

1996

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Police and Emergency Services)

Bushfire (Amendment) Bill 1996

A BILL FOR

An Act to amend the *Bushfire Act 1936*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Bushfire (Amendment) Act 1996*.

5 Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

- 10 (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, "Principal Act" means the *Bushfire Act 1936*.¹

Insertion

5 4. After the long title of the Principal Act the following heading is inserted:

"PART I—PRELIMINARY".

Insertion

5. After section 4 of the Principal Act the following heading is inserted:

10 **"PART II—ADMINISTRATION".**

Insertion

6. After section 5AD of the Principal Act the following heading is inserted:

"PART III—BUSH FIRE COUNCIL".

15 **Insertion**

7. After section 5J of the Principal Act the following heading is inserted:

"PART IV—RURAL FIREFIGHTING SERVICE".

Insertion

20 8. After section 5R of the Principal Act the following heading is inserted:

"PART V—CONTROLLED ACTIVITIES".

Lighting fires for burning-off

9. Section 10 of the Principal Act is amended—

25 (a) by omitting from subparagraph (1) (b) (i) all the words after "and has given" and substituting "notice of the intended burning in accordance with subsection (2); and"; and

(b) by adding at the end the following subsection:

30 "(2) For the purposes of subparagraph (1) (b) (i), the land owner shall, at least 24 hours before burning the material—

(a) give written notice of the intended burning to every occupier of land contiguous to that on which the material is to be burnt; and

- (b) cause notice to be published in a newspaper circulating in the Territory of the intended burning and the potential impact of smoke.”.

Insertion

- 5 **10.** After section 11 of the Principal Act the following Part and heading are inserted:

“PART VI—BUSHFIRE-PRONE GOVERNMENT LAND

Interpretation

“11A. (1) In this Part, unless the contrary intention appears—

10 ‘agency’ means—

- (a) an administrative unit;
- (b) a Territory owned corporation;
- (c) a body corporate constituted under section 6 of the *Cemeteries Act 1933*; or
- 15 (d) a person or group of persons prescribed by the regulations for the purposes of this definition;

‘bushfire-prone Government land’ means land to which this Part applies;

20 ‘Designated Area’ means an area of land that is a Designated Area under the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth because it has the special characteristics of the National Capital;

‘fuel management plan’ means a bushfire fuel management plan in force under this Part, as varied from time to time;

25 ‘manager’, in relation to an area of bushfire-prone Government land, means the person in charge of an agency whose responsibilities include managing the use of that area by the agency or persons on behalf of the agency.

30 “(2) A reference in this Part to the responsibilities of a manager, in relation to an area of bushfire-prone Government land that is National Land or a Designated Area, shall be read as a reference to responsibilities that arise because of an arrangement between the Commonwealth and the Territory.

Application to Government land

“11B. (1) Subject to subsection (2) and section 11C, this Part applies to the following land:

- 5 (a) unleased Territory Land for which a prescribed use is consistent with the Territory Plan;
- (b) National Land (other than a Designated Area) for which a prescribed use is consistent with the National Capital Plan or the Territory Plan;
- 10 (c) a Designated Area for which a prescribed use is consistent with the National Capital Plan.

“(2) This Part does not apply to a specified area of land exempted from the application of this Part by the Minister by notice published in the *Gazette*.

- 15 “(3) An exemption notice is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Limited application to National Land and Designated Areas

“11C. This Part applies to National Land and Designated Areas of land only in relation to matters for which the Territory has responsibility because of an arrangement with the Commonwealth.

20 Bushfire fuel management plans

“11D. A fuel management plan for an area of land shall include—

- (a) a description of the area;
- (b) a description of the neighbouring land uses and the relationships between them and the use of the area to which the plan applies;
- 25 (c) a detailed assessment of the bushfire hazard potential for the area;
- (d) a description of any collaborative arrangements for managing bushfires and bushfire fuel in and around the area;
- (e) a statement of the bushfire fuel management objectives for the area;
- 30 (f) a description of the strategies by which the objectives are to be attained;
- (g) a program for implementing works identified in the plan;
- (h) a description of the arrangements for monitoring and evaluating the effects of the strategies and works identified in the plan, including the associated reporting arrangements; and
- 35 (j) any other matter considered relevant by the manager.

Effect of plan

“11E. (1) The manager of an area of bushfire-prone Government land shall ensure as far as practicable that the area is used by the agency, or persons on behalf of the agency, in accordance with the fuel management plan for the area.

“(2) A fuel management plan has no effect to the extent to which it is inconsistent with any Plan of Management in force under Division 5 of Part V of the *Land (Planning and Environment) Act 1991* in respect of an area of public land.

Draft plans

“11F. (1) Each manager of an area of bushfire-prone Government land shall ensure that the area is the subject of a draft fuel management plan submitted to the Minister for approval—

(a) within 12 months after the commencement of this section; and

(b) thereafter at intervals not exceeding 2 years commencing on the day on which the latest fuel management plan for the area was made.

“(2) The Minister may give a written direction to the manager of an area of bushfire-prone Government land to submit a draft fuel management plan for approval in respect of the area.

“(3) The manager shall comply with any such direction.

Public consultation about draft plans

“11G. (1) For the purpose of preparing a draft fuel management plan, the manager concerned shall ensure that—

(a) submissions about the draft plan are invited by notice published in a newspaper circulating in the Territory; and

(b) such other measures are taken as he or she considers appropriate for ascertaining the views of interested persons.

“(2) The notice shall indicate where and when the draft plan is available for inspection by members of the public.

Making a fuel management plan

“11H. On receipt of a draft fuel management plan submitted by virtue of section 11F or paragraph (c), the Minister may—

(a) make a bushfire fuel management plan in the form of the draft plan by approving the draft plan in writing;

- (b) make a bushfire fuel management plan in the form of the draft plan, subject to its being altered in a specified manner, by approving the draft plan, and specifying the alteration, in writing; or
- 5 (c) remit the draft plan for further consideration in accordance with any direction or recommendation and require the submission of a further draft plan.

Notification and commencement of plan

10 “11J. (1) A fuel management plan takes effect on the day on which notice of its making is published in the *Gazette*.

“(2) The notice shall indicate where and when the plan is available for inspection by members of the public.

Variation of plan

15 “11K. (1) The manager of an area of bushfire-prone Government land may prepare a draft variation of the fuel management plan for the area for approval by the Minister.

“(2) Sections 11G, 11H and 11J apply in relation to the draft variation as if it were a draft fuel management plan.

Public inspection of plan

20 “11L. The manager of an area of bushfire-prone Government land shall ensure that a copy of—

- (a) a draft fuel management plan in respect of which public submissions have been invited by notice pursuant to section 11G;
- 25 (b) a draft variation of a fuel management plan in respect of which public submissions have been invited by notice pursuant to sections 11G and 11K; or
- (c) a fuel management plan in force and to which⁴a notice under section 11J relates;

30 is available for inspection by members of the public free of charge at the place specified in the notice.

Directions by Minister

“11M. (1) The Minister may give a written direction to the manager of an area of bushfire-prone Government land concerning the observance of the requirements of this Part.

35 “(2) The manager shall comply with any such direction.

Annual reporting

“11N. (1) In this section—

‘annual report’, in relation to an agency, means—

- 5 (a) a report under the *Annual Reports (Government Agencies) Act 1995* relating to the operations of the agency; or
- (b) a report under subsection (5) by a manager of the agency.

10 “(2) The annual report of an agency shall give an account of the operations of the agency in relation to the fuel management plan for each area of bushfire-prone Government land used by the agency or persons on behalf of the agency.

 “(3) The account shall include such information as the minister directs in writing.

15 “(4) The annual report of an agency for a year in which a direction under section 11M is given to a manager of the agency shall include particulars of the direction and the measures taken to give effect to it.

 “(5) Where a report under the *Annual Reports (Government Agencies) Act 1995* is not required in relation to the operations of an agency during any part of a financial year, the manager of the agency shall give to the Minister a report in relation to that part of the year.

20 “(6) A report under subsection (5) shall be—

- (a) in such form as the Minister directs in writing; and
- (b) given to the Minister—
- (i) within 10 weeks after the end of the year to which it relates; or
- 25 (ii) if, before the end of the 10 weeks, the Minister approves an extension of the period within which the report is to be given to the Minister—within the extended period.

 “(7) The Minister shall present a report under subsection (5) to the Legislative Assembly.

30 **“PART VII—MISCELLANEOUS”.**

NOTE

Principal Act

1. Reprinted as at 6 February 1995.

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