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VICTORIA

Country Fire Authority (Amendment) Act 1983

No. 10004

An Act to amend the *Country Fire Authority Act 1958* in relation to fire suppression and prevention, lighting fires during fire danger periods and compensation to casual fire-fighters, and for other purposes.

[Assented to 13 December 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. This Act may be cited as the *Country Fire Authority (Amendment) Act 1983*. Short title.

2. In this Act the *Country Fire Authority Act 1958* is called the Principal Act.

Principal Act No. 6228.

Reprinted to No. 9488.

Subsequently amended by Nos. 9586, 9629, 9673, 9861, 9902, 9921 and 9928.

3. Except as otherwise expressly provided, the several provisions of this Act shall come into operation on the day or on the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

Commencement.

Amendment of
No. 6228, s. 3.
New
interpretation.

"Deputy
Regional
Officer."

4. In section 3 of the Principal Act, after the interpretation of "Deputy Chief Officer" there shall be inserted the following interpretation:

"Deputy Regional Officer" means a person appointed as a Deputy Regional Officer pursuant to this Act."

Amendment of
No. 6228, s. 17.

5. In section 17 of the Principal Act, for paragraph (d) there shall be substituted the following paragraphs:

"(d) a Regional Officer in respect of each region;

(da) a Deputy Regional Officer in respect of each region;

(db) an Assistant Regional Officer in respect of each region which it thinks requires such an officer;"

Amendment of
No. 6228, s. 28.

6. In section 28 of the Principal Act—

(a) in sub-sections (2) and (3) for the expression "sub-section (1A) of section forty of this Act" there shall be substituted the expression "section 40 (5) or to make a declaration pursuant to section 40 (12)";

(b) in sub-section (3) for the expression "Deputy Chief Officer" there shall be substituted the expression "Deputy Chief Officers"; and

(c) for sub-section (4) there shall be substituted the following sub-sections:

"(4) Any Deputy Regional Officer shall, in the absence of the Chief Officer the Deputy Chief Officers any Assistant Chief Officer and the Regional Officer for his region unless the Authority otherwise directs or the regulations otherwise provide, have all the powers authorities duties and liabilities conferred or imposed by this Act on the Chief Officer except the power to issue a permit pursuant to section 40 (5) or to make a declaration pursuant to section 40 (12).

(5) Any Assistant Regional Officer shall, in the absence of the Chief Officer the Deputy Chief Officers any Assistant Chief Officer and the Regional Officer and Deputy Regional Officer for his region unless the Authority otherwise directs or the regulations otherwise provide, have all the powers authorities duties and liabilities conferred or imposed by this Act on the Chief Officer except the power to issue a permit pursuant to section 40 (5) or to make a declaration pursuant to section 40 (12)."

Amendment of
No. 6228, s. 33.

7. In section 33 (2) of the Principal Act, for the expression "in the case of a fire burning" (where twice occurring) there shall be substituted the expression "where there is danger of a fire occurring or where a fire is burning or has recently been extinguished;"

8. For sections 37, 38 and 39 of the Principal Act, there shall be substituted the following sections:

Amendment of
No. 6228, ss.
37-39.

"37. A person shall not light a fire in the open air in the country area of Victoria (not including any land within a fire protected area) during a fire danger period unless authorized or directed by or pursuant to some other provision of this Act.

General
prohibition
against lighting
open air fires.

Penalty: \$2000 or imprisonment for a term of not more than twelve months or both such penalty and imprisonment.

38. (1) Section 37 does not apply to a person who—

Lighting fires in
accordance with
permit.

- (a) sets fire to any grass, stubble, weeds, scrub, undergrowth or other vegetation;
- (b) lights a fire for the purpose of converting wood into charcoal;
- (c) lights any other fire—

on any land in accordance with a written permit obtained from—

- (d) the proper officer of the department or public authority which manages or controls the land or, when in any instance that proper officer so requests, the Chief Officer; or
- (e) (where paragraph (d) does not apply) the proper officer of the municipality in which the land is situated or the Chief Officer.

(2) A permit granted under sub-section (1)—

- (a) shall be in or to the effect of the form prescribed;
- (b) shall contain such conditions and restrictions as are prescribed; and
- (c) may contain any further conditions and restrictions which the officer granting the permit may reasonably require.

(3) A person who fails to comply with a condition or restriction contained in a permit issued under sub-section (1) shall be guilty of an offence and liable to a penalty of not more than \$2000 or to imprisonment for a term of not more than twelve months or to both that penalty and imprisonment.

(4) Compliance with the conditions of a permit does not of itself relieve the holder of a permit from liability for any damage sustained by another person as a result of any fire lit by the holder of the permit pursuant to that permit.

38A. (1) Section 37 does not apply to a person who lights a fire—

Fires for certain
purposes to be
lawful.

- (a) for the purpose of meal preparation or personal comfort if—
 - (i) the air movement in the vicinity of the fire is no stronger than ten kilometres per hour;

- (ii) the fire is lit in a properly constructed fireplace or in a trench at least 30 centimetres deep;
 - (iii) the fire is not within 7.5 metres of any log or stump;
 - (iv) the ground and air space within a distance of three metres from the outer perimeters and uppermost point of the fire are clear of flammable material; and
 - (v) the fire does not occupy an area in excess of one square metre and the size of the fire and the dimensions of solid fuel used are the minimum necessary for the purpose;
- (b) for the purpose of burning refuse if—
- (i) the fire is effectively restricted within an incinerator;
 - (ii) the air movement in the vicinity is no stronger than 10 kilometres an hour;
 - (iii) the ground and air space within a distance of three metres of the incinerator are cleared of all flammable material; and
 - (iv) a supply of water adequate for the extinguishment of the fire is readily available at all times when the fire is burning;
- (c) for the purpose of extracting honey, heating bitumen, welding, gas-cutting, soldering, grinding or charring if—
- (i) a shield or guard of fire resistant material is placed or erected in such a way as to prevent the emission of sparks, hot metal or slag from the fire;
 - (ii) the area for a radius of at least 1.5 metres from the operation is clear of all flammable material or wetted down sufficiently to prevent the spread of fire;
 - (iii) there is available for immediate use in the event of the fire a reticulated water supply or an effective water spray pump of the knapsack pattern with a tank capacity of not less than nine litres and fully charged with water; and
 - (iv) cut-offs and electrode stubs from the operation are placed directly in a fire proof receptacle; or
- (d) in connexion with sawmilling operations for the purpose of destroying or disposing of sawdust, bark, edgings, waste wood or other flammable material if the fire is lit and maintained in the prescribed manner at the prescribed times and intervals and in accordance with the prescribed conditions.

(2) Compliance with the requirements set out in this section in relation to the lighting of a fire for a particular purpose does not of itself

relieve a person from liability for any damage sustained by another person as a result of the lighting of the fire.

39. In the country area of Victoria (not including any land within a fire protected area) during a fire danger period—

Prohibited
actions near fires.

(a) a person who has lit a fire in the open air or who has been left in charge of a fire in the open air shall not leave the place of the fire unless—

(i) he leaves another person in charge of the fire; or

(ii) he completely extinguishes the fire before leaving;

(b) a person shall not in the open air throw down or drop any lighted tobacco, cigarette, cigar or match or any other burning material or thing;

(c) a person shall not knowingly put or place any blow lamp or gas torch or any match or any phosphorus or any substance containing phosphorus or any explosive or any combustible substance or matter in such a position that—

(i) it may be directly or indirectly ignited exploded or set on fire by the action of the sun's rays or by friction or by any other natural cause; or

(ii) a fire is likely to be caused—

whether or not any fire or explosion is actually caused thereby; and

(d) a person who finds any fire burning shall as soon as practicable inform or cause to be informed the nearest available officer or member of a brigade or a forest officer or a member of the police force of the existence and locality of the fire.

Penalty: \$2000 or imprisonment for a term of not more than twelve months or both such penalty and imprisonment.”.

9. For section 40 of the Principal Act, there shall be substituted the following section:

Amendment of
No. 6228, s. 40.

“40. (1) The Authority may when it thinks fit declare a day or partial day of total fire ban in respect of the whole or any part or parts of Victoria and may at any time amend or revoke such a declaration.

Provisions about
total fire bans.

(2) The Authority shall cause to be broadcast from a broadcasting station in Victoria any declaration made under sub-section (1) and any amendment to or revocation of any such declaration.

(3) The chairman of the Authority may authorize in writing the Chief Officer or the Secretary of the Authority (either generally or in a particular instance) to cause any broadcast referred to in sub-section (2) and may withdraw any such authority by notice in writing.

(4) Notwithstanding the provisions contained in section 38 or 38A, a person in a part of Victoria where and at a time when a declaration of total fire ban applies—

- (a) shall not light a fire in the open air or allow a fire in the open air to remain alight; or
- (b) use or leave in operation any producer-gas equipment on or in connexion with any vehicle.

Penalty: \$4000 or imprisonment for a term of two years or both such penalty and imprisonment.

(5) Sub-section (4) does not apply to a person who, in a part of Victoria where and at a time when a declaration of total fire ban applies, lights a fire in the open air or allows a fire in the open air to remain alight for the purpose of carrying on the work of a statutory corporation or municipality or an industrial operation or trade for which a fire is necessary in accordance with a permit granted—

- (a) where the fire is to be lighted or allowed to remain alight in the metropolitan fire district or on lands vested in the Port of Melbourne Authority, by the Chief Fire Officer of the Metropolitan Fire Brigades or by any other officer whom he may authorize in writing;
- (b) where the fire is to be lighted or allowed to remain alight in the country area of Victoria (other than on lands vested in the Port of Melbourne Authority or on lands within a fire protected area) by the Chief Officer of the Authority;
- (c) where the fire is to be lighted or allowed to remain alight in a fire protected area, by the person for the time being holding the office of or acting as the Chief of the Division of Forest Protection in the State Forests Department; or
- (d) by the Minister under sub-section (8).

(6) A permit granted under sub-section (4)—

- (a) shall be in writing;
- (b) shall be subject to any prescribed conditions, and to any other conditions specified in the permit by the person granting the permit; and
- (c) may be limited to the day in respect of which a total fire ban has been declared, or may be granted for that day and any specified subsequent days or generally for any specified period.

(7) A person who may grant a permit under sub-section (5)—

- (a) may in any particular case authorize another person to sign and issue a permit on his behalf; and
- (b) may at any time revoke a permit.

(8) A person who has been refused a permit under sub-section (5) (a), (b) or (c) or who has been granted such a permit subject to conditions to which he objects or whose permit has been revoked under sub-section (7) may apply to the Minister for a permit and the Minister may grant a permit subject to such conditions as he thinks fit or may refuse to grant a permit, and may at any time revoke any permit granted by him.

(9) Any person who, in a part of Victoria where and at a time when a declaration of total fire ban applies, having been granted a permit pursuant to sub-section (5) or (8) lights a fire in the open air or allows a fire in the open air to remain alight without complying with every condition to which the relevant permit is subject shall be guilty of an offence and liable to a penalty of not more than \$4000 or to imprisonment for a term of not more than two years or to both such penalty and imprisonment.

(10) Nothing in this section shall prevent a fire being lit or being allowed to remain alight—

- (a) by any brigade or statutory corporation having responsibility for the suppression of fire where the fire is lit for that purpose;
- (b) in any burner approved by the Minister being used for the disposal of sawmill waste in accordance with the terms and subject to the conditions of its approval; or
- (c) in any apparatus approved by the Chief Officer being used for the drying of fruit, grain or other primary produce in accordance with the terms and subject to the conditions of its approval.

(11) The Minister on the recommendation of the Authority may by declaration in writing declare subject to such terms and conditions as he thinks fit any burner to be an approved burner for the purpose of sub-section (10) (b) and revoke or vary any approval so given.

(12) The Chief Officer may by declaration in writing declare subject to such terms and conditions as he thinks fit any apparatus to be approved apparatus for the purposes of sub-section (10) (c) and revoke or vary any approval so given.

(13) In any proceedings for an offence against this section a certificate purporting to be signed by the Secretary of the Authority to the effect that a declaration of a day or partial day of total fire ban in the whole or any part or parts of Victoria was pursuant to this section broadcast from a broadcasting station in Victoria in respect of any specified day shall be *prima facie* evidence of the facts set out in the certificate.

(14) In any proceedings for an offence against this section, where the declaration under sub-section (1) was made in respect of part of a day and first broadcast on that day, it is sufficient defence for the

defendant to prove that at the time of the commission of the offence he did not know and could not reasonably have known of the declaration of total fire ban, and that having regard to all the circumstances he had taken all necessary precautions to prevent the spread of the fire.”.

Amendment of
No. 6228 s. 41.

10. After sub-section 41 (5) of the Principal Act, there shall be inserted the following sub-sections:

“(6) In order to ascertain whether or not there is on any land or street referred to in sub-section (1) any material which constitutes or is likely to constitute a fire danger to neighbouring properties or whether fire breaks are required to be made or cleared on that land or street, the proper officer of a municipality, without prejudice to the liability of the owner or occupier, after first having given at least seven days’ notice of his intention to inspect the land or street, may enter upon that land or street.

(7) Notice under sub-section (6) shall be given to an owner or occupier of any land in writing—

- (a) by delivering it to the owner or occupier personally; or
- (b) where the owner or occupier is unknown to the proper officer who desires to serve the notice, by affixing it on a dwelling-house or in some conspicuous place upon the land.

(8) Sub-sections (2B) and (2C) shall apply to notice given under sub-section (6).”.

Amendment of
No. 6228 s. 41B.

11. Section 41B of the Principal Act shall be amended as follows:

- (a) After the expression “41B.” there shall be inserted the expression “(1)”; and
- (b) At the end of the section there shall be inserted the following sub-sections:

“(2) In order to ascertain whether an owner or occupier has failed to comply with a direction contained in a notice under section 41, or to a decision given under section 41A, the proper officer of a municipality, without prejudice to the liability of the owner or occupier, after first having given at least seven days’ notice of his intention to inspect the land or street to which the direction relates, may enter upon that land or street.

(3) Sections 41 (7) and (8) shall apply to notice given under sub-section (2).”.

Amendment of
No. 6228 s. 45.

12. Section 45 of the Principal Act shall be amended as follows:

- (a) In sub-section (1) after the expression “Regional Officer,” there shall be inserted the expression “Deputy Regional Officer,”; and

- (b) In sub-section (2) after the expression "Regional Officer" there shall be inserted the expression "Deputy Regional Officer".

13. In section 48 (1) of the Principal Act, for the expression "private land (including any Crown land leased with a right of purchase)" there shall be substituted the word "land".

Amendment of
No. 6228 s. 48.

14. In section 49 of the Principal Act—

Amendment of
No. 6228, s. 49.

- (a) in sub-section (1) the words "or other industrial operation" are repealed; and
(b) in sub-sections (1) and (2) the words "industrial waste" are repealed.

15. For section 50 of the Principal Act, there shall be substituted the following section:

Amendment of
No. 6228, s. 50.

"50. (1) In the country area of Victoria during a fire danger period a person shall not drive or operate a vehicle propelled by internal combustion (other than a vehicle referred to in sub-section (2)) so that the vehicle is in contact with any crop, grass, stubble, weeds, undergrowth or other vegetation unless the vehicle is fitted with an efficient silencing device so constructed that all the exhaust from the engine of the vehicle passes through the silencing device.

Required safety
features of motor
vehicles driven
during fire danger
period near crops.

Penalty: \$800.

(2) In the country area of Victoria during a fire danger period a person shall not drive or operate a motor tractor or other tractor or traction engine or earth-moving or excavating or road-making machine propelled by or incorporating a heat engine so that the tractor, traction engine or machine is within nine metres of or in contact with any crop, grass, stubble, weeds, undergrowth or vegetation unless the tractor, traction engine or machine—

- (a) is free from faults and mechanical defects which would tend to cause an outbreak of fire;
(b) is fitted with a spark arrestor which complies with the prescribed standards of performance; and
(c) carries the prescribed fire suppression equipment.

Penalty: \$800.

(3) The Chief Officer may exempt a person from compliance with sub-section (2) (c) where in his opinion the circumstances surrounding the operation of the tractor, traction engine or machine warrant it."

16. (1) In section 55 of the Principal Act, paragraph (c) shall be repealed.

Amendment of
No. 6228 s. 55.

(2) This section shall be deemed to have come into operation on 1 July 1983.

Amendment of
No. 6228, s. 62.

17. In section 62 of the Principal Act—

- (a) in the interpretation of "Casual fire-fighter" the words "Victoria outside the metropolitan fire district" are repealed; and
- (b) in the interpretation of "Officer in charge" after the expression "Regional Officer" there shall be inserted the expression "Deputy Regional Officer".

Amendment of
No. 6228, s. 68.

18. In section 68 (1) of the Principal Act, the words "Victoria outside the metropolitan fire district" are repealed.

Amendment of
No. 6228, s. 69.

19. In section 69 (1) of the Principal Act—

- (a) the words "Victoria outside the metropolitan fire district" are repealed;
- (b) for the expression "destroyed or damaged" there shall be substituted the expression "destroyed, damaged or lost" and for the expression "destruction or damage" there shall be substituted the expression "destruction, damage or loss"; and
- (c) in paragraph (a) of the proviso for the expression "\$40" there shall be substituted the expression "\$200".

Amendment of
No. 6228, s. 97.

20. In section 97 (1) of the Principal Act, for the word "men" there shall be substituted the word "persons".

Amendment of
No. 6228, s. 100.

21. For section 100 (2) (b) of the Principal Act, there shall be substituted the following paragraph:

- "(b) by not more than fifteen members of a committee of the governing body of each association in relation to their attendance at such committee meetings of that governing body as are approved by the Authority;"

Amendment of
No. 6228, s. 108.

22. In section 108 of the Principal Act, after the expression "a Regional Officer" there shall be inserted the expression "a Deputy Regional Officer".

Amendment of
No. 6228, s. 110.

23. In section 110 of the Principal Act—

- (a) in sub-section (1) (g) for the word "wife" there shall be substituted the word "spouse"; and

- (b) after sub-section (2) there shall be inserted the following sub-sections:

“(2A) A regulation made under this section may incorporate or adopt by reference in whole or in part and with or without modifications any standard formulated by the Standards Association of Australia.

(2B) Any condition or restriction prescribed under sub-section (1) (va) may be varied in respect of individual sawmills by the Chief Officer.”.

24. The Principal Act shall be amended as follows:

- (a) In section 1, for the word “Advisory” (where three times occurring) there shall be substituted the words “Fire Prevention”;
- (b) In the Heading of Part IV., for the word “Advisory” there shall be substituted the words “Fire Prevention”;
- (c) In the Heading of Division 2 of Part IV., for the word “Advisory” there shall be substituted the words “Fire Prevention”;
- (d) In section 52 (1) for the word “advisory” there shall be substituted the words “fire prevention”;
- (e) In section 53, for the word “advisory” (where twice occurring) there shall be substituted the words “fire prevention”;
- (f) In the Heading of Division 3 of Part IV., for the word “Advisory” there shall be substituted the words “Fire Prevention”;
- (g) In section 54, for the word “advisory” (where twice occurring) there shall be substituted the words “fire prevention”;
- (h) In section 55, for the word “advisory” (where three times occurring) there shall be substituted the words “fire prevention”;
- (i) In section 56, for the word “advisory” there shall be substituted the words “fire prevention”; and
- (j) In section 60, for the word “advisory” (where twice occurring) there shall be substituted the words “fire prevention”.

Amendment of
No. 6228, ss. 1,
52, 53, 54, 55, 56
and 60.