire;
- (b) He may, either alone or with others under his command or direction, enter (using force if necessary) any land or building on or in which a fire is burning or any land or building in the neighbourhood of a fire, and take, or give directions for taking, any equipment required to be used at a fire into, through, over, or upon any land or building that he considers convenient for those purposes;
- (c) He may cause fences to be pulled down or removed and vegetation, or inflammable material to be burnt or otherwise destroyed or removed;
- (d) He may take water from a river, creek, stream, watercourse, lake, lagoon, swamp, marsh, well, dam, tank, or other source or place, whether or not it is on or runs through Crown land, land included in a reserve, or land contracted to be alienated from the Crown; and
- (e) He may exercise such other powers as may be prescribed.

(2) If—

- (a) the brigade captain of a rural fire brigade is not present at a fire; or
- (b) any fire-fighting operations require the members of a rural fire brigade to be split into two or more parties,

the powers and functions of the brigade captain may be exercised by the deputy brigade captain or, in his absence, by the most senior of the remaining officers of the brigade who is present.

(3) Where the members of a group of brigades are present at a fire, the powers and functions conferred by paragraphs (b), (c), and (d) of subsection (1) of this section on—

- (a) a brigade captain, shall be exercised by the group captain;
- (b) a deputy brigade captain, shall be exercised by the deputy group captain; or
- (c) an officer of a rural fire brigade other than the brigade captain or deputy brigade captain, shall be exercised by the appropriate officer, in order of seniority, of the group.

(4) Where the State Fire Control Officer or a regional fire control officer is present at a fire, he shall exercise the powers and functions conferred by the foregoing provisions of this section on an officer of a rural fire brigade or group of brigades, and any powers or functions conferred on an officer of a brigade or group of brigades by those provisions shall be exercised subject to any directions given to that officer by the State Fire Control Officer or regional fire control officer, as the case may be.

32—(1) Subject to this section and to sections thirty-three and thirty-four, the supreme control and charge of all operations for the extinguishment of a fire shall be exercised—

Chain of command at fires.

- (a) by the State Fire Control Officer, if he is present at the fire, or, in his absence, by the regional fire control officer for the region in which the fire occurs; or
- (b) if neither the State Fire Control Officer nor the regional fire control officer is present at the fire—
 - (i) by the brigade captain, deputy brigade captain, or other most senior officer of the rural fire brigade present at the fire if only one brigade is attending the fire; or
 - (ii) by the group brigade captain, deputy group brigade captain, or other most senior officer of the group of brigades present at the fire, if a group of brigades is present at the fire.

(2) Notwithstanding anything in subsection (1) of this section but subject to sections thirty-three and thirty-four, if an urban brigade is present at a fire occurring outside a district constituted under the *Fire Brigades Act 1945* (not being a fire at which the State Fire Control Officer or a regional fire control officer is present), the chief officer of the urban brigade or his deputy or the other most senior officer of that brigade who is present at the fire (in this subsection referred to as "the urban brigade officer") shall exercise the supreme control and charge of all operations for the extinguishment of that fire, and any powers or functions that, apart from this subsection, could have been exercised by an officer of a rural fire brigade or group of rural fire brigades shall be exercised by that officer subject to any directions given to him by the urban brigade officer.

Powers of forest officer in certain cases.

Ibid., s. 40.

33—(1) Notwithstanding section thirty-two but subject to section thirty-four, where a fire is burning in a fire protected area within the boundaries of which the whole or any part of a State forest or timber reserve, or any Crown land, is included, the powers and functions conferred by this Act on the group captain of a group of brigades or a brigade captain are exercisable by any forest officer who may be present at the fire, and, if a forest officer is present at such a fire, he shall take supreme control and charge of all operations for the extinguishment of that fire, and the officers and members of any rural fire brigade or group of brigades or of any urban brigade present at the fire are subject to the directions of the forest officer.

(2) Where any officers or employees of the Forestry Department are engaged in fire-fighting operations (whether within a State forest or timber reserve or on Crown land or otherwise), a forest officer who is present at the fire has and may exercise, in relation to those officers or employees, the same powers as are conferred by this Act on a brigade captain of a rural fire brigade in relation to the members of his brigade.

Powers of officers of Hydro-Electric Commission.

Ibid., s. 41.

34 Notwithstanding any other provision of this Act, where a fire is burning on any land that is a fire protected area by virtue of subsection (2) of section twenty-two, any officer of the Hydro-Electric Commission who may be present at the fire shall take supreme control and charge of all operations for the extinguishment of the fire and the officers and members of a rural fire brigade or of a group of brigades or of any urban brigade present at the fire are subject to the directions of that officer.

Duties and powers of police officers present at fires.

35—(1) A police officer who is present at a fire shall aid the appropriate fire officer in the maintenance of the fire officer's authority and in enforcing due obedience by all persons to the orders and directions of the fire officer in the exercise of his duties and functions under this Act.

(2) All police officers shall aid urban brigades, rural fire brigades, and groups of rural fire brigades in the exercise of their duties and functions under this Act.

(3) A police officer may, of his own motion or at the request of the appropriate fire officer—

- (a) close any street, road, lane, or other thoroughfare in the vicinity of a fire; and
- (b) order to withdraw, or, in the event of a refusal to withdraw, remove, any person who—
 - (i) by his presence or otherwise interferes with any fire-fighting operations being carried on by an urban brigade or by a rural fire brigade or group of brigades; or
 - (ii) is in or on any land or building that is burning or is threatened by fire.

(4) For the purpose of removing a person from any land or building as provided in paragraph (b) of subsection (3) of this section, a police officer may use such force as may be reasonably necessary.

(5) Nothing in this section authorizes a police officer to remove from any land or building a person who has a pecuniary interest therein or in any goods on or in that land or building.

(6) In this section “ fire officer ” means—

- (a) the State Fire Control Officer;
- (b) a regional fire control officer;
- (c) an officer of a rural fire brigade or group of brigades;
- (d) an officer of an urban brigade; and
- (e) an officer to whom section thirty-three or section thirty-four relates.

PART IV.

EMERGENCY PROVISIONS.

36—(1) On the recommendation of the Board, the Governor may, by proclamation—

- (a) declare any day or days, or any period, specified in the proclamation to be a fire danger period; or
- (b) declare the period commencing on the date of the proclamation and ending on the date on which the proclamation is revoked to be a fire danger period,

throughout the State or in any specified part or parts of the State.

(2) Where a fire danger period is declared pursuant to subsection (1) of this section, the chairman of the Board shall take such steps as he considers necessary or as may be prescribed for the purpose of giving publicity to the declaration.

Fire danger periods.

Ibid., s. 29.

Restrictions on lighting fires during fire danger periods.

37 No person shall, during a fire danger period, light or cause to be lit, or maintain or use, a fire in the open air on any land for the purpose, or that is likely to have the effect, of clearing vegetation from that land or for a like purpose unless—

(a) the fire—

- (i) is lit in pursuance of a subsisting permit granted to him under section thirty-nine; and
- (ii) is lit, maintained, and used in conformity with the conditions subject to which the permit is granted; and

(b) that person—

- (i) takes all reasonable precautions to prevent the fire spreading to adjoining land; and
- (ii) observes such precautions as are prescribed or are required by the regional fire control officer for the region in which the first-mentioned land is situated or by the brigade captain of the rural fire brigade the headquarters of which are situated nearest to that land.

Duty of occupier of land on which a fire occurs during a fire danger period.

38 The occupier of any land who finds a fire burning on that land during a fire danger period shall forthwith—

- (a) take diligent steps to extinguish the fire or to prevent it from spreading; and
- (b) report the fire to the brigade captain of the rural fire brigade the headquarters of which are nearest to that land, or to the regional fire control officer for the region in which that land is situated, or to a police officer, or to the Board.

Permits to light fires.

39—(1) A person who, during a fire danger period, wishes to light a fire in the open air on any land for the purpose, or that is likely to have the effect, of clearing vegetation from that land or for a like purpose may make application to a fire permit officer for a permit authorizing him to light a fire.

(2) On receipt of an application under subsection (1) of this section, the fire permit officer may grant to the applicant a permit authorizing the applicant to light and maintain a fire on the land to which the permit relates within such period as is specified in the permit, or may refuse to grant such a permit to the applicant.

(3) A permit under this section—

- (a) shall be in writing; and
- (b) shall specify the conditions subject to which it is granted.

(4) A permit under this section shall be granted subject to—

- (a) such conditions as are prescribed; and

(b) such further conditions as the fire permit officer by whom it is granted determines and specifies in the permit.

(5) Without affecting the generality of paragraph (b) of subsection (4) of this section, the conditions referred to in that paragraph may include—

(a) a condition that a fire lit pursuant to the permit shall be lit and maintained—

(i) if the land on which it is to be lit is within a district constituted under the *Fire Brigades Act 1945*, by or under the supervision of the fire brigade established in that district under that Act or of an officer of that brigade; or

(ii) if the land is not within such a district, by or under the supervision of a specified rural fire brigade or of an officer of that brigade; and

(b) a condition that at least one person shall be present at the site of the fire from the time when it is lit until it is totally extinguished.

(6) If a fire permit officer refuses to grant a permit under this section to a person who applies for such a permit, the fire permit officer shall serve on that person a notice, in writing, stating that the permit has been refused and the reasons for refusing it, and that person may, within fourteen days after the service on him of the notice, appeal from the refusal to the Board.

(7) The Board may allow or disallow an appeal under this section as it thinks fit, and, if it allows the appeal, may grant a permit to the appellant, either unconditionally or subject to such conditions (if any) as the Board may, in its absolute discretion, impose and as are specified in the permit.

(8) Subject to this section, an appeal under this section shall be instituted, heard, and determined as prescribed.

40—(1) A permit granted by a fire permit officer under section thirty-nine may be revoked, suspended, or varied by the fire permit officer if he thinks that by reason of the prevailing conditions it is desirable to do so, and notification of the revocation, suspension, or variation shall forthwith be given by the fire permit officer to the person to whom the permit was granted.

Revocation,
suspension,
or variation
of permits
to light fires.

(2) Where the brigade captain of the rural fire brigade the headquarters of which are situated nearest to the land to which a permit granted by a fire permit officer under section thirty-nine relates is of the opinion that the prevailing conditions are conducive to the outbreak or spread of fires or that conditions conducive to the outbreak or spread of fires are imminent, the brigade captain may revoke, suspend, or vary

the permit and shall forthwith cause a notification that the permit has been revoked, suspended, or varied to be given to the person to whom the permit was granted.

(3) A notification under subsection (1) or subsection (2) of this section—

- (a) shall, if practicable, be given in writing delivered or sent by post to the person to whom it is directed; or
- (b) may be given to that person verbally or in such other manner as the fire permit officer or brigade captain deems expedient if, in his opinion, it is necessary to give the notification urgently and, having regard to all the circumstances, it is not reasonably practicable to give it in writing, but in such a case it shall be confirmed in writing as soon as is reasonably practicable.

Powers of Board during fire danger periods.

Ibid., s. 31.

41—(1) Where a fire danger period has been declared pursuant to section thirty-six, the Board may—

- (a) either by itself or its officers, take all necessary steps to abate the danger of fire, and for that purpose, may requisition the services of persons, animals, plant, machines, engines, articles, appliances, or materials for the purposes of fire-fighting operations; and
- (b) prohibit the use, at any place in the State, or, as the case requires, in the part or parts of the State specified in the notice declaring that period, of any specified plant, machine, engine, article, appliance, or material that it considers likely to cause a risk of fire.

(2) The Board may make such orders, give such notices and directions, and do all such other acts and things as appear to it to be necessary or desirable for giving effect to this section or for the execution of the powers conferred on the Board by this section.

(3) An order, notice, or direction made by the Board under this section—

- (a) may be made or given so as to apply—
 - (i) to the persons specified in the order, notice, or direction, or to the persons, included in a class of persons, or to persons generally;
 - (ii) to fires generally or to a particular class or kind of fires; or
 - (iii) to premises, animals, plant, machines, engines, articles, appliances, or materials specified in the order or to any class or kind thereof;
- (b) may be made or given so as to apply generally throughout the State or in specified parts of the State;

(c) may exempt—

- (i) a person or all or any persons included in a class of persons;
- (ii) a particular class or kind of fire; or
- (iii) premises, animals, plant, machines, engines, articles, appliances, or materials, or any class or kind thereof, from the operation of all or any of the provisions of the order, notice, or direction; and

(d) may contain such incidental or supplementary provisions as the Board considers to be necessary or convenient for the purposes thereof.

(4) An order, notice, or direction made or given by the Board under this section may be published in the *Gazette* or advertised in a newspaper, or may be made or given in writing to a person.

(5) An order, notice, or direction made or given by the Board under this section is sufficiently authenticated if it is signed on behalf of the Board by the chairman, or by two other members, of the Board, and an order, notice, or direction purporting to have been so signed shall, in the absence of proof to the contrary, be deemed to have been made or given in pursuance of a resolution of the Board.

(6) A person who contravenes an order, notice, or direction made or given by the Board under this section is guilty of an offence against this Act.

42—(1) The Board may, at the request of the owner or occupier of an area of land, by notice in the *Gazette*, declare that area of land to be an area of extreme fire hazard. Area of extreme fire hazard.
Ibid., s. 34.

(2) While a notice under this section is in force, no person (other than the State Fire Control Officer, or a regional fire control officer, or a brigade captain or a person carrying out fire-fighting operations under the direction or supervision of a brigade captain) shall enter on the area to which the notice relates without having first obtained a permit for that purpose from the brigade captain of the rural fire brigade the headquarters of which are situated nearest to that land or from the regional fire control officer for the region in which that land is situated.

(3) Where the whole or any part of a State forest or timber reserve, or any Crown land, is included within the boundaries of an area to which a notice under subsection (1) of this section relates the powers conferred on a brigade captain by subsection (2) of this section are exercisable by a forest officer, and the last-mentioned subsection shall be construed accordingly.

43 During a fire danger period, no person shall—

- (a) elsewhere than in an enclosed building, light or cause to be lit, or maintain or use, a camp fire or fire for the purpose of burning carcasses, or

Camp fires.
&c.
Ibid., s. 19.

any other kind of fire prescribed for the purposes of this section, unless he first clears all inflammable material from around the site of the fire for a distance to ten feet; or

- (b) leave such a fire, either temporarily or permanently, without covering or completely extinguishing it.

Days of
acute fire
danger.

Ibid., ss. 30,
32, 33.

44—(1) The Board, or, with the authority of the Board, the chairman of the Board, may declare any day or days to be a day of acute fire danger or days of acute fire danger for the purposes of this Act, either throughout the State or in any particular part or parts of the State.

(2) With a view to ensuring general public knowledge of the declaration of a day or days of acute fire danger, the Board or the chairman of the Board may take such measures as it or he thinks fit to give widespread publicity to the declaration and shall, if practicable, cause the announcement thereof to be broadcast by such broadcasting station, or to be transmitted from such television station or to be made in such newspapers as the Board or chairman thinks appropriate, but failure by the Board or chairman to cause such an announcement to be made does not affect the validity of the declaration and does not excuse a person from liability for a failure to comply with any provision of this Act that is applicable to him.

(3) Where pursuant to this section a day is declared to be a day of acute fire danger or any days are declared to be days of acute fire danger—

- (a) all permits granted under sections twenty-seven and thirty-nine in relation to land in any part of the State to which the declaration relates forthwith cease to have effect;
- (b) no permits shall be granted under either of those sections so as to have effect on that day or those days in relation to land in any part of the State to which the declaration relates; and
- (c) the occupier of land on which a fire occurs on any such day (being land in any part of the State to which the declaration relates) shall forthwith after becoming aware of the existence of the fire—
- (i) take diligent steps to extinguish the fire or to prevent it from spreading; and
- (ii) report the fire to the brigade captain of the rural fire brigade the headquarters of which are situated nearest to that land, or to the regional fire control officer for the region in which that land is situated, or to a police officer, or to the Board.

45 No person shall, on a day of acute fire danger, light, or cause to be lit, or maintain or use, a fire in the open air on any land for any purpose.

No fires to be lit, &c., in open air on a day of acute fire danger.

Ibid., s. 31 (1) (a).

46—(1) Where an officer to whom this section applies finds a fire burning on a day of acute fire danger in a part of the State to which a declaration under section forty-four relates he may, for the purpose of extinguishing the fire or preventing it from spreading, exercise, in addition to the powers conferred on him by any other provision of this Act, such of the powers conferred on the Board by subsection (1) of section forty-one as he thinks necessary or expedient.

Powers of fire officers on days of acute fire danger.

(2) In the exercise of his powers under this section, an officer to whom this section applies may make or give, either verbally or in writing, any order, notice, or direction that could, under section forty-one, be made or given by the Board, and a person who contravenes or fails to comply with an order, notice, or direction made or given by the officer is guilty of an offence against this Act.

(3) In this section, "officer to whom this section applies" means—

- (a) the State Fire Control Officer;
- (b) a regional fire control officer;
- (c) an officer of a rural fire brigade or group of brigades; and
- (d) an officer of an urban brigade.

47—(1) A person who finds a fire burning within one mile of any land of which he is the owner or occupier, being a fire—

Power to enter on neighbouring lands and extinguish fires.

Ibid., s. 24.

- (a) that is burning on a day declared to be a day of acute fire danger in the part of the State where that land is situated; or
- (b) that has been lit or is burning in contravention of any of the provisions of this Act,

may, subject to this section, enter on the land on which the fire is burning, with such servants and equipment as may be necessary, and do all such acts and things as may reasonably be necessary for extinguishing the fire or preventing it from spreading.

(2) No person shall enter on land under the authority of subsection (1) of this section on a day other than a day declared to be a day of acute fire danger in the part of the State where the land is situated unless he first gives to the brigade captain of the rural fire brigade the headquarters of which are nearest to that land notice of his intention to do so, if it is reasonably practicable for that notice to be given, and, on receipt of a notice under this subsection, the brigade captain may give to the person proposing to enter on the land such directions as the brigade captain considers desirable for the prevention of unnecessary damage and for the proper

extinguishment of the fire or for preventing it from spreading, and that person shall comply in all respects with the directions so given.

PART V.

RURAL FIRE BRIGADES.

Formation
and
registration
of rural fire
brigades.

Ibid., s. 36.

48—(1) Persons who desire to form themselves into a rural fire brigade may make application to the Board for registration as a rural fire brigade.

(2) The corporation of a municipality may make application to the Board for the registration as a rural fire brigade of a group of persons nominated by the corporation for the purpose.

(3) An application under this section shall be in writing in the prescribed form.

(4) Upon receipt of an application under subsection (1) or subsection (2) of this section, the Board may, in its discretion, register the persons concerned as a rural fire brigade or may refuse so to register them, and, if it so registers those persons, shall grant to them a certificate of registration.

(5) A certificate of registration under this section continues in force from the date thereof until it is revoked by the Board, and the Board may, at any time if it thinks fit, revoke such a certificate.

(6) A rural fire brigade in respect of which a subsisting certificate of registration under section thirty-six of the repealed Act is in force on the date of the commencement of this section shall be deemed to have been registered, and that certificate shall be deemed to have been granted, under this section.

Groups of
brigades.

49—(1) Two or more rural fire brigades registered under section forty-eight may, for the purposes of fire prevention or extinguishment, combine to form a group of brigades.

(2) On being notified, as prescribed, of the formation of a group of brigades, the Board may approve or refuse to approve of the formation of the group.

(3) If the Board approves of the formation of a group of brigades, it shall register the group and grant to the prescribed officer of the group a certificate of registration.

(4) A certificate of registration under this section continues in force from the date thereof until it is revoked by the Board, and the Board may, at any time if it thinks fit, revoke such a certificate.

Officers of
rural fire
brigades.

Ibid., s. 37.

50—(1) The officers of a rural fire brigade shall consist of a brigade captain, a deputy brigade captain, and such other officers as may be prescribed.

(2) Where two or more rural fire brigades have been registered as a group of brigades, the officers of the group of brigades shall be a group brigade captain, a deputy group brigade captain, and such other group officers as may be prescribed.

(3) The officers of a rural fire brigade or of a group of brigades shall be elected, in the prescribed manner and for the prescribed period, by the members of the brigade or group of brigades.

(4) The election of an officer under this section has no effect until it is approved by the Board.

(5) The Board may disqualify an officer so elected from exercising any powers or functions under this Act, and thereupon that officer or any person acting under or in accordance with the directions given by that officer ceases to have the powers and functions, and the benefit of any protection, conferred by this Act.

PART VI.

FINANCIAL PROVISIONS.

Division I—Financial operations of the Board.

51—(1) The Board shall, on or before the thirty-first day of May, in each year, submit to the Minister for his approval an estimate of the probable expenditure and revenue of the Board, during the financial year beginning on the following first day of July, in or in connection with the administration of this Act. Annual estimate of expenditure.

(2) An estimate under this section shall be accompanied by a statement specifying—

- (a) the estimated amount (if any) of the unexpended balance of the contributions paid to the Board under this Part, as at the following thirtieth day of June (after making provision for undischarged liabilities), which shall be set off against the probable expenditure of the Board during the financial year to which the estimate relates;
- (b) the estimated amount (if any) of expenditure in excess of contributions paid to the Board under this Part, as at the following thirtieth day of June, which shall be added to the estimated expenditure of the Board for the financial year to which the estimate relates;
- (c) the estimated amount (if any) of the income of the Board from any sources during the financial year to which the estimate relates, which shall be set off against the probable expenditure of the Board during that financial year;
- (d) the estimated amount of the probable expenditure during the financial year to which the estimate relates in or in connection with the making of grants under section fifty-eight;

- (e) the estimated amount of the probable expenditure, during the financial year to which the estimate relates, in connection with defraying the expenses incurred in the performance of the duties of the committees appointed under section twenty-four; and
- (f) the estimated amount of the probable expenditure, during the financial year to which the estimate relates, in connection with defraying expenses incurred in the performance of the duties of the committee referred to in section twenty-five.

(3) An estimate under this section shall set forth separate details in relation to—

- (a) expenditure of a capital nature; and
- (b) expenditure from the revenues of the Board,

respectively, and shall contain complete details of the items in relation to which the expenditure of a capital nature is proposed to be made.

(4) On receipt of an estimate under this section, the Minister may—

- (a) approve the estimate; or
- (b) if he thinks it desirable to do so, vary the estimate in such manner and to such extent as he thinks desirable and approve the estimate as so varied.

(5) Where the Minister proposes to vary an estimate pursuant to subsection (4) of this section, he shall notify the Board in writing of the proposed variation, and the Board may, within such time as the Minister may allow in that behalf, make representations to the Minister in opposition to the proposed variation.

(6) Where the Board makes representations to the Minister pursuant to subsection (5) of this section the Minister may, after giving due consideration to those representations, approve the estimate, either as submitted by the Board or with such variation as the Minister may think desirable in the circumstances.

Working
capital.

52—(1) The Board may at any time requisition the Treasurer for moneys required to meet working expenses and, subject to this section, the Treasurer may lend to the Board out of moneys available from the Loan Fund such amount as he thinks fit, on such terms as to repayment, payment of interest, and otherwise, as the Treasurer determines.

(2) The amount borrowed by the Board from the Treasurer under subsection (1) of this section shall not at any time exceed twenty-five thousand dollars.

Form, &c.,
of accounts.

53—(1) The Board shall keep such accounts in relation to its financial operations, and prepare such annual financial statements in relation thereto, in such form and containing such particulars, as the Treasurer may direct.

(2) In addition to the accounts required to be kept under subsection (1) of this section, the Board shall keep such separate accounts, in such form and containing such particulars, as the Treasurer may direct, in relation to the operations of each special area committee established under section twenty-four or section twenty-five and shall prepare such annual financial statements in relation to each of those accounts as the Treasurer may direct.

54—(1) The Board shall submit its accounts to the Auditor-General for audit on or before the sixteenth day of August in each year. Audit of accounts.

(2) The Auditor-General has, in respect of the accounts of the Board, all the powers conferred on him by the *Audit Act* 1918 in relation to the public accounts.

55—(1) The Board shall cause to be opened in the Commonwealth Trading Bank of Australia such accounts as may be necessary for the purposes of this Act. Bank accounts.

(2) All—

(a) moneys received by the Board shall be paid into; and

(b) expenditure of the Board shall be drawn from, those accounts.

56—(1) The amount of the estimated expenditure of the Board in each financial year (as approved by the Minister pursuant to section fifty-one) other than expenditure in relation to the matters referred to in paragraphs (d), (e), and (f) of subsection (2) of that section shall be defrayed out of contributions to be made to the Board by the Treasurer and by insurance companies as provided in this section. Contributions towards Board's expenditure.

(2) The contributions required to be made under this section shall be borne—

(a) as to fifty per cent by the Treasurer; and

(b) as to fifty per cent by insurance companies insuring rural property.

(3) The contributions to be made by the Treasurer to the Board under this section shall be made out of moneys to be provided by Parliament for the purpose.

(4) The contribution required to be made by an insurance company to the Board in any financial year—

(a) is a sum the amount of which bears to the total of the contributions required to be made by insurance companies in that financial year the same proportion as the amount of the fire insurance premium income of that company for the preceding financial year in respect of the insurance of rural property bears to the aggregate of the amounts of the fire insurance premium

incomes of all insurance companies for that financial year in respect of the insurance of rural property; and

(b) shall be paid to the Board by quarterly instalments of, so far as is practicable, equal amounts and, except as may otherwise be agreed between the Board and that company, shall respectively fall due to be paid on the last days of the months of July, October, January, and April in that financial year.

(5) Until the amount of the contribution to be made to the Board by an insurance company in respect of a financial year has been notified to that company pursuant to subsection (6) of this section, any quarterly instalment due from that company on any date in that financial year shall, except as may otherwise be agreed between the Board and that company, be of an amount equal to one-quarter of the contribution made under this section by that company in the last preceding financial year.

(6) As soon as is practicable after the Minister has approved, pursuant to section fifty-one, of the Board's estimated expenditure for a financial year, the Board shall notify the Treasurer of the amount of the contribution under this section to be made in that financial year by the Treasurer and shall notify each insurance company required to make such a contribution of the amount of the contribution to be made by it in that financial year.

(7) The provisions of paragraphs 2, 3, 4, and 5 of the sixth schedule to the *Fire Brigades Act 1945*, with the necessary adaptations, apply to and in relation to the determination of the amounts of the contributions required by this section to be made by insurance companies as if those contributions were contributions required to be made under that Act and as if those provisions were expressly enacted in this section.

(8) In this section, "rural property" means property that is situated or held elsewhere than within a district constituted under the *Fire Brigades Act 1945*.

Returns by insurance companies of premiums received.

57—(1) For the purpose of determining the amount of the contributions required to be made by insurance companies under section fifty-six, each insurance company shall, annually in the month of July or at such other time as the Board may direct, transmit to the Board a return in such form as may be prescribed or as the Board may approve, containing such particulars as may be prescribed with reference to the insurance policies entered into or renewed by the company, and the premiums paid, received, or charged in account thereunder, in respect of the insurance of rural property (as defined in subsection (8) of that section).

(2) A return under this section shall be verified by a statutory declaration by the manager or secretary of the company or by some other officer of the company certifying

that, according to the books of the company and to the best of his knowledge and belief, the return contains a true account and statement of the matters referred to therein.

(3) A company that makes default in transmitting to the Board a return or declaration required by this section to be so transmitted is liable to a daily penalty of ten dollars.

(4) The manager, secretary, or other officer having the custody of the books and papers of an insurance company that is required by section fifty-six to make contributions under that section shall allow an officer of the Board authorized in that behalf, in writing, by the Board to inspect during the hours of business the books and papers of the company and to make extracts therefrom in order to verify any return or declaration transmitted to the Board by the company pursuant to this section.

(5) A manager, secretary, or other officer of an insurance company who fails to comply with any provision of this section that is applicable to him is guilty of an offence.

Penalty: Ten dollars.

Division II—General.

58—(1) Subject to this section, the Treasurer may, out of moneys provided by Parliament for the purpose, make a grant in aid of the purchase of approved equipment for use by a rural fire brigade (not being a brigade established within the area referred to in section twenty-five).

Grants in aid of purchase of equipment for rural fire brigades.

(2) No grant shall be made under this section in relation to any equipment unless the Board certifies in writing that—

- (a) the equipment is approved equipment;
- (b) the cost of the equipment exceeds one hundred dollars; and
- (c) the corporation of the municipality within which the brigade is established has provided or resolved to provide a sum to be applied towards defraying the cost of that equipment.

(3) A grant under this section shall comprise a sum not exceeding the sum provided by the corporation.

(4) In this section “approved equipment” means equipment the purchase of which has been approved by the Board on the ground that it is necessary for the efficient operation of a brigade.

59—(1) The expenses incurred in the performance of the duties of the committee referred to in section twenty-five in each financial year shall be defrayed out of contributions to be made to the Board by the Treasurer and by the corporations of the metropolitan municipalities as provided in this section.

Expenses of Hobart special fire area committee.

(2) The contributions required to be made under this section shall be borne—

- (a) as to one-half by the Treasurer; and
- (b) as to one-half by the corporations of the metropolitan municipalities.

(3) The contributions to be made by the Treasurer under this section shall be made out of moneys to be provided by Parliament for the purpose.

(4) The contribution required to be made by a corporation of a municipality under this section in any financial year is a sum the amount of which bears to the total contributions required to be made by all the corporations of the metropolitan municipalities in that financial year the same proportion as the adjusted annual value of the first-mentioned municipality bears to the aggregate of the adjusted annual values of all of those municipalities.

(5) Contributions under this section by the corporations of the metropolitan municipalities shall be paid by quarterly instalments on such dates as are agreed upon between the Board and the corporations or as may be prescribed.

(6) The adjusted annual value of each metropolitan municipality for the purposes of this section shall be determined by the Chief Valuer as at the thirty-first day of May in each year.

(7) In this section—

“adjusted annual value”, in relation to a municipality, means the total annual value of the municipality less the annual value of any land that is wholly exempted from rating by virtue of section two hundred and forty-three of the *Local Government Act 1962*;

“Chief Valuer” means the Chief Valuer within the meaning of the *Land Valuation Act 1950*;

“metropolitan municipality” means—

- (a) the city of Hobart;
- (b) the city of Glenorchy; and
- (c) the municipality of Kingborough.

Expenses of municipal fire committees and fire permit officers.

60 The expenses incurred in each financial year in the performance of the duties of a committee appointed under section twenty-four shall be defrayed by the Treasurer out of the Consolidated Revenue.

Expenses of special fire area committees other than Hobart.

61—(1) The expenses incurred in the exercise and performance of the powers and duties of a committee appointed under section twenty shall be defrayed out of the revenues of the corporation by which the committee is appointed.

(2) The remuneration (if any) of, and the expenses incurred by, a fire permit officer shall be defrayed out of the revenues of the corporation by which he is appointed.

PART VII.

MISCELLANEOUS.

62 A notice or other document or writing required or authorized by this Act to be given to, or served on, a person may be given to, or served on, that person—

Provisions
as to the
giving of
notices, &c.

- (a) by delivering it to that person or his agent;
- (b) by forwarding it to that person by means of the certified mail service; or
- (c) in such other manner as may be prescribed.

63—(1) No person shall, either directly or indirectly, prevent or dissuade a person who is willing to assist an officer in fire-fighting operations from so assisting at the request of the officer, or hinder, impede, or obstruct him when so assisting, or when proceeding to a place for the purpose of so assisting.

Assistance
to officers.
Ibid., s. 28.

(2) In this section “officer” means—

- (a) the State Fire Control Officer;
- (b) a regional fire control officer;
- (c) an officer of a rural fire brigade;
- (d) an officer of a group of brigades;
- (e) a member of a rural fire brigade; and
- (f) an officer or member of an urban brigade.

64—(1) An officer to whom this section applies is not liable for damage caused by the exercise in good faith of any of the powers conferred on him by this Act or by any Act, matter, or thing done by him in good faith in the course of fire-fighting operations.

Protection of
officers, &c.
Ibid., s. 44.

(2) A person who exercises a power or performs a duty in relation to fire-fighting operations in his capacity as a member of a rural fire brigade or under the direction or supervision of an officer to whom this section applies is not liable for damage caused by the exercise in good faith of that power or the performance in good faith of that duty.

(3) In this section, “officer to whom this section applies” means—

- (a) the State Fire Control Officer;
- (b) a regional fire control officer;
- (c) an officer of a rural fire brigade or group of brigades;
- (d) an officer of an urban brigade;
- (e) a forest officer; and
- (f) an officer of the Hydro-Electric Commission.

65—(1) If—

- (a) an officer to whom this section applies is killed or suffers personal injury in the course of fire-fighting operations in which he is engaged or dies as the result of personal injury so suffered; or

Compensation
for injury
or death
occurring
in the
course of
fire-fighting
operations.
Ibid., s. 51.

- (b) a person (not being such an officer) is killed or suffers personal injury in the course of fire-fighting operations in which he is engaged under the direction or supervision of such an officer, or dies as the result of personal injury so suffered,

and that officer or other person is not, or as the case may be, his dependants are not, entitled to compensation under the *Workers' Compensation Act 1927* in respect of the injury to or death of the officer or other person, then that officer or other person is, or, in the case of his death, his dependants are, entitled to compensation as provided by this section.

(2) For the purposes of subsection (1) of this section, an officer or person shall be deemed to be engaged in fire-fighting operations while he is travelling, in either direction, between his place of residence or place of employment and the place at which those operations are being, or are to be, carried on.

(3) Subject to subsection (4) of this section, the compensation payable to an officer or other person under this section shall be such amount as the Governor, on the recommendation of the Board, may determine.

(4) Compensation under this section shall be calculated, as nearly as may be, in accordance with the rules relating to the calculation of compensation contained in the *Workers' Compensation Act 1927*, as if it were compensation payable under that Act.

(5) An officer or other person by whom, or on whose behalf, compensation under this section is claimed shall, if so required by the Board, submit to the Board such evidence in support of his claim, and such medical certificates, as the Board may require, and such other information, if any, as may be prescribed.

(6) The compensation payable to an officer or other person under this section shall be defrayed out of moneys to be provided by Parliament for the purpose.

(7) In this section—

“dependants” has the same meaning as it has in the *Workers' Compensation Act 1927*;

“officer to whom this section applies” means—

- (a) the State Fire Control Officer;
- (b) a regional fire control officer;
- (c) an officer or member of a rural fire brigade or of a group of brigades;
- (d) a forest officer; and
- (e) an officer of the Hydro-Electric Commission.

(8) The Board, with the approval of the Minister, may make all such payments as are necessary to insure the chairman and other members of the Board against accidents

happening to them while travelling to or from or in attendance at the scene of any fire for any purpose relating to the administration of this Act.

66—(1) The State Fire Control Officer, or a regional fire control officer, or the group captain of a group of brigades, or the brigade captain of a rural fire brigade may demand the name and address of any person whom he has reason to suspect of an offence against any of the provisions of this Act.

Power of certain officers to demand name and address of suspected offender.

(2) A person who refuses to give his name and address, or who gives a false name and address, when a demand therefor is made pursuant to this section is guilty of an offence against this Act.

67—(1) A police officer may arrest without warrant a person found offending against any of the prescribed provisions of this Act and forthwith take that person before a justice to be dealt with according to law.

Power of police officer to arrest without warrant in certain cases.

(2) For the purposes of this section, a person shall be deemed to be found offending against a prescribed provision of this Act if he does such an act or makes such an omission, or behaves himself in such a manner, as thereby to cause a person who finds him reasonable grounds for believing that he has, in respect of that act, omission, or behaviour, committed an offence against any of the prescribed provisions.

(3) In this section "the prescribed provisions" means the provisions of—

- (a) subsection (2) of section forty-two;
- (b) section forty-three;
- (c) section forty-five;
- (d) section sixty-three; and
- (e) paragraphs (g) and (h) of subsection (1) of section sixty-nine.

68 A person who wilfully, maliciously, or unlawfully puts or places inflammable or combustible material, or does any other act, in any place, for the purpose of causing a fire with intent thereby to injure any person or property is guilty of a crime and is punishable upon indictment accordingly.

Wilfully causing risk of fire a crime.
Ibid., s. 47.

69—(1) No person shall—

- (a) permit a fire to escape from land owned or occupied by him in such circumstances as to cause, or to be likely to cause, injury or damage to the Crown or to any other person;
- (b) ignite, use, or carry, when ignited, so as to endanger another person's land or any Crown land, any inflammable material;
- (c) light a fire or cause a fire to be lit in the open air, or leave any such fire unextinguished, without taking such reasonable precautions as may be necessary or as may be prescribed for preventing the spread of the fire;

Offences and penalties.
Ibid., s. 46.

- (d) fail without reasonable cause (proof of which lies upon that person) to comply with an order, notice, direction, or requisition under this Act of the Board, or of the State Fire Control Officer, or of a regional fire control officer, a group captain, a brigade captain, a forest officer, an officer of the Hydro-Electric Commission, or a police officer;
- (e) during a fire danger period, light a fire or cause a fire to be lit on land of which he is not the owner except with the authority of the owner of the land or, in the case of unoccupied Crown land, except in pursuance of, and in conformity with the conditions of, a permit granted to him by a forest officer;
- (f) during a fire danger period, smoke, strike a match, or light a fire, within twenty feet of any stack of, or building containing, hay, corn, straw, flax, or timber;
- (g) during a fire danger period or on a day of acute fire danger, drop, throw down, or leave, in an open space, any match, tobacco, cigar, or cigarette that has at any time been alight without having first completely extinguished it;
- (h) destroy, damage, or interfere with any works executed or carried out by the Board under or for the purposes of this Act; or
- (i) contravene or fail to comply with any provision of this Act that is applicable to him.

(2) A person who commits an offence against any of the provisions of subsection (1) of this section is liable, if the offence is committed—

- (a) on a day of acute fire danger, to a penalty of not less than forty dollars or more than four hundred dollars or imprisonment for twelve months; or
- (b) during a period of fire danger, to a penalty of not less than twenty dollars or more than four hundred dollars or imprisonment for twelve months.

(3) A person who is guilty of an offence against this Act for which no specific penalty is prescribed elsewhere in this Act is liable to a penalty of four hundred dollars.

(4) Where a person is convicted of an offence against this Act, having at any time previously been convicted of the like offence, he is liable to a penalty that is double the penalty prescribed by this Act in relation to that offence.

70 Subject to section sixty-eight, proceedings in respect of offences against this Act shall be heard and determined by a police magistrate sitting alone.

71 Nothing in this Act, and no proceeding in respect of an offence against this Act, affects any right by civil process in respect of damage caused by fire that a person aggrieved thereby would have had if this Act had not been enacted.

Civil remedies not affected. *Ibid.*, s. 50.

72 Any legal proceedings by or against the Board may be brought in the name of the Board without naming the members thereof.

Legal proceedings may be brought in the name of the Board.

73—(1) The Governor may make regulations under this Act.

Regulations.

(2) Without limiting the generality of subsection (1) of this section, the regulations may—

- (a) require a burner, incinerator, destructor, furnace, or other engine or appliance for the burning of wood waste or other inflammable material used or installed in or on premises used as a sawmill or factory, and any chimney, smoke-stack, exhaust-pipe, or other outlet used in connection therewith, to be equipped, as prescribed, with a prescribed device for arresting sparks;
- (b) regulate, restrict, control, or prohibit the lighting, maintenance, and use in the open air of fires for the purpose of burning or destroying inflammable materials, and prescribing the precautions to be taken by a person by whom such a fire is lit, maintained, or used for any such purpose;
- (c) prescribe the requirements to be complied with, or authorize the Board or a prescribed person or officer to give directions as to the requirements to be complied with, in respect of the disposal of inflammable materials resulting from the operations of a sawmill, factory, or other prescribed premises;
- (d) regulate, restrict, control, or prohibit the operation of locomotives or traction engines, stationary engines, portable engines, logging machines, and other prescribed engines either generally or during fire danger periods or on days of acute fire danger;
- (e) provide for and regulate the inspection by prescribed persons of engines or appliances of any kind referred to in paragraphs (a) and (d) of this subsection and of any devices for arresting sparks with which those engines or appliances are equipped or required by the regulations to be equipped;
- (f) restrict or prohibit the dumping of live coals and other inflammable materials from locomotives and other engines that are operated by solid fuel and generally regulate and control the method of operating any such locomotives and engines

- so as to prevent, or reduce the risk of, the outbreak of fires resulting from the operation of them;
- (g) require (either generally or in prescribed cases or during prescribed periods or on prescribed days) persons who desire to light fires in the open air to give such notices as may be prescribed to such persons as may be prescribed;
 - (h) generally regulate the making of applications for, and the granting of, permits under this Act authorizing the lighting of fires;
 - (i) prescribe the method of determining the number of members that constitutes a quorum of a committee appointed under section twenty and generally regulate the procedure at meetings of such a committee;
 - (j) exempt from the operation of any specified provisions of this Act or declare that any specified provisions of this Act do not apply to or in relation to any engine or appliance for the burning of waste or other inflammable material used or installed on premises used as a sawmill or factory where the engine or appliance has been approved by the Board and complies with the prescribed conditions, and provide for and regulate the granting, duration, suspension, and cancellation of certificates of approval and certificates of exemption in relation to engines and appliances so exempted; and
 - (k) impose penalties, not exceeding four hundred dollars, for offences against the regulations.

LOCAL GOVERNMENT (No. 2).

No. 76 of 1967.

AN ACT to amend the *Local Government Act* 1962.

[20 December 1967.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Local Government Act (No. 2) 1967*.

(2) The *Local Government Act* 1962, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on the day on which Part II of the *Rural Fires Act* 1967 commences.