

# New South Wales.



ANNO TERTIO

## GEORGII V REGIS.

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### Act No. 28, 1912.

An Act to consolidate the Acts relating to the prevention of the careless use of fire. [Assented to, 26th November, 1912.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Careless Use of Fire Act, 1912." Short title, repeal, and saving.

(2) The Acts No. 25, 1901, and No. 45, 1906, are hereby repealed.

(3) All proclamations and regulations made under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act.

**2.** Whosoever ignites or uses or carries when ignited any inflammable material within one hundred yards of any stacks of corn, pulse, or hay or standing crops in an inflammable condition, or within ten yards of any growing crops, stubble-field, or grass land (the grass being in an inflammable condition), or within twenty-five yards of felled Penalties for setting fire to growing crops, &c. No. 45, 1906, s. 2.

*Careless Use of Fire.*

felled timber awaiting a running fire whereby the property of any other person is endangered, injured, or destroyed, shall for every such offence be liable to a penalty not exceeding fifty pounds or to be imprisoned with or without hard labour for any period not exceeding three months.

Penalty for not extinguishing fire.  
No. 25, 1901, s. 3.  
No. 45, 1906, s. 3.

**3.** Whosoever leaves, whether temporarily or otherwise, any fire which he has lighted or used in the open air before the same is thoroughly extinguished shall, for every such offence, be liable to a penalty not exceeding fifty pounds or to be imprisoned for any period not exceeding six months.

Persons exempted from the provisions of the next two preceding sections.  
No. 25, 1901, s. 4.  
No. 45, 1906, s. 4.

**4.** Notwithstanding anything in the next two preceding sections—

(a) the occupier of any land may, except during the months which may be prescribed for any locality by regulations, burn any straw, stubble, grass, or herbage, or ignite any wood or other inflammable material on such land after he has cleared of inflammable substance a space of land around the straw, stubble, grass, or herbage intended to be burnt, or wood or other inflammable material intended to be ignited, of not less than such distance as may be prescribed by regulations which the Colonial Secretary is authorised to make on the recommendation of the municipality or shire in which the land is situate, and until such regulations are so made, of not less than sixty-six feet in breadth, and after he has given to the occupiers of all land contiguous to the land from or on which the straw, stubble, grass, or herbage is intended to be burnt, or wood or other inflammable material to be ignited, notice in writing at least twenty-four hours before burning or igniting as aforesaid of the time at which it is his intention so to burn or ignite;

(b) the occupier of any grass lands may, except during the months prescribed by regulation, between five o'clock in the afternoon and four o'clock in the forenoon, burn off any grass or herbage from any such land in his occupation after giving the like notice in writing as hereinbefore directed of his intention so to do to the occupiers of all land contiguous to the land from which the grass or herbage is intended to be burned.

Damage by fire to dividing fence caused by negligence of owner or occupier of land to be made good by him.  
No. 25, 1901, s. 5.  
No. 45, 1906, s. 5.

**5.** (1) If the occupier of any land clears the same of inflammable materials for the space of twenty feet from any fence dividing such land from the land of any other owner or occupier, and such other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence through such neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own costs and charges cause such fence to be repaired and

*Careless Use of Fire.*

and re-erected within one month after the same has been so damaged, or within such extended time as may be allowed by a stipendiary or police magistrate on application made to him in a summary way: Provided that reasonable notice of any such application shall be given to the occupier who has cleared his land.

(2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time the owner or occupier of the land contiguous to the said fence who has cleared the same of inflammable material as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended or laid out under the provisions of this Act shall be deemed to be money paid to the use of the owner or occupier in default.

**6.** The Governor, by proclamation in the Gazette, may prohibit in any specified locality the sale, offering for sale, distribution, or use of any matches other than those so made as to strike only on a preparation affixed to the containing box, or a box containing the same description of matches.

Sale, distribution, or use of matches.  
No. 45, 1906, s. 7.

Any person who sells, offers for sale, distributes, or uses any matches in contravention of such proclamation shall be liable to a penalty not exceeding ten pounds.

**7.** (1) The Colonial Secretary may make regulations prescribing—

Regulations.  
*Ibid.* s. 6.

- (a) the manner of mixing and the use of phosphorous baits for poisoning rabbits;
- (b) the persons who may sell such baits;
- (c) for the burning of fire-breaks on railway lands;

and generally to carry out the provisions of this Act, and may, in such regulations, impose any penalty not exceeding twenty pounds for any breach thereof.

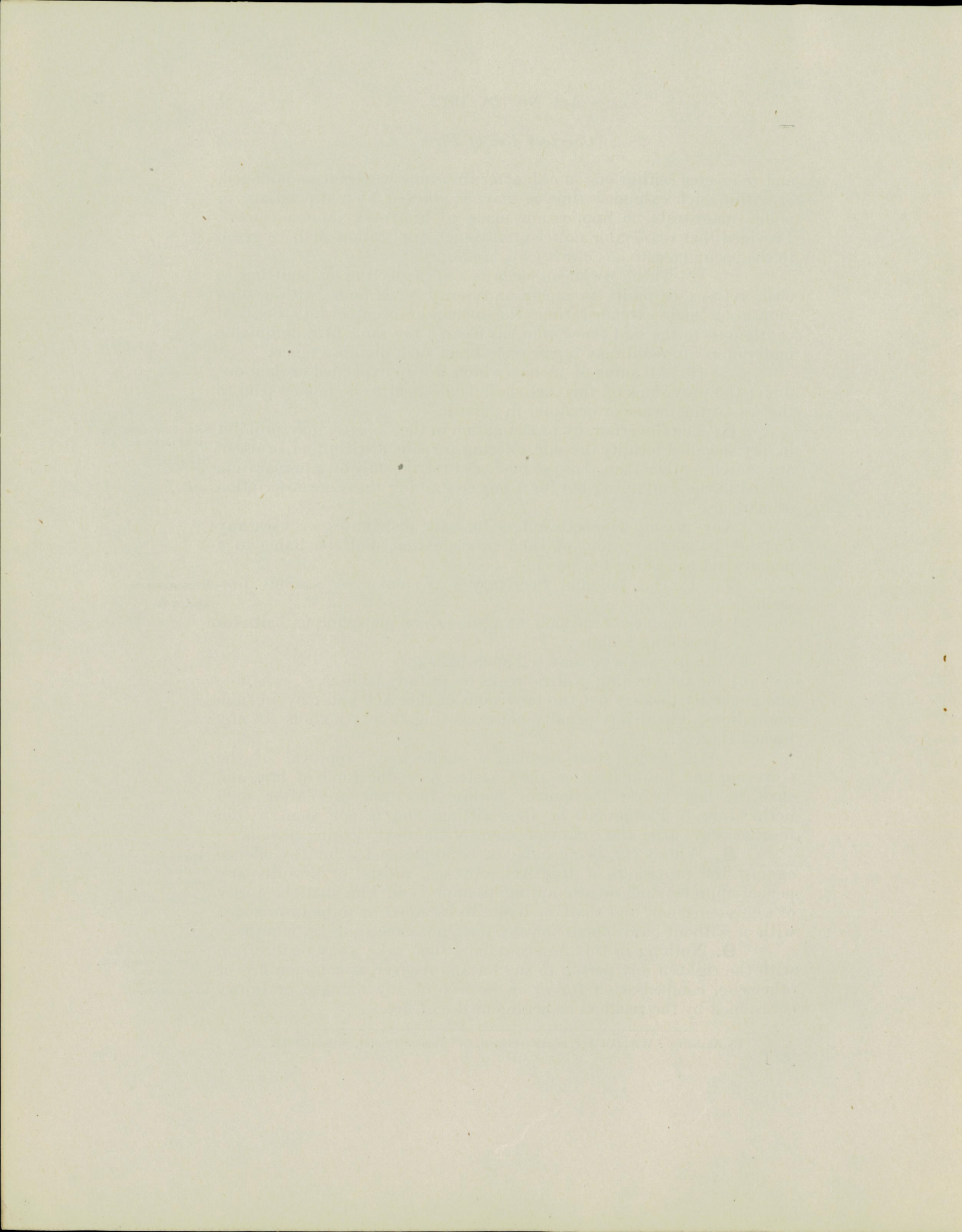
(2) Every such regulation shall, upon approval of the Governor and notification in the Gazette, have the force of law, and shall be laid before Parliament within fourteen days after such notification if Parliament be then sitting, and if not, then within fourteen days after the commencement of the next ensuing session.

**8.** Whosoever, being liable to be apprehended for any offence against the provisions of this Act, opposes, resists, or assaults any person apprehending or attempting to apprehend him shall be guilty of a misdemeanor, and shall be liable to be fined or to be imprisoned with or without hard labour for any term not exceeding six months.

Penalty on persons resisting apprehension.  
No. 25, 1901, s. 6.

**9.** Nothing in this Act contained shall take away or interfere with the right of any person to sue for and recover, at common law or otherwise, compensation for or in respect of any damage or injury occasioned by the reckless or negligent use of fire.

Proceedings under this Act not to interfere with right to sue for compensation for damage by fire.  
*Ibid.* s. 7.



*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Assembly Chamber,  
Sydney, 13 November, 1912.* }

RICHD. A. ARNOLD,  
*Clerk of the Legislative Assembly.*

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Careless Use of Fire Act, 1912." Short title, repeal, and saving.

(2) The Acts No. 25, 1901, and No. 45, 1906, are hereby repealed.

(3) All proclamations and regulations made under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act.

**2.** Whosoever ignites or uses or carries when ignited any inflammable material within one hundred yards of any stacks of corn, pulse, or hay or standing crops in an inflammable condition, or within Penalties for setting fire to growing crops, &c. No. 45, 1906, s. 2.  
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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

R. D. MEAGHER,  
*Chairman of Committees of the Legislative Assembly.*

*Careless Use of Fire.*

ten yards of any growing crops, stubble-field, or grass land (the grass being in an inflammable condition), or within twenty-five yards of felled timber awaiting a running fire whereby the property of any other person is endangered, injured, or destroyed, shall for every such offence be liable to a penalty not exceeding fifty pounds or to be imprisoned with or without hard labour for any period not exceeding three months.

Penalty for not extinguishing fire.  
No. 25, 1901, s. 3.  
No. 45, 1906, s. 3.

**3.** Whosoever leaves, whether temporarily or otherwise, any fire which he has lighted or used in the open air before the same is thoroughly extinguished shall, for every such offence, be liable to a penalty not exceeding fifty pounds or to be imprisoned for any period not exceeding six months.

Persons exempted from the provisions of the next two preceding sections.  
No. 25, 1901, s. 4.  
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**4.** Notwithstanding anything in the next two preceding sections—

(a) the occupier of any land may, except during the months which may be prescribed for any locality by regulations, burn any straw, stubble, grass, or herbage, or ignite any wood or other inflammable material on such land after he has cleared of inflammable substance a space of land around the straw, stubble, grass, or herbage intended to be burnt, or wood or other inflammable material intended to be ignited, of not less than such distance as may be prescribed by regulations which the Colonial Secretary is authorised to make on the recommendation of the municipality or shire in which the land is situate, and until such regulations are so made, of not less than sixty-six feet in breadth, and after he has given to the occupiers of all land contiguous to the land from or on which the straw, stubble, grass, or herbage is intended to be burnt, or wood or other inflammable material to be ignited, notice in writing at least twenty-four hours before burning or igniting as aforesaid of the time at which it is his intention so to burn or ignite;

(b) the occupier of any grass lands may, except during the months prescribed by regulation, between five o'clock in the afternoon and four o'clock in the forenoon, burn off any grass or herbage from any such land in his occupation after giving the like notice in writing as hereinbefore directed of his intention so to do to the occupiers of all land contiguous to the land from which the grass or herbage is intended to be burned.

Damage by fire to dividing fence caused by negligence of owner or occupier of land to be made good by him.  
No. 25, 1901, s. 5.  
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**5.** (1) If the occupier of any land clears the same of inflammable materials for the space of twenty feet from any fence dividing such land from the land of any other owner or occupier, and such other owner or occupier neglects or omits so to clear his land, and any damage from fire happens to such dividing fence through such neglect

*Careless Use of Fire.*

neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own costs and charges cause such fence to be repaired and re-erected within one month after the same has been so damaged, or within such extended time as may be allowed by a stipendiary or police magistrate on application made to him in a summary way: Provided that reasonable notice of any such application shall be given to the occupier who has cleared his land.

(2) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect such fence within such month or such extended time the owner or occupier of the land contiguous to the said fence who has cleared the same of inflammable material as aforesaid may repair or re-erect such dividing fence.

(3) All sums of money which are so expended or laid out under the provisions of this Act shall be deemed to be money paid to the use of the owner or occupier in default.

**6.** The Governor, by proclamation in the Gazette, may prohibit in any specified locality the sale, offering for sale, distribution, or use of any matches other than those so made as to strike only on a preparation affixed to the containing box, or a box containing the same description of matches.

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No. 45, 1906, s. 7.

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- (a) the manner of mixing and the use of phosphorous baits for poisoning rabbits;
- (b) the persons who may sell such baits;
- (c) for the burning of fire-breaks on railway lands;

and generally to carry out the provisions of this Act, and may, in such regulations, impose any penalty not exceeding twenty pounds for any breach thereof.

(2) Every such regulation shall, upon approval of the Governor and notification in the Gazette, have the force of law, and shall be laid before Parliament within fourteen days after such notification if Parliament be then sitting, and if not, then within fourteen days after the commencement of the next ensuing session.

**8.** Whosoever, being liable to be apprehended for any offence against the provisions of this Act, opposes, resists, or assaults any person apprehending or attempting to apprehend him shall be guilty of a misdemeanor, and shall be liable to be fined or to be imprisoned with or without hard labour for any term not exceeding six months.

Penalty on persons resisting apprehension.  
No. 25, 1901, s. 6.

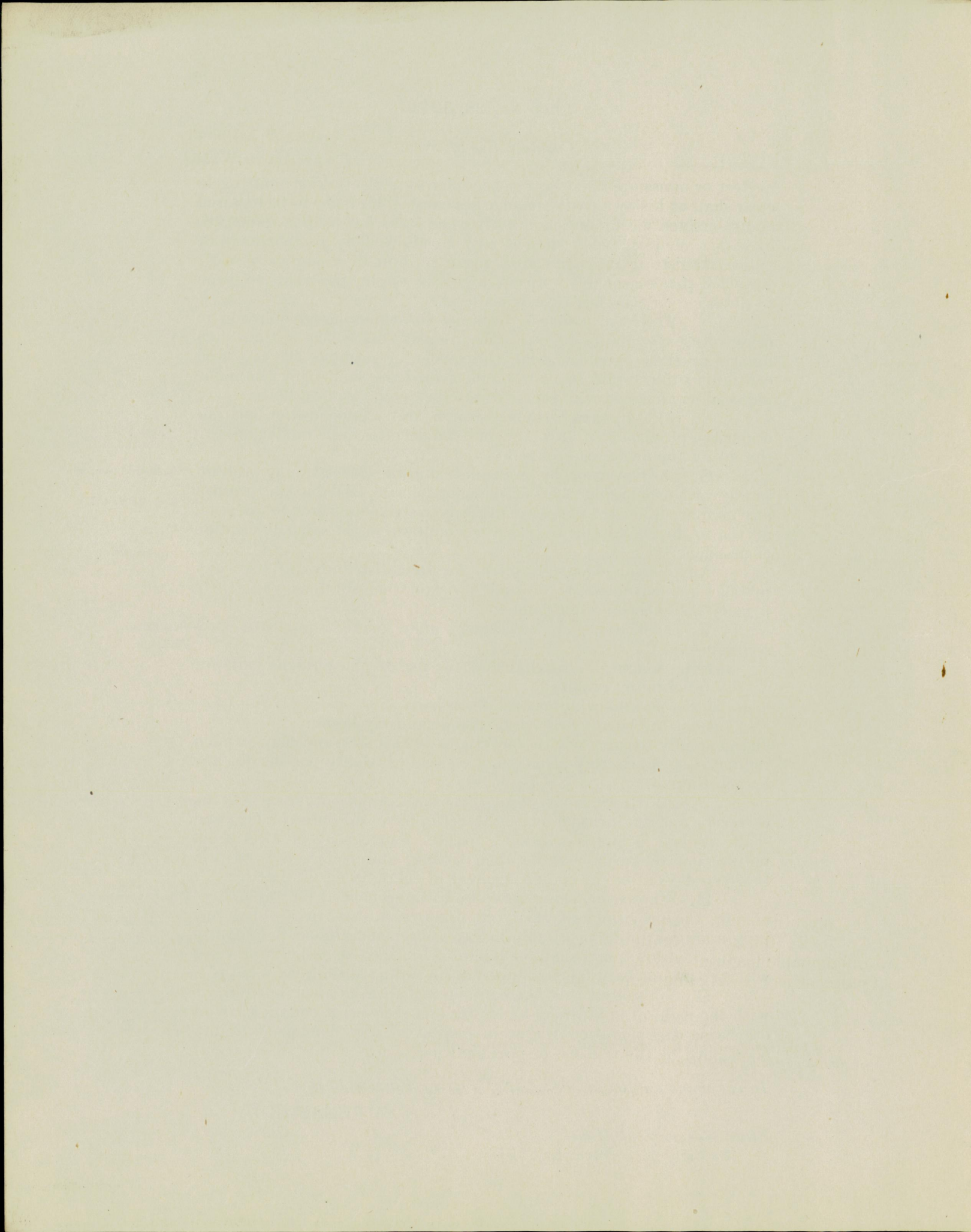
**9.** Nothing in this Act contained shall take away or interfere with the right of any person to sue for and recover, at common law or otherwise, compensation for or in respect of any damage or injury occasioned by the reckless or negligent use of fire.

Proceedings under this Act not to interfere with right to sue for compensation for damage by fire.  
*Ibid.* s. 7.

*In the name and on behalf of His Majesty I assent to this Act.*

CHELMSFORD,  
Governor.

State Government House,  
Sydney, 26th November, 1912.





STATUTES CONSOLIDATION COMMISSION.

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COMMISSIONER'S MEMORANDUM AND CERTIFICATE.

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CARELESS USE OF FIRE BILL.

THIS Bill consolidates—

The Careless Use of Fire Act, No. 25, 1901.

An Act to amend the Careless Use of Fire Act, No. 45, 1906.

I certify that this Bill solely consolidates and in no way alters, adds to, or amends the law as contained in the statutes therein consolidated.

CHAS. G. HEYDON,  
Commissioner for the Consolidation of the Statute Law.



## Careless Use of Fire Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Act.	Section of Consolidated Act.	Remarks.
Act No. 25, 1901.		
1	1	Superseded by s. 2 of No. 45, 1906
2	.....	
3	3	
4	4	
5	5	
6	8	
7	9	
Act No. 45, 1906.		
1	.....	Omitted. Unnecessary.
2	2	
3	3	
4	4	
5	5	
6	7	
7	6	

