

Forest and Rural Fires Amendment Act 1989 120  
Commenced: 1 Dec 1989

An Act to amend the Forest and Rural Fires Act 1977

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title---This Act may be cited as the Forest and Rural Fires Amendment Act 1989, and shall be read together with and deemed part of the Forest and Rural Fires Act 1977 (hereinafter referred to as the principal Act).

2. Interpretation---(1) Section 2 of the principal Act is hereby amended by omitting from the definition of the term "open air" the words "Director-General of Lands", and substituting the words "Director-General of Conservation".

(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the term "conservation area", and substituting the following definition:

" 'Conservation area' has the same meaning as in the Conservation Act 1987, and includes land being managed under section 61 or section 62 of that Act; but does not include any marginal strip as defined in section 2 (1) of that Act:".

(3) Section 2 of the principal Act is hereby further amended by repealing the definition of the term "fire safety margin", and substituting the following definition:

" '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 outside that area but within 1 kilometre (or such lesser distance as may be approved by the Minister of Conservation, after consultation with the Minister of Forestry, 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 kilometre) of the boundary thereof as is approved by the Fire Authority of that area:

"(c) In relation to a New Zealand Forestry Corporation Rural Fire District, is situated outside that area but within 1 kilometre of the boundary thereof:".

(4) Section 2 of the principal Act is hereby further amended by repealing the definition of the term "State area", and substituting the following definition:

" 'State area' means---

"(a) Any conservation area; and

"(b) Any National Park within the meaning of the National

Parks Act 1980; 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 conservation area for the time being expressly excluded from any State area by notice published in the Gazette by the Director-General of Conservation; or

“(i) Any fire district within the meaning of the Fire Service Act 1975 except to the extent that the boundaries of the fire district encroach on the fire safety margin of any State area; or

“(j) Any land reserved from sale or other disposition under section 58 (1) of the Land Act 1948:”.

3. New Zealand Forestry Corporation rural fire district---(1) The principal Act is hereby amended by repealing section 7A (as inserted by section 32 (1) of the State-Owned Enterprises Act 1986), and substituting the following section:

“7A. (1) Notwithstanding any other provision of this Act,---

“(a) New Zealand Forestry Corporation Limited (‘the Company’) shall, on and after the date on which the Company takes possession and until the date on which the Company relinquishes possession of any land from the Crown pursuant to the State-Owned Enterprises Act 1986, be deemed to be a fire authority for the purposes of section 7 of this Act; and

“(b) That land shall be deemed to be a rural fire district constituted under section 4 of this Act under the control of the Company and shall be known as the New Zealand Forestry Corporation Rural Fire District, and there shall be immediately adjacent to those lands a fire safety margin of 1 kilometre deemed to be within the boundaries of the rural fire district for the purposes of fire control; and

“(c) On and after the date on which the Company relinquishes possession of any land pursuant to the State-Owned Enterprises Act 1986, that land shall be deemed to be registered as a forest area.

“(2) Nothing in subsection (1) of this section shall apply in respect of land that, before the Company takes possession, has been constituted as a rural fire district under section 4 of this Act.”

(2) The State-Owned Enterprises Act 1986 is hereby amended by repealing so much of the Third Schedule as relates to section 7A of the principal Act.

4. Forest areas---Section 17 (3) (c) of the principal Act is hereby amended by omitting the expression “1.5 kilometres”, and substituting

the expression "1 kilometre".

5. Powers of Principal Fire Officers and Rural Fire Officers at fires---(1) Section 36 (1) and (4) of the principal Act is hereby amended by inserting, after the words "Principal Fire Officer", wherever they appear, the words "or Rural Fire Officer".

(2) Section 36 (1) (a) of the principal Act is hereby amended by inserting, after the words "proceed, or", the words ", if a Principal Fire Officer, may".

6. Backburning---(1) Section 40 (1) of the principal Act is hereby amended by inserting, after the words "Principal Fire Officer", where they first occur, the words "or Rural Fire Officer".

(2) Section 40 (2) of the principal Act is hereby amended by inserting, after the words "Principal Fire Officer aforesaid", the words "or Rural Fire Officer".

7. New sections inserted relating to annual levy on Fire Authorities---(1) The principal Act is hereby amended by inserting, after section 60, the following sections:

"60A. Imposition of annual levy on Fire Authorities---(1) In this section the term 'year' means the period of 12 months commencing on the 1st day of April in any calendar year, and ending with the 31st day of March in the following calendar year.

(2) For the year commencing on the 1st day of April 1988 and every subsequent year every Fire Authority shall pay an annual levy to the Secretary of Forestry to meet the administration costs under this Act in relation to the encouragement and promotion of effective fire control measures among Fire Authorities.

(3) The annual levy for any year shall be at the rate or rates prescribed by the Minister for that year pursuant to section 60B of this Act on the number of hectares administered by the Fire Authority on the 1st day of April in that year under this Act.

(4) Every Fire Authority shall on or before the 30th day of November in every year supply the Secretary of Forestry with a return of the number of hectares administered by the Fire Authority on the first day of that year, and pay the amount of the levy for that year.

(5) Where any Fire Authority is formed after the 1st day of April in any year, for the purposes of the annual levy for that year the Secretary of Forestry may determine that---

(a) The Fire Authority shall be deemed to have administered its area or any part thereof on the 1st day of April in that year, to the extent that the levy in respect of that area or that part has not been paid by any other Fire Authority; and

(b) No other Fire Authority shall be liable for payment of the annual levy in respect of that area or that part that is deemed to have been so administered by the first-mentioned Fire Authority.

60B. Rate of levy---(1) The rate or rates of levy payable under section 60A of this section for any year shall be prescribed by the Minister, having regard to the administration costs under this Act in relation to the encouragement and promotion of effective fire control among Fire Authorities and following consultations with representatives of Fire Authorities, and shall be published in the Gazette on or before the 31st day of October in that year.

(2) No rate of levy prescribed by the Minister shall exceed 5 cents per hectare.

(3) The Minister may prescribe different rates of levy in respect of different types of fire risk or different classes of districts, and may prescribe a minimum amount payable by a Fire Authority.

60C. Recovery of amount of levy---The amount of any levy payable under section 60A of this Act, together with any additional amount payable under section 60E of this Act, shall be recoverable as a debt due to the Crown.

60D. Failure to supply return---Where a Fire Authority does not supply the Secretary of Forestry with the return of the number of hectares administered by the Fire Authority for any year by the 30th day of November in that year, the Secretary shall estimate the area administered by the Fire Authority and assess the levy and notify the Fire Authority accordingly.

60E. Penalty for late payment---(1) If the levy is not paid in full by a Fire Authority on or before the date on which it is payable, the Fire Authority shall pay to the Secretary of Forestry an additional amount equal to 10 percent of the unpaid amount of levy.

(2) Where, in the particular circumstances of any case, the Secretary of Forestry considers that imposition of the penalty imposed under subsection (1) of this section is not fair and reasonable, the Secretary of Forestry may remit the penalty or any part thereof.

60F. Amount of goods and services tax included---The levies payable under section 60A of this Act are inclusive of goods and services tax payable under the Goods and Services Tax Act 1985."

(2) Section 67 (2) of the principal Act is hereby consequentially amended by repealing paragraph (j).

8. Offences---Section 61 (1) of the principal Act is hereby amended by adding the following paragraphs:

(f) Fails without reasonable excuse to provide any information or deliver any return as and when required by the Secretary, pursuant to any provision of this Act:

(g) Provides any information or makes any return pursuant to this Act which to that person's knowledge is false in any material particular."

9. Transitional provisions in relation to section 7---Notwithstanding

anything in sections 60A to 60F of the principal Act (as inserted by section 7 of this Act), in respect of the levy payable for each of the years ending with the 31st day of March 1989 and the 31st day of March 1990---

- (a) Sections 60A (4) and 60D of the principal Act (as so inserted) shall apply as if the reference to the 30th day of November in that year were a reference to the 31st day of January 1990:
- (b) Section 60B (1) of the principal Act (as so inserted) shall be read as if the reference to the 31st day of October in that year were a reference to the 31st day of December 1989.