

BUSH FIRES (AMENDMENT) ACT 1994 No. 24

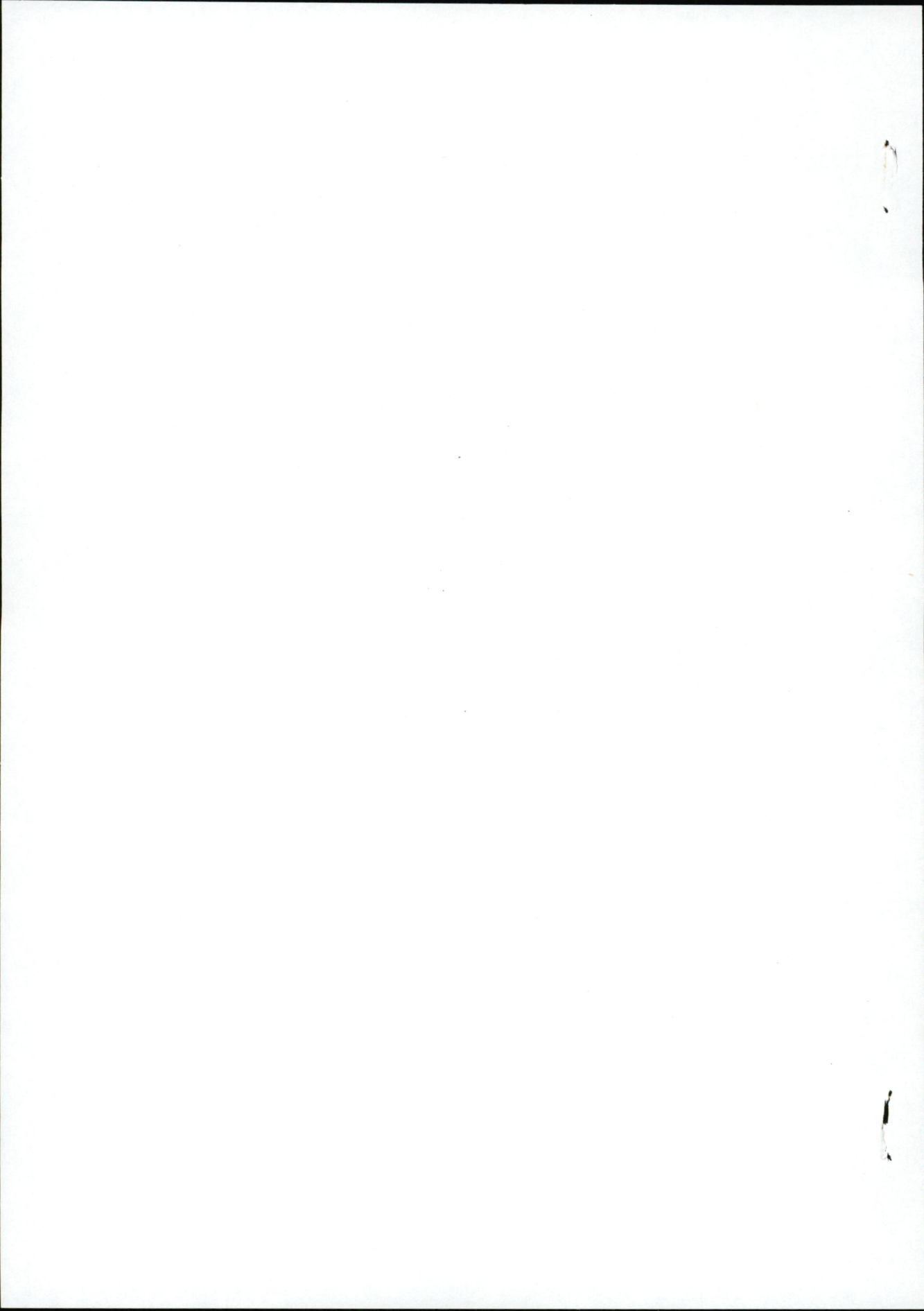
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Bush Fires Act 1949 No. 31

SCHEDULE 1—AMENDMENTS



BUSH FIRES (AMENDMENT) ACT 1994 No. 24

NEW SOUTH WALES



Act No. 24, 1994

An Act to amend the Bush Fires Act 1949 to make provision for increases in penalties for certain offences against that Act and to increase the limitation period for the prosecution of offences against that Act; and for other purposes. [Assented to 30 May 1994]

Bush Fires (Amendment) Act 1994 No. 24

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Bush Fires (Amendment) Act 1994.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Bush Fires Act 1949 No. 31

3. The Bush Fires Act 1949 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) **Section 12 (Offences):**

- (a) From section 12 (1), omit “and be liable to a penalty not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months”.

- (b) At the end of section 12 (1), insert:

Maximum penalty:

- in the case of an offence against subsection (1) (a) or (b)—1,000 penalty units or imprisonment for 5 years or both;
- in the case of an offence against subsection (1) (c) or (d)—50 penalty units or imprisonment for 12 months.

(2) **Section 49 (Penalties):**

- (a) From section 49 (2), omit “before a court of petty sessions held before a stipendiary magistrate sitting alone”, insert instead “before a Local Court constituted by a Magistrate sitting alone”.

- (b) At the end of section 49, insert:

(3) Despite subsection (2), an offence against section 12 (1) (a) or (b) is to be dealt with summarily before a Local Court only:

- (a) if the prosecutor proposes that it be so dealt with; and

Bush Fires (Amendment) Act 1994 No. 24

SCHEDULE 1—AMENDMENTS—*continued*

(b) while the Local Court is satisfied that it is proper for the offence to be so dealt with.

(4) In any other case, an offence against section 12 (1) (a) or (b) is to be dealt with as an indictable offence.

(5) If proceedings for an offence against this Act are disposed of summarily before a Local Court, the maximum penalty that may be imposed is 100 penalty units or imprisonment for 2 years (or both), or the maximum penalty provided for the offence, whichever is the lesser.

(6) An information for an offence against this Act for which proceedings are taken summarily may be laid at any time within 2 years from the time when the matter of the information arose.

(3) Schedule 1A (**Savings and transitional provisions**):

After Part 2 of Schedule 1A, insert:

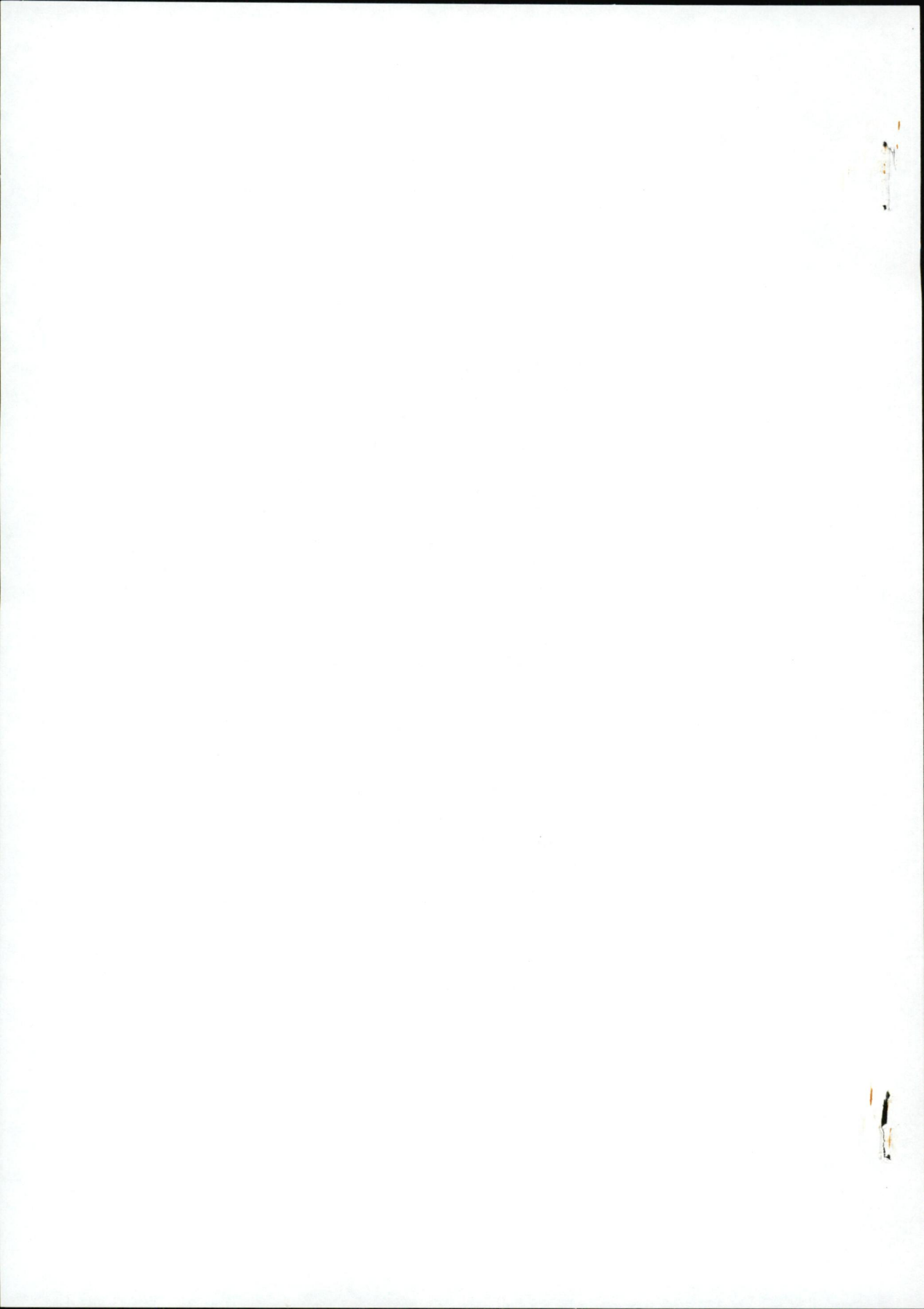
**Part 3—Transitional provision consequent on
enactment of Bush Fires (Amendment) Act 1994**

Procedure and limitation for prosecutions

6. (1) Subsections (3) and (4) of section 49 do not apply to offences committed before the commencement of those subsections.

(2) Section 49 (6) extends to apply in respect of an offence committed up to 6 months before the commencement of that subsection.

[Minister's second reading speech made in—
Legislative Assembly on 14 April 1994
Legislative Council on 5 May 1994]



FIRST PRINT

BUSH FIRES (AMENDMENT) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the State Emergency and Rescue Management (Amendment) Bill 1994.

The object of this Bill is to amend the Bush Fires Act 1949:

- (a) to increase the penalty for certain offences against that Act involving setting fire to another person's land or property or allowing fire to escape from property so as to cause damage to another person's land or property; and
- (b) to increase the limitation period for laying an information for an offence against that Act from 6 months to 2 years.

Increase in penalties

Under the Bush Fires Act 1949 it is an offence to set fire or cause fire to be set to the land or property of another person (including that of the Crown or a public authority) or for the owner or occupier of land to permit fire to escape from his or her land so as to cause or be likely to cause damage or injury. At present, the maximum penalty for such an offence is 50 penalty units (currently \$5,000) or 12 months imprisonment.

The proposed amendments increase the maximum penalty for those offences to 1,000 penalty units (currently \$100,000) or 5 years imprisonment or both. They also require those offences to be dealt with on indictment unless the prosecutor and Court consider it appropriate to proceed summarily.

Increase in limitation period

Proceedings for offences against the Bush Fires Act 1949 are disposed of summarily (except as noted above). Under the Justices Act 1902 (section 56) an information in relation to an offence may be laid at any time within 6 months from the time when the matter of the information arose.

The proposed amendment allows an information in relation to an offence against the Act for which proceedings are taken summarily to be laid at any time within 2 years from the time when the matter of the information arose.

Bush Fires (Amendment) 1994

This extension in the limitation period will apply to any offences in respect of which the limitation period has not already expired at the commencement of the proposed amendments (offences committed after, or not more than 6 months before, the commencement of the proposed amendments).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the Bush Fires Act 1949.

Schedule 1 contains the amendments to the Bush Fires Act 1949 described above.

FIRST PRINT

BUSH FIRES (AMENDMENT) BILL 1994

NEW SOUTH WALES



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1. Short title
2. Commencement
3. Amendment of Bush Fires Act 1949 No. 31

SCHEDULE 1—AMENDMENTS

BUSH FIRES (AMENDMENT) BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Bush Fires Act 1949 to make provision for increases in penalties for certain offences against that Act and to increase the limitation period for the prosecution of offences against that Act; and for other purposes.

*Bush Fires (Amendment) 1994***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Bush Fires (Amendment) Act 1994.

Commencement

- 5 2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Bush Fires Act 1949 No. 31

3. The Bush Fires Act 1949 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

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(1) Section 12 (Offences):

- (a) From section 12 (1), omit “and be liable to a penalty not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months”.

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- (b) At the end of section 12 (1), insert:

Maximum penalty:

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- in the case of an offence against subsection (1) (a) or (b)—1,000 penalty units or imprisonment for 5 years or both;
- in the case of an offence against subsection (1) (c) or (d)—50 penalty units or imprisonment for 12 months.

(2) Section 49 (Penalties):

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- (a) From section 49 (2), omit “before a court of petty sessions held before a stipendiary magistrate sitting alone”, insert instead “before a Local Court constituted by a Magistrate sitting alone”.

- (b) At the end of section 49, insert:

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- (3) Despite subsection (2), an offence against section 12 (1) (a) or (b) is to be dealt with summarily before a Local Court only:

- (a) if the prosecutor proposes that it be so dealt with; and

*Bush Fires (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*

- (b) while the Local Court is satisfied that it is proper for the offence to be so dealt with.
- (4) In any other case, an offence against section 12 (1) (a) or (b) is to be dealt with as an indictable offence. 5
- (5) If proceedings for an offence against this Act are disposed of summarily before a Local Court, the maximum penalty that may be imposed is 100 penalty units or imprisonment for 2 years (or both), or the maximum penalty provided for the offence, whichever is the lesser. 10
- (6) An information for an offence against this Act for which proceedings are taken summarily may be laid at any time within 2 years from the time when the matter of the information arose.
- (3) Schedule 1A (**Savings and transitional provisions**): 15
 After Part 2 of Schedule 1A, insert:
- Part 3—Transitional provision consequent on
 enactment of Bush Fires (Amendment) Act 1994**
- Procedure and limitation for prosecutions**
6. (1) Subsections (3) and (4) of section 49 do not apply to offences committed before the commencement of those subsections. 20
- (2) Section 49 (6) extends to apply in respect of an offence committed up to 6 months before the commencement of that subsection. 25
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