

1996, No. 123

An Act to amend the Forest and Rural Fires Act 1977
[2 September 1996]

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 1996, 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 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

`` `Commercial or semi-commercial forest area'---

``(a) Means any area of land---

``(i) On which trees are managed or harvested, or both, so that income is thereby gained; and

``(ii) To which the public has no access as of right; and

``(b) Includes any area of land that is the subject of a Crown forestry licence, whether or not there is a public right of access to that area; but

``(c) Does not include---

``(i) Any area of land on which trees are planted as a shelter belt to mitigate the effect of wind on adjoining pasture or crops or orchards; or

``(ii) Any area of land on which trees, shrubs, plants, or grasses are maintained under section 134 of the Soil Conservation and Rivers Control Act 1941;---

and `commercial or semi-commercial forestry' has a corresponding meaning:

`` `Farming'---

``(a) Includes---

``(i) The use of land for orchards:

``(ii) The use of trees as shelter belts to mitigate the effects of wind on pastures, crops, or orchards:

``(iii) The maintenance of any area of land on which trees, shrubs, plants, or grasses are maintained under section 134 of the Soil Conservation and Rivers Control Act 1941:

``(b) Does not include farm forestry or any other type of commercial or semi-commercial forestry:".

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term `fire safety margin" (as substituted by section 2 (3) of the Forest and Rural Fires Amendment Act 1989), 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 1990) that---

``(a) In relation to a State area, is outside that area but within 1 kilometre (or such less distance as may be approved by the Minister of Conservation, after consultation with the National Rural Fire Officer, and notified in the Gazette) of the boundary of that area:

``(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;--- but does not include any land that, by notice in the Gazette under section 14 (5A) of this Act, is excluded from the fire safety margin of any State area:".

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term ``Maritime Park".

(4) Section 2 (1) of the principal Act is hereby further amended by repealing paragraph (b) of the definition of the term ``open air", and substituting the following paragraph:

``(b) An incinerator operated by or with the written approval of the Director-General of Conservation or of a Fire Officer having jurisdiction to issue permits to light fires within the relevant district within which the State area is situated; or".

(5) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term ``open season", and substituting the following definition:

`` `Open season', or `open fire season', in respect of any area or district, means a period of time, whether of fixed or indefinite duration, during which period the lighting of fires in the open air in that area or district is neither prohibited nor restricted under section 22 of this Act:".

(6) Section 2 (1) of the principal Act is hereby further amended---

(a) By omitting from paragraph (c) of the definition of the term ``Principal Fire Officer" the words ``Forestry Officer under the Forests Act 1949", and substituting the words ``Rural Fire Officer appointed under section 13 (3) of this Act and any warranted officer appointed under section 59 (1) of the Conservation Act 1987":

(b) By repealing the definition of the term ``Secretary".

(7) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term ``State area" (as substituted by section 2 (4) of the Forest and Rural Fires Amendment Act 1989 and amended by section 4 of the Foreshore and Seabed Endowment Revesting Amendment Act 1994), and substituting the following definition:

`` `State area'---

``(a) Subject to paragraph (c) of this definition, means---

``(i) Any conservation area; and

``(ii) Any National Park within the meaning of the National Parks Act 1980; and

- “(iii) Any lands of the Crown within the meaning of section 176 of the Land Act 1948; and
 - “(iv) Any Government purpose reserve within the meaning of section 22 of the Reserves Act 1977 that is classified under section 16 of that Act for the purpose of wildlife management or for other specified wildlife purposes; and
 - “(v) Any land administered by the Minister of Conservation pursuant to section 9A of the Foreshore and Seabed Endowment Revesting Act 1991; and
 - “(vi) Any other land or class of land (whether or not vested in or administered by the Crown) declared by the Minister of Conservation by notice in the Gazette to be a State area for the purposes of this Act; and
- “(b) For the purpose only of fire control measures referred to in section 14 (5) of this Act, includes the fire safety margin of every State area (other than a State area specified in paragraph (a) (v) of this definition); but
- “(c) Unless declared to be a State area by notice in the Gazette under paragraph (a) (vi) of this definition, does not include---

- “(i) Any area included in a rural fire district:
- “(ii) Any conservation area for the time being expressly excluded from any State area by the Director-General of Conservation, by notice in the Gazette:
- “(iii) Any Fire District within the meaning of the Fire Service Act 1975:
- “(iv) Any land reserved from sale or other disposition under Part IVA of the Conservation Act 1987 or any former enactment:
- “(v) Any reserve within the meaning of the Reserves Act 1977 that is controlled and managed by any administering body within the meaning of that Act:
- “(vi) Any Government purpose reserve within the meaning of section 22 of the Reserves Act 1977 that is classified under section 16 of that Act other than for the purpose of wildlife management or other specified wildlife purposes:
- “(vii) Any local purpose reserve within the meaning of section 23 of the Reserves Act 1977:”.

- (8) The following enactments are hereby consequentially repealed:
- (a) Section 2 (3) and (4) of the Forest and Rural Fires Amendment Act 1989:
 - (b) So much of the Schedule to the Foreshore and Seabed Endowment Revesting Amendment Act 1994 as relates to the definition of the term “State area” in section 2 (1) of the Forest and Rural Fires Act 1977.

3. Rural fire districts---Section 4 (2) (b) of the principal Act (as substituted by section 4 of the Forest and Rural Fires Amendment Act 1990) is hereby amended by inserting, after the word “Is”, the word “not”.

4. New Zealand Forestry Corporation Rural Fire District--- (1) The principal Act is hereby amended by repealing section 7A.

(2) Section 3 (1) of the Forest and Rural Fires Amendment Act 1989 is

hereby consequentially repealed.

5. Fire Officers and other employees--- Section 13 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

- “(3) For each State area the Minister of Conservation may---
- “(a) Appoint one or more suitable persons as a Rural Fire Officer or Rural Fire Officers:
- “(b) Appoint one Rural Fire Officer as Principal Rural Fire Officer.

“(3A) Every warranted officer appointed under section 59 (1) of the Conservation Act 1987 shall be a Rural Fire Officer for every State area.

“(3B) Where no Principal Rural Fire Officer has been appointed for a State area,---

- “(a) Any Rural Fire Officer appointed for that area under subsection (3) (a) of this section; and
- “(b) Any warranted officer referred to in subsection (3A) of this section,---

shall have all the powers of a Principal Rural Fire Officer in respect of the area."

6. Joint, etc., exercise of statutory fire control powers--- (1) Section 14 (4) of the principal Act is hereby amended by inserting in the proviso, after the expression "sections 45, 46," the expression "46A,".

(2) Section 14 of the principal Act is hereby further amended by inserting, after subsection (5), the following subsections:

“(5A) The National Rural Fire Authority may, at the request of the Minister of Conservation and after following the procedures specified in subsection (5B) of this section, by notice in the Gazette exclude from the fire safety margin of any State area such land as is specified in the notice.

“(5B) The procedures set out in section 5 of this Act, with such modifications as the National Rural Fire Officer deems appropriate, shall apply in relation to any proposal to exclude any land from a fire safety margin."

7. Permits required to light fires in open air--- (1) Section 23 (1) of the principal Act is hereby amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:

- “(a) In the case of an open season,---
- “(i) Within any State area, pursuant to an authority or permit from a Fire Officer for that area:
- “(ii) Within a forest area, the fire safety margin of a forest area, or a specially protected site (not being an area, margin, or site within a State area), pursuant to an authority or permit from a Fire Officer for the district:
- “(iii) Within all other areas (including the fire safety margin of a State area), without need for an authority or

permit of a Fire Officer 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 any State area or the fire safety margin of any State area, pursuant to an authority or permit from a Fire Officer for the area:

“(ii) Within all other areas, pursuant to an authority or permit from a Fire Officer for the district:”.

(2) Section 23 of the principal Act is hereby further amended by omitting from both subsection (3) (c) and subsection (4) the words “, Fire Authority, or Park Board”, and substituting in each case the words “or Fire Authority”.

8. Spread of fires to State areas, forest areas, and specially protected property--- (1) Section 25 (2) of the principal Act is hereby amended by omitting from both paragraph (a) and paragraph (c) the words “, Maritime Park,”.

(2) Section 25 (3) of the principal Act is hereby amended by omitting the words “, Maritime Park,”.

9. Regulations may require maintenance of fire fighting equipment by rural fire committees--- Section 30 (1) of the principal Act is hereby amended by omitting the words “Order in Council”, and substituting the words “notice in the Gazette”.

10. Regional fire emergency---Section 39 (1) of the principal Act is hereby amended by inserting, after the words “appoint a Principal Rural Fire Officer or other appropriate Fire Officer”, the words “or other appropriate person”.

11. Recovery from person responsible for fire---Section 43 (4) of the principal Act is hereby amended by inserting, after the expression “section 46”, the expression “or section 46A”.

12. Provisions for meeting ordinary requirements of Fire Authority of rural fire district--- (1) Section 45 (1) (b) (i) of the principal Act is hereby amended by omitting the words “Order in Council”, and substituting the words “notice in the Gazette”.

(2) Section 45 of the principal Act is hereby further amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) No such levy shall be imposed in respect of any land used for residential or farming purposes, or any buildings or chattels situated on such land, unless the land is in a district which is wholly or substantially occupied for farming purposes.

“(3) No such levy shall be imposed in respect of---

“(a) Any land formally retired from pastoral use under a Soil and Water Conservation Plan, and not used for production forestry:

- “(b) Any land subject to a conservation covenant pursuant to section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:
- “(c) Any land subject to a Nga Whenua Rahui kawenata pursuant to section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987:
- “(d) Any land declared to be protected private land under section 76 of the Reserves Act 1977:
- “(e) Any land held under an open space covenant pursuant to section 22 of the Queen Elizabeth the Second National Trust Act 1977, or any land which is acquired by the Queen Elizabeth the Second National Trust for the purpose of open space as provided by sections 20 (2) (i) and 21 (2) (a) of that Act.”

13. Levy for costs of fire fighting in districts other than State areas--- Section 46 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) No such levy shall be imposed in respect of any land used for residential or farming purposes, or any buildings or chattels situated on such land, unless the land is in a district which is wholly or substantially occupied for farming purposes.

“(3) No such levy shall be imposed in respect of---

- “(a) Any land formally retired from pastoral use under a Soil and Water Conservation Plan, and not used for production forestry:
- “(b) Any land subject to a conservation covenant pursuant to section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:
- “(c) Any land subject to a Nga Whenua Rahui kawenata pursuant to section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987:
- “(d) Any land declared to be protected private land under section 76 of the Reserves Act 1977:
- “(e) Any land held under an open space covenant pursuant to section 22 of the Queen Elizabeth the Second National Trust Act 1977, or any land which is acquired by the Queen Elizabeth the Second National Trust for the purpose of open space as provided by sections 20 (2) (i) and 21 (2) (a) of that Act.”

14. Levy for costs of fire fighting in fire safety margins of State areas--- The principal Act is hereby amended by inserting, after section 46, the following section:

“46A. (1) Where the Fire Authority for 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 originating within any part of a commercial or semi-commercial forest area that is situated within the fire safety margin of the State area,---

- “(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 situated in the fire safety margin of the State area:
- ``(ii) Any owner, lessee, licensee, possessor, or occupier of any property which was in the fire safety margin at the time of the fire and was menaced by the fire.

``(2) No such levy shall be imposed in respect of any land used for residential or farming purposes, or any buildings or chattels situated on such land, unless the land is in a district which is wholly or substantially occupied for farming purposes.

``(3) No such levy shall be imposed in respect of---

- ``(a) Any land formally retired from pastoral use under a Soil and Water Conservation Plan, and not used for production forestry:
- ``(b) Any land subject to a conservation covenant pursuant to section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:
- ``(c) Any land subject to a Nga Whenua Rahui kawenata pursuant to section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987:
- ``(d) Any land declared to be protected private land under section 76 of the Reserves Act 1977:
- ``(e) Any land held under an open space covenant pursuant to section 22 of the Queen Elizabeth the Second National Trust Act 1977, or any land which is acquired by the Queen Elizabeth the Second National Trust for the purpose of open space as provided by sections 20 (2) (i) and 21 (2) (a) of that Act.

``(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."

15. Imposition of levies, and recovery of levies and other money--- Section 48 of the principal Act is hereby amended by inserting in each of subsections (1), (2), and (3), after the expression ``section 46" where it occurs in each of those subsections, the expression ``or

section 46A".

16. Appeals against levies and determinations---Section 49 (1) (a) of the principal Act is hereby amended by inserting, after the expression ``section 46", the expression ``or section 46A".

17. Payment of fire control costs following regional fire emergency---Section 51 (1) of the principal Act is hereby amended by inserting, after the words ``has appointed any Fire Officer", the words ``or other person".

18. Saving of Fire Authorities and Fire Officers, etc., from liability in certain cases---Section 56 (2) (b) of the principal Act is hereby amended by inserting, after the words ``National Commander", the words ``or the National Rural Fire Officer".

19. Offences---Section 61 (1) of the principal Act is hereby amended---

(a) By inserting in paragraph (a), after the words ``Fire Officer", the words `` , or the National Rural Fire Officer or any person appointed under section 39 of this Act by the National Rural Fire Officer":

(b) By omitting from both paragraph (c) and paragraph (f) the word ``Secretary", and substituting in each case the words ``National Rural Fire Officer".

20. Revocation---The Forest and Rural Fires Levy Notice 1989 (S.R. 1989/410) is hereby revoked.

This Act is administered in the Department of Internal Affairs.