

# AUSTRALIAN CAPITAL TERRITORY.

No. 7 of 1940.

## AN ORDINANCE

### To amend the Careless Use of Fire Ordinance 1936-1937.

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1939*, as follows:—

1.—(1.) This Ordinance may be cited as the *Careless Use of Fire Ordinance 1940*. Short title and citation.

(2.) The *Careless Use of Fire Ordinance 1936-1937* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Careless Use of Fire Ordinance 1936-1940*.

2. Section three of the Principal Ordinance is amended by Definitions. inserting before the definition of “Inspector” the following definitions:—

“ ‘Chief Fire Control Officer’ means the Chief Fire Control Officer appointed under this Ordinance;

‘City Area’ means the City Area as defined in the *City Area Leases Ordinance 1936-1938*;

‘Council’ means the Bush Fire Council constituted under this Ordinance;”.

3. After section five of the Principal Ordinance the following sections are inserted:—

“5A.—(1.) For the purpose of this Ordinance, there shall be a Bush Fire Council. Bush Fire Council.

(2.) The Bush Fire Council shall be a body corporate, with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued.

(3.) All Courts, Judges and persons acting judicially shall take judicial notice of the Seal of the Council affixed to any document or notice, and shall deem that it was duly affixed.

“5B.—(1.) The Council shall consist of not less than five, Members of the Bush Fire Council. nor more than nine, members who shall be appointed by the Minister.

(2.) The Council shall elect one of its members to be Chairman of the Council and the Chairman shall hold office for a period of one year from the date of his election.

(3.) The Council shall elect one of its members to be Deputy Chairman of the Council and the Deputy Chairman shall hold office for a period of one year from the date of his election.

(4.) In the absence of the Chairman from any meeting, the Deputy Chairman shall preside and, in the absence from any meeting of both the Chairman and the Deputy Chairman, then the members present shall elect one of their number to act as Chairman of that meeting.

(5.) A quorum shall consist of a majority of the members of the Council holding office at the date of the meeting.

(6.) At any meeting of the Council at which the Chairman is present, he shall have a deliberative vote and, in the event of an equality of voting, a second or casting vote.

(7.) If, at any meeting of the Council at which the Chairman is not present, the members present differ in opinion upon any matter, the determination of that matter shall be postponed till the next meeting of the Council.

Meetings of  
the Council.

“5c.—(1.) Subject to this section, all meetings of the Council shall be convened by the Chairman by notice in writing to the other members of the Council, specifying the time and place of meeting.

(2.) The Minister may, by notice in writing to each member of the Council, direct that a meeting be held at the time and place specified in the notice.

Term of  
appointment.

“5d.—(1.) Subject to this section, each member shall be appointed for a term of one year and shall be eligible for re-appointment.

(2.) Any member appointed to fill a vacancy on the Council shall hold office for the unexpired portion of the term for which his predecessor was appointed.

Removal from  
office as  
member.

“5e. The Minister may, if he is satisfied that any member has been guilty of misbehaviour or is incapable of discharging his duties, remove that member from office.

Vacation of  
office as  
member.

“5f. In addition to retirement of members by expiration of their term of office or removal from office in accordance with the last preceding section, the seat of a member shall become vacant upon—

- (a) the death, lunacy or bankruptcy of the member, or the conviction of the member of an indictable offence;
- (b) the resignation of the member; or
- (c) the absence of the member, without leave of the Council, from two consecutive meetings of the Council.

Secretary to  
the Board.

“5g. There shall be a Secretary to the Board who shall be appointed by the Minister.

Powers of  
the Council.

“5h.—(1.) The Council may take such action as it deems necessary to prevent the outbreak or spread of fire and to protect therefrom life and property in any part of the Territory, other than the City Area, and may, in particular, acquire fire-fighting equipment, employ workmen, organize fire prevention associations and distribute literature relating to fire prevention.

(2.) In the exercise of its powers under the last preceding sub-section, the Council may incur, out of the funds allocated to it, expenditure not exceeding Fifty pounds in any month:

Provided that the Minister may authorize the Council to incur expenditure of a sum greater than Fifty pounds in any month.

“5j. The Council shall—

Accounts.

- (a) keep full and particular accounts of all moneys received and expended by it; and
- (b) submit to the Minister in the month of July in each year a statement of receipts and expenditure and a report of the Council’s activities during the preceding twelve months.

“5k. The accounts of the Council shall be subject to inspection and audit by the Auditor-General for the Commonwealth. Audit.

“5l. The Council may divide the Territory, outside the City Area, into Fire Districts. City Fire Districts.

“5m.—(1.) For the purposes of this Ordinance, the Council may appoint a Chief Fire Control Officer and a Deputy Chief Fire Control Officer and may, in each Fire District, appoint a Fire Controller and a Deputy Fire Controller. Appointment of officers.

(2.) All persons so appointed shall have such powers and duties as are prescribed or as are assigned to them by the Council.

“5n.—(1.) For the purpose of extinguishing or preventing the spread of any fire in any part of the Territory; other than the City Area, the Chief Fire Control Officer shall have and may exercise the following powers and authorities:— Powers and authorities of Chief Fire Control Officer.

- (a) The control and direction of all workmen employed in extinguishing the fire and of any persons who voluntarily place their services at his disposal;
- (b) Authority, either alone or with others under his control, to enter into any land or premises which may be on fire or in the neighbourhood of any fire for the purpose of taking any steps which he deems necessary for the extinguishment or for the prevention of the extension of a fire and he may take, or give directions for taking, any fire-fighting equipment into, through or upon any land or premises which he considers convenient for the purpose;
- (c) Power to take measures which in the circumstances are reasonable and appear to him necessary or convenient for the protection of life and property and, for the purpose of extinguishing or preventing the spread of fire, may, with or without the consent of the owner—

- (i) pull down, sever or remove any fence on any land or cause any such fence to be pulled down, severed or removed:

Provided that, as soon as practicable after any fence has been so pulled down, severed or removed, the Chief Fire Control Officer shall cause the fence to be temporarily repaired in an appropriate manner and shall notify the land-owner accordingly;

- (ii) burn or otherwise destroy or remove any grass, trees, scrub or vegetation on any land; and

(iii) remove or cause to be removed any stock on any land and shall, as soon as practicable after such removal, notify the owner accordingly; and

(d) Power to enter or give directions for entering any land or premises and take or cause to be taken water therefrom.

(2.) In the absence of the Chief Fire Control Officer, his powers and authorities may be exercised by the Deputy Chief Fire Control Officer or, in his absence, by the Fire Controller for the Fire District in which the powers and authorities are required to be exercised, or in his absence by the Deputy Fire Controller for that District.

Fire Control Officers not to be liable for damage done in exercise of powers.

“50.—(1.) The Chief Fire Control Officer, Deputy Chief Fire Control Officer or any Fire Controller or Deputy Fire Controller lawfully exercising any of the powers and authorities conferred by the last preceding section shall not be liable for any damage caused by the exercise in good faith of such powers and authorities; and no person acting under and in accordance with any directions given in pursuance of that section shall be liable for any damage caused by his so acting in good faith.

(2.) Any such damage shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged notwithstanding any clause or condition in any such policy.”.

Lighting fires in plantations, &c.

4. Section seven of the Principal Ordinance is amended by inserting, after the word “Minister”, the words “or the Council”.

Lighting of fires for burning off purposes.

5. Section ten of the Principal Ordinance is amended by inserting in paragraph (b) of sub-section (1.), after the word “Minister”, the words “or, where the land is outside the City Area, by the Chief Fire Control Officer.”.

Payment of expenses of extinguishing fire.

6. Section twelve of the Principal Ordinance is amended—

(a) by inserting, after the word “Minister”, the words “or the Council”; and

(b) by inserting, after the words “the Commonwealth” (wherever occurring), the words “or the Council, as the case may be”.

Persons reasonably suspected to give name and address.

7. Section fourteen of the Principal Ordinance is amended by inserting in sub-section (1.), after the word “Minister”, the words “or the Council”.

Dated this first day of May, 1940.

GOWRIE

Governor-General.

By His Excellency’s Command,

H. S. FOLL

Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.