

# NORTHERN TERRITORY OF AUSTRALIA

## BUSHFIRES ACT

As in force at 13 November 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 13 November 2014

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## BUSHFIRES ACT

### An Act relating to the prevention and suppression of bushfires

#### Part I Preliminary

##### 1 Short title

This Act may be cited as the *Bushfires Act*.

##### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

##### 3 Repeal and savings

- (1) The Ordinances listed in the Schedule are repealed.
- (2) Notwithstanding the repeal effected by subsection (1):
  - (a) the Fire Control Regions into which the Territory was divided by or under the *Bush Fires Control Act* immediately before the commencement of this Act are deemed to be fire control regions declared under section 10 at the commencement of this Act;
  - (b) a fire protection zone declared under section 26(2)(d) of the *Bush Fires Control Act* and in existence immediately before the commencement of this Act is deemed to be a fire protection zone declared under section 33 at the commencement of this Act;
  - (c) a permit issued under the *Bush Fires Control Act* and in force immediately before the commencement of this Act shall continue in force and may be varied or revoked as though it were a permit issued under this Act;
  - (d) a volunteer bushfire brigade established under the *Bush Fires Control Act* and in existence immediately before the commencement of this Act continues in existence but may be dissolved as though it had been established under this Act as

a volunteer bushfire brigade on the date of commencement of this Act; and

- (e) a notice or caveat under the *Bush Fires Control Act* and in force at the commencement of this Act may be acted upon or dealt with as though this Act had not commenced.

## 4 Exemptions

This Act does not apply to or in relation to an emergency response area within the meaning of the *Fire and Emergency Act*.

## 5 Interpretation

- (1) In this Act, unless the contrary intention appears:

**adjoining**, in relation to land, includes land separated by a road, railway, creek or other watercourse or a stock route within the meaning of the *Livestock Act*.

**bush** includes trees, shrubs, bushes, plants, scrub, stubble, grass and undergrowth, whether alive or not and whether standing or not.

**Chairman** means, as the case requires, the Chairman of the Council or a Regional Committee appointed under section 18(a), and includes the Deputy Chairman of the Council or that Regional Committee, as the case may be.

**Chief Fire Control Officer** means the Chief Fire Control Officer appointed under section 9A(1).

**control**, in relation to a fire, includes extinguish.

**Council** means the Bushfires Council established by section 6.

**Deputy Chairman** means, as the case requires, the Deputy Chairman of the Council or a Regional Committee appointed under section 18(b).

**fire ban area** means the part of the Territory specified in a notice under section 43 that is in force.

**fire ban day** means a fire ban day declared under section 43.

**fire control officer** means a fire control officer appointed by or under section 11.

**fire control region** means a fire control region declared under section 10.

**fire danger area** means the part of the Territory specified in a notice under section 37 that is in force.

**fire danger period** means a fire danger period declared under section 37.

**fire protection zone** means a fire protection zone declared under section 33.

**fire warden** means a fire warden appointed by or under section 31.

**flammable material** includes:

- (a) all substances or matter capable of ignition or combustion by the application of heat or fire, by means of a spark or flame or by spontaneous causes; and
- (b) all substances or matter prescribed to be flammable material.

**land** includes water.

**member** means, as the case requires, a member of the Council or a member of a Regional Committee.

**occupier**, in relation to land or a building, means a person having charge or control of the land or building and, in relation to land in respect of which a licence that is in force is held under the *Crown Lands Act* (other than a licence granted under section 91 of that Act), includes the holder of the licence.

**permit** means a permit issued under this Act.

**Regional Committee** means a Regional Bushfires Committee established by section 12.

**Senior Fire Control Officer** means a Senior Fire Control Officer appointed under section 9B(1).

**use a fire** includes:

- (a) light a fire;
- (b) cause a fire to be lit;
- (c) maintain a fire; and
- (d) do any act that is likely to result in spreading fire or causing a fire to occur.

(2) A reference in this Act to the giving of a public notice of an act is a reference to:

- (a) publishing notice of that act in a newspaper printed and circulating; or
- (b) broadcasting notice of that act between the hours of 6 and 8 o'clock in the morning over a radio station transmitting on the medium wave band,

in the Territory or, where the act relates only to a part of the Territory, in that part.

## **Part II                      Administration**

### **Division 1                      Bushfires Council**

#### **6                      Bushfires Council**

There is established by this Act a council which shall be known as the Bushfires Council.

#### **7                      Members**

The Council consists of not less than 9 members.

#### **9                      Functions**

The functions of the Council are:

- (a) to advise the Minister on measures to be taken to prevent and control bushfires in the Territory; and
- (b) to exercise and discharge such powers, duties and functions as are conferred or imposed on it by or under this or any other Act.

### **Division 1A                      Chief Fire Control Officer and Senior Fire Control Officers**

#### **9A                      Chief Fire Control Officer**

- (1) The Minister may, by notice in the *Gazette*, appoint a person to be Chief Fire Control Officer.
- (2) The functions of the Chief Fire Control Officer are:
  - (a) to implement measures for fire prevention and control arising out of advice given by the Council under section 9(a); and

(b) to assist the Council generally in the exercise and performance of its powers, duties and functions,

and the Chief Fire Control Officer has all such powers as are necessary to carry out his functions.

- (3) The Chief Fire Control Officer may, by instrument in writing, delegate to a person any of his powers and functions under subsection (2).
- (4) A power or function so delegated, when exercised or performed by the delegate, shall be deemed for the purposes of this Act to have been exercised or performed by the Chief Fire Control Officer.
- (5) A delegation under section (3) does not prevent the exercise of a power or the performance of a function by the Chief Fire Control Officer.

#### **9B Senior Fire Control Officers**

- (1) The Minister may, by notice in the *Gazette*, appoint a person to be a Senior Fire Control Officer.
- (2) The function of a Senior Fire Control Officer is to assist the Chief Fire Control Officer in the exercise and performance of his powers and duties as such, and a Senior Fire Control Officer has all such powers as are necessary for that purpose.

### **Division 2 Fire control regions, fire control officers and Regional Committees**

#### **10 Fire control regions**

The Minister may, by notice in the *Gazette*:

- (a) declare any land to be a fire control region with the name specified in the notice; and
- (b) vary the boundaries or name of or revoke the declaration of a fire control region.

#### **11 Fire control officers**

- (1) The Minister may, by instrument in writing, appoint a person to be a fire control officer in respect of a fire control region.
- (2) The Chief Fire Control Officer and a Senior Fire Control Officer are fire control officers for all fire control regions.



**12                      Regional Committees**

There is established by this Act, in respect of each fire control region, a Regional Bushfires Committee.

**13                      Members**

Each Regional Committee consists of not less than 3 but not more than 6 members.

**14                      Fire control officer to be member**

The fire control officer for a fire control region (but not the Chief Fire Control Officer or a Senior Fire Control Officer in his capacity as a fire control officer by virtue of section 11(2)) is a member of the Regional Committee for that region.

**15                      Functions**

The functions of each Regional Committee are:

- (a) to advise the Council on measures to be taken to prevent and control bushfires in its fire control region;
- (b) to prevent and control bushfires in its fire control region; and
- (c) to exercise and discharge such powers, duties and functions as are conferred or imposed on it by or under this or any other Act.

**Division 3                      Provisions applicable to the Council and Regional Committees**

**16                      Definition**

In this Division, ***statutory body*** means, as the case requires, the Council or a Regional Committee.

**17                      Appointment**

Subject to this Act, the Minister may, by instrument in writing, appoint a person to be a member.

**18                      Chairman and Deputy Chairman**

The Minister may, by instrument in writing, appoint:

- (a) a member to be Chairman; and
- (b) a member to be Deputy Chairman.

**19                      Notification of appointment**

The appointment of a person as a member:

- (a) shall be notified in the *Gazette*; and
- (b) shall take effect on:
  - (i) the date of the instrument by which he was so appointed; or
  - (ii) if there is a later date specified in the instrument – that later date.

**20                      Term of office**

Subject to this Act, each member holds office for:

- (a) the period specified in the instrument of his appointment; or
- (b) 3 years,

whichever is shorter, but is eligible for reappointment.

**21                      Exercise of power not invalid**

The exercise of a power or the performance of a function by a statutory body is not invalid by reason only of there being a vacancy in the membership of the statutory body.

**22                      Temporary appointments**

- (1) Where:
  - (a) there is, or is expected to be, a vacancy in the office of a member; or
  - (b) a member is, or is expected to be, absent or unable to act,the Minister may, by instrument in writing, authorize a person to act in the office of that member.
- (2) The power of the Minister under subsection (1) includes the power to authorize a person to act in the office of a member from time to time during the absence or inability to act of the member.
- (3) This Act applies to and in relation to a person who is authorized under this section to act in an office, while he is so acting, as though he were the holder of that office.

## **23                      Removal from office**

- (1) The Minister may remove a member from office if the member is, in the opinion of the Minister, guilty of misbehaviour or incompetence.
- (3) The Minister may remove a member:
  - (a) of a Regional Committee from office if the member changes his place of residence to a place outside the fire control region of that Committee; or
  - (b) of the Council from office if the member changes his place of residence to a place outside the Territory.
- (4) The Minister shall remove a member from office if the member:
  - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
  - (b) is, in the opinion of the Minister, of unsound mind; or
  - (c) is absent from 3 consecutive meetings of the statutory body without leave of the statutory body.
- (5) A member may resign his office by writing under his hand delivered to the Minister.

## **24                      Conflicting interests**

- (1) If a member has a direct or indirect pecuniary interest in any matter which is the subject of consideration at a meeting of the statutory body of which he is a member he shall, as soon as possible after he knows that he has the interest and that that statutory body is considering the matter, disclose his interest to that statutory body.
- (2) A statutory body may direct a member who has disclosed an interest in a matter under subsection (1) to refrain from taking part in the deliberations of the body in relation to that matter, and the member shall comply with the direction.

Maximum penalty:        8 penalty units.

- (3) A member required under subsection (2) to refrain from taking part in the deliberation of the statutory body of which he is a member shall be disregarded for the purpose of determining whether a quorum has been formed.

**25                      Interests in companies**

Without limiting section 24, a member who owns or controls a share in, is a member of the governing body of, or is an employee of, a company which has a direct or indirect pecuniary interest in a matter has a direct or indirect pecuniary interest in that matter.

**26                      Protection of members**

A person acting with the authority of a statutory body is not personally liable in respect of any matter or thing done or contract entered into by that person, if the matter or thing was done or the contract was entered into by that person in good faith for the purpose of executing this Act or any other Act conferring or imposing powers, duties or functions on the body.

**27                      Meetings**

- (1) Subject to this section, a statutory body shall hold such meetings as the Chairman considers necessary for the efficient conduct of its affairs.
- (2) A Chairman of a Regional Committee shall, upon being required to do so by the Council, call a meeting of that Committee in accordance with that requirement.

**28                      Procedure**

Subject to this Act, the procedure for:

- (a) calling meetings; and
- (b) the conduct of meetings of a statutory body,

shall be as determined from time to time by the Chairman.

**29                      Minutes**

A statutory body shall cause minutes to be kept of all its meetings.

**30                      Quorum, &c.**

- (1) At a meeting of:
  - (a) the Council – 5 members; and
  - (b) a Regional Committee – a number of members equal to not less than one-half of the number of members of that Committee,form a quorum.

- (2) At a meeting of a statutory body:
- (a) all questions shall be decided by a majority of the votes of the members present; and
  - (b) the Chairman or, if he is not present, the Deputy Chairman:
    - (i) shall preside; and
    - (ii) has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**30A        Member shall not disclose information**

A member shall not disclose information obtained in the course of his duties as a member unless that disclosure is made in the course of those duties.

Maximum penalty:        25 penalty units or imprisonment for  
   3 months.

**Division 4            Fire wardens**

**31            Fire wardens**

- (1) The Chief Fire Control Officer, a Senior Fire Control Officer, and each member of the Council is a fire warden for all fire control regions.
- (2) Each member of a Regional Committee is a fire warden for the fire control region in respect of which the Committee is established.
- (3) The Minister may, by instrument in writing, appoint a person to be a fire warden for a fire control region.

**32            Powers of fire wardens**

A fire warden holding office by virtue of section 31(2) or (3) may exercise or perform a power or function conferred or imposed on him by or under this Act in relation to land outside the fire control region in respect of which he holds office.

## **Part III            Prevention and control of bushfires**

### **Division 1        Provisions relating only to fire protection zones**

#### **33            Declaration of fire protection zones**

The Minister may, by notice in the *Gazette*, declare any land to be a fire protection zone.

#### **34            Prohibition, &c., by notice**

- (1) The Minister may, by public notice, if he is satisfied that the prohibition or requirement is necessary for the protection from bushfire of land within a fire protection zone, prohibit or require the doing of an act specified in the notice.
- (2) A notice under subsection (1) remains in force for the period specified in the notice.
- (3) A person shall not, without reasonable cause, do an act prohibited by or fail to do an act required by a notice under subsection (1).

Maximum penalty:      40 penalty units or imprisonment for  
   2 years.

#### **35            Setting fire to bush**

A person shall not set fire to any bush or other flammable material on land within a fire protection zone except with and in accordance with the terms of a permit.

Maximum penalty:      220 penalty units or imprisonment for  
   5 years.

### **Division 2        Provisions relating to fire protection zones and fire danger areas**

#### **36            Application**

- (1) Subject to subsection (2), this Division applies to and in relation to land:
  - (a) within a fire protection zone; or
  - (b) within a fire danger area during a fire danger period.

- (2) The Minister may, by public notice, declare that the provisions of this Division specified in the notice do not apply to or in relation to land in a specified fire protection zone, and those provisions thereupon do not so apply during the period specified in the notice.

### **37                      Declaration of fire danger areas**

- (1) Subject to this Act, the Minister may, by public notice, declare a period specified in the notice to be a fire danger period in such part of the Territory as is specified in the notice or in the whole of the Territory.
- (2) A declaration under subsection (1) ceases to have effect at the expiration of the period specified in the notice.

### **38                      Conditions for small fires**

A person shall not light or use a fire in the open for the purpose of camping, cooking, boiling water or disposing of the carcass of an animal unless:

- (a) the nearest flammable matter to the fire is not less than 4 metres distant from the fire; and
- (b) such other conditions in relation to the lighting or use of the fire as are prescribed are complied with.

Maximum penalty:        40 penalty units or imprisonment for  
   2 years.

### **39                      Conditions for certain other fires**

A person shall not use a fire for the purpose of clearing land or mustering cattle or burning a fire-break:

- (a) except with and in accordance with the terms of a permit; and
- (b) unless he has given not less than 48 hours notice of his intention to do so to each occupier having charge or control of each parcel of land adjoining the land on which the fire is to be used.

Maximum penalty:        220 penalty units or imprisonment for  
   5 years.

**40            Fires not to be left**

- (1) A person shall not leave a fire in the open which he has lit or used unless he has thoroughly extinguished it.

Maximum penalty:        220 penalty units or imprisonment for  
5 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) that the defendant had, before leaving the fire, arranged with a responsible person who also used the fire to remain at the place where the fire is and not leave it unless that person has:

- (a) thoroughly extinguished the fire; or
- (b) made a similar arrangement with another responsible person who used the fire.

**41            Matter not to be thrown down**

A person shall not throw down, whether from a vehicle or otherwise, to within 4 metres of any flammable matter, any burning or smouldering matter.

Maximum penalty:        40 penalty units or imprisonment for  
2 years.

**42            Spark arresters**

A person shall not start or drive a motor vehicle within the meaning of the *Motor Vehicles Act* or start an engine unless there is fitted to that vehicle or engine the prescribed equipment or equipment of the type prescribed for arresting sparks.

Maximum penalty:        40 penalty units or imprisonment for  
2 years.

**Division 3            Fire ban areas**

**43            Declaration of fire ban areas**

The Minister may, by public notice, declare a day specified in the notice to be a fire ban day in respect of such part of the Territory as is specified in the notice or the whole of the Territory.



**44            Prohibition on the use of fires**

- (1) Subject to this section, the Minister may, by public notice, prohibit the use in the open of a fire or any class of fire specified in the notice on a fire ban day in a fire ban area.
- (2) A notice under subsection (1) shall not prohibit fires used for cooking or boiling water where:
  - (a) the nearest flammable matter to the fire is not less than 4 metres distant from the fire; and
  - (b) such other conditions in relation to the lighting or use of the fire as are prescribed are complied with.
- (3) A person shall not, on a fire ban day, light or use in a fire ban area a fire which is or a fire of a class which is prohibited in that area under subsection(1).

Maximum penalty:        220 penalty units or imprisonment for  
   5 years.

**45            Fires to be extinguished**

- (1) A person who has, in a fire ban area, immediately before the commencement of a fire ban day, used a fire which is, or a fire of a class which is, prohibited under section 44(1) shall:
  - (a) thoroughly extinguish the fire; or
  - (b) if he is unable to thoroughly extinguish the fire, without delay notify a fire control officer or fire warden of that fact.

Maximum penalty:        40 penalty units or imprisonment for  
   2 years.

- (2) A fire control officer or fire warden who has been notified of a fire under subsection (1) may give to the person who so notified him such directions, for the purpose of controlling the fire, as he thinks fit.
- (3) A person who has been directed to do or not do a thing under subsection (2) shall comply with and not contravene the direction.

Maximum penalty:        40 penalty units or imprisonment for  
   2 years.

**46 Permits suspended**

Notwithstanding any other provision of this Act, a permit shall not be taken to authorize the use of a fire in a fire ban area.

**Part IV Fire-fighting****47 Fire-breaks**

- (1) Where the Chief Executive Officer considers that it is necessary for fire-breaks to be established on, or flammable material to be removed from, any land, he may by instrument in writing served on:
  - (a) the owner, lessee, licensee, mortgagee in possession of or occupier of; or
  - (b) the person managing or controlling or apparently managing or controlling the use of,  
  
that land,
  - (c) state that he intends to serve a notice under subsection (2) in respect of that land unless the person on whom the instrument is served, within 72 hours after service on him of the instrument, makes representations to the Chief Executive Officer giving reasons why the proposed notice should not be served on him; and
  - (d) indicate the contents of the proposed notice.
- (2) If no representations are made under subsection (1) to the Chief Executive Officer or he considers that representations made to him do not disclose sufficient reason for him not to proceed, the Chief Executive Officer may serve on the person on whom an instrument was served under subsection (1) a notice requiring that person to:
  - (a) establish on the land such fire-breaks as are specified in the notice; or
  - (b) remove from the land such flammable material as is specified in the notice.
- (3) A notice under subsection (2):
  - (a) may specify the time within which the act specified in the notice is to be completed;

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- (b) if it requires the establishing of fire-breaks, may:
    - (i) specify the method of establishing those fire-breaks; and
    - (ii) require that the fire-breaks be maintained to the satisfaction of a fire warden for the period specified in the notice;
  - (c) if it requires the removal of flammable material, may require the destruction or disposal of that material by a method specified in the notice; and
  - (d) shall state that the person on whom it is served may, within 7 days after the service on him of the notice, request the Minister to review the terms of the notice.
- (3A) A person on whom a notice under subsection (2) has been served may, within 7 days after the service on him of the notice, apply in writing to the Minister requesting the Minister to review the terms of the notice, setting out the reasons for such application, and the Minister may confirm, cancel or vary the notice in such manner as he thinks fit.
- (3B) A person on whom a notice under subsection (2) has been served shall comply with and not contravene the requirements contained in the notice as served on him or as confirmed or varied by the Minister under subsection (3A), as the case may be.
- Maximum penalty: 40 penalty units or imprisonment for 2 years and 4 penalty units for each day during which the offence continues.
- (3C) The Chief Executive Officer shall advise the Council, at its meeting next following service by him of a notice under subsection (2), of the terms of the notice.
- (4) Where a person served with a notice under subsection (2) fails to comply with the notice, a person authorized in writing by the Chief Executive Officer for the purposes of this section may enter upon the land the subject of the notice and do such things as are necessary to comply with the notice, whether by himself or his employees, agents, licensees, servants or contractors, and with or without equipment and machinery.
- (5) The cost to the Territory of work carried out under subsection (4) is a debt due and payable to the Territory and a statutory charge, within the meaning of the *Land Title Act*, on the land.
- (6) An offence against subsection (3B) is a regulatory offence.

**48        Setting fires**

Subject to this Act, a person shall not set fire or cause fire to be set to land or property belonging to any other person under such circumstances as to cause or be likely to cause damage to that other person or that land or property.

Maximum penalty:        220 penalty units or imprisonment for  
5 years.

**49        Fires to be controlled**

- (1) The owner or occupier of any land shall, immediately upon becoming aware that a fire has started on the land which he owns or occupies, as the case may be, which fire is likely to spread to other land, take all reasonable steps to control the fire and, if he is unable to control it, shall, without delay, notify:

- (a) a fire warden or fire control officer; and
- (b) the person having charge or control of each parcel of land to which the fire is likely to spread, or a responsible person employed by or under each such person,

of that fact.

Maximum penalty:        40 penalty units or imprisonment for  
2 years.

- (2) The user of a fire on land shall, immediately upon becoming aware that the fire is likely to spread, take all reasonable steps to control the fire and, if he is unable to control it, shall, without delay, notify:

- (a) a fire warden or fire control officer;
- (b) the person having charge or control of the land on which the fire is burning, or a responsible person employed by or under that person; and
- (c) the person having charge or control of each parcel of land to which the fire is likely to spread, or a responsible person employed by or under each such person,

of that fact.

Maximum penalty:        40 penalty units or imprisonment for  
2 years.

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- (3) A fire warden or fire control officer may give such directions as he thinks fit in relation to controlling the fire to a person who notified him under subsection (2), and that person shall comply with and not contravene the directions.

Maximum penalty: 40 penalty units or imprisonment for 2 years.

## **50 Powers of fire control officer and fire warden**

- (1) Subject to this section, a fire control officer and fire warden may do any act (whether or not it involves the use of fire) necessary for or incidental to:
- (a) controlling a bushfire; or
  - (b) protecting property or the life of any person from existing or imminent danger arising out of a bushfire.
- (2) If a fire control officer is present at a bushfire a fire warden shall not exercise the power conferred by subsection (1) except with and in accordance with the directions of that officer.
- (2A) Where the Chief Fire Control Officer is present at a bushfire, neither any other fire control officer nor any fire warden shall exercise the power conferred by subsection (1) except with and in accordance with the directions of the Chief Fire Control Officer.
- (2B) Where a Senior Fire Control Officer is present at a bushfire, but the Chief Fire Control Officer is not, neither any other fire control officer nor any fire warden shall exercise the power conferred by subsection (1) except with and in accordance with the directions of the Senior Fire Control Officer.
- (3) Without limiting the generality of subsection (1), the power to do an act includes the power:
- (a) to enter any building or upon any land;
  - (b) to pull down, cut or remove any fence;
  - (c) to destroy or pull down any building or structure, wholly or partially;
  - (d) to cause any road or public place in the vicinity of the bushfire to be closed to traffic and the movement of persons;
  - (e) to destroy any living or dead vegetation or any flammable substance;

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- (f) to establish, by using fire or otherwise, fire-breaks, notwithstanding any other provision of this Act;
  - (g) to take and use water from any source, other than water :
    - (i) in a tank, dam or well connected to a dwelling; and
    - (ii) used by a person as a supply of drinking water; and
  - (h) to do any other act necessary for or incidental to the exercise of any of the powers mentioned in this section.

## **51 Ancillary powers**

- (1) A fire control officer and fire warden may:
  - (a) at any time without a warrant, enter land:
    - (i) to examine a fire burning in the open on that land or any neighbouring land;
    - (ii) to investigate the cause of a bushfire (whether during or after the bushfire); or
    - (iii) if he or she suspects on reasonable grounds that an offence against this Act or the Regulations has been committed on the land – to investigate the offence;
  - (b) require a person reasonably suspected of having committed an offence against this Act or the Regulations:
    - (i) to give his or her full name and place of residence; and
    - (ii) to produce any permit held by him or her;
  - (c) require a person who has lit or is using a fire in contravention of this Act or the Regulations to extinguish the fire immediately, or before the person leaves the site of the fire, as the fire control officer or fire warden thinks fit; and
  - (d) at a reasonable time without a warrant, enter land to assess whether it is necessary for firebreaks to be established on, or flammable material to be removed from, the land.
- (2) In conducting an investigation referred to in subsection (1)(a)(ii) or (iii), the fire control officer or fire warden may:
  - (a) carry out a search of the land;
  - (b) carry out a search of any vehicle or vessel on the land; and

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- (c) seize anything found on the land, vehicle or vessel that he or she believes on reasonable grounds is connected with the cause of a bushfire or the commission of an offence.
  - (3) Before carrying out an assessment referred to in subsection (1)(d), if there is a person on the land who is or appears to be the occupier of the land, the fire control officer or fire warden must produce to the person proof of his or her appointment as a fire control officer or fire warden.

## **52 Offence to hinder fire control officer or warden**

- (1) A person shall not hinder a fire control officer or fire warden in the exercise of a power conferred by section 50 or 51.

Maximum penalty: 40 penalty units or imprisonment for 2 years.

- (2) A person shall not:
  - (a) fail to comply with a requirement made by a fire control officer or a fire warden in the exercise of a power conferred (whether or not by express words) by section 50 or 51; or
  - (b) give false information or produce a false document to a fire control officer or fire warden exercising a power conferred by section 50 or 51.

Maximum penalty: 40 penalty units or imprisonment for 2 years.

## **53 Damage**

- (1) A person who causes damage in the course of exercising a power conferred on him by this Act is not liable in respect of that damage.
- (2) Damage occurring in the exercise of a power conferred by section 50 to property which was, when the power was exercised, in need of protection from an existing bushfire or from imminent danger of a bushfire shall, for the purposes of any insurance policy against fire which covers the property, be deemed to be damage arising out of a bushfire.
- (3) Any provision, stipulation, covenant or condition in any agreement (whether made before or after the commencement of this Act) which negatives, limits or modifies or purports to negative, limit or modify the operation of subsection (2) is void and of no effect.

**54                      Acquisition of gear**

The Minister may acquire, whether by purchase or otherwise, and maintain such vehicles (including aircraft) and equipment as he thinks necessary for the purpose of preventing or controlling bushfires.

**55                      Provision of financial assistance**

The Minister may provide such financial or other assistance to the owner or occupier of any land, on such terms as he thinks fit, to assist that owner or occupier in the prevention and control of bushfires on his land.

**56                      Establishment of volunteer bushfire brigades**

- (1) The Minister may, by notice in the *Gazette*, establish such volunteer bushfire brigades, with such names, as are specified in the notice.
- (2) A notice under subsection (1) shall:
  - (a) specify the area in respect of which the brigade established by the notice is to conduct its operations; and
  - (b) appoint a person to be the first captain of the brigade.

**Part V                      General**

**56A                      Entry onto Aboriginal land**

Where, by or under this Act, a person is empowered to go onto land of which he or she is not the occupier, or it is necessary or convenient for a person to go onto land for the purpose of carrying out an obligation or function, or exercising a power, imposed or conferred on him or her by or under this Act, the person may go onto the land for that purpose notwithstanding that:

- (a) the land is Aboriginal land within the meaning of the *Aboriginal Land Act*; and
- (b) the person does not hold a permit under that Act to enter or remain on that land.

**57                      Permits**

- (1) Any person may apply to a fire control officer or fire warden for a permit.



- (2) A fire control officer or fire warden to whom an application under subsection (1) is made shall determine the application by:
  - (a) issuing, either conditionally or unconditionally, a permit; or
  - (b) refusing to issue a permit.
- (3) A permit issued under or pursuant to this Act shall:
  - (a) be in writing;
  - (b) specify:
    - (i) the land to which it relates; and
    - (ii) the period during which it is in force; and
  - (c) contain such conditions as the fire control officer or fire warden who issues it thinks fit.
- (4) A permit may be varied or revoked orally by a fire control officer or fire warden.

#### **57A Territory may recover expenses**

- (1) The Chief Fire Control Officer may, in a court of competent jurisdiction, recover from a person an amount expended by the Territory as a result of the person's contravention of or failure to comply with a provision of this Act or the Regulations.
- (2) An amount recoverable under this section is a debt due to the Territory.

#### **58 Averments**

An averment by the prosecutor in a complaint or information in relation to a prosecution for an alleged offence against this Act that:

- (a) a specified day was:
  - (i) within a fire danger period; or
  - (ii) a fire ban day;
- (b) a specified area of land was, at a specified time, within:
  - (i) a fire protection zone;
  - (ii) a fire danger area; or
  - (iii) a fire ban area;

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- (c) a specified fire-place had not, at a specified time, been approved by the Council;
  - (d) a specified fire was a fire the use of which, or a fire of a class the use of which, had been prohibited under section 44(1) on the land on which it was burning; or
  - (e) a specified person was a fire control officer or fire warden,
- is evidence of the fact so averred.

## **59 Service of notices**

A notice required or permitted by this Act to be served on or given to a person may be so served or given:

- (a) by handing it or tendering it to that person;
- (b) by post;
- (c) by leaving it with some person apparently over the age of 16 years at the last-known or usual abode or place of business of the first-mentioned person; or
- (d) if the address of the first-mentioned person is not known, by publishing the notice in the *Gazette*.

## **60 Contribution for fire-breaks**

A person served with a notice under section 47 who expends money in complying with the notice may recover as a debt due to him:

- (a) if he is not the owner of the land specified in the notice – from the owner of that land the amount of money so expended; or
- (b) if he is the owner of that land – from the other owners of that land such proportion of the amount of money so expended as the court thinks fit.

## **61 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

- (2) Without limiting the generality of subsection (1), the Regulations may make provision for or with respect to:
  - (a) the functions and management of volunteer bushfire brigades; and
  - (b) the conditions under which camp-fires and fires for the purpose of disposing of animal carcasses or household or other rubbish may be used.
- (3) The Regulations may provide for any of the following matters:
  - (a) the application, adoption or incorporation (wholly or in part and with or without modification) of an instrument or other document as in force at a particular time or from time to time;
  - (b) maximum penalties of 85 penalty units for offences against the Regulations;
  - (c) offences against the Regulations to be regulatory offences;
  - (d) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act or the Regulations, the service of a notice relating to the payment of the amount on a person alleged to have committed the offence and the particulars to be included in the notice.

**Schedule      Repealed Ordinances**

section 3

*Bush Fires Control Ordinance 1965 (No. 45 of 1965)*  
*Bush Fires Control Ordinance 1966 (No. 36 of 1966)*  
*Bush Fires Control Ordinance 1967 (No. 23 of 1967)*  
*Bush Fires Control Ordinance 1968 (No. 32 of 1968)*  
*Bush Fires Control Ordinance 1970 (No. 19 of 1970)*  
*Bush Fires Control Ordinance 1976 (No. 31 of 1976)*

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## ENDNOTES

**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

**2****LIST OF LEGISLATION*****Bushfires Act 1980 (Act No. 33, 1980)***

Assent date	19 March 1980
Commenced	13 June 1980 ( <i>Gaz</i> G24, 13 June 1980, p 12)

***Bushfires Amendment Act 1982 (Act No. 26, 1982)***

Assent date	16 June 1982
Commenced	16 June 1982

***Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)***

Assent date	28 November 1983
Commenced	1 January 1984 (s 2, s 2 <i>Criminal Code Act 1983</i> (Act No. 47, 1983), <i>Gaz</i> G46, 18 November 1983, p 11 and <i>Gaz</i> G8, 26 February 1986, p 5)

***Bushfires Amendment Act 1984 (Act No. 32, 1984)***

Assent date	20 July 1984
Commenced	10 October 1984 ( <i>Gaz</i> G40, 10 October 1984, p 4)

***Statute Law Revision Act 1985 (Act No. 49, 1985)***

Assent date	1 October 1985
Commenced	1 October 1985

***Bushfires Amendment Act 1985 (Act No. 70, 1985)***

Assent date	24 December 1985
Commenced	24 December 1985

***Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)***

Assent date	30 June 1986
Commenced	1 July 1986 (s 2)

***Bushfires Amendment Act 1988 (Act No. 25, 1988)***

Assent date	1 September 1988
Commenced	1 September 1988

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***Bushfires Amendment Act 1989 (Act No. 48, 1989)***

Assent date	20 September 1989
Commenced	8 November 1989 (Gaz G44, 8 November 1989, p 3)

***Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)***

Assent date	14 December 1990
Commenced	1 January 1991 (s 2, s 2 <i>Corporations (NT) Act 1990</i> (Act No. 56, 1990) and Gaz S76, 21 December 1990)

***Bushfires Amendment Act 1992 (Act No. 13, 1992)***

Assent date	23 April 1992
Commenced	23 April 1992

**Amending Legislation**

***Statute Law Revision Act 1993 (Act No. 6, 1993)***

Assent date	18 March 1993
Commenced	18 March 1993

***Pastoral Land (Consequential Amendments) Act 1992 (Act No. 39, 1992)***

Assent date	25 June 1992
Commenced	26 June 1992 (s 2, s 2 <i>Pastoral Land Act 1992</i> (Act No. 17, 1992) and Gaz S33, 26 June 1992)

***Real Property Statutory Charges Consequential Amendments) Act 1993 (Act No. 77, 1993)***

Assent date	23 November 1993
Commenced	1 October 1994 (s 2, s 2 <i>Real Property Amendment Act (No. 2) 1993</i> (Act No. 76, 1993) and Gaz G37, 14 September 1994, p 2)

***Parks and Wildlife Commission (Consequential Amendments) Act 1995 (Act No. 46, 1995)***

Assent date	15 November 1995
Commenced	29 November 1995 (s 2, s 2 <i>Conservation Commission Amendment Act 1995</i> (Act No. 43, 1995) and Gaz S42, 29 November 1995)

***Fire and Emergency (Consequential Amendments) Act 1996 (Act No. 15, 1996)***

Assent date	19 April 1996
Commenced	1 May 1996 (s 2, s 2 <i>Fire and Emergency Act 1996</i> (Act No. 14, 1996) and Gaz S10, 1 May 1996)

***Statute Law Revision Act 1996 (Act No. 42, 1996)***

Assent date	17 September 1996
Commenced	17 September 1996

***Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)***

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 <i>Land Title Act 2000</i> (Act No. 2, 2000) and Gaz G38, 27 September 2000, p 2)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2 and s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

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***Bushfires Amendment Act 2003 (Act No. 6, 2004)***

Assent date 7 January 2004  
Commenced 7 January 2004

***Livestock Act 2008 (Act No. 36, 2008)***

Assent date 8 December 2008  
Commenced 1 September 2009 (*Gaz* G34, 26 August 2009, p 3)

***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date 12 July 2013  
Commenced 28 August 2013 (*Gaz* G35, 28 August 2013, p 2)

***Statute Law Revision Act 2014 (Act No. 38, 2014)***

Assent date 13 November 2014  
Commenced 13 November 2014

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 4 *Statute Law Revision Act 1993* (Act No. 6, 1993)

### 4 LIST OF AMENDMENTS

s 4 amd No. 46, 1995, s 3; No. 15, 1996, s 4  
s 5 amd No. 26, 1982, s 3; No. 48, 1989, s 4; No. 39, 1992, s 3; No. 46, 1995, s 3; No. 36, 2008, s 149; No. 38, 2014, s 2  
s 7 amd No. 32, 1984, s 4; No. 42, 1996, s 6  
s 8 rep No. 32, 1984, s 5  
pt II  
div 1A ins No. 48, 1989, s 5  
ss 9A – 9B ins No. 48, 1989, s 5  
pt II  
div 2 sub No. 48, 1989, s 5  
s 11 amd No. 48, 1989, s 6  
s 14 amd No. 48, 1989, s 7  
s 23 amd No. 32, 1984, s 6  
s 24 amd No. 23, 2013, s 14  
s 25 amd No. 18, 1986, s 3; No. 59, 1990, s 4; No. 17, 2001, s 17  
s 30A ins No. 70, 1985, s 2  
amd No. 23, 2013, s 14  
s 31 amd No. 48, 1989, s 8  
s 34 amd No. 6, 2004, s 8; No. 23, 2013, s 14  
s 35 amd No. 6, 2004, s 3; No. 23, 2013, s 14  
ss 38 – 42 amd No. 6, 2004, s 8; No. 23, 2013, s 14  
s 43 amd No. 6, 2004, s 8  
ss 44 – 45 amd No. 6, 2004, s 8; No. 23, 2013, s 14  
s 47 amd No. 21, 1982, s 4; No. 77, 1993, s 3; No. 45, 2000, s 11; No. 6, 2004, s 4; No. 23, 2013, s 14; No. 38, 2014, s 2  
ss 48 – 49 amd No. 6, 2004, s 8; No. 23, 2013, s 14  
s 50 amd No. 48, 1989, s 9  
s 51 amd No. 48, 1989, s 10  
sub No. 6, 2004, s 5  
s 52 amd No. 48, 1989, s 11; No. 6, 2004, s 8; No. 23, 2013, s 14  
s 56 amd No. 13, 1992, s 2  
s 56A ins No. 25, 1988, s 2  
s 57A ins No. 6, 2004, s 6

## ENDNOTES

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- s 58A            ins No. 68, 1983, s 37  
                  amd No. 49, 1985, s 4; No. 48, 1989, s 12  
                  rep No. 6, 2004, s 8
- s 61             amd No. 6, 2004, s 7; No. 23, 2013, s 14