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K Woodward  
Deputy Chief Parliamentary Counsel  
Dated 7 December 2022



## TASMANIA

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# **FIRE DAMAGE RELIEF ACT 1967**

## **No. 1 of 1967**

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## **FIRE DAMAGE RELIEF ACT 1967**

**No. 1 of 1967**

**An Act to make provision with respect to the relief of persons who suffered loss or personal injury through fires occurring during the month of February 1967 and of the dependants of persons whose deaths were caused by those fires, and for incidental and other purposes**

**[Royal Assent 15 March 1967]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **1. Short title**

This Act may be cited as the *Fire Damage Relief Act 1967*.

### **2. Interpretation**

In this Act, unless the contrary intention appears

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***corporation of a municipality*** means a council;

***distressed person*** means a person –

- (a) whose lands, buildings, structures, or goods were destroyed or damaged by the fires;
- (b) who has suffered personal injury by accident arising out of or caused by the fires;
- (c) who is a dependant of a deceased person whose death was caused, or contributed to, or hastened, by the fires or resulted from such an injury; or
- (d) who is a dependant of a deceased person whose death occurred in the course of any operations in which he was engaged during the period of emergency for or in connection with the relief or rehabilitation of persons who suffered loss, damage, or injury by reason of the fires;

***goods*** includes all chattels personal other than money or things in action;

***fires*** means the fires that occurred in the Southern Division of the State during the period of emergency;

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***legal practitioner*** means an Australian legal practitioner;

***municipal district*** means a municipal area;

***period of emergency*** means the period that commenced on the seventh day of February 1967 and ended on the third day of March 1967;

***public authority*** means –

- (a) a person or body constituted, established, or appointed under an enactment or in the exercise of the prerogative rights of the Crown to administer or control any department, business, undertaking, or public institution on behalf of the State;
- (b) a person to whom the administration of an enactment is committed by law;
- (c) the corporation of a municipality; and
- (d) a corporation that is an authority within the meaning of the *Statutory Authorities Act 1962*;

***works*** means roads, bridges, culverts, waterworks, works for or connected with the generation, transmission or distribution of electricity, sewerage and drainage works, and such other works

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and undertakings as the Governor may, by proclamation, declare to be works for the purposes of this Act.

**3. Loans**

- (1) The Minister may, in his absolute discretion, make loans, in such manner and upon and subject to such terms and conditions as he thinks fit, to a distressed person who, in the opinion of the Minister –
  - (a) is a dependant of a person who suffered injury or died as a result of the fires; or
  - (b) who is in need of assistance under this Act in order to enable him –
    - (i) to re-establish himself or to resume his former way of life; or
    - (ii) to carry on, or to continue to carry on, or to resume the carrying on of, any industry, trade, business, undertaking, or operations in the carrying on of which he was engaged (whether for profit or reward or not) on the seventh day of February 1967, or to establish or carry on some other industry, trade, business, undertaking, or operations.
- (2) Interest on loans under this section shall be at such rate as the Minister in each case may determine.

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- (3) The Minister may –
- (a) make loans under this section without interest;
  - (b) remit payment of interest on loans so made; and
  - (c) in agreements for loans under this section, provide for the rate of interest to be varied as he may determine.
- (4) The Minister may require and take such security for the repayment of loans under this section as in each case he thinks the best that can reasonably be obtained in the circumstances.

**4. Gifts of lands, goods, &c.**

- (1) Where, in the opinion of the Minister, the making of a loan to a distressed person under section three would not afford adequate relief or assistance to that person, he may, in his absolute discretion, either in lieu of or in addition to making such a loan, do all or any of the following things, namely:
- (a) Give to that person such moneys, land, or goods; and
  - (b) Carry out, or arrange for the carrying out, for and on behalf of that person of such work –

as he thinks fit, either unconditionally or upon and subject to such terms and conditions as he thinks fit.

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- (2) A gift of money under this section may comprise –
- (a) a lump sum;
  - (b) periodic payments; or
  - (c) both a lump sum and periodic payments.
- (3) For the purposes of this section, the Minister may acquire or obtain options to purchase lands and goods.

**5. Applications for loans and gifts**

- (1) An application for –
- (a) a loan under section three;
  - (b) a gift under section four; or
  - (c) the carrying out pursuant to section four of any work for and on behalf of the applicant –

shall be made in such form as the Minister may determine and shall be accompanied by such evidence in support of the application as the Minister may require, either generally or in any particular case.

- (2) Where such an application as is referred to in subsection (1) of this section is made to the Minister, he may require the applicant to furnish such further evidence in support of the application as he thinks fit.



**6. Power to Minister to obtain information**

Where a person makes application to the Minister for –

- (a) a loan under section three;
- (b) a gift of any money, land, or goods under section four; or
- (c) the carrying out, pursuant to section four, of any work for and on behalf of that person –

the Minister may require that person –

- (d) to give to the Minister authority to obtain from any other person information available to him; or
- (e) to produce to the Minister such books, papers, documents, and accounts as the Minister may require, being books, papers, documents, and accounts relating to the loan or gift or the purposes for which it is or is proposed to be made or the terms and conditions upon and subject to which it is or is proposed to be made or, as the case may be, relating to the carrying out of the work or the terms and conditions upon and subject to which the work is or is proposed to be carried out.

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**7. Loans and gifts of money repayable if misapplied, &c.**

If a person to whom a loan under section three or a gift of money under section four has been made –

- (a) applies the money lent or given to him for any purpose other than the purpose for which it was lent or given or otherwise than in conformity with the terms and conditions upon and subject to which it was lent or given; or
- (b) in the case of a person to whom a loan or gift of money has been made for the purpose of enabling him to carry on or to continue to carry on, or to resume the carrying on of, any industry, trade, business, undertaking, or operations, ceases, within such period (not exceeding ten years) after the date of the making of the loan or gift, as the Minister may determine, to carry on the industry, trade, business, undertaking, or operations –

the amount of the loan or gift or, as the case may be, any part of the loan that has not been repaid to the Minister becomes payable to the Minister forthwith.

**8. Power of Minister to undertake works**

- (1) The Minister may, in lieu of or in addition to making a loan or gift under this Act to a distressed person, give a binding undertaking to

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that person that he will restore or repair property of his that was destroyed or damaged by the fires.

- (2) The Minister may arrange for any work that he undertakes to do under this section to be done –
- (a) by a public authority; or
  - (b) by contract.

**9. Erection of dwelling-houses in certain cases**

- (1) Where the owner of any land satisfies the Minister that a building on that land was destroyed by the fires and that, at the time of its destruction, the building (in this section referred to as “the destroyed building”) –
- (a) was occupied by the owner as his sole or principal place of residence;
  - (b) was occupied by some other person as his sole or principal place of residence under an agreement (whether made orally or in writing) for the letting thereof; or
  - (c) although unoccupied at the time of its destruction, was ordinarily occupied by a person other than the owner as the sole or principal place of residence of such a person under an agreement (whether made orally or in writing) for the letting thereof –

the Minister, in his absolute discretion, and upon and subject to such terms and conditions as he

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thinks fit, may, on the application of the owner, erect a dwelling-house or cause a dwelling-house to be erected on that land or on other land owned by him, being a dwelling-house of such a type and constructed to such a standard as the Minister may determine.

- (2) The Minister may erect a dwelling-house or cause a dwelling-house to be erected pursuant to this section whether or not the owner of the land on which it is erected is an eligible person within the meaning of the *Homes Tasmania Act 2022*.
- (3) Where a dwelling-house is erected on any land pursuant to this section –
  - (a) a transfer (as defined in subsection (18) of this section) is of no force or effect unless it –
    - (i) arises through the operation of any law relating to bankruptcy;
    - (ii) is made by a person acting in the capacity of executor or administrator of the estate of the owner;
    - (iii) is made by a mortgagee in the exercise of his rights under a mortgage instrument or by operation of law, except where the Minister has declared in writing to the Recorder of Titles or Registrar of Deeds that, in the opinion of the Minister, the transfer is made as the result of

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- collusion between the mortgagor and the mortgagee;
- (iv) is made by a Sheriff under a writ of *fiery facias* or a bailiff under the *Magistrates Court (Civil Division) Act 1992* under a warrant of execution, except where the Minister has declared in writing to the Recorder of Titles or Registrar of Deeds that, in the opinion of the Minister, the judgment or order enforced by the execution has been obtained as the result of collusion between the parties to the action or complaint in which the judgment or order was given or made;
  - (v) is made pursuant to an order of the Supreme Court; or
  - (vi) is made with the consent of the Minister;
- (b) in a case to which paragraph (b) of subsection (1) of this section relates, the owner shall not, at any time within such period (not exceeding ten years) after the date on which the erection of the dwelling-house is completed as the Minister may determine, except with the consent of the Minister –
- (i) let the dwelling-house to a person other than the person by whom

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the destroyed building was occupied at the time of its destruction by the fires; or

- (ii) let the dwelling-house to any person on terms or conditions (whether as to the rent payable or otherwise) that are less favourable to the person to whom it is let than the terms and conditions upon which the destroyed building was let at the time of its destruction by the fires; and
  - (c) the owner shall, during the period referred to in subsection (18) of this section, keep the dwelling-house insured against fire and such other risks (if any), and in such sum, as the Minister may require, and punctually pay all premiums and money necessary for effecting and keeping up the insurance.
- (4) Upon deciding to accede to an application under subsection (1) of this section, the Minister shall forthwith –
- (a) cause to be lodged with the Recorder of Titles, if the land to which the application relates is under the *Land Titles Act 1980*; or
  - (b) cause to be delivered to the Registrar of Deeds, in any other case –

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a notification, in the prescribed form and containing the prescribed particulars, stating that the land is affected by the provisions of paragraph (a) of subsection (3) of this section.

- (5) A notification under subsection (4) of this section shall, when registered by the Recorder of Titles or the Registrar of Deeds, as the case may be, take priority, subject to subsection (9) of this section, as if it were an instrument under the *Land Titles Act 1980* or the *Registration of Deeds Act 1935* to secure upon the land thereby affected the debt due to the Crown under subsection (6) of this section.
- (6) Where a notification has been lodged or delivered under subsection (4) of this section, the costs and expenses incurred by the Minister in and in connection with the erection of the dwelling-house applied for shall become –
  - (a) a debt owed by the owner to the Crown;
  - (b) a charge on the land affected by the notification; and
  - (c) payable, subject to subsection (7) of this section, on a transfer as defined in subsection (18) of this section within the relevant period referred to in the latter subsection.
- (7) Where a debt becomes payable under subsection (6) of this section, the Minister may leave the whole or part outstanding until the next transfer and so from transfer to transfer until the

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expiration of the relevant period referred to therein.

- (8) The Minister may accept less than the whole in satisfaction of a debt due under subsection (6) of this section.
- (9) An instrument lodged under the *Real Property Act 1862* or registered under the *Registration of Deeds Act 1935* before the commencement of the *Fire Damage Relief Act 1970* takes priority over any debt due to the Crown under subsection (6) of this section.
- (10) A notification lodged with the Recorder of Titles under subsection (4) of this section shall –
  - (a) operate as a caveat lodged under the *Land Titles Act 1980* forbidding the registration of any transfer of the land subject to the notification otherwise than as mentioned in subparagraphs (i) to (vi) of paragraph (a) of subsection (3) of this section as if the Minister were the caveator; and
  - (b) remain in force until –
    - (i) the period determined by the Minister as mentioned in subsection (18) of this section in respect of the land has expired; or
    - (ii) it is sooner withdrawn pursuant to subsection (16) of this section –

and is incapable of lapsing sooner.



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(11) Section 133 (3) (b) and section 136 of the *Land Titles Act 1980* do not apply to a notification lodged under subsection (4) of this section.

(12) Where the Registrar of Deeds receives –

(a) a notification pursuant to subsection (4) of this section;

(b) a declaration pursuant to subparagraph (iii) or subparagraph (iv) of paragraph (a) of subsection (3) of this section; or

(c) a notice pursuant to subsection (16) of this section –

he shall register it and make –

(d) in his index; and

(e) in the case of a declaration or notice, on the relevant notification –

such entries as he thinks proper to give notice of the notification, declaration, or notice to a person searching in the Registry of Deeds.

(13) Where the Minister consents to a transfer of land to which a notification under subsection (4) of this section relates he shall –

(a) where the transfer secures a debt on the same land and he intends the Crown's debt to be postponed to that debt –

(i) if the land to which the notification relates is subject to the provisions of the *Land Titles*

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- Act 1980*, lodge with the Recorder of Titles in accordance with section 76 of that Act an instrument varying the priority between the charge created by the notification and the memorandum of mortgage or incumbrance which is to have priority as if the notification were a registered mortgage under that Act; or
- (ii) if the land to which the notification relates is not subject to the provisions of that Act, lodge with the Registrar of Deeds a memorial in the prescribed form varying the priority of the charge created by the notification and the security which is to have priority; and
- (b) where the transfer either does not secure a debt on the same land, or he does not intend the Crown's debt to be postponed to a debt to be secured by the transfer –
- (i) if the land to which the notification relates is subject to the provisions of the *Land Titles Act 1980*, lodge with the Recorder of Titles an instrument of consent in the prescribed form; or
  - (ii) if the land to which the notification relates is not so

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subject, give to the person seeking his consent an instrument of consent in the prescribed form.

- (14) The Recorder of Titles or the Registrar of Deeds, as the case may be, shall register an instrument or memorial lodged under paragraph (a) of subsection (13) of this section as if it were a registrable instrument under the *Land Titles Act 1980* or the *Registration of Deeds Act 1935*, as the case may be.
- (15) An instrument of consent lodged or given under paragraph (b) of subsection (13) of this section does not affect the priority of a debt due to the Crown over a debt secured by the transfer to which the instrument relates.
- (16) If –
- (a) after lodging or registering a notification under subsection (4) of this section, the Minister decides not to proceed with the erection of a dwelling-house on the land to which the notification relates; or
  - (b) the debt referred to in paragraph (a) of subsection (6) of this section is paid or otherwise discharged within the relevant period referred to in subsection (18) of this section –

the Minister shall lodge with the Recorder of Titles or register with the Registrar of Deeds, as the case may be, a notice withdrawing the notification.

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- (17) If the owner of any land on which a dwelling-house is erected pursuant to this section lets that dwelling-house in contravention of any of the provisions of paragraph (b) of subsection (3) of this section or fails to comply with the provisions of paragraph (c) of that subsection, he is guilty of an offence against this Act.

Penalty: In the case of an offence against paragraph (b) of that subsection, one thousand dollars or two years' imprisonment; or, in the case of an offence against paragraph (c) of that subsection, five hundred dollars.

- (18) In this section –

***owner*** includes any person who, by virtue of section four of the *Lands Resumption Act 1957*, is authorized to sell and convey land to Her Majesty;

***transfer*** means a transfer or conveyance, assignment, surrender, mortgage, incumbrance or charge of the land on which a dwelling-house is erected pursuant to this section, or of any estate or interest therein, made by the owner for the time being within such period (not exceeding ten years) after the date on which the dwelling-house was completed as the Minister may, in each case, determine.

**9A. Owner to produce insurance documents: Minister may insure dwelling-house**

- (1) An owner of land who is required, by paragraph (c) of subsection (3) of section nine, to keep insured the dwelling-house erected on that land shall, on demand therefor being made by the Minister or his delegate (either generally or in that behalf) under this Act, produce to the Minister or person making the demand –
  - (a) the policy of insurance in respect of the dwelling-house; and
  - (b) the receipt for the premium paid in respect of a period of time during which the demand is made.
- (2) If, on demand being made under subsection (1) of this section, the policy of insurance and receipt are not produced to the Minister or person making the demand therefor, the Minister may cause that dwelling-house to be insured for such sum as the Minister or person may determine and (without any further authority than this subsection) all moneys and premiums necessary for that purpose to be paid.

**9B. Payment by Minister protected by “caveat”**

- (1) Where the Minister causes money to be paid under section nine A, he shall forthwith –
  - (a) cause to be lodged with the Recorder of Titles, if the land on which the dwelling-house in respect of which the payment is

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made is under the *Land Titles Act 1980*;  
or

- (b) cause to be delivered to the Registrar of Deeds, in any other case –

a notification, in the prescribed form, stating that the land is affected by the provisions of this section.

- (2) A notification lodged with the Recorder of Titles under subsection (1) of this section shall –
- (a) operate as a caveat lodged under the *Land Titles Act 1980* forbidding the registration of any transfer of the land the subject of the notification without the consent of the Minister as if the Minister were the caveator; and
- (b) remain in force (notwithstanding the registration of any transfer with the consent of the Minister given under this section) until it is withdrawn pursuant to subsection (5) of this section.
- (3) Sections 133 (3) (b) and 136 of the *Land Titles Act 1980* do not apply to a notification under subsection (1).
- (4) Where the Registrar of Deeds receives a notification pursuant to subsection (1) of this section, he shall register it and make in his index such entries as he thinks proper to give notice of the notification to a person searching in the Registry of Deeds.

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- (5) If, after lodging or registering a notification under subsection (1) of this section payment is received by the Minister as reimbursement in full for the amount or the total of the amounts (as the case requires) together with the interest payable thereon as provided by subsection (1) of section nine C, the Minister shall lodge with the Recorder of Titles or register with the Registrar of Deeds (as the case requires) a notice withdrawing the notification.

**9C. Payment by Minister a charge on the land**

- (1) Any money paid on account of insurance as provided by subsection (2) of section nine A, together with interest thereon at the rate of five per cent per annum, shall be a charge on the land on which the dwelling-house, in respect of which the payment is made, is erected.
- (2) A charge on land under this section may be enforced –
- (a) against the owner of the land for the time being by action in any court of competent jurisdiction as for a debt due and payable to the Crown; or
  - (b) against the land, by sale.
- (3) Where the Minister desires to enforce the charge afforded by this section against the land (either when the charge arises or when any of the events set out in subsection (6) of this section has occurred) he shall make application to the Sheriff to sell the land whereupon the Sheriff

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shall, in relation to the land on which the dwelling-house in respect of which the application is made is erected –

- (a) fix a convenient time (being not more than six months and not less than three months from the date of the application) and a convenient place for the sale;
  - (b) give such notice of the sale as he may deem sufficient by advertisement in the *Gazette* and in a newspaper;
  - (c) make such searches against the land and give such notice (if any) as he may deem reasonable or practicable to any person who appears to be interested in the land; and
  - (d) sell the land as if he held the land upon trust to sell it, and to receive the proceeds of sale, and after paying and retaining thereout the costs and expenses of the sale to stand possessed of the residue of the proceeds in trust for the person entitled thereto.
- (4) In respect of a sale pursuant to this section, the Sheriff, and his servants and agents in that behalf, shall incur no greater liability than would be the case if the sale had been made pursuant to the order of a court of competent jurisdiction.
- (5) Where the Minister consents to a transfer of land the subject of a notification under this section, the provisions of section nine shall apply in all respects as if the money secured by the



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notification under this section was money secured by a notification under section nine which section shall be complied with accordingly.

- (6) Notwithstanding the foregoing provisions of this section, where the owner of land which may be sold under paragraph (b) of subsection (2) of this section is in indigent circumstances, the Minister may, instead of making an application to the Sheriff under this section, notify that owner that he will allow the whole or part of the moneys then being or thereafter to become a charge on the land to go unpaid until the death of the owner or until further notice, whichever event is the first to occur.

**9D. Proof of failure to insure**

For the purposes of subsection (17) of section nine and paragraph (a) of subsection (2) of section nine C, an allegation in a complaint or a plaint that an owner of land has failed to insure, as required by paragraph (c) of subsection (3) of section nine, shall be deemed to be proved in the absence of proof to the contrary.

**10. Special powers of the Minister in relation to the housing of homeless persons**

- (1) Where the Minister is satisfied that—
- (a) a person has been rendered homeless by reason of the destruction by the fires of

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the dwelling-house in which he resided at the time of the fires;

- (b) that person is unable, by reason of his financial position or otherwise, to purchase or rent a suitable dwelling-house; and
- (c) it is desirable in the public interest that that person be provided with accommodation for himself and his family (if any)–

Homes Tasmania shall, if the Minister in his absolute discretion so directs, sell or let to that person on such terms and conditions as the Minister may determine any residential premises, within the meaning of the *Homes Tasmania Act 2022*, erected under that Act or on land acquired pursuant to this section.

- (2) Homes Tasmania may for the purposes of this section use the powers conferred on Homes Tasmania under Part 6 of the *Homes Tasmania Act 2022* to purchase or take–
  - (a) land on which a dwelling-house is erected; or
  - (b) land on which no dwelling-house is erected and to erect residential premises, within the meaning of the *Homes Tasmania Act 2022*, thereon.

**11. Use of Crown lands**

- (1) Notwithstanding anything in the *Crown Lands Act 1976*, any Crown land that is not reserved from sale may be—
  - (a) sold at its full value to the Minister for any estate or interest and subject to any conditions, reservations, or exceptions, and may be sold by the Minister for such price as he thinks fit, or given by him, to a distressed person; and
  - (b) granted to such a person for the estate or interest and subject to the conditions, reservations, and exceptions subject to which it was sold to the Minister.
- (2) Land may be sold or given to a distressed person pursuant to this section whether or not that person is an eligible person within the meaning of the *Homes Tasmania Act 2022*.

**12. Relief of municipalities in respect of remission, &c., of rates and charges and of certain expenditure**

- (1) Where in the opinion of the corporation of a municipality –
  - (a) it is impracticable, by reason of the destruction by the fires of any property situated within its municipal district, to collect or enforce the payment of any rate, charge, or fee payable to the corporation in respect of that property under any Act; or

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- (b) the collection, or enforcement of the payment, of any such rate, charge, or fee payable to the corporation by a distressed person would impose undue hardship on that person –

the corporation may, in its absolute discretion, write off or remit (either wholly or partly) or extend (either unconditionally or subject to such conditions as it may determine) the time for payment of that rate, charge, or fee as it thinks fit.

- (2) The Minister may make to the corporation of a municipality grants of such sums of money as he may consider reasonable for the purpose of reimbursing the corporation for or in respect of –
  - (a) the writing off or remission pursuant to this section of a rate, charge, or fee payable to the corporation; or
  - (b) expenditure incurred by the corporation in connection with the extinguishment or prevention of fires within its municipal district during the period of emergency or in connection with the disposal of dead animals and removal of debris and obstructions resulting from the fires from land within that district or other operations incidental thereto.

**13. Relief of public authorities in respect of works destroyed by the fires**

Where any equipment, plant, or works owned, constructed, or maintained by a public authority have been destroyed or damaged by the fires, the Minister may, on such terms and conditions as he may determine –

- (a) make grants to the public authority for the purpose of replacing or repairing that equipment or plant or of restoring or repairing those works; or
- (b) himself undertake to carry out the replacement or repair of that equipment or plant or restoration or repair of those works and carry out his undertaking.

**14. Provisions as to the remission of stamp duty and filing and other fees**

- (1) An instrument made by the Minister or by any other person acting under an instrument of delegation under section nineteen for any of the purposes of this Act is exempt from duty under the *Stamp Duties Act 1931* and may be filed, recorded, or registered without payment of any fee payable under any Act.
- (2) No –
  - (a) duty under the *Stamp Duties Act 1931*; or
  - (b) fee under the *Land Titles Act 1980* or the *Registration of Deeds Act 1935* –

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is payable upon or in respect of a prescribed instrument.

(3) Where, before the commencement of this Act, duty under the *Stamp Duties Act 1931* was paid on or in respect of a prescribed instrument, the Commissioner of Stamp Duties, on receipt of –

- (a) an application made by the person by whom the duty was paid; and
- (b) a statutory declaration made by that person declaring that the execution of the instrument was necessitated primarily by reason of the destruction of property by the fires –

shall refund to the applicant the amount of the duty so paid by him.

(4) An application under subsection (3) of this section may be in the form of a Treasury voucher signed by the applicant and containing particulars of –

- (a) the amount of duty paid on the instrument to which the application relates; and
- (b) the date on which the duty was paid.

(5) In this section, *prescribed instrument* means an instrument or document of any kind that –

- (a) is prepared, lodged, recorded, registered, or filed under or for the purposes of the

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*Land Titles Act 1980* or the *Registration of Deeds Act 1935*; and

- (b) is an instrument or document the execution of which was necessitated primarily by reason of the destruction of property by the fires and is declared so to be by statutory declaration made by any party thereto or by his legal practitioner.
- (6) If a question arises as to whether the execution of an instrument or document was necessitated primarily by reason of the destruction of property by the fires, the question shall be determined by the Commissioner of Stamp Duties, whose decision thereon is final and is not subject to appeal or review.

**15. Provisions as to the remission, &c., of land tax in certain cases**

Where –

- (a) any building or structure on land in respect of which land tax is payable under the *Land and Income Taxation Act 1910* was destroyed or damaged by the fires;
- (b) the amount of the land tax payable in respect of that land for the financial year ending on the thirtieth day of June 1967 has not been paid; and
- (c) the Commissioner of Taxes is satisfied that the owner of that land would suffer

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hardship if he were required to pay the amount of that tax within the time for payment thereof prescribed by that Act –

the Commissioner may remit the amount of the tax payable in respect of that land for that financial year or may extend the time for the payment thereof until such date as he considers reasonable in the circumstances.

**16. Provisions as to the calculation and remission of estate duty**

(1) Where –

- (a) a person dies or has died at any time on or after the seventh day of February 1967;
- (b) any building that, immediately before his death, was owned by him (whether alone or jointly with his spouse) and occupied by him and his spouse as their principal matrimonial home, or any furniture in a building occupied by him (whether alone or jointly with his spouse) as their principal matrimonial home at the time of his death (being furniture owned by him, whether alone or jointly with his spouse), was destroyed by the fires; and
- (c) any moneys have been paid or are payable under a policy of insurance in respect of the destruction of that building or furniture –



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the moneys so paid or payable shall be treated, for the purposes of the *Deceased Persons' Estates Duties Act 1931*, as the value of that building or furniture, and the duty payable under that Act in respect of the estate of that person shall be calculated accordingly.

- (2) Where –
- (a) a person died at any time before the seventh day of February 1967; and
  - (b) any property owned by that person at the time of his death that is, or is part of, his dutiable estate (within the meaning of the *Deceased Persons' Estates Duties Act 1931*) was destroyed or damaged by the fires –

the Commissioner of Taxes may remit such part of the duty that, but for this subsection, would be payable under that Act in respect of that property as the Commissioner may determine.

- (3) The Commissioner of Taxes may make such adjustments in the accounts, books, and records of the Commissioner as may be necessary by reason of the operation of this section or of the remission of any duty by the Commissioner pursuant to this section.

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**18. General provisions as to remission, &c., of fees, &c.**

- (1) A public authority may –
  - (a) remit the payment by a distressed person;
  - (b) extend the time for payment by a distressed person; or
  - (c) permit the payment by a distressed person, by such instalments as the public authority may determine –

of the whole or any part of any tax, duty, royalty, fee, rate, charge, or impost (not being a tax, duty, rate, charge, or fee to which any of the provisions of sections twelve, fourteen, fifteen, sixteen, or seventeen relate) payable to the public authority under or for the purposes of any Act.

- (2) Where pursuant to this section the whole or part of any tax, duty, royalty, fee, rate, charge, or impost is remitted by a public authority, the Minister, in his absolute discretion, may pay to the credit of such of the accounts or funds of the public authority as the Minister considers appropriate a sum of money equal to the sum of the tax, duty, royalty, fee, rate, charge, or impost so remitted.

**19. Delegation**

- (1) The Minister may, by instrument in writing, delegate to a person specified therein all or any of the powers, functions, discretions, and duties

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of the Minister under this Act (except the power of delegation) so that the delegated powers, functions, discretions and duties may be exercised by the delegate as fully and effectually as by the Minister.

- (2) The Minister may, in pursuance of this section, delegate to different persons the several powers, functions, discretions, and duties of the Minister under different provisions of this Act.
- (3) A delegation under this section is revocable at the will of the Minister and does not prevent the exercise by the Minister of any of the delegated powers, functions, discretions, and duties.

**20. This Act to prevail over other enactments, &c.**

The provisions of this Act have effect, and the powers, functions, discretions, and duties conferred and imposed on any person by or under this Act or by virtue of an instrument of delegation under section nineteen may be exercised and performed, notwithstanding anything to the contrary contained in any enactment passed, or in any regulation, rule, by-law, or other subordinate legislation made, before the commencement of this Act.

**21. Validation**

- (1) Any expenditure incurred by a public authority during the period of emergency in relation to operations for the extinguishment of or for preventing the spread of fires or for the relief or

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rehabilitation of persons who suffered loss, damage, or injury by reason of the fires shall be deemed to have been validly and lawfully made as if the public authority had been expressly authorized by an Act to incur that expenditure.

- (2) Any act, matter, or thing done before the commencement of this Act by the Governor, a Minister, a public authority, or an officer of a public authority in relation to any of the purposes of this Act that would have been validly done if this Act had been in force at the time when it was done is as valid and effectual for all purposes as if this Act had commenced before that time.

**22. Indemnity**

No action, claim, or demand lies or shall be allowed by or in favour of a person against Her Majesty, a Minister, the corporation of a municipality, or any body, corporation, officer, or person for or in respect of damage, loss, or injury sustained or alleged to have been sustained by reason of any act, matter, or thing done in good faith –

- (a) in the execution or intended execution of this Act; or
- (b) in the course of or for the purposes of any operations carried out before the commencement of this Act for the extinguishment of or for preventing the spread of the fires, or for or in connection with the restoration of light or power or

of any means of communication or transport or any operations ancillary or incidental thereto –

except in respect of reasonable compensation for any property used or taken by or on behalf of Her Majesty for any of the purposes of this Act or of any such operations.

**23. Protection of members of Parliament**

A contract made in pursuance or for the purposes of any provision of this Act to which a member of either House of Parliament is a party is not a contract or agreement with the Government of the State within the meaning of section thirty-three of the *Constitution Act 1934*.

24. . . . .

**25. Expenditure under this Act to be met from Public Account**

All costs and expenses incurred, and payments made, by the Minister in the administration of this Act shall be defrayed out of the account, kept for the purposes of this Act, in the Public Account.

**26. Restriction on alienation of land in certain cases**

- (1) Where any moneys that are lent or given to a distressed person under section three or section

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four are applied (whether wholly or partly) by that person in or towards the purchase of land and the erection of a dwelling-house thereon or the purchase of land together with a dwelling-house or the erection of a dwelling-house on land owned by that person, the provisions of subsection (3) of section nine apply to and in relation to that land as if it were land on which a dwelling-house had been erected by the Minister pursuant to that section.

- (2) This section does not apply in any case where the sum of money lent or given to a distressed person under section three or section four is less than one thousand dollars.
- (3) Where the Minister accedes to an application by a distressed person for the making to that person of a loan under section three or a gift of money under section four for the purpose of enabling that person to do any of the things that are mentioned in subsection (1) of this section, the Minister shall forthwith –
  - (a) lodge with the Recorder of Titles, if the land to which the application relates is under the *Land Titles Act 1980*; or
  - (b) register with the Registrar of Deeds, in any other case –

a notification, in the prescribed form and containing the prescribed particulars, stating that the provisions of paragraph (a) of subsection (3) of section nine apply, by virtue of this section, to and in relation to that land.

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- (4) The provisions of subsections (16) and (12) of section nine, with the necessary adaptations, apply to and in relation to a notification under this section and the withdrawal of such a notification as if it were a notification lodged or registered by the Minister pursuant to that section.

**27. Offences**

- (1) No person shall –
- (a) in an application for a loan or gift under this Act, in evidence in support of such an application, or for the purposes of section six, make a statement that, to his knowledge, is false in a material particular or wilfully omit from any such application or evidence any material particulars or information; or
  - (b) having received a loan or a gift (whether in money or kind) under this Act, wilfully apply it or any part of it for any purpose other than the purpose for which it was made or otherwise than in conformity with the terms and conditions upon and subject to which it was made.

Penalty: Fine not exceeding 10 penalty units or two years' imprisonment.

- (2) No person who, under section six, is lawfully required to produce to the Minister a book, paper, document, or account, or to give

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information to the Minister, shall fail or refuse so to do without just cause.

Penalty: Fine not exceeding 1 penalty unit.

**28. Regulations**

The Governor may make regulations for the purposes of this Act and the regulations may prescribe a penalty, not exceeding 1 penalty unit, for a breach of the regulations.



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**NOTES**

The foregoing text of the *Fire Damage Relief Act 1967* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 December 2022 are not specifically referred to in the following table of amendments.

| Act  | Number and year | Date of commencement                            |
|--|-----------------|---|
| <i>Fire Damage Relief Act 1967</i>   | No. 1 of 1967   | 15.3.1967                                       |
| <i>Fire Damage Relief Act 1970</i>   | No. 40 of 1970  | 15.3.1967<br>(s. 2)<br>9.12.1970<br>(remainder) |
| <i>Fire Damage Relief Act 1972</i>   | No. 61 of 1972  | 21.12.1972                                      |
| <i>Land Titles Act 1980</i>  | No. 19 of 1980  | 1.10.1981                                       |
| <i>Local Government (Consequential Amendments) Act 1995</i>                      | No. 30 of 1995  | 1.9.1995  |
| <i>Magistrates Court (Civil Division) Amendment Act 1993</i>                     | No. 73 of 1993  | 30.3.1998                                       |
| <i>Vehicle and Traffic (Transitional and Consequential) Act 1999</i>             | No. 90 of 1999  | 14.8.2000                                       |
| <i>Statute Law Revision Act 2003</i>   | No. 9 of 2003   | 16.4.2003                                       |
| <i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>    | No. 66 of 2007  | 31.12.2008                                      |
| <i>Financial Management (Consequential and Transitional Provisions) Act 2017</i> | No. 4 of 2017   | 1.7.2019  |
| <i>Homes Tasmania (Consequential Amendments) Act 2022</i>                        | No. 26 of 2022  | 1.12.2022                                       |

**TABLE OF AMENDMENTS**

| Provision affected | How affected  |
|--------------------|---|
| Section 2          | Amended by No. 30 of 1995, s. 3 and Sched. 1 and No. 66 of 2007, Sched. 1   |
| Section 9          | Substituted by No. 40 of 1970, s. 2<br>Amended by No. 19 of 1980, s. 171 and Sched. 1, No. 73 of 1993, Sched. 1, No. 9 of 2003, Sched. 1 and No. 26 |

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| Provision affected | How affected   |
|--------------------|--|
|                    | of 2022, s. 8  |
| Section 9A         | Inserted by No. 61 of 1972, s. 2   |
| Section 9B         | Inserted by No. 61 of 1972, s. 2<br>Amended by No. 19 of 1980, s. 171 and Sched. 1 |
| Section 9C         | Inserted by No. 61 of 1972, s. 2   |
| Section 9D         | Inserted by No. 61 of 1972, s. 2   |
| Section 10         | Substituted by No. 40 of 1970, s. 3<br>Amended by No. 26 of 2022, s. 9             |
| Section 11         | Amended by No. 9 of 2003, Sched. 1 and No. 26 of 2022,<br>s. 10                    |
| Section 14         | Amended by No. 19 of 1980, s. 171 and Sched. 1 and No.<br>66 of 2007, Sched. 1     |
| Section 17         | Repealed by No. 90 of 1999, Sched. 1   |
| Section 24         | Repealed by No. 4 of 2017, Sched. 1  |
| Section 25         | Amended by No. 4 of 2017, Sched. 1   |
| Section 26         | Amended by No. 40 of 1970, s. 4 and No. 19 of 1980, s.<br>171 and Sched. 1         |

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