

Forest and Rural Fires Amendment Act 2005 053
Commenced: 17 May 2005

The Parliament of New Zealand enacts as follows:

1 Title

(1) This Act is the Forest and Rural Fires Amendment Act 2005.

(2) In this Act, the Forest and Rural Fires Act 1977 is called "the principal Act".

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Interpretation

(1) Section 2(1) of the principal Act is amended by repealing the definition of Fire Authority, and substituting the following definition:

"Fire Authority,---

"(a) in relation to a rural fire district, means---

"(i) the rural fire committee in which the administration of the district is vested; or

"(ii) the Minister of Conservation; or

"(iii) the Minister of Defence (unless stated otherwise in the Gazette notice constituting the district):

"(b) in relation to a State area, means the Minister of Conservation:

"(c) in relation to the fire safety margin attached to a State area, means the Minister of Conservation to the extent provided by sections 11A and 11B:

"(d) in relation to a territorial area, means the territorial authority having jurisdiction for the area:

"(e) in relation to an area subject to an agreement made under section 14(1) or section 14(2), means the party appointed to act, to the extent provided by the agreement:

"(f) in relation to an area in respect of which a territorial authority exercises the powers of a Fire Authority under section 9(b), means the territorial authority to the extent provided by the agreement between the New

Zealand Fire Service Commission, the National Rural Fire Authority, and the territorial authority".

(2) Section 2(1) of the principal Act is amended by repealing the definition of fire safety margin, and substituting the following definition:

"fire safety margin,---

"(a) in relation to a State area (other than land administered by the Minister of Conservation pursuant to section 9A of the Foreshore and Seabed Endowment Revesting Act 1991), means the land outside the State area that is within 1 km of the boundary of the State area, excluding any land---

"(i) specified in a Gazette notice given under section 11B:

"(ii) in a fire district within the meaning of the Fire Service Act 1975:

"(iii) in a rural fire district; and

"(b) in relation to a forest area, means the land outside the forest area but within such a distance (not exceeding 1 km) from the boundary of the forest area as is approved by the Fire Authority for the area; but

"(c) does not include any land being the whole or part of a defence area within the meaning of the Defence Act 1990".

(3) The definition of State area in section 2(1) of the principal Act is amended by---

(a) omitting from paragraph (a)(vi) the word "and", and substituting the word "but"; and

(b) repealing paragraph (b).

(4) The definition of State area in section 2(1) of the principal Act is amended by adding to paragraph (c) the following subparagraph:

"(x) any fire safety margin attached to a State area by operation of this Act".

(5) Section 2(1) of the principal Act is amended by repealing the definition of territorial area, and substituting the following definition:

"territorial area means the land within the boundaries of a territorial authority that is not otherwise 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) a fire safety margin attached to a State area".

4 New sections 11A and 11B inserted

The principal Act is amended by inserting, after section 11, the following sections:

"11A Fire safety margins

"(1) The Minister of Conservation must carry out fire control measures within a fire safety margin attached to a State area.

"(2) For the purposes of subsection (1),---

"(a) the Minister of Conservation---

"(i) has the powers, duties, and immunities of a Fire Authority;
and

"(ii) must carry out the duties of a Fire Authority as if---

"(A) the fire safety margin were a part of a State area; and

"(B) the Minister were the Fire Authority for the State area;
and

"(b) the officers and employees of the Director-General of

"Conservation---

"(i) have the powers, duties, and immunities of the officers and employees of a Fire Authority; and

"(ii) must carry out the duties of the officers and employees of a Fire Authority within the fire safety margin.

"11B Exclusion of land from fire safety margin

"(1) The National Rural Fire Authority may, by notice in the Gazette, at the request of the Minister of Conservation, exclude from the fire safety margin attached to a State area---

"(a) any land forming part of the fire safety margin; or

"(b) all the land forming the fire safety margin.

"(2) Section 4 applies (with all necessary modifications) to a notice under subsection (1) as if the notice were a notice under that section."

5 Amendments consequential on new section 11A

(1) Section 23 of the principal Act is amended by---

(a) omitting from subsection (1)(a)(iii) the word "of" in the first place where it occurs, and substituting the words "attached to"; and

(b) omitting from subsection (1)(b)(i) the word "of" in the first place where it occurs, and substituting the words "attached to".

(2) Section 25(2)(a) of the principal Act is amended by omitting the word "thereof", and substituting the words "attached to a State area".

(3) Section 35(1)(a) of the principal Act is amended by omitting the words "external fire safety margin of any", and substituting the words "fire safety margin attached to a".

(4) The heading to section 46A of the principal Act is amended by omitting the word "of" in the second place where it occurs, and substituting the words "attached to".

(5) Section 46A(1) of the principal Act is amended by omitting the words "of the State" in both places where they occur, and substituting in each case the words "attached to the State".

6 Duties of Fire Authorities

(1) Section 12 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

"(1) Every Fire Authority must promote and carry out fire control measures in its district.

"(1A) Every Fire Authority must comply with the standards set by the National Rural Fire Authority under section 14A(2)(k) of the Fire Service Act 1975."

(2) Section 12 of the principal Act is amended by repealing subsection (4), and substituting the following subsections:

"(4) A Fire Authority must keep and maintain a current fire plan for its district.

"(4A) A fire plan must contain the prescribed information.

"(4B) A fire plan must be available for public inspection, free of charge, at the office of the Fire Authority during ordinary office hours.

"(4C) Failure to comply with subsection (4) does not invalidate any fire control measure promoted or carried out by the Fire Authority."

7 Joint, etc, exercise of statutory fire control powers
Section 14 of the principal Act is amended by repealing subsections (5), (5A), and (5B).

8 Recovery from person responsible for fire
Section 43 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) To avoid doubt, section 86 of the Fires Prevention (Metropolis) Act 1774 (Imp) does not apply---

"(a) in determining, for the purposes of this section, responsibility for the outbreak or threat of outbreak of fire; or

"(b) to a recovery made under this section."

9 Regulations

Section 67(2) of the principal Act is amended by repealing paragraph (g), and substituting the following paragraph:

"(g) prescribing the content of fire plans:".

Legislative history

10 May 2005 Divided from Statutes Amendment Bill (No 4), third reading