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1977, No. 52

An Act to consolidate and amend the law relating to the safeguarding of life and property by the prevention, detection, control, restriction, suppression and extinction of fire in forest and rural areas and other areas of vegetation
[21 November 1977]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Forest and Rural Fires Act 1977.

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

Cf. 1955, No. 44, s. 1

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Apparatus” includes all haulage or other means of transport, and all machinery, equipment, devices, materials, and things used for or in connection with fire control:

“Area” includes any land, locality, location, or place, whether in a district or not, to which a fire control measure applies or may apply:

“Backburn” means a counterfire commenced from within continuous fuel for the purpose of fighting a fire:

“Brigade” or “fire brigade” means a group of persons organised and trained for the prevention, suppression, and extinction of fires in urban areas, and responsible to the New Zealand Fire Service Commission or a Department of State for discipline and duty; and includes a volunteer fire brigade and an industrial fire brigade registered under the Fire Service Act 1975:

“Broadcast” means broadcast as defined in section 2 of the Broadcasting Act 1976:

“Burnout” means a counterfire commenced from a natural or previously constructed firebreak for the purpose of fighting a fire:

“Conservator of Forests” means any Conservator of Forests appointed under the Forests Act 1949; and includes any person for the time being authorised pursuant to that Act, or the State Services Act 1962, or any other enactment, to exercise and perform the powers and duties of a Conservator of Forests:

“County area” means all the land that is not included in—

(a) A rural fire district; or

(b) A Fire District within the meaning of the Fire Service Act 1975; or

(c) A State area; or

(d) In relation to fire control measures pursuant to section 14 (5) of this Act, the fire safety margin of a State area:

“Director-General” means the Director-General of Forests appointed under the Forests Act 1949; and includes any person for the time being authorised pursuant to that Act, or the State Services Act 1962, or any other enactment, to exercise and perform the powers and duties of the Director-General of Forests:

“District” means, as the case may require —

(a) A county area; or

(b) A rural fire district; or

(c) A State area; or

(d) An area in respect of which the New Zealand Fire Service Commission has entered into an agreement or arrangement with a Fire Authority pursuant to sections 9 (a) and 14 (2) of this Act, but only to the extent of that agreement or arrangement;

(e) An area in respect of which a local authority exercises the functions of a Fire Authority pursuant to section 9 (b) of this Act, but only to the extent approved under that section by the Minister and the New Zealand Fire Service Commission:

“Eligible landholder” means any owner, lessee, sub-lessee, licensee, permittee, or other person having a right lawfully to use or occupy any land or structure for an unexpired period of not less than 10 years, including any rights of extension or renewal; and includes a mortgagee in possession:

“Essential services” means services—

(a) For the supply and distribution of food, water, fuel, power, and other necessities:

(b) For the maintenance of transport and communication facilities essential to the well-being of the community:

(c) For the maintenance of the health of the community:

(d) For the maintenance of law and order, public safety, and the defence of the State:

(e) For the preservation of property at immediate risk of destruction or deterioration:

“Exotic forest” means a forest, woodlot, or plantation comprised principally or entirely of tree species not indigenous to New Zealand:

“Fire Authority” means—

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

(b) In relation to a county area, the county council, district council, or borough council, as the case may be, having territorial jurisdiction in respect of that area:

(c) In relation to any State area, the Minister:

(d) In relation to the fire safety margin of any State area, the Minister to the extent provided by section 14 (5) of this Act:

(e) In relation to any land or other property subject to any agreement or arrangement made pursuant to subsection (1) or subsection (2) of section 14 of this Act, the party thereby appointed to act:

Provided that the powers and duties of that party as a Fire Authority shall extend only as far as is provided by that agreement or arrangement:

(f) In relation to any land or other property in respect of which a local authority exercises the functions of a Fire Authority pursuant to section 9 (b) of this Act, that local authority to the extent approved under that section by the Minister and the New Zealand Fire Service Commission:

“Fire control”, in relation to forest, rural, and other areas of vegetation, means—

(a) The prevention, detection, control, restriction, suppression, and extinction of fire; and

(b) The safeguarding of life and property from damage and risk of damage by or in relation to fire; and

(c) All measures conducive to or intended to further or effect such prevention, detection, control, restriction, suppression, extinction, or safeguarding;—

and “fire control measure” has a corresponding meaning:

“Fire Officer” or “Rural Fire Officer” means a person appointed as a Rural Fire Officer by or pursuant to section 13 of this Act:

“Fire plan” means a statement compiled and issued by a Fire Authority defining policy, chain of command, and procedure, in relation to fire control by that Authority:

“Fire safety margin” means any land (not being the whole or part of a defence area within the meaning of the Defence Act 1971) that—

(a) In relation to a State area, is situated outside that area but within 1.5 km (or such lesser distance as may be approved by the Minister and by any other Fire Authority that is responsible for that area, and notified in the *Gazette*) of the boundary thereof:

- (b) In relation to a forest area, is situated outside that area but within such distance (not exceeding 1.5 km) of the boundary thereof as is approved by the Fire Authority of that area:
- “Firebreak” means a natural or artificial physical barrier against the spread of fire from or into any area of continuous flammable material:
- “Forest” includes, in addition to areas of tree species,—
- (a) All access ways or strips, roads, pathways, snig tracks and other tracks, bridges, airfields, air-strips, helicopter pads, tramways, and railways:
 - (b) All grazing areas, firebreaks, clearings (whether natural or otherwise), and burntover areas:
 - (c) Areas containing thinnings, slash, sawdust, slabs, or other debris:
 - (d) Areas of vegetation other than tree species:
 - (e) All banks, beds, arms, or shores of streams, creeks, reservoirs, rivers, or lakes, or of the sea:
 - (f) All earthworks (including dams and stop-banks):
 - (g) All buildings and other structures,— contained within a forest, or adjacent to and used in connection with a forest:
- “Forest area” means an area of land registered in the Forest Area Register of a Fire Authority pursuant to section 17 of this Act:
- “Forest produce” means trees and plants and the produce of trees and plants:
- “Landholder” means any owner, lessee, sublessee, licensee, holder of a permit, or other person, having a right lawfully to use or occupy any land or structure for an unexpired period of not less than 1 year, including any rights of extension or renewal; and includes a mortgagee in possession:
- “Local authority” means any local authority within the meaning of Part VI of the Local Authorities Loans Act 1956:
- “Maritime Park” means a Maritime Park constituted by the Hauraki Gulf Maritime Park Act 1967 or the area administered by a Maritime Park Board constituted under the Reserves and Domains Act 1953 or any other enactment:
- “Minister” means the Minister of Forests:

“New Zealand Fire Service Commission” means the New Zealand Fire Service Commission constituted by the Fire Service Act 1975:

“Notice” has the meaning set out in section 63 of this Act:

“Open air”, in relation to fires, means otherwise than within—

(a) A fireplace (including any enclosed fireproof place or incinerator for combustion by fire) constructed and maintained in a dwelling or other structure or in any other place to the approval of the public or local authority having jurisdiction to issue the relevant permit to build such dwelling or structure or to authorise the construction or installation of the fireplace; or

(b) An incinerator operated by or with the written approval of the relevant National or Maritime Park Board, or, where a public reserve is vested in the Crown and no administering body of that reserve has been appointed, of the relevant Commissioner of Crown Lands or of a Fire Officer having jurisdiction to issue permits to light fires within the relevant district within which the National or Maritime Park or public reserve is situate; or

(c) Any barbecue, whether fixed or portable,—

(i) Which is of a type or construction prescribed by regulations under this Act or authorised, specifically or generally, by the Fire Officer or Chief Fire Officer within whose jurisdiction the barbecue is to be used; and

(ii) Which is used in any area so prescribed or authorised:

(d) Such other receptacle or place as may from time to time be authorised by the Fire Authority for the relevant District or be prescribed:

“Open season” or “open fire season” means a period of time, whether of fixed or indefinite duration, during which period the lighting of fires in the open air is neither prohibited nor restricted under this Act:

“Owner”, in relation to any land or structure, means the person who for the time being is entitled to the rack rent thereof or who would be so entitled if the land or structure were let at a rack rent; and includes

any public or local authority which for the time being has control of the land or structure; and, in relation to any movables, means the person who for the time being is in possession of such movables:

“Permit”, in relation to the lighting of fires in the open air, means a fire control measure in accordance with which a person may light such fires without committing an offence against section 23 (1) of this Act; and includes a special permit issued pursuant to section 24 of this Act:

“Person” includes any association, body, or authority, whether corporate or not:

“Prescribed” means prescribed by regulations under this Act or by the Minister or Director-General:

“Principal Fire Officer”—

(a) In relation to any State area for which a Principal Rural Fire Officer is appointed by the Minister or any other district for which a Principal Rural Fire Officer is appointed by the Fire Authority, means that officer or, where he is absent or unavailable or unable to act, the person acting as Principal Fire Officer pursuant to the Fire Plan for that area or district:

(b) In relation to any district (other than a State area) for which there is only one Fire Officer, means that officer or, where he is absent or unavailable or unable to act, the person acting as Principal Fire Officer pursuant to the Fire Plan for that district:

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

“Prohibited season” or “prohibited fire season” means a period of time, whether of fixed or indefinite duration, specified pursuant to this Act, during which period the lighting of fires in the open air is prohibited under this Act:

“Property” includes real and personal property, and any estate or interest in any real or personal property, and any debt, and any thing in action, and any other right or interest; and, without limiting the generality of the foregoing words, shall be deemed to include any public work (as defined by

- the Public Works Act 1928) situated within a district, and in particular any stopbank so situated:
- “Restricted season” or “restricted fire season” means a period of time, whether of fixed or indefinite duration, specified pursuant to this Act, during which period permits or authorities are required by this Act for the lighting of fires in the open air:
- “Rural Fire Mediator” or “Mediator” means a Rural Fire Mediator appointed by the Minister pursuant to section 64 of this Act:
- “Rural fire committee” means a rural fire committee constituted under this Act:
- “Rural fire district” means a rural fire district constituted under this Act:
- “Specially protected property” means property which, or the nature of which, has been defined by Order in Council under section 6 of this Act:
- “Specially protected site” means the land, structure, or place on, in, or at which any specially protected property is or may be situated:
- “State area” means—
- (a) Any State forest land within the meaning of the Forests Act 1949; and any land or forest in respect of which the Minister is lessee under section 15 (2) (a) of that Act or acts as agent under section 64 of that Act; and
 - (b) Any National Park within the meaning of the National Parks Act 1952; and
 - (c) Any lands of the Crown within the meaning of section 176 of the Land Act 1948; and
 - (d) All land administered as Maritime Parks; and
 - (e) Any other area or class of land (whether or not vested in or administered by the Crown) declared by Order in Council to be a State area for the purposes of this Act; and
 - (f) As to fire control measures pursuant to section 14 (5) of this Act, the fire safety margin of every State area;—
- but does not include—
- (g) Any area included in a Rural Fire District; or
 - (h) Any State forest land expressly excluded for the time being from any State area by notice published in the *Gazette* by the Director-General; or

(i) Any Fire District within the meaning of the Fire Service Act 1975:

“Sufficiently described”, in respect of any area or parcel of land, or any structure or place, means that the area, parcel, structure or place is described or defined in any manner reasonably sufficient to show its location and extent, including description or definition—

(a) By physical features; or

(b) As all or part of the land controlled by one or more local authorities; or

(c) By boundaries marked by aerial photographs; or

(d) By any other sufficient or popular or un-technical reference—

to the approval of the relevant Fire Authority or Fire Authorities; and “sufficiently describe” and “sufficient description” have corresponding meanings:

“Vegetation” includes—

(a) All plants and the produce thereof, live or dead, standing, fallen, windblown, cut, broken, pulverised, sawn, or harvested, natural or disturbed, in use or as waste, rubbish, refuse or debris, stump, stubble, or otherwise; and

(b) Fossil fuel exposed at or lying within 20 metres of the surface of any land; and

(c) Peat in any form;—

but does not include wood forming part of a structure or otherwise in processed form.

(2) Where any person is empowered or required to do or suffer any thing by or in relation to this Act, or in relation to fire control, but is—

(a) Subject to any disability or incapacity, or is dead, or is for any other reason unable to do or suffer that thing, it shall be lawful and sufficient for the appropriate agent, assignee, receiver, liquidator, manager, guardian, trustee, or personal representative of that person to do or suffer that thing:

(b) An association, body, or authority, whether corporate or not, it shall be lawful or sufficient for a secretary, clerk, manager, director, chairman, mayor, committee member, or other appointee or holder of office, or for its solicitor, to do or suffer that thing

as agent or representative for, on behalf of, in the name of or in the place of that association, body, or authority.

Cf. 1955, No. 44, s. 2

3. **Act to bind Crown**—This Act shall bind the Crown.

Cf. 1955, No. 44, s. 3

PART I

FIRE CONTROL ORGANISATION

Rural Fire Districts and Specially Protected Property

4. **Rural fire districts**—(1) For the purpose of fire control the Governor-General may from time to time by Order in Council constitute any part or parts of New Zealand to be a rural fire district, with such name and from such date, whether before or after or at the date of the Order, as may be specified in the Order:

Provided that, where no such date is specified, each district shall be deemed to come into being on the date of the Order constituting it:

- (2) Every area for the time being and from time to time—
 - (a) Being a defence area within the meaning of the Defence Act 1971; and
 - (b) Not included in a Fire District within the meaning of the Fire Service Act 1975; and
 - (c) Sufficiently described by any notice published in the *Gazette* by the Minister of Forests at the request of the Minister of Defence (which notice may, in like manner, be wholly or partly revoked or amended) pursuant to this Act—

shall, from the date such notice is so published, or from such other date as may be stated in that notice, be a rural fire district of which the Minister of Defence shall, unless otherwise stated in the notice, be the Fire Authority.

(3) The Governor-General may, if he thinks fit, from time to time in like manner alter or redefine the boundaries of any rural fire district by the inclusion therein or the exclusion therefrom of any area, and may in like manner abolish any rural fire district.

Cf. 1955, No. 44, s. 4

5. Preliminary steps before rural fire district constituted or boundaries changed—(1) For the purposes of this section and section 6 of this Act, the term “Fire Authority” includes the New Zealand Fire Service Commission.

(2) Every proposal for an Order in Council under section 4 of this Act shall be made to the Minister and shall, except where a rural fire district is to be abolished, be accompanied by a plan and land description together sufficiently describing the proposed rural fire district or the proposed changes in the boundaries of a rural fire district, and the proposer shall send a copy of the proposal to every Fire Authority, Catchment Board, Catchment Commission and local authority affected by the proposal, and shall deposit a further copy in some convenient place for public inspection.

(3) The proposer shall cause a notice to be advertised at least twice (at intervals of not less than 1 week and not more than 2 weeks) in a newspaper circulating in the locality, giving the substance of the proposal, stating where and at what times a copy of the proposal is open for public inspection, and calling upon any persons affected to state in writing any well-grounded representations objecting to or supporting the proposal and to send it to the Minister within a time limit not earlier than 1 month after the date of the first publication of the notice.

(4) A copy of the notice shall be forwarded to the Minister and to every body to which a copy of the proposal was sent pursuant to subsection (2) of this section, and every such body may make representations to the Minister in respect of the proposal within the time limit set by the notice.

(5) The Minister may appoint a time and place at which the makers of representations under subsection (3) or subsection (4) of this section may appear before the Minister or a Fire Authority nominated by him or a Rural Fire Mediator and support their representations by such evidence as they think fit.

(6) The Minister shall give due consideration to the representations made and any supporting evidence produced before he makes any recommendation to the Governor-General for the making of an Order in Council in respect of the proposal.

Cf. 1955, No. 44, s. 6

6. Specially protected property—(1) The Minister may, by notice in the *Gazette*,—

- (a) Specify or describe property or the nature of property for the special safeguarding of which any Fire Authority or Fire Authorities may be concerned in any district or districts:
- (b) Provide for powers, duties, responsibilities, expenses, restrictions, and other requirements appropriate to fire control in respect of such property.

(2) The Minister may in like manner from time to time amend any notice made pursuant to this section, or at any time revoke any such notice.

(3) The Minister shall consult with the owner of the relevant property and adjacent landowners and every Fire Authority affected by the proposed notice before exercising his powers under this section.

(4) Any person who infringes any safeguard or other fire control measure provided for in any notice made under this section commits an offence against this Act.

Cf. 1955, No. 44, s. 5

Fire Authorities

7. Fire Authority in rural fire districts—(1) Except in the case of a rural fire district constituted under section 4 (2) of this Act, every rural fire district shall be administered for the purposes of this Act by a Fire Authority, being either the Minister or a rural fire committee constituted as hereinafter provided, as may be prescribed by the Governor-General by Order in Council.

(2) The Governor-General may by Order in Council change the Fire Authority of any rural fire district and by the same or any subsequent Order in Council may make such consequential provision as may seem to him to be desirable with respect to the property, liabilities, and engagements of the Fire Authority in respect of the administration of the district.

Cf. 1955, No. 44, s. 7

8. Rural fire committees—(1) The Governor-General may from time to time, by Order in Council, constitute or provide for the constitution, or election of a rural fire committee:

Provided that, where all or part of a rural fire district comprises land within the locality over or in respect of or within which a local authority has or may exercise jurisdiction, that authority may be appointed as, or as a member of, a rural fire committee:

Provided also that where there is land occupied for farming purposes or specially protected property in a rural fire district the Minister shall, where appropriate, ensure that the interests of landholders and other persons having rights in or over such land or property are represented on the committee, having regard to sections 45 (2) and 46 (2) of this Act.

(2) Every rural fire committee so constituted shall be a body corporate, having (subject to revocation of the Order in Council constituting it) perpetual succession and a common seal, and being capable of holding real and personal property and of doing and suffering all other things that bodies corporate may do and suffer:

Provided that where a local authority is the rural fire committee any acts or proceedings purporting to be effected by it pursuant to this Act shall be deemed to have been effected by that local authority acting as the rural fire committee.

(3) All rural fire districts and committees constituted, provided for, or elected under the Forest and Rural Fires Act 1955 or the Forest and Rural Fires Act 1947, and subsisting at the commencement of this Act shall be deemed to have been constituted, provided for, or elected as rural fire districts and committees under this Act.

Cf. 1955, No. 44, s. 8

9. Fire Authority's powers in areas of urban vegetation— In respect of any sufficiently described area of vegetation situate within the jurisdiction of the New Zealand Fire Service Commission, the powers of a Fire Authority under this Act may be exercised, notwithstanding any provisions otherwise in any other enactment,—

- (a) By any Fire Authority to the extent of any agreement or arrangement made between it and the Commission pursuant to section 14 (2) of this Act; or
- (b) By any local authority to the extent of any agreement or arrangement made by that local authority with the Minister and that Commission and published or notified in the *Gazette* :

Provided that the area shall not thereby cease to be subject to the jurisdiction of the Commission.

10. Fire Authority in county areas—The Fire Authority of each county area shall be the county council, district council, or borough council, as the case may be, having territorial jurisdiction in respect of that area.

Cf. 1955, No. 44, s. 10

11. Fire Authority in State areas—(1) The Fire Authority of each State area shall be the Minister.

(2) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the Director-General or to any Conservator of Forests all or any of his powers as Fire Authority in respect of the area, but not the power to delegate under this section.

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

(4) Where the Director-General or any Conservator purports to act pursuant to or in accordance with any delegation under this section, whether in his own name or in the name of the Minister, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary; and in any case of doubt the Minister may ratify the action of the Director-General or Conservator.

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

(6) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister; and, in the event of the Director-General or Conservator to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding the office or, if there is no holder of the office or if the holder of the office is absent from duty, to the person for the time being directed under the State Services Act 1962 or any other authority to act in the place of the holder of the office.

Cf. 1955, No. 44, s. 11

12. Duties of Fire Authorities—(1) It shall be the duty of every Fire Authority to promote and carry out fire control measures including a written fire plan in its district.

(2) Any Fire Authority may, in its discretion, promote and carry out such fire control measures as it thinks fit in any area or place adjoining its district in which there is no Fire Authority, and for that purpose it may do any thing which it

could do if it were the Fire Authority for that area or place.

(3) Subject to the prior approval of the Minister and publication in the *Gazette*, any Fire Authority may make, amend, or revoke bylaws for the purposes of subsection (1) of this section, and, subject to the like approval, may enforce the same as if breaches thereof were offences under this Act; and such bylaws may include provision for costs, expenses, and charges, and for salaries and administration.

(4) Every Fire Authority shall keep in the prescribed form and shall maintain up-to-date a register or registers showing from time to time—

- (a) The boundaries of the district it administers, whether by reference to an accompanying plan or otherwise as sufficiently described:
- (b) A record of all arrangements or agreements made for any period of not less than 1 year pursuant to section 14 or section 16 of this Act and notified to it:
- (c) All specially protected property in the district:
- (d) All forest areas and fire safety margins in the district:
- (e) All restricted or prohibited fire seasons in the district, and the areas affected thereby:
- (f) All approvals given under section 31 of this Act:
- (g) The prescribed current fire plan or fire plans and by-laws of the Fire Authority:
- (h) Such other fire control measures as the Fire Authority may consider should be on public record or as may from time to time be prescribed,—

which register or registers shall be conveniently available at the principal office of the Fire Authority for public perusal during office hours without fee:

Provided that the failure or omission of any Fire Authority to comply with the requirements of this subsection shall not invalidate any fire control measure.

(5) Notwithstanding any provision or rule of law to the contrary, the carrying out by any Fire Authority of any fire control measure shall not in any proceedings be called into question by reason only that it has not been exercised, approved, or authorised in writing or under seal.

Cf. 1955, No. 44, s. 12

13. Fire Officers and other employees—(1) In each district other than a State area the Fire Authority shall appoint one or more suitable persons as a Rural Fire Officer or as Rural Fire Officers. Where there are 2 or more Rural Fire Officers one shall be appointed as Principal Rural Fire Officer.

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

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

(4) Deputies of officers and employees may be appointed under this section or under section 14 of this Act.

(5) Any Fire Authority may in its discretion allocate to its officers, employees, and servants such responsibilities as may from time to time appear to it appropriate and necessary.

Cf. 1955, No. 44, s. 13

14. Joint, etc., exercise of statutory fire control powers—

(1) Any 2 or more Fire Authorities may, in such manner and on such terms as they may from time to time deem appropriate, act together in the exercise of their powers under this Act, and may, upon such terms and conditions as they agree to between themselves, jointly appoint Rural Fire Officers and such other persons as they consider necessary for that purpose.

(2) The powers of any Fire Authority and of its Fire Officers under and in the enforcement of this Act and any regulations made thereunder, and the powers of any Minister of the Crown or other person under any other Act or regulation, or any rule or bylaw, or any instrument, in respect of fire control may, in accordance with and to the extent of such agreements or arrangements as may be entered into from time to time, be exercised by any Fire Authority and its Fire Officers, or by any agent, representative, or nominee of such Minister or other person:

Provided that this section shall not preclude any Fire Officer from exercising the powers conferred on him by section 20 (2) or section 21 of this Act:

Provided also that where any fire has spread or may spread into or from any district, the Fire Authority for that district may exercise or continue to exercise outside of its district, in respect of that fire, all fire control measures it considers necessary pending their being taken over by another Auth-

ority or other person having due jurisdiction; and the first-mentioned Authority shall to that extent be deemed to have acted as agent under this section for that other Authority or person.

(3) Any dispute or difference in respect of any terms, conditions, agreements, or arrangements made or sought pursuant to this section for the exercise of fire control powers provided by this Act shall on application by any party thereto be decided in the public interest by a Rural Fire Mediator appointed by the Minister.

(4) The exercise of any power purporting to have been conferred pursuant to this section shall not be questioned or avoided on the grounds solely that such power was not conferred or exercised by writing or under seal:

Provided that this subsection shall not apply to any levy under any of sections 45, 46, 47, and 48 of this Act.

(5) Except to the extent otherwise declared from time to time by the Minister by notice in the *Gazette*,—

- (a) The Minister shall carry out all fire control measures within the fire safety margin of every State area; and
- (b) Within every such margin the Minister and his officers, servants, and employees shall respectively have the powers and immunities and carry out the duties of a Fire Authority and its officers, servants, and employees as if that margin were part of a State area and the Minister were the Fire Authority thereof:

Provided that no such margin shall become or be deemed to be a State area by reason only of this subsection.

(6) All agreements and arrangements heretofore made that would have been valid if made under this section are hereby validated and confirmed as if they had been made after this section came into force.

Cf. 1955, No. 44, s. 14

15. Supply of apparatus and fire fighting services—(1) Any Fire Authority may arrange with the New Zealand Fire Service Commission, or with the Crown, or with any employer of an industrial fire brigade that the services of the whole or any part or parts of any specified brigade or brigades or apparatus shall be available in such circumstances and upon such terms and conditions as shall be agreed upon for fire control, and

subsection (2) of section 16 of this Act shall apply as though such services were under a contract, agreement, or arrangement made under that section.

(2) Where the Chief Fire Officer of any Fire District constituted under the Fire Service Act 1975 controls a brigade that for the time being holds apparatus received for emergency purposes from the Crown on loan or by way of gift, the Chief Fire Officer shall on call from the Director-General or a Conservator of Forests acting as, or as agent for, a Fire Authority, make available any apparatus, together with an appropriate number of brigadesmen, which may be required for fire control:

Provided that the Chief Fire Officer shall not be required to make available members of the brigade who are, and apparatus which is, essential for urgent local requirements.

(3) Payment for the use of apparatus and for the services of brigadesmen shall be made on such basis as may be agreed upon, or, in default of agreement, as may be prescribed.

Cf. 1955, No. 44, s. 15

16. Mutual arrangements for fire control measures—

(1) Any Fire Authority or any Minister of the Crown or other person having powers, rights, or duties in respect of any property, whether as owner or otherwise, may from time to time enter into, vary, and carry into effect any contracts, agreements, or arrangements for the purpose of fire control, with such provisions as the parties thereto consider necessary or expedient for such purpose.

(2) Notwithstanding any provision or rule of law to the contrary, any contract, agreement, or arrangement made pursuant to subsection (1) of this section shall, to the extent that it is in other respects valid and enforceable, be enforceable at law notwithstanding that it is not evidenced by writing, or not under seal.

(3) All contracts, agreements, and arrangements heretofore made that would have been valid if made under this section are hereby validated and confirmed as if they had been made after this section came into force.

Cf. 1955, No. 44, s. 16

17. Forest areas—(1) Subject to this Act, the Fire Authority for the district in which any area of continuous forest land is wholly or principally situate may, on application by any eligible landholder in respect of that land, declare it to

be a forest area for the purposes of this Act, on such conditions, including any appropriate provision for a fire safety margin, as may be prescribed by this Act or by the Fire Authority.

(2) Every Fire Authority shall keep in the prescribed form a Forest Area Register in which are registered all forest areas declared by that Fire Authority, including particulars of any prescribed fire safety margin and of any conditions imposed by the Fire Authority.

(3) Before declaring any land to be a forest area the Fire Authority shall be satisfied that—

- (a) The land is sufficiently described and comprises not less than 20 hectares of forest; and
- (b) The forest (including planting and felling intended during the period of 12 months following the date of application) on the land is in the nature of a fire hazard requiring continuous protection equivalent to a restricted season; and
- (c) Any proposed fire safety margin is sufficiently described and is essential for fire control and does not at any point exceed a distance of 1.5 kilometres from the boundary of the forest area; and
- (d) The applicant has arranged adequate fire protection; and
- (e) Where an exterior fire exposure exists, no exotic trees are planted within 10 metres of the external boundary of the area, or within such greater distance as the Fire Authority may reasonably require; and
- (f) All reasonable objections to the application or to any part thereof received by the date specified in the notices referred to in paragraphs (b) and (c) of subsection (4) of this section have been duly taken into account; and
- (g) Suitable arrangements regarding fire control have been made with all other Fire Authorities and with the New Zealand Fire Service Commission, in respect of any part or parts of the proposed forest area or fire safety margin thereof that may be situate within their jurisdiction.

(4) Every application for registration as a forest area shall be in the prescribed form and shall be accompanied by—

- (a) A plan sufficiently describing the proposed forest area and any proposed fire safety margin; and

- (b) A declaration in the prescribed form that the applicant is an eligible landholder and that every other landholder (whether eligible or not) in respect of that area or of any part thereof whose written assent to the application does not form part of or accompany the application has been given written notice in the prescribed form of the intention to apply; and
 - (c) A copy of a notice in the prescribed form, advertised by the applicant twice at least (at intervals of not less than 1 week or more than 2 weeks) in a newspaper circulating in the locality in which the proposed forest area and any proposed fire safety margin are to be situated, during a period expiring not less than 1 month nor more than 2 months before the application is sent to the Fire Authority; and
 - (d) Any prescribed fee; and
 - (e) Any other prescribed requirements.
- (5) The notices referred to in paragraphs (b) and (c) of subsection (4) of this section may be identical and shall—
- (a) Sufficiently describe the proposed forest area and any proposed fire safety margin; and
 - (b) State where copies of the plan and intended application may be inspected; and
 - (c) Set out in the prescribed form the effect of declaring a forest area, including the requirements set out in subsection (7) of this section; and
 - (d) State that all objections to the application or to any part thereof must be received by the Fire Authority by a closing date not less than 1 month after the date on which the notice is first advertised, that closing date to be stated in each advertisement.
- (6) Copies of the application, plan, and notice referred to in subsection (4) of this section shall, in accordance with the notice, be made available by the applicant for public inspection during reasonable hours at a convenient place.
- (7) Every eligible landholder for the time being and from time to time who, being in control and occupation of all or any part of a forest area, intends that the rights and duties pertaining to that area and, where appropriate, to any adjacent fire safety margin, are to apply for the ensuing period of 12 months from the 31st day of August in any year, at his own expense and to the extent of that control or occupation shall—

- (a) Be responsible for fire protection, subject to any directions by the Fire Authority; and
- (b) Provide warning signs in respect of fire-lighting restrictions, to the approval of the Fire Authority; and
- (c) During that month of August,—
 - (i) Cause a notice of his intention, in the prescribed form, containing information corresponding to that set out in paragraphs (a), (b), and (c) of subsection (5) of this section, to be advertised twice at least (at intervals of not less than 1 week) in a newspaper circulating in the locality; and
 - (ii) Cause a copy of the same notice to be sent or delivered to every landholder in occupation of land situated within that margin and to every other landholder in respect of the forest area or part thereof, and to the Fire Authority:

Provided that any eligible landholder in respect of the forest area or of any part thereof may on behalf of all or any other such eligible landholders fulfil the requirements of this subsection.

(8) In the event of the failure, without good cause approved or confirmed by the Fire Authority, of the eligible landholder or eligible landholders of a forest area to perform any of the duties or responsibilities required under subsection (7) of this section, the registration of that forest area shall be deemed suspended until such failure has been remedied to the satisfaction of the Fire Authority.

(9) A Fire Authority may at any time and from time to time for good and sufficient reason given—

- (a) Suspend, amend, or cancel the registration or conditions of all or any part of any forest area or fire safety margin thereof, but shall not thereby be precluded from lifting or again imposing any suspension of, making any further amendment of, or renewing in the same or amended form, any such registration or conditions; or
- (b) Waive, or allow rectification of, any procedural requirement provided for in this section, if it is reasonably satisfied that the interests of persons other than the person in default are not thereby prejudiced.

(10) Every registration of a forest shall lapse after a period of 5 years from the initial approval thereof, and at further intervals of 5 years, unless registration is renewed to the

approval of the Fire Authority by the same procedures, or as nearly thereto as possible, as are required for the declaration of a forest area.

(11) Any dispute or difference in respect of any decision, condition, requirement, or obligation made or arising in respect of any forest area or of any proposed forest area shall be decided in the public interest by a Rural Fire Mediator appointed by the Minister.

PART II

FIRE CONTROL OPERATIONS

Fire Prediction and Fire Control Measures

18. Fire prediction and warning service—It shall be a function of the New Zealand Forest Service, in the interests of public safety, to promote fire control measures, including in particular—

- (a) The observation of weather and other conditions:
- (b) The giving of warnings of the imminence of fire hazard conditions:
- (c) The giving of any information available in relation to such conditions.

Cf. 1955, No. 44, s. 17

19. Fire control measures—(1) Except where otherwise specified by this Act or by the terms of the measure, any fire control measure requiring to be notified in any manner—

- (a) May as expedient be published in the affected locality by notice in a newspaper, broadcast, announced by loud hailer or other public speaking system, communicated by notice board or personal message, or given in any other effective manner approved or confirmed by the Director-General or a Fire Authority:
- (b) Shall, where it relates to the acts of a specified person, be issued to and in the name of that person, and may in other cases be issued in general form.

(2) Except where otherwise provided by this Act or by the terms of the measure, every fire control measure requiring, authorising, directing, ordering, permitting, restricting, or prohibiting any act or omission—

- (a) Shall come into force immediately it is approved, made or given:

- (b) Shall remain in force until it lapses or expires or is cancelled or revoked:
 - (c) Shall take effect according to its tenor notwithstanding any current open season in any district or part of a district:
 - (d) May relate to or be limited to any sufficiently described area, structure, or property, or to any specified time or period of time of day or night, or be expressed to continue indefinitely:
 - (e) May from time to time be amended, cancelled, or revoked, whether by a similar measure or otherwise:
 - (f) Shall be subject to such conditions as may be prescribed by any Act, regulation, or bylaw, and may contain such further conditions as the Fire Authority, Fire Officer, or other issuing, approving, or consenting person considers to be in the public interest for the purposes of fire control.
- (3) Every fire control measure carried out in respect of any land, structure, or vegetation shall have regard to any relevant Proclamations, Orders, regulations, or bylaws made under the Soil Conservation and Rivers Control Act 1941 or the Water and Soil Conservation Act 1967.

Control of Lighting of Fires in Open Air

20. Prohibition of fires during extreme fire hazard—

(1) On any specified day or days in respect of which the Minister or Director-General has caused to be broadcast a warning of the occurrence or likelihood of the occurrence of weather or other conditions that may present an extreme fire hazard whereby life and property may be endangered by the outbreak or spreading of fires in any specified area, whether in a district or not, no person shall in that area light any fire in the open air or cause or permit any such fire to be lighted notwithstanding any other enactment.

(2) On any specified day or days in respect of which a Fire Officer has, by notice, given a warning to any person of the occurrence or likelihood of the occurrence of weather or other conditions that may present an extreme fire hazard whereby life and property may be endangered by the outbreak or spreading of fires in any specified area, whether in a district or not, that person shall not in that area light any fire in the open air or cause or permit any such fire to be lighted notwithstanding any other enactment.

(3) Every person commits an offence against this Act who, during the currency of any such warning, and without the authority of a special permit issued pursuant to section 24 of this Act, lights any fire in the open air, or causes or permits any such fire to be lighted.

Cf. 1955, No. 44, s. 18

21. Prohibition of certain operations during periods of extreme fire hazard—(1) When weather or other conditions arise that, in the opinion of a Fire Officer for any district, present an extreme fire hazard whereby life and property may be endangered by the outbreak or spreading of fires in, into, or from that district, his Principal Fire Officer or the Fire Officer (with the approval or confirmation of his Principal Fire Officer) may issue, or cause to be issued, by broadcast or other effective means, an order by way of fire control measure in respect of such area as may be specified in the order, whether within that district or not, in the public interest, and notwithstanding any other enactment—

- (a) Prohibiting the lighting of fires in the open air; and
 - (b) Except in respect of essential services where adequate precautions against the outbreak or spread of fire are taken, prohibiting in whole or in part the carrying on or continuation of any pursuits, operations, occupations, or other activities, whether commercial, domestic, recreational, educational, or otherwise howsoever, that he considers may cause a fire to start in, or to spread in, into, or from the district, or directing that they may be carried on or continued only subject to such conditions and restrictions as the Principal Fire Officer may impose; approve or confirm; and
 - (c) Where considered necessary by the Principal Fire Officer, directing that no person other than a person residing or working therein shall enter the whole or any specified part of the area except for the purposes or otherwise as prescribed by the order or in respect of essential services where adequate precautions against the outbreak or spread of fire are taken—
- and every person who, without the authority of a special permit issued pursuant to section 24 of this Act, fails or refuses to comply with the requirements of any such order commits an offence against this Act.

(2) Where there is no Fire Authority for the whole or any part of any area to be affected by an order under this section, during the period that an order so issued by a Principal Fire Officer or by a Fire Officer remains in force, the Fire Authority for the district to which that Fire Officer belongs shall be deemed the Fire Authority for that area or part and every Fire Officer for that district shall be deemed a Fire Officer for that area or part.

(3) In any case where by reason of an order under this section persons are required to cease their usual work and their employers are unable to find other employment for them the Fire Authority may, if it thinks fit and subject to such conditions as it may impose, make a contribution towards the wages of those men. Where the Fire Authority is the Minister, such contribution shall be paid out of money appropriated by Parliament for the purpose. In all cases the contribution may be by grant, subsidy, reimbursement, or otherwise, and may, as seems fitting to the Fire Authority, be paid to those persons or those employers.

Cf. 1955, No. 44, s. 20

22. Restricted or prohibited fire seasons—(1) The Governor-General may, by Order in Council constituting a rural fire district or by any subsequent Order in Council, specify any restricted or prohibited fire season or seasons in the district or in any specified part or parts of the district and may at any time and from time to time in the same manner cancel or vary any such season or seasons.

(2) In addition to any fire season or seasons that may be specified under subsection (1) of this section for a rural fire district, any Fire Authority may, by notice published in a newspaper circulating in the locality to which the notice relates, specify any restricted or prohibited fire season or seasons in its district or in any specified part or parts of its district, and may in like manner at any time and from time to time cancel or vary any such season or seasons.

Cf. 1955, No. 55, s. 19

23. Permits required to light fires in open air—(1) Every person commits an offence against this Act who sets on fire, or assists to set on fire, or causes or permits to be set on fire, or aids, abets or assists in setting on fire, in the open air, any vegetation or any other combustible material whatsoever, except—

- (a) In the case of an open season—
- (i) Within a National Park or Maritime Park, pursuant to the authority of the relevant Park Board; and
 - (ii) Within any other State areas, pursuant to an authority or permit from a Fire Officer for the area or an authority or permit under the Forests Act 1949; and
 - (iii) Within a forest area (including the fire safety margin thereof) or specially protected site, pursuant to an authority or permit from a Fire Officer for the district; and
 - (iv) Within all other areas, as long as no warning under section 20 of this Act or order under section 21 of this Act is operative:
- (b) In the case of a restricted season—
- (i) Within a National Park or Maritime Park, pursuant to the authority of the relevant Park Board; and
 - (ii) Within any other State areas, pursuant to an authority or permit from a Fire Officer for the area or an authority or permit under the Forests Act 1949; and
 - (iii) Within all other areas, pursuant to an authority or permit from a Fire Officer for the district:
- (c) In the case of a prohibited season and, notwithstanding paragraphs (a) and (b) of this subsection, in any area in respect of which a warning under section 20 of this Act or order under section 21 of this Act is operative, pursuant to a special permit under section 24 of this Act.
- (2) Every permit or authority for any specified person to do any act for which a permit or authority is required under this section—
- (a) Shall at the time of issue be recorded in writing in the prescribed form (if any), and shall thereupon become effective; and a copy thereof shall be immediately handed to, or as soon as possible transmitted to, that person; and
 - (b) May in addition to such writing be communicated to such person by any convenient means, oral or otherwise, to enable him to act upon it as soon as possible:

Provided that in the event of any dispute or doubt the writing so recorded shall prevail in the absence of conclusive evidence otherwise; and

- (c) Shall be evidenced by such person, within a reasonable time after he is required to do so by a member of the Police or Fire Officer, by production of his copy of the permit or authority.
- (3) Every permit, special permit, authority, approval, consent, or other fire control measure (hereinafter in this section referred to as a permit) issued pursuant to this Act to allow the lighting of a fire in the open air shall be deemed to have been issued subject to the following conditions:
- (a) No fire shall be lit while a strong wind is blowing or when conditions are such that the fire is likely to spread beyond the limits of the land or other property in respect of which the permit was issued:
- (b) Except in the case of a special permit under section 24 of this Act—
- (i) The permit shall be deemed suspended during such time as any warning under section 20 or order under section 21 of this Act is in force; and
- (ii) The permittee shall, immediately before lighting the fire, reasonably confirm that no such warning or order is currently in force:
- (c) Nothing in this section or in any such permit shall be deemed to relieve any person from liability for any actionable damage sustained by any other person in consequence of any act, matter or thing done by the first-mentioned person under any such permit as aforesaid, or to impose upon any Fire Officer, Fire Authority, or Park Board any liability by reason of the issue of such permit.
- (4) Any Fire Officer, Fire Authority, or Park Board may, for the purposes of fire control, withhold the issue of a permit where in his or its reasonable opinion the use of the permit would not be in the public interest.

Cf. 1955, No. 44, s. 21

24. Special permits when lighting of fires in open air prohibited—(1) Notwithstanding sections 20, 21, and 23 of this Act, a Fire Officer may by special permit authorise the lighting of a fire in the open air—

(a) With the approval of the Conservator of Forests where a warning is in force under section 20 (1) of this Act, or with the approval of the Principal Fire Officer during a prohibited fire season or where a warning is in force under section 20 (2) of this Act or where a prohibition is in force under section 21 (1) (a) of this Act, in order in each case to prevent, reduce, or overcome any hazard to life or health or in other serious emergency:

(b) During a prohibited fire season, where weather or other conditions have so temporarily reduced the fire hazard as to make it apparently safe to light the fire.

(2) Every such special permit shall be issued subject to provision for supervision on behalf of the Fire Authority and to any other appropriate special conditions for fire control in the public interest.

Control of Spread of Fire to State Areas, Forest Areas, and Specially Protected Property

25. Spread of fires to State areas, forest areas, and specially protected property—(1) Every person commits an offence against this Act who, at any time,—

(a) Negligently causes or permits any fire to spread to any State area, forest area, or specially protected property if—

(i) Any vegetation or other property is thereby burnt or injured; or

(ii) The stability, structure, quality, or fertility of the soil is thereby injuriously affected; or

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

(2) In any proceedings in respect of any offence under this section or any of sections 20, 21, 23, or 26 of this Act, a certificate confirming the status of any lands in question—

(a) As to a National Park, Maritime Park, or other State area, or the fire safety margin thereof, by the Commissioner of Crown Lands or Chief Surveyor for the relevant Land District; or

- (b) As to any State forest land or the fire safety margin thereof, by the Conservator of Forests or Chief Surveyor for the relevant Conservancy; or
- (c) As to any forest area (including the fire safety margin thereof) or specially protected property in any district (not being in a National Park, Maritime Park, or other State area), under the seal of the Fire Authority for the district—

shall be conclusive proof of that status, unless the defendant proves to the contrary, and all plans, maps, certificates, and copies certified as true by the Commissioner of Crown Lands or Chief Surveyor for the relevant Land District or by the Conservator of Forests or Chief Surveyor for the relevant Conservancy shall be sufficient evidence of their contents without production of original records and without the personal attendance of those officers or proof of their signatures.

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

Cf. 1955, No. 44, s. 22

Miscellaneous Precautions Against Outbreaks of Fire

26. Offence to leave burning or smouldering substance—

Every person commits an offence against this Act who at any time, other than in the course of employment in essential services or engagement in land development or preparation with lawful authority, having wilfully or negligently thrown, propelled, left, or dropped or caused to be thrown, propelled, left, or dropped any lighted, burning, or smouldering substance in the open air—

- (a) On any land in a district; or
- (b) On any land (not being in a district) in respect of which there is an agreement or arrangement pursuant to section 9 (b) or section 14 (2) of this Act; or
- (c) On any land in respect of which a warning under section 20 or an order under section 21 of this Act is for the time being in force—

so as to cause a fire hazard in vegetation, fails to take all reasonable steps to extinguish that substance or any ensuing fire, whether or not there is an immediate danger of its causing damage, or, if he finds that he is unable to extinguish the substance or fire, fails to notify immediately the nearest available Fire Officer of the fire and to continue, so far as possible, to endeavour to control and extinguish the substance or fire until it is brought under control or until he obtains the consent of the Fire Officer to desist.

Cf. 1955, No. 44, s. 23

27. Fire Authority may require firebreaks to be made or cleared—(1) The Fire Authority of any district may at any time, by notice in writing signed on its behalf by a Fire Officer, require any eligible landholder of any land within the district on which exotic trees are allowed to grow for the purpose of producing timber—

- (a) To make and clear, within the time and in the manner specified in the notice, such firebreaks on the land or (with the consent of the landholder in occupation of such other land, or of the owner if there is no such occupation) on any other land, and in such positions, as the Fire Officer considers necessary for the purpose of fire control:
- (b) To remove from any firebreak or other part of the land on which no trees are standing, within the time specified in the notice, such vegetation or other material of whatsoever kind as in the opinion of the Fire Officer should be removed for the purpose of fire control.

(2) The Fire Authority of any district may at any time, by notice in writing signed on its behalf by a Fire Officer, require the owner of any land in the district which is subdivided into allotments for the purposes of sale or for building purposes either before or after the passing of this Act, or which has an area of less than one hectare, to remove at his own cost from that land such vegetation or other material of whatsoever kind as in the opinion of the Fire Authority should be removed for the purpose of fire control.

(3) Every eligible landholder of every exotic forest shall, so far as is reasonably practicable, provide and maintain at least 2 safe alternative through-routes whereby persons engaged in any forest or industrial operation may escape from the operation in the event of fire in the forest. If any such

landholder fails to provide and maintain such routes as aforesaid to the satisfaction of the Fire Authority for the district, a Fire Officer may by notice in writing require that landholder, within such time as may be specified in the notice, to do such work to provide and maintain the routes as may be specified in the notice.

(4) The Minister shall take reasonable measures to have State forests kept clear of fire hazards endangering adjacent property in respect of fire risk.

Cf. 1955, No. 44, s. 24

28. Appeal from notice to make firebreak or escape route or remove combustible material—(1) Within 14 days after any notice is given under section 27 of this Act, the eligible landholder or owner may request the Minister to appoint a Rural Fire Mediator to give in the public interest a final decision regarding the requirements of the notice.

(2) Pending the decision of the Mediator the notice shall be deemed suspended.

Cf. 1955, No. 44, s. 25

29. Power of Fire Authority on default of owner—(1) If any eligible landholder or owner to whom a notice is given under section 27 of this Act fails or refuses to comply with the requirements of the notice within the time specified therein or such further time as may be allowed by a Mediator, the Fire Authority may carry out such work and do all such acts, matters, and things as may be necessary to comply with those requirements; and every eligible landholder or owner who so fails or refuses commits an offence against this Act.

(2) All money reasonably expended by a Fire Authority under this section, including all costs as defined in section 41 of this Act, shall be payable to the Fire Authority by the eligible landholder or owner to whom the notice was given and shall be recoverable as a debt in any Court of competent jurisdiction accordingly. Until paid that money shall, in accordance with and to the extent provided for by regulations made under this Act, be a charge on the title or titles to the freehold of the land to which the notice relates, in accordance with the Statutory Land Charges Registration Act 1928, and may be registered against the whole of that title or those titles accordingly.

(3) Every charge on land created by this section shall, save as hereinafter provided, have priority over all existing mortgages, charges, and encumbrances howsoever created, including mortgages, charges, and encumbrances in favour of the Crown. Notwithstanding anything in any other enactment, if any land subject to a charge created by this Act is also subject to a charge created by that other enactment, the charges shall rank equally with each other unless by virtue of that other enactment the charge created thereby would be deferred to the charge created by this section.

(4) The exercise by the Fire Authority of the powers conferred by this section shall not relieve any person from liability to any penalty for failure to comply with the requirements of any notice under this Act.

Cf. 1955, No. 44, s. 26

30. Regulations may require maintenance of fire fighting equipment by rural fire committees—(1) In any Order in Council which constitutes or provides for the constitution, appointment, or election of a rural fire committee, or in any regulations subsequently made under section 67 of this Act, the Governor-General may require the committee to take such steps, whether by appointment of Fire Officers or other servants or by the provision and maintenance of apparatus or otherwise howsoever, as may be prescribed or referred to in the regulations for the purpose of fire control in the district.

(2) Any such regulations as aforesaid may require the committee to submit to the Director-General from time to time particulars of all or any of the steps taken or proposed to be taken for the purpose aforesaid.

Cf. 1955, No. 44, s. 27

31. Restriction on operation of spark-hazardous engines—Every person commits an offence against this Act who, without the consent in writing of a Fire Officer for the district, at, on, in, or alongside—

- (a) Any rural fire district, State area, forest area, or fire safety margin; or
- (b) Any area subject for the time being to a restricted or prohibited fire season, or to a warning under section 20 or an order under section 21 of this Act; or

(c) Any specially protected property—operates any helicopter unless its exhaust is protected from contact with vegetation, or operates any locomotive engine, motor vehicle, tractor, traction engine, portable engine, or stationary engine, or any other steam or internal combustion engine whatsoever, whether on a public road or otherwise, which is not, to the approval of a Fire Officer, provided with safe and efficient means for preventing the escape of dangerous sparks or flame from funnel or exhaust and for preventing the escape of live coals or fire from ashpan or firebox or the escape of petrol or other flammable substance (including fumes) from any appliance or container:

Provided that nothing in this section shall have any application to milking machine plants, shearing plants, or irrigation or other water pumping plants, or farm vehicles, appliances, or engines, used in the ordinary course of farming operations in the vicinity of farm buildings or yards.

Cf. 1955, No. 44, s. 28

32. Restriction on entry into exotic forests, etc.—Where fire hazard conditions exist, any Fire Authority may at any time and from time to time by way of fire control measure exclude all or any persons or class or classes of persons from entering into any exotic forest (including any land reserved under section 58 of the Land Act 1948 that is adjacent to any part of that exotic forest); and every person, not being engaged in respect of essential services where adequate precautions against the outbreak or spread of fire are taken, who enters such forest or land contrary to such measure commits an offence against this Act.

33. Maintenance of apparatus by persons cutting timber—
(1) The Director-General may from time to time, by notice in writing, require that any person who is felling trees for any commercial or industrial purpose or who is producing timber in a sawmill in any area, whether within a rural fire district or not, shall provide, and maintain in effective working order, such apparatus and observe such other requirements as may be specified by the Director-General for the purpose of fire control among the standing trees or the debris of the tree felling operations or the refuse from the sawmilling operations.

(2) Any person who is dissatisfied with any requirements of the Director-General under this section may, within 14

days after notice thereof has been given, request the Minister to appoint a Rural Fire Mediator to give in the public interest a final decision regarding the requirements of the notice.

(3) Pending the decision of the Mediator the notice shall be deemed suspended.

(4) Every person who fails or refuses to comply with such requirements of the Director-General or Mediator, as the case may be, commits an offence against this Act.

Cf. 1955, No. 44, s. 29

34. Duties of licensees, etc., of State areas—(1) Unless otherwise expressly provided therein, it shall be an implied condition in every licence, lease, permit, right, or authority for conducting on any State area any operation that is likely to present a fire hazard, that the holder thereof shall take all such measures as may be necessary to prevent the occurrence or spread of any fire and provide equipment that is suitable and adequate for the purpose of fighting fires and for securing the safety of lives from fire in the area, and shall place that equipment in localities and upon sites where it will be readily accessible and convenient for use, and shall provide such structures and do all such things as may be necessary for the protection of the equipment, and shall maintain the equipment in good order and condition and ensure that it is readily accessible and convenient for use at all times.

(2) Every person who fails or refuses to comply with the requirements of subsection (1) of this section commits an offence against this Act.

Cf. 1955, No. 44, s. 30

Fire Suppression

35. Duty of persons in vicinity to endeavour to extinguish fires—(1) Any person not being engaged in essential services where adequate precautions against the outbreak or spread of fire are taken who becomes aware of a fire burning unattended in the open air—

(a) In or within the external fire safety margin of any State area, forest area, or specially protected site; or

(b) In any part of any district during a restricted or prohibited fire season, or while a warning under section 20 or an order under section 21 of this Act is in force—

shall immediately cease the work or other activity on which he is engaged or employed and shall do everything reasonably within his power to extinguish the fire, whether or not there is an immediate danger of its causing damage; and if he finds that he is unable to extinguish the fire he shall immediately notify the nearest available Fire Officer of the outbreak, and shall then continue so far as possible to endeavour to control and extinguish the fire until it is brought under control or until he obtains the approval of a Fire Officer to desist.

(2) Where a fire breaks out on any State area in respect of which any person holds a licence, lease, permit, right, or authority, or within 1.5 km of that area, or along or within 0.5 km of such portion of any route regularly traversed in the course of operations in connection with that area as is on or within 1.5 km of any State area, that person and his servants, agents, and employees, if they discover or become aware of the outbreak of fire while they are in that area or on that portion of that route or within 8 km of the boundary of that area or of any part of that portion of that route, shall immediately cease the work or other activity on which they are engaged or employed and shall do everything reasonably within their power to extinguish the fire, whether or not there is an immediate danger of its causing damage; and if they find that they are unable to extinguish the fire they shall forthwith cause the nearest available Fire Officer to be notified of the outbreak and shall then continue so far as possible to endeavour to control and extinguish the fire until it is brought under control or until they obtain the approval of a Fire Officer to desist.

(3) Where a fire is burning on land within 1.5 km of any State area, and the fire is in danger of spreading to that area, or where any fire which is not lighted in accordance with a written permit of a Fire Officer is burning in the open air on any other land in any other district during a restricted or prohibited fire season or while a warning under section 20 or an order under section 21 of this Act is in force, any occupier of the land on which the fire is burning and any person having any right or licence in respect of that land and all employees of any such occupier or person, if they discover or become aware of the fire while they are on the last-mentioned land or within 8 km of the boundary of that land, shall, immediately upon becoming aware of the fire,

take all possible steps to extinguish it; and if they are unable without assistance to do so shall forthwith cause the nearest available Fire Officer to be informed of the existence and locality of the fire and shall then continue so far as possible to endeavour to control and extinguish the fire until it is brought under control or until they obtain the approval of a Fire Officer to desist.

(4) Every person who fails or refuses to comply with the foregoing requirements of this section commits an offence against this Act.

(5) Remuneration or exemption for persons acting in pursuance of this section shall be in accordance with any regulations made in respect of section 38 of this Act, or as may otherwise be prescribed.

Cf. 1955, No. 44, s. 31

36. Powers of Principal Fire Officers at fires—(1) For the purposes of fire control upon the outbreak of fire the Principal Fire Officer of the district shall perform the following duties and may exercise the following powers:

- (a) He shall, upon being advised of the existence of a fire, proceed, or arrange for a deputy to proceed, with all possible speed to the place where the fire is and, if in his opinion the fire constitutes a hazard to life or property, endeavour by all practical means to extinguish the fire and prevent the spread thereof and to save lives and property in danger:
- (b) He shall have the control and direction of any brigade present at the fire and of any persons who voluntarily place their services at his disposal and of any persons (not being engaged in essential services) whose services he requires under the provisions hereinafter contained:

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

- (c) He, and any person acting under his control and direction and with his authority, may enter upon any land, house, building, or premises and, if necessary,

break open any outer or inner doors of any house or building which may be on fire or in the near neighbourhood of any fire for the purpose of taking any steps which he deems necessary:

- (d) He may take or give directions for taking any apparatus required to be used at a fire into, through, or upon any land, house, building, or premises which he considers convenient for the purpose:
- (e) He may take any measures which in the circumstances are reasonable and which appear to him to be necessary or expedient, and, in particular, but without prejudice to the generality of the foregoing and, subject to section 40 of this Act, he may cause any vegetation to be burnt or otherwise destroyed or removed, and any house, building, or structure to be entered into, taken possession of, pulled down, or otherwise destroyed or removed, and any fences to be pulled down or otherwise destroyed or removed:
- (f) Subject to the overall requirements of the Local Controller of Civil Defence while a state of civil defence emergency exists under the Civil Defence Act 1962, he may cause water to be shut off from any main, pipe, channel, or other works of water supply in order to obtain greater supply and pressure of water for the purpose of extinguishing or restricting the spread of the fire, and he may enter or give directions for entering any land or premises and may take or cause to be taken water from any river, creek, stream, watercourse, lake, lagoon, well, dam, tank, main, or pipe, or other source of water supply whatsoever; and no person or body of persons having the management of any water supply shall be liable to any penalty or claim by reason of any interruption in the supply of water occasioned by any act, matter, or thing done under this paragraph:
- (g) He may cause any street, road, private road, right of way, or thoroughfare in the vicinity of any fire or likely to be affected by the fire or by any fire-fighting operations to be closed for traffic during the continuance of the fire:
- (h) He may shut off or disconnect, or order any person having control thereof to shut off or disconnect,

the supply of gas or electricity to any building which is on fire or which is in the vicinity of any fire:

- (i) He may order to withdraw, and (in the event of a failure or refusal to withdraw) remove or direct any Fire Officer or any member of any fire brigade present at the fire to remove, any persons who interfere by their presence or otherwise with the fire-fighting operations or who are on or in any land, building, or premises then burning or threatened by fire, unless they have a pecuniary interest therein or in any goods or valuables whatsoever thereon:
- (j) He may, at the time of the fire or afterwards, pull down or shore up any wall or building which is in his opinion so damaged by fire as to be or to be likely to become dangerous to life or property, and the expense of any such operation shall be borne by the owner of the building, and shall be paid by him to the Fire Authority.

(2) The person who is appointed as a deputy of a Principal Fire Officer under subsection (1) (a) of this section shall be a Fire Officer or a brigade officer or a person who (in the opinion of the Principal Fire Officer) is otherwise competent in the circumstances to exercise the powers and perform the duties of a Principal Fire Officer under this section.

(3) While a deputy of a Principal Fire Officer is acting in the place of a Principal Fire Officer under subsection (1) (a) of this section, the deputy shall have all the powers and duties conferred and imposed on the Principal Fire Officer by this section.

(4) Every person commits an offence against this Act who resists, deceives, harasses, or knowingly obstructs any Principal Fire Officer, or any person appointed as a deputy under subsection (1) (a) of this section, or any Fire Officer, member of a brigade, or other person acting under the instructions or control of such Principal Fire Officer or deputy, in the exercise or attempted exercise of any power, or the performance or attempted performance of any function or duty, conferred or imposed by this section.

Cf. 1955, No. 44, s. 32

37. Police to assist Fire Officers—Every member of the Police present at any fire is empowered to support and assist

the Fire Officer in the maintenance of his authority and in enforcing due obedience by all persons to his orders in the execution of his duty.

Cf. 1955, No. 44, s. 33

38. Requisition by Fire Officer of assistance to extinguish fires—(1) In the event of a fire occurring in any rural fire district, a Fire Officer may require any fit person over the age of 18 years residing or working within the rural fire district or within 8 km of the boundary thereof to assist in extinguishing the fire.

(2) In any case where a fire occurs in a county area while an order is in force under section 21 of this Act in respect of any specified area, a Fire Officer may require any fit person over the age of 18 years residing or working in the specified area, or within 8 km of the boundary thereof to assist in extinguishing the fire.

(3) In any case where a fire occurs in a county area while no order is in force under section 21 of this Act, or if in the opinion of the Fire Officer the area affected by any such order as aforesaid is not great enough, and owing to weather or other conditions there is an extreme fire hazard whereby life and property may be endangered by the spreading of the fire, the Fire Officer may issue or cause to be issued, either by broadcast or by other effective means, a notice declaring that there is a local fire emergency in such area as may be specified, and in that case the Fire Officer may require any fit person over the age of 18 years residing or working in the specified area or within 8 km of the boundary thereof to assist in extinguishing the fire.

(4) In the event of a fire occurring on or within 1.5 km of any State area, a Fire Officer for the area may require any fit person over the age of 18 years residing or working on or within 8 km of the boundary of any State area on which the fire is burning or to which it is likely to spread to assist in extinguishing the fire.

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

(6) All persons, other than members of a voluntary rural fire-fighting organisation, who, having voluntarily placed

their services at the disposal of the Fire Officer and by arrangement made with him at the time of the fire or in response to a requirement pursuant to this section, render assistance under the control and direction of the Fire Officer, shall be entitled to be remunerated by the Fire Authority by which the Fire Officer is employed under such circumstances, at such rate, and subject to such conditions as may be prescribed by the Minister, and they shall be deemed for the purposes of the Accident Compensation Act 1972 while so acting to be employed by the Fire Authority. In any case where the Fire Authority is the Minister of Forests or a committee appointed by him or the Minister of Defence, all remuneration payable under this subsection shall be paid out of money appropriated by Parliament for the purpose.

(7) The exemptions, terms, and conditions on or subject to which persons whose services are required under this section or who otherwise assist in fire-fighting operations shall serve the Fire Authority shall be as prescribed from time to time.

(8) Every person not being engaged in essential services where adequate precautions against the outbreak or spread of fire are taken who without sufficient cause, the proof whereof shall lie on him, fails to comply immediately with the request of a Fire Officer under this section commits an offence against this Act.

Cf. 1955, No. 44, s. 34

39. Regional fire emergency—(1) When weather or other conditions exist which in the opinion of the Director-General or of any Conservator of Forests present an extreme fire hazard whereby life and property may be endangered by spreading vegetation fires, or when any vegetation fires have spread or appear to the Director-General or a Conservator of Forests to be likely to spread beyond the district of a single Fire Authority, the Director-General or the Conservator of Forests may in the public interest take charge for the purposes of this Act of any area, whether included in more than one district or not.

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

(3) In any case where the Director-General or any Conservator of Forests takes charge of any area as aforesaid he shall have in respect of that area all the powers, authorities,

and immunity of a Principal Fire Officer under this Act as if the whole of that area was a rural fire district, and all the provisions of this Act shall, with any necessary modifications, apply accordingly. All Fire Officers and other officers of the Fire Authorities of the districts affected shall be subject to the authority of the Director-General or Conservator of Forests and shall carry out all instructions given by him or on his behalf.

Cf. 1955, No. 41, s. 35

40. Backburning—(1) Notwithstanding the foregoing provisions of this Act, every person commits an offence against this Act who in any district sets fire to any vegetation by way of backburn except, in any case to which section 39 of this Act applies, the Director-General or Conservator of Forests or a person acting pursuant to specific directions given by the Director-General or Conservator, or, in any other case, the Principal Fire Officer, or a person acting pursuant to specific directions given by the Principal Fire Officer, or given by a deputy appointed by the Principal Fire Officer under section 36 (1) (a) of this Act.

(2) If, pursuant to subsection (1) of this section, the Director-General or Conservator of Forests or the Principal Fire Officer aforesaid, or any person acting pursuant to specific directions given by the Director-General, Conservator, or Principal Fire Officer (or his deputy), sets fire to any vegetation by way of backburn, the amount of the loss or damage suffered as a direct result of that action by the owner of the land on which the vegetation exists shall for the purposes of this Act be deemed to be part of the costs incurred in the control and suppression of the fire for the prevention of the spread of which the vegetation was set on fire, and the amount of the loss or damage so suffered shall be refunded to the owner either by the Fire Authority or, in a case to which section 39 of this Act applies or in which the Minister is the Fire Authority, out of money appropriated by Parliament for the purpose:

Provided that nothing in this subsection shall apply in respect of any loss or damage to property the amount whereof is recoverable under any policy of insurance.

(3) This section shall not preclude the lighting of a burnout.

Cf. 1955, No. 44, s. 36

PART III

FIRE CONTROL FINANCE

41. Liability for costs—In this Act the term “costs”, in relation to fire control measures, includes all expenditure, whether by way of wages and other remuneration, charges, expenses, losses, and other outgoings properly incurred or suffered, or otherwise, and, without limiting or restricting the foregoing general provision, includes in particular—

- (a) Charges for the use of any apparatus at usual hire or supply rates; and
- (b) Salaries, wages, and other remuneration (including overtime or penal rates, bonuses, food, clothing, and other usual supplies and provisions appropriate to the work) of all officers, servants, and employees of the Fire Authority—

for the time they are required for or engaged on the work.

42. Charge for use of another fire brigade—(1) In this section “fire brigade” includes any fire-fighting unit maintained by a Fire Authority.

(2) Subject to the terms and conditions of any agreement or arrangement made pursuant to any of sections 9, 14, 15 and 16 of this Act, or otherwise—

- (a) Where a fire brigade of a Fire Authority attends a fire in the district of another Fire Authority, the costs may be met by the latter Fire Authority;
- (b) Where a fire brigade of a Fire Authority attends a fire within the jurisdiction of the New Zealand Fire Service Commission, the costs may be met by the Commission;
- (c) Where a fire brigade of the New Zealand Fire Service Commission attends a fire in the district of a Fire Authority, the costs may be met by the Fire Authority.

43. Recovery from person responsible for fire—(1) Where any property has wholly or partially been destroyed or damaged by or safeguarded from an outbreak or threat of outbreak of fire, and responsibility for the outbreak is acknowledged by, or is established by action or otherwise as caused by, any person—

- (a) The costs of control, restriction, suppression or extinction of the fire may be recovered from that person by the Fire Authority or the New Zealand Fire

Service Commission or the eligible landholder or eligible landholders of the forest area affected, as the case may be, incurring those costs pursuant to fire control measures under this Act; and

(b) Any loss in, or diminution of, value of that property, and any consequential loss or damage not too remote in law, may be recovered from that person by the owner of the property.

(2) The amount of the costs so recoverable may be wholly or partially established by agreement, or by a Rural Fire Mediator, or by proceedings under section 48 (4) of this Act.

(3) This section shall be deemed to be supplementary to and not in substitution for any other rights of recovery that may exist in law or by enactment or otherwise howsoever.

(4) Before imposing any levy under section 46 or section 47 of this Act, a Fire Authority shall reasonably endeavour to recover its costs pursuant to this section.

44. Estimate of proposed expenditure—Every Fire Authority of a rural fire district shall periodically cause an estimate to be prepared of its proposed expenditure for the next ensuing period. Any deficiency at the end of any period shall be carried forward into and be regarded as expenditure for the next period. Any surplus shall be allowed for in assessing the requirements of the next period.

Cf. 1955, No. 44, s. 37

45. Provision for meeting ordinary requirements of the Fire Authority of a rural fire district—(1) Where a Fire Authority of any rural fire district requires any amount to meet its expenditure for any period of not less than 12 months as provided for in any such estimate, or to meet any special expenditure which is not being met under section 46 of this Act—

(a) The whole or any portion of the amount may be met by all or any of the persons on whom a levy could be imposed under this section, as they mutually agree:

(b) Failing any such agreement, or so far as any such agreement does not extend, the Fire Authority may from time to time under this section—

(i) Impose a levy on all or any of the landholders in the district in respect of the land upon which is

situate the property (if any) for the protection of which the district has been constituted, or, where no such property is stated by Order in Council, on all or any landholders in the district; and

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

(2) Except in the case of a district in which the whole or substantially the whole of the land is occupied for farming purposes, no such levy shall be imposed in respect of any land normally tilled or grazed, or any building (including a dwellinghouse) occupied for farming purposes, or any chattels thereon or therein.

(3) In no case shall land formally retired from pastoral use under a Soil and Water Conservation Plan, and not used for production forestry, be liable for any such levy.

(4) In determining the persons on whom such levy is to be imposed and the proportions in which it is to be met by those persons, the Fire Authority shall have regard to the following matters:

(a) The benefit likely to be derived from the operations of the Fire Authority:

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

(c) The extent to which steps have been taken by or on behalf of any person upon whom a levy may be imposed under this section to reduce the risk of fire occurring on that land or spreading on to or from that land:

(d) Such other circumstances of whatsoever nature as the Fire Authority considers relevant.

(5) The Fire Authority may from time to time when it considers that any relevant circumstances may have changed, and shall, not later than 5 years after it last made an award determining proportions under this section, reconsider the proportions fixed previously and make a new award determining proportions.

Cf. 1955, No. 44, s. 38

46. Levy for costs of fire fighting in districts other than State areas—(1) Subject to section 47 of this Act, in any case where a Fire Authority for any district other than a State

area has incurred any costs of and incidental to fire fighting operations directed towards the control, restriction, suppression, or extinction of a fire in its district—

- (a) The whole or any portion of those costs may be met by all or any of the persons on whom a levy could be imposed under this section, as they mutually agree;
- (b) Failing any such agreement, or so far as any such agreement does not extend, the Fire Authority may, for the purpose of recovering the whole or any part of those costs, in accordance with this section impose a levy for such sum or sums as it may specify on all or any of the following persons—
 - (i) Any landholder in respect of any land in the district:
 - (ii) Any owner, lessee, licensee, possessor, or occupier of any property which was in the district at the time of the fire and was menaced by the fire.

(2) Except in the case of a district in which the whole or substantially the whole of the land is occupied for farming purposes, no such levy shall be imposed under this section in respect of any land normally tilled or grazed, or any building (including a dwellinghouse) occupied for farming purposes, or any chattels thereon or therein.

(3) In no case shall land formally retired from pastoral use under a Soil and Water Conservation Plan, and not used for production forestry, be liable for any such levy.

(4) In determining whether a levy is to be imposed under this section and the amount of any such levy, the Fire Authority shall have regard to the following matters:

- (a) The value of the property which has been saved and for the protection of which the fire fighting operations were to any extent directed;
- (b) The extent of the assistance in connection with the fire fighting operations rendered by or on behalf of any person upon whom the Fire Authority may be entitled to impose the levy;
- (c) The extent of any loss suffered by any such person as a result of the fire-fighting operations;
- (d) Such other circumstances as the Fire Authority considers relevant.

(5) In assessing the amount of the costs so incurred the Fire Authority may take into account the salaries and wages of its officers and servants during any period outside their

normal hours of work while they were engaged in the control and suppression of the fire and in work arising from the fire.

Cf. 1955, No. 44, s. 39

47. Levy for costs of fire fighting in State areas—(1) Notwithstanding anything in section 46 of this Act, in any case where there has been an outbreak of fire which has menaced any State area or anything thereon and which has been controlled, restricted, suppressed, or extinguished by any Fire Officer or other person duly authorised in that behalf, the whole or any portion of the costs incurred shall, if the Director-General (with the approval of the Minister) so determines, be payable by all or any of the following persons:

- (a) Any landholder in respect of the land on which the fire occurred:
- (b) Any owner, lessee, licensee, possessor, or occupier of any property which was menaced by the fire.

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

Cf. 1955, No. 44, s. 40

48. Imposition of levies, and recovery of levies and other money—(1) Any levy imposed under section 45 or section 46 of this Act shall contain the date upon which the levy is payable.

(2) Notice of every levy made under section 45 or section 46 of this Act shall be given to each person upon whom the levy is imposed or who is liable to meet the levy.

(3) In every case where a levy has been imposed upon the Crown under section 45 or section 46 of this Act, or expenses have been or are to be incurred by the Crown under this Act, the amount shall be paid out of money appropriated by Parliament for the purpose.

(4) All money payable to or by any person or Fire Authority under this Act and all legal or other costs allowed on any appeal under this Act may be recovered as a debt in any Court of competent jurisdiction.

Cf. 1955, No. 44, s. 41

49. Appeals against levies and determinations—(1) Any person—

- (a) Upon whom a levy is imposed under section 45 or section 46 of this Act, or who is liable to meet the levy; or
- (b) Who is dissatisfied with the determination made by the Director-General pursuant to paragraph (a) or paragraph (b) of section 47 (1) of this Act—may at any time within 1 month after notice of the levy or determination has been given to him, request the Minister to appoint a Rural Fire Mediator to give in the public interest a final decision regarding the requirements of the levy or determination.

(2) Pending the decision of the Mediator the levy or determination in question shall be deemed to be suspended.

Cf. 1955, No. 44, s. 42; 1963, No. 31, s. 31 (6)

50. Expenditure by councils—Subject to sections 46 and 47 of this Act, all expenditure by any county council, district council, or borough council for the purposes of this Act shall be charged against the appropriate Works and Services Account or Accounts or against the Separate Account of any riding or any appropriate separate account or accounts kept pursuant to section 146 (1) of the Counties Act 1956 or section 127 (1) of the Municipal Corporations Act 1954 or may be apportioned by the council among those accounts.

Cf. 1955, No. 44, s. 43

51. Payment of fire control costs—(1) In any case where the Director-General or any Conservator of Forests has taken charge of any area pursuant to section 39 of this Act, or has under any agreement or arrangement made pursuant to section 14 or section 16 of this Act provided assistance in or taken control of fire fighting operations or the removal of fire hazards, or taken any other fire control measures, the costs incurred by him or pursuant to his authority shall, as to any regional fire emergency under section 39 of this Act, or as to such agreement or arrangement to the extent therein provided, be paid out of money appropriated by Parliament for the purpose.

(2) The Director-General (with the approval of the Minister) may in his discretion determine what part of those regional fire emergency costs shall be borne by the Fire Authorities of the districts in the area; and shall apportion that part of the costs between those Fire Authorities.

(3) The costs so apportioned shall be paid by each Fire Authority into the Public Account at such times and by such instalments as the Director-General (with the approval of the Minister) determines.

(4) If any Fire Authority makes default in the payment of any money as required under this section, the amount thereof shall be recoverable from the Fire Authority in any Court of competent jurisdiction as a debt due to the Crown or, if the Fire Authority is a county council, district council, or borough council, may be deducted from any money payable out of public money to that council.

(5) If the Fire Authority is a rural fire committee and the committee makes default as aforesaid, the Director-General may exercise the powers of the committee under section 46 of this Act, and take proceedings in the name of the committee against the persons liable for the amounts levied against them.

(6) The amount of the costs apportioned to each Fire Authority shall for the purposes of the foregoing provisions of this Act be deemed to be costs incurred by the Fire Authority in the control and suppression of a fire.

Cf. 1955, No. 44, s. 44

52. Appeal against apportionment of fire fighting costs in regional fire emergency—(1) If a Fire Authority is dissatisfied with the apportionment by the Director-General pursuant to section 51 of this Act of the costs incurred in the control, restriction, suppression, and extinction of forest, rural, or other fires in any area, it may, at any time within 1 month after notice of the apportionment has been given to it, request the Minister to appoint a Rural Fire Mediator to give in the public interest a final decision regarding such apportionment.

(2) Pending the decision of the Mediator, the apportionment shall be deemed to be suspended.

Cf. 1955, No. 44, s. 45; 1963, No. 31, s. 7

53. Right of recovery in certain cases—(1) The costs incurred by a Fire Authority or apportioned to a Fire Authority under this Act in relation to the control, restriction, suppression, or extinction of any fire shall be deemed to be loss suffered as a result of the fire, and, if the circumstances relating to the origin of the fire or the spread thereof are such that any person who suffers loss as a result of the fire has a right of action for damages in respect of that loss

against any other person, then the Fire Authority or any owner or other landholder on whom any portion of those costs are levied pursuant to this Act shall have a right of action for damages against that other person for the amount of the costs or the portion thereof levied as aforesaid.

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

Cf. 1954, No. 44, s. 46

54. Fire Authority may borrow money—(1) Notwithstanding anything in Part II of the Local Authorities Loans Act 1956, it shall be lawful for any Fire Authority, with the consent of the Minister, to borrow money from its bankers by way of overdraft, or from any person or persons, to provide for any expenditure or costs which the Fire Authority may lawfully incur or has lawfully incurred under this Act.

(2) In the case of any Fire Authority which is a local authority within the meaning of Part II of the Local Authorities Loans Act 1956, the money borrowed shall be deemed to be borrowed in anticipation of revenue, but shall not be taken into account in determining the limits prescribed by section 20 of that Act.

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

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

Cf. 1955, No. 44, s. 47

PART IV

GENERAL PROVISIONS

55. Damage in fire fighting to be damage by fire within meaning of fire policy—Where damage to property is caused by the Director-General or any Conservator of Forests or Fire Officer, or by any officer, servant, employee, or member of a fire brigade or a Fire Authority, or any other person whatsoever in the exercise in good faith of his powers, duties,

or obligations at or in connection with any fire or suspected fire (including any fire or suspected fire occurring beyond the area in which he has authority), the damage shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the damaged property:

Provided that where any fire or suspected fire is earthquake fire within the meaning of the Earthquake and War Damage Act 1944 or within the meaning of any policy or contract of insurance against damage by earthquake, that damage shall be deemed to be damage by earthquake fire for the purposes of that Act, policy, or contract.

Cf. 1955, No. 44, s. 51

56. Saving of Fire Authorities and Fire Officers, etc., from liability in certain cases—(1) No action or proceedings shall be brought against the Crown or any Fire Authority or any officer, servant, or employee of any of them, or against any brigade or officer, servant, employee or member of a brigade, or any person whatsoever, to recover damages for any damage to property occasioned by an officer, servant or employee of the Crown or of a Fire Authority, or any officer, servant, employee or member of a fire brigade, or any other person in the performance in good faith of his functions or duties or the exercise in good faith of his powers under this Act or under any other enactment:

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

(2) In any action or proceeding taken against the Crown, or any Fire Authority, or any officer, servant, or employee of any of them, or against any brigade or officer, servant, employee or member of a brigade for their failure or neglect to make, or their negligence in making, adequate provision for fire control, it shall be a defence to show that the provisions made were in accordance with a fire plan approved by the Crown or by the Authority or with a current Fire Service Code of Practice or similar requirement in respect of a brigade, and that the officers, servants, members, or employees had complied with all relevant requirements and instructions of the Crown or Authority or the brigade.

Cf. 1955, No. 44, s. 52; 1975, No. 42, s. 43

57. No action against Fire Authority for failure to provide against fire—(1) No action or proceedings shall be brought against the Crown or any Fire Authority or any officer, servant, or employee of any of them to recover damages for any loss or damage due to the failure or neglect of the Crown or the Fire Authority to make, or their negligence in making, adequate provision in good faith for fire control.

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

Cf. 1955, No. 44, s. 53

58. Inspections for purposes of Act—Every Fire Officer shall, in any area in respect of which he exercises his functions and duties, have free access at all reasonable times to any area, building, land, premises, or property, and to any part thereof, for the purpose of ascertaining if any danger of fire or of the spreading of fire exists therein or thereon, and of ascertaining whether the requirements of this Act and of any orders, directions, and requirements given or imposed thereunder are being properly and efficiently observed and performed with respect to the area, building, land, premises, and property; but, except where fire hazard conditions exist, he shall give to any occupier of any private dwellinghouse at least 24 hours' notice of intention to act under this section and shall reasonably endeavour to give all other occupiers such notice.

Cf. 1955, No. 44, s. 54

59. Inquiries as to fires—(1) The Minister may, at the request of the New Zealand Fire Service Commission or of any Fire Authority or of his own motion, appoint any person or persons (including a Rural Fire Mediator) to hold an inquiry into and report upon the circumstances of and the steps taken to deal with any fire in any district, whether it occurred before or after the commencement of this Act, and any other matter which the Minister may consider appropriate to the inquiry.

(2) The person or persons holding any such inquiry shall, for the purposes thereof, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this section, that Act shall apply accordingly.

(3) In any such case the Fire Authority may, pending the holding of the inquiry as to that fire, take and retain possession of any property damaged, or the remains of any property destroyed, by the fire.

(4) At any such inquiry the Fire Authority may be represented by a member thereof, or by a Fire Officer of the Fire Authority, or by any other person authorised by the Fire Authority, who may adduce evidence and examine and cross-examine witnesses.

Cf. 1955, No. 44, s. 55; 1963, No. 31, s. 10

60. Measures by local authorities and public bodies to remove certain fire hazards—Any local authority or other public body which owns or controls any land on which any vegetation is growing may, in its discretion, subject to the provisions of any other Act, do all or any of the following things:

- (a) Take measures, on land which it owns or (with the consent of the landholder in occupation or the owner if there is no such occupation) on any other land either within or beyond its jurisdiction, to avoid or remove or reduce fire hazards which may endanger the vegetation:
- (b) Enter into contracts, agreements, or arrangements, whether under section 14 or section 16 of this Act or otherwise, for any such purpose as aforesaid:
- (c) Expend money for any such purpose as aforesaid.

Cf. 1955, No. 44, s. 56

61. Offences—(1) Every person commits an offence against this Act who—

- (a) Wilfully acts in contravention of or fails to comply with any fire control measure lawfully issued or required by or under authority of a Fire Authority or Fire Officer pursuant to this Act:
- (b) Wilfully gives or causes to be given, or attempts to give or cause to be given, to any Fire Officer any false alarm of fire:
- (c) Resists, obstructs, hinders, or deceives the Director-General, or any Conservator of Forests, Fire Officer, employee or servant of a Fire Authority, or any officer, employee, servant or member of any brigade, or any other person in the exercise, or attempted

exercise, of any power or the performance, or attempted performance, of any function or duty conferred or imposed by or under this Act:

(d) Wilfully removes, defaces, obscures, or otherwise renders ineffective or inoperative any forest gate, or any notice board, placard, indicator, or other warning or precautionary sign set up for the purpose of fire control:

(e) Wilfully prevents, obstructs, interferes with, impairs, or otherwise renders inoperative or less effectual any apparatus or any other fire control measure.

(2) Every person who commits an offence against section 20 or section 21 of this Act shall be liable on summary conviction—

(a) In the case of an individual, to imprisonment for a period not exceeding 6 months, or to a fine not exceeding \$2,000; and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues:

(b) In the case of a body corporate, to a fine not exceeding \$10,000, and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day during which the offence continues.

(3) Every person who commits an offence against any of sections 23, 25, 26 and 40 of this Act shall be liable on summary conviction—

(a) In the case of an individual, to imprisonment for a period not exceeding 2 months, or to a fine not exceeding \$1,500; and, if the offence is a continuing one, to a further fine not exceeding \$150 for every day during which the offence continues:

(b) In the case of a body corporate, to a fine not exceeding \$7,500, and, if the offence is a continuing one, to a further fine not exceeding \$750 for every day during which the offence continues.

(4) Every person who commits an offence under any other provision of this Act, being a provision in respect of which no penalty is otherwise provided for, shall be liable on summary conviction—

(a) In the case of an individual, to imprisonment for a period not exceeding one month, or to a fine not exceeding \$400, or to both such imprisonment and such fine; and, if the offence is a continuing one, to a further fine not exceeding \$40 for every day during which the offence continues:

(b) In the case of a body corporate, to a fine not exceeding \$2,000, and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues.

(5) Every person who is convicted of any offence against this Act shall be liable for any costs, loss, damage or expense that is incurred or suffered by any Fire Authority and is caused by the act constituting the offence in addition to the penalty for the offence, and the amount payable in respect of that liability may, on application to the Court by the informant or Fire Authority, be awarded by the Court in fixing the penalty and may be recovered as a fine. In assessing the amount so payable the Court may take into account the costs and other expenses incurred in the investigation of the act constituting the offence and in remedying the damage caused by that act and all other relevant factors.

(6) Where any money is recovered under section 58 of the National Parks Act 1952 or under section 92 of the Reserves and Domains Act 1953 or under any other enactment in respect of any costs, loss, damage or expense incurred or suffered by a Fire Authority in extinguishing or attempting to extinguish any fire, the money so recovered shall be paid to the Fire Authority.

(7) Except in respect of any information laid by or on behalf of a Fire Authority other than the Minister, no information in respect of any offence against this Act shall be laid except with the consent of the Minister, the Director-General, or a Conservator of Forests.

(8) Proceedings against any person who, outside of a district, lights a fire in the open air without a special permit under section 24 of this Act in any area where a warning is in force under section 20 (1) of this Act may, without complying with the requirements of subsection (7) of this section, be taken by any local authority having territorial jurisdiction over the place where the fire was lit.

Cf. 1955, No. 44, s. 57

62. Time within which information may be laid—Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against this Act or any regulation under this Act may be laid at any time within 12 months from the date of the discovery of the offence.

Cf. 1955, No. 44, s. 58

63. Notices—(1) The Minister, the Director-General, or any Conservator of Forests or Fire Officer may give public notice of the exercise of any of his powers under this Act or of any order, direction, restriction, requirement, or condition given or imposed by him under this Act, and all persons shall be bound thereby. For the purposes of this section the term “public notice” means a notice published in a newspaper circulating in the locality in which the matter of the notice arises or to which it relates.

(2) The Minister, the Director-General, or any Conservator of Forests or Fire Officer may, without public notice, give notice to any person of the exercise of any of his powers under this Act or of any order, direction, restriction, requirement, or condition as aforesaid, and every person to whom the notice is given shall be bound thereby.

(3) Except where otherwise specially provided, any notice required to be given to any person for the purposes of this Act may be given in writing or orally or by telephone, telegraph, or any other means of communication, and if in writing may be given by causing it to be delivered to that person or to be left at his usual or last known place of abode or business or to be posted in a letter addressed to him at that place of abode or business.

(4) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(5) Any notice required to be given to any person for the purposes of this Act shall be sufficient if it purports to be given by a person authorised to give it and is authenticated by the signature or name of that person.

Cf. 1955, No. 44, s. 59

64. Rural Fire Mediators—(1) In respect of any matter arising by way of dispute, difference, doubt, or other uncertainty between parties, the Minister may, from time to time and at any time, where provided for by this Act, or on application to him by the parties or any of them, appoint as a Rural Fire Mediator any person the Minister considers competent and appropriate to investigate and decide that matter in the public interest.

(2) In respect of any matter affecting or relating to fire control the Minister may from time to time and at any time

appoint as a Rural Fire Mediator any person he considers competent and appropriate to investigate and report on such matter in the public interest.

(3) A Mediator shall, within the scope of his jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this section, all the provisions of that Act, except sections 11 and 12 (which relate to costs) shall apply accordingly.

(4) In his investigation a Mediator may make such inquiries and follow such procedures, whether formal or informal, as he considers fair and reasonable and likely to facilitate disposal of the matter in question; and may obtain such expert assistance as he requires; and may receive in evidence any statement, document, information, or matter that he considers may assist him to deal effectively with that matter, whether or not the same should be admissible in a Court of law.

(5) Subject to this section, the procedure of a Mediator shall be such as the Mediator thinks fit.

(6) Subject to section 65 of this Act, every decision of a Mediator shall be final and conclusive.

(7) There shall be paid out of money appropriated by Parliament for the purpose to any person appointed to be a Mediator remuneration by way of fees, salary, or allowances and travelling expenses and allowances in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if that person were a member of a statutory Board within the meaning of that Act.

65. Appeals from decision of Rural Fire Mediator—

(1) Any party to any dispute, difference, doubt, or other uncertainty who is dissatisfied with a decision of a Mediator pursuant to section 64 of this Act in relation to any levy or determination under section 45, section 46 or paragraph (a) or paragraph (b) of section 47 (1) of this Act may, within 1 month after notice of the decision has been given to him, appeal in writing setting out the grounds of the appeal to a Magistrate's Court presided over by a Magistrate.

(2) All appeals to a Court under this section shall be by way of originating application in accordance with the rules of the Court.

(3) The Court may, if good and sufficient grounds are shown to it, waive any failure to set out the grounds of the

appeal on such terms and conditions as the Court thinks fit.

(4) The Court may confirm, vary, or reverse the decision of the Mediator.

(5) The decision of the Court shall be final and conclusive.

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

Cf. 1955, No. 44, s. 61

67. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated by this Act, and may make all such other regulations as may be necessary or expedient for giving effect to this Act and for the due administration thereof:

Provided that where no such regulations have been made, and in cases where any such regulations do not apply, the Minister may give such directions by way of fire control measures as he considers necessary and appropriate, and such directions shall have the force of regulations under this Act.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Prescribing measures to be taken and the apparatus and fire patrols to be provided and maintained by sawmillers and other persons engaged in industrial operations in any district for the purposes of fire control:
- (b) Prescribing forms and particulars of signs to be used for particular purposes, and requiring the use of such forms or the display of such signs:
- (c) Prescribing penalties, not exceeding those which may be imposed under section 61 (2) of this Act, for the breach of any regulations made under this Act:
- (d) Prescribing in respect of all Fire Authorities or any Fire Authority such functions and powers and such other provisions, not inconsistent with this Act, as may be necessary or expedient for giving effect to the provisions of this Act, and for the due administration thereof:

- (e) Prescribing or authorising measures to be taken in respect of entry into and use of areas of vegetation or any other fire control measures:
- (f) Establishing, equipping, servicing, training, and remunerating fire control forces such as volunteer bush fire fighters and airwork operators:
- (g) Subject to the requirements of other enactments, prescribing minimum provisions for all or any class or classes of fire plan, and for periodical revision:

Provided that every fire plan shall include a record of the current local agreements or arrangements, pursuant to section 14 (2) of this Act or to any other power, authority, or right,—

- (i) For the issue of joint or combined permits to light fires, including criteria to be applied; and
 - (ii) For the provision of assistance where an outbreak of fire has developed or might develop out of control:
- (h) Prescribing the conduct and regulation of investigations made by Rural Fire Mediators under this Act:
 - (i) Prescribing or providing for rules governing the functions and operations of rural fire committees including the power to carry out fire control measures, where persons or interests affected are, or are represented on, a committee.

(3) Any regulations under this Act may apply generally in respect of all districts or all industrial operations or may apply only in respect of specified districts or industrial operations or classes of districts or industrial operations.

Cf. 1955, No. 44, s. 60

68. Reserve powers of Minister—In any case where the Minister is satisfied that:

- (a) An emergency exists or is likely to arise in respect of fire control; and
- (b) No other adequate provision has been made to empower or enable any Fire Authority or other body or person to deal with that emergency; and
- (c) It is in the public interest that the emergency be dealt with instantly—

the Minister may do, authorise, or confirm, under the authority of this section, all things considered by him to be necessary and expedient in respect of the emergency, and the provisions of this Act shall be read and construed accordingly.

69. Consequential amendments—(1) Section 106 (1) of the Land Act 1948 is hereby amended by adding the following proviso:

“Provided that the Commissioner may for the purposes of this section enter into any agreement or arrangement made pursuant to section 14 (2) of the Forest and Rural Fires Act 1977.”

(2) Section 289 (6) of the Counties Act 1956 is hereby amended by adding the words “and may be exercised in accordance with any agreement or arrangement made pursuant to section 14 (2) of the Forest and Rural Fires Act 1977”.

(3) Section 267 (6) of the Municipal Corporations Act 1954 is hereby amended by adding the words “and may be exercised in accordance with any agreement or arrangement made pursuant to section 14 (2) of the Forest and Rural Fires Act 1977”.

(4) Section 150 (1) (a) of the Soil Conservation and Rivers Control Act 1941 is hereby amended by adding the following proviso:

“Provided that such prohibition may be administered in accordance with any agreement or arrangement made pursuant to section 14 (2) of the Forest and Rural Fires Act 1977.”

70. Repeals—The following enactments are hereby repealed:

- (a) The Forest and Rural Fires Act 1955:
- (b) So much of the Second Schedule to the Public Revenues Amendment Act 1958 as relates to the Forest and Rural Fires Act 1955:
- (c) The Forest and Rural Fires Amendment Act 1962:
- (d) The Forest and Rural Fires Amendment Act 1963:
- (e) So much of the Second Schedule to the Fire Service Act 1975 as relates to the Forest and Rural Fires Act 1955.

This Act is administered in the New Zealand Forest Service.
