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c 144 Forest Fires Prevention Act

Ontario

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CHAPTER 144

The Forest Fires Prevention Act

INTERPRETATION

1. In this Act,Interpre-
tation.

- (a) "closed area" means an area closed by the Minister by order under subsection 1 of section 11;
- (b) "Department" means Department of Lands and Forests;
- (c) "fire district" means a part of Ontario declared to be a fire district under section 2;
- (d) "Minister" means Minister of Lands and Forests;
- (e) "municipality" means a city, town, village, township or improvement district;
- (f) "officer" means a person employed or appointed by or with the approval of the Minister to assist in enforcing the provisions of this Act;
- (g) "owner" includes locatee, purchaser from the Crown, assignee, lessee, occupant, purchaser, timber licensee, holder of mining claim or location, and any person having the right to cut timber and wood upon any land;
- (h) "regulations" means regulations made under this Act;
- (i) "travel permit area" means a forest area within a fire district declared to be a travel permit area under section 9. 1948, c. 32, s. 1.

ADMINISTRATION

2.—(1) This Act applies only to fire districts.Application
of Act.

(2) The Lieutenant-Governor in Council may declare any part of Ontario a fire district.

Creation
of fire
districts.

Right of action for damages not affected.

(3) Nothing in this Act shall affect or be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire. 1948, c. 32, s. 2.

Appointment of officers.

3. The Minister may employ, for the purpose of enforcing the provisions of this Act, such officers as he may deem necessary, who shall be subject to his instructions. 1948, c. 32, s. 3.

Honorary fire wardens.

4. The Minister may appoint honorary fire wardens who shall,

- (a) be appointed without salary or other remuneration;
- (b) have authority to enforce such of the provisions of this Act as the Minister may deem necessary; and
- (c) wear a special badge to be issued by the Department. 1948, c. 32, s. 4.

Arrangement with owner for additional protection.

5.—(1) Where the owner of any land in a fire district desires to provide protection from fire upon such land in addition to that authorized by the foregoing provisions of this Act, the Minister may arrange with the owner for the appointment of special officers upon such land for the enforcement of this Act and the regulations.

Appointments.

(2) Every such appointment shall be made or approved by the Minister.

Payment of special officers.

(3) Every person appointed under subsection 1 shall be paid by the owner of the land such salary or other remuneration as the Minister may direct or approve. 1948, c. 32, s. 5.

FIRE SEASON

Fire season.

6. Subject to the regulations, the period from the 1st day of April to the 31st day of October in each year shall be known as the fire season. 1950, c. 79, s. 8 (1).

FIRE PERMITS

Issue of fire permit.

7.—(1) Upon application, an officer may issue a permit, called a "fire permit", to set out fire during the fire season. 1950, c. 79, s. 8 (2), *part*.

Authority conferred by permit.

(2) A fire permit shall be an authority to the permittee to set out fire only in accordance with,

(a) the terms and conditions under which the permit is issued; and

(b) the regulations. 1948, c. 32, s. 7 (2).

(3) No person shall set out fire during the fire season for any purpose, other than cooking or obtaining warmth, except under a fire permit. 1950, c. 79, s. 8 (2), *part*. Prohibition against fire except under permit.

8.—(1) A fire permit may be limited as to duration and area, but in any event shall expire on the 31st day of March next following the date of its issue, and may contain such other terms and conditions as the issuing officer may deem necessary. Limitations in permit.

(2) A fire permit may be cancelled or suspended at any time by an officer, and immediately upon receiving notice of such cancellation or suspension the permittee shall extinguish any fire set out under the permit. 1948, c. 32, s. 8. Cancellation or suspension of permit.

TRAVEL PERMITS

9.—(1) When the Lieutenant-Governor in Council deems it necessary to regulate travel in a forest area within a fire district for the protection of that area, he may declare such forest area a travel permit area. Creation of travel permit areas.

(2) Upon application an officer may issue without charge a permit, called a travel permit. Issue of travel permit.

(3) A travel permit shall be an authority to the permittee to enter and travel about, and to set out fire only for the purpose of cooking or obtaining warmth, in the travel permit area in accordance with, Authority conferred by permit.

(a) the terms and conditions under which the permit is issued; and

(b) the regulations. 1948, c. 32, s. 9 (1-3).

(4) No person shall enter and travel about or set out fire in a travel permit area during the fire season except under a travel permit. 1950, c. 79, s. 8 (3). Prohibition.

10.—(1) A travel permit may be limited as to duration and area but in any event shall expire on the 31st day of March next following the date of its issue, and may contain such other terms and conditions as the issuing officer may deem necessary. Limitations in permit.

Cancellation
or suspension
of permit.

(2) A travel permit may be cancelled or suspended at any time by an officer, and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire set by him and shall leave the travel permit area. 1948, c. 32, s. 10.

CLOSED AREAS

Designation
of closed
area.

11.—(1) When the Minister deems it necessary or expedient, owing to extreme fire hazard conditions, to close any area and shut out therefrom all persons except such as are specially authorized by the Minister, he may make an order in writing describing the area to be closed and the period during which such closure shall be in force, and prescribing any other terms and conditions he deems necessary.

Notice of
order.

(2) The Minister shall provide for such notice as he deems necessary under the circumstances, and shall publish a notice of the order setting out the area closed and the period of closure in such newspapers as in his opinion will give the greatest publicity.

Prohibition.

(3) No person, unless specially authorized by the Minister, shall enter a closed area during the period of closure.

Burden of
proof.

(4) In any prosecution under subsection 3 in respect of an offence alleged to have been committed prior to publication of the order under *The Regulations Act*, the burden of proving he did not have actual notice of the order at the time the offence is alleged to have been committed shall be upon the accused. 1948, c. 32, s. 11.

Rev. Stat.,
c. 337.

WORK PERMITS

Work permit
required for
woods and
milling
operations.

12.—(1) Except where land is being cleared for agricultural purposes by a locatee, purchaser or patentee, every person, firm or corporation shall, in addition to any other requirement, obtain from an officer a work permit before,

(a) carrying on any logging, mining or industrial operation or before clearing land for a right-of-way for any road, trail, tote-road, ditch or flume, or for any telephone, telegraph, power or pipe line, or before clearing land to be flooded for water storage purposes, or before constructing any dam, bridge or camp or before carrying on any other woods operation of any kind liable to cause the accumulation of any slash or debris on any land within a fire district;

(b) operating in a fire district any mill for the purpose

of manufacturing timber. 1948, c. 32, s. 12 (1); 1949, c. 34, s. 1.

(2) The application for such permit shall be in the pre-^{Description in permit.}scribed form, and in addition to any other information required in the form shall state the location of the proposed operation or mill, the character thereof, the number of men to be employed, the location of camps and the probable duration of the operation.

(3) An officer may in the interest of forest protection,^{Powers of officer.}

(a) refuse the granting of permission for any operation or limit the period during which the operation may be carried on;

(b) require that any permittee carrying on any operation under this section maintain such fire-fighting equipment in good repair and at specified locations as the officer may deem necessary for the control of fires which might be caused either directly or indirectly by the operation;

(c) cancel at any time any permit issued under this section.

(4) Where fire originates in any particular area in which any person either by himself or his employees or someone on his behalf, is carrying on any of the operations referred to in clause *a* or *b* of subsection 1, in the absence of reasonable evidence that the fire may have occurred from causes other than such operations the onus shall be upon that person to prove that the fire did not result from such operations, and in the absence of such proof that person shall bear the full cost of controlling and extinguishing the fire.^{Cost of extinguishing fire.}

(5) A work permit may be limited as to duration and area but in any event shall expire on the 31st day of March next following the date of its issue, and may contain such other terms and conditions as the issuing officer may deem necessary.^{Expiration of permit.}

(6) Where an officer finds any operation mentioned in subsection 1 being conducted without a permit he may give notice that such operation must cease until the necessary permit has been secured, and any person, firm or corporation carrying on an operation after such notice has been given shall in addition to any penalty imposed be subject to a fine of \$25 for each day such operation is continued without a permit.^{Per diem penalty.}

Right to
refuse
permit.

(7) An officer may refuse to issue a permit under this section to any person, firm or corporation convicted of an offence under this section until such time as the said person, firm or corporation has furnished the Department with a bond in such amount and subject to such conditions as may be satisfactory to the officer. 1948, c. 32, s. 12 (2-7).

PREVENTION MEASURES

Power of
officer as
to clearing
of land.

13.—(1) Wherever an officer finds upon the land of any person in a fire district conditions existing which, in his opinion, may cause danger to life or property from fire, he may order the owner or person in control of the land to do what in the opinion of the officer is necessary to remove the danger, and in default may enter upon the land with such assistants as he may deem necessary for the purpose of removing the conditions.

Cost of
work.

(2) The cost of any work done by him or his assistants under subsection 1 shall be borne and paid by the owner or person in control of the lands and shall be recoverable by the Minister by action in any court of competent jurisdiction.

Penalty.

(3) Any person who neglects or refuses to carry out any order given under the authority of subsection 1 shall be guilty of an offence against this Act. 1948, c. 32, s. 13.

Interpre-
tation.

14.—(1) In this section, "owner" means locatee, purchaser from the Crown, assignee, purchaser or occupant.

Action by
municipality
in district.

(2) Where it appears to the council of a municipality in a provisional judicial district that the condition of any land in the municipality or adjacent thereto is by reason of unfinished clearing a source of danger from fire to property in the municipality, the council may cause a statement of the facts to be made to the Minister.

Inquiry into
complaint.

(3) The Minister shall make inquiry as to the conditions described by the council and shall report the result of his inquiry to the council with his recommendation as to what action, if any, should be taken thereon.

Notice to
owner to
clean up
land.

(4) Where the Minister finds that cause for complaint exists owing to the unfinished clearing of land the council may give notice to the owner of the land directing him, within a time to be named in the notice, to properly clear the land or such part thereof or to such extent as the Minister may direct and designate in his report and to remove, as far as possible, all source of danger by fire.

(5) If within the time so fixed the necessary work has not been done, the corporation of the municipality may cause the work to be done and the expenses of the corporation in doing the work shall be a charge upon the land and shall be payable by the owner forthwith. Default of owner.

(6) If the land is patented and lies in an organized municipality the treasurer of the municipal corporation doing the work shall notify the clerk of the municipality in which the land lies of the amount so due and if after thirty days after the date of the receipt of such notice the amount remains unpaid the corporation of the municipality in which the land lies shall pay the amount to the treasurer of the municipality doing the work and the corporation making such payment may thereupon register or lodge in the proper registry or land titles office, a declaration under the hand of the reeve or other head of the municipality and the treasurer thereof and having the corporate seal affixed thereto, declaring that the municipal corporation claims a lien upon the land for the amount so paid and interest thereon at the rate of six per cent per annum from the date of the declaration. Recovery of expenses where land is patented in organized territory.

(7) If the land is patented and lies in territory without municipal organization the municipal corporation doing the work may register or lodge in the proper registry or land titles office, a declaration to the same effect as the declaration mentioned in subsection 6 under the hand of the reeve or other head of the municipality and the treasurer thereof and having the corporate seal affixed thereto, stating that the corporation claims a lien upon the land for the amount of such expenses with interest at the rate of six per cent per annum from the date of the declaration. Where land is patented in un-organized territory.

(8) Upon the registration or filing of the declaration mentioned in subsections 6 and 7, the municipal corporation making the declaration shall have a lien upon the land for the amount claimed and such lien shall have priority according to the general law of Ontario and if the claim remains unpaid for a period of three months after registration and filing the same may be enforced by the sale of the land in the manner provided for in the regulations. 1948, c. 32, s. 14. Effect of registration.

15. The Minister may enter into such agreement with any municipality as he may deem advisable for the prevention and control of forest fires, and any expenses incurred by the Department in carrying out any such agreement shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1948, c. 32, s. 15. Agreements with municipalities.

Destruction of refuse on land being cleared.

16.—(1) Every person clearing land for a right-of-way for any road, trail, tote-road, ditch or flume, or for any telephone, telegraph, power or pipe line, or clearing land to be flooded for water storage purposes, shall, subject to the provisions of this Act respecting fire permits, pile and burn on the land being cleared all refuse, timber, brush or other flammable material cut or accumulated thereon. 1949, c. 34, s. 2.

Flammable matter near right-of-way.

(2) Any person who within 300 feet of the right-of-way of any railway causes any accumulation of flammable debris shall at the request of any officer immediately pile and, subject to the requirements of this Act concerning fire permits, burn the debris.

Timber cut to fall on owner's land.

(3) No person shall fell or permit to be felled trees or brush in such manner that such trees or brush fall and remain on land not owned by the person felling or permitting the felling of such trees or brush.

Clearing in neighbourhood of mills, etc.

(4) Every person having charge of a camp, mine, sawmill, portable or stationary engine using fuel other than oil and located within one-half mile of any forest or woodland shall have the area surrounding the camp, mine, sawmill or engine cleared of flammable material for a distance of at least 300 feet and such further distance as may in the opinion of an officer be required.

Accumulation of flammable refuse.

(5) No person shall within one-half mile of any village, town or city accumulate flammable debris or permit any such accumulation to remain on any property owned by him or under his control. 1948, c. 32, s. 16 (2-5).

EXTINGUISHMENT OF FIRES

Duty of municipal corporation.

17. The corporation of any municipality within a fire district shall do all necessary things to extinguish grass, brush or forest fires in the municipality, and the costs and expenses thereof shall be borne by the municipal corporation, provided that if the action taken by the municipal corporation in fighting any such fires is in the opinion of an officer not adequate, the officer may do what in his opinion is necessary to control and extinguish such fires, and any costs and expenses incurred by the Department in controlling or extinguishing such fires shall be a debt due by the municipal corporation to the Department and upon presentation of an account of such costs and expenses certified by the Minister, the treasurer of the municipality shall pay the same. 1948, c. 32, s. 17.

Contribution by Department.

18.—(1) Upon satisfactory proof being furnished by the municipality that any fire has started on Crown land within

the municipality, half of the total cost of extinguishing such fire shall be borne by the Department.

(2) Where any such fire is confined entirely to Crown lands ^{Fires on Crown lands.} other than the lands of an owner as defined by subsection 1 of section 14, the total cost of extinguishing such fire shall be borne by the Department. 1948, c. 32, s. 18.

19.—(1) For the purpose of controlling and extinguishing any fire, an officer may use any privately-owned equipment and may employ or summon the assistance of any male person ^{Right to summon assistance.} between the ages of eighteen and sixty years, excepting only trainmen, boat crews, local telephone operators, telegraphers and despatchers on duty, doctors and persons physically unfit. 1948, c. 32, s. 19 (1); 1949, c. 34, s. 3 (1).

(2) Every person who refuses or neglects to provide any privately-owned equipment or to render assistance when ^{Penalty for refusing to assist.} required under this section shall be guilty of an offence against this Act. 1948, c. 32, s. 19 (2); 1949, c. 34, s. 3 (2).

20.—(1) Every owner, within the meaning of subsection 1 of section 14, of land upon which there is a fire other than, ^{Extinguishment of fires.}

- (a) a fire set out for cooking or obtaining warmth and kept under control; or
- (b) a fire set out under the authority of this Act and kept under control,

shall use all reasonable efforts to extinguish such fire and shall report it without undue delay to an officer, and in any prosecution or action the onus shall be upon him to prove that he used all such reasonable efforts or that he so reported such fire, as the case may be. 1948, c. 32, s. 20 (1); 1949, c. 34, s. 4.

(2) In addition to the other penalties provided by this Act, every owner who violates the provisions of subsection 1 shall ^{Expenses incurred in extinguishing fires.} be liable for all expenses incurred by the Department in attempting to extinguish such fire upon the land of which he is the owner or upon any land to which it spreads, and the amount thereof shall be recoverable with costs as a debt due by action in any court of competent jurisdiction at the suit of the Minister. 1948, c. 32, s. 20 (2).

OFFENCES

21.—(1) During the fire season in any year no person, ^{Offences.} company or corporation in a fire district shall,

Using engines without prescribed safeguards.

- (a) use or operate within a quarter of a mile of any forest, slashing or bushland any engine which is not provided with a practical and efficient device for arresting sparks, together with an adequate device for preventing the escape of fire or live coals from all ash pans and fire boxes, and which does not comply in every respect with the regulations;

Destroying waste, etc., without spark arresters.

- (b) destroy any wood or waste material by fire within any burner or destructor operated at or near any mill or manufactory, or operate any power-producing plant using in connection therewith any smoke-stack, chimney or other spark-emitting outlet, without installing and maintaining on such burner or destructor or on such smoke-stack, chimney or spark-emitting outlet a safe and suitable device for arresting sparks complying in all respects with the regulations. 1948, c. 32, s. 21 (1); 1950, c. 79, s. 8 (4).

Dropping fire or live coal.

- (2) No railway company operating within the fire district shall permit fire, live coals or ashes to be deposited on its tracks or right-of-way unless they are extinguished immediately thereafter, except in pits provided for the purpose.

Injunction.

- (3) Notwithstanding the penal provisions of this Act, any court of competent jurisdiction may upon the application of the Minister grant an injunction against the use of any locomotive, engine, burner or destructor until it has been equipped with safety appliances to the satisfaction of the Minister. 1948, c. 32, s. 21 (2, 3).

Duty of engineer.

22. Every engineer in charge of any engine which is not subject to the jurisdiction of the Board of Transport Commissioners for Canada shall see that all safety appliances required by this Act or by the regulations are properly used and applied, and in default he shall be guilty of an offence against this Act. 1948, c. 32, s. 22.

Particular offences.

23. No person shall,

- (a) throw or drop any burning match, ashes from a pipe, lighted cigarette, cigar or other burning substance in a fire district without extinguishing it;
- (b) discharge a firearm in a fire district without ensuring that the wadding from the firearm is extinguished;
- (c) without lawful authority, destroy, deface or remove any notice posted under this Act or the regulations; or

- (d) without lawful authority, destroy, damage or remove any equipment placed in the forest for the purpose of protecting the forests from fire. 1948, c. 32, s. 23.

24. Every officer shall have the right while in the performance of his duties to enter into and upon any lands and premises other than a private dwelling, store, storehouse, office or farm building, and every person who hinders, obstructs and impedes any such officer in the performance of his duty shall be guilty of an offence against this Act. 1948, c. 32, s. 24.

Right of officer to enter on premises.

25. Every person using or travelling in the forest shall, upon request, give an officer or other authorized officer of the Crown, information as to his name, address, routes to be followed, location of camps and any other information pertaining to the protection of the forest from fire, and any person who refuses to give such information shall be guilty of an offence against this Act. 1948, c. 32, s. 25.

Information to be given to officer by tourists, etc.

PENALTIES

26.—(1) Every person who disobeys or refuses or neglects to carry out any of the provisions of this Act or any regulation or order made thereunder shall be guilty of an offence and on summary conviction shall be liable to a fine of not less than \$25 and not more than \$300, and in default of payment may be imprisoned for a term of not more than three months, or to imprisonment for a term of not more than three months, or to both fine and imprisonment, and such person shall be liable to the Department for any expenses incurred by it in endeavouring to control or extinguish any fire caused by or resulting from such disobedience, refusal or neglect. 1948 c. 32, ss. 26 (1), 27.

Penalties.

(2) The amount of any expenses for which any person is liable to the Department under subsection 1 shall be recoverable with costs as a debt due by action in any court of competent jurisdiction at the suit of the Minister, provided that where the amount claimed does not exceed \$300 and proceedings are taken under *The Summary Convictions Act* in respect of the disobedience, refusal or neglect, the magistrate, upon making a conviction, may order payment of such amount to the Minister and every such order may be enforced in the same manner as a division court judgment. 1948, c. 32, s. 26 (2).

Expenses, recovery of.
Rev. Stat., c. 379.

REGULATIONS

Regulations. **27.** The Lieutenant-Governor in Council may make regulations,

- (a) extending or restricting the fire season for any fire district or any part of a fire district in any year to such date as may be deemed necessary;
- (b) prescribing forms for use under the Act and the regulations;
- (c) respecting the granting of permits and prescribing the terms and conditions thereof;
- (d) prescribing the precautions to be taken in the use of fire under a permit, and the appliances, implements and apparatus to be kept at hand by the holders of permits;
- (e) prescribing the circumstances and conditions under which fire may be set out or used without a permit, and under which fire may be used out of doors for cooking or obtaining warmth;
- (f) providing for the making of fire guards and the taking of other precautionary measures when the Minister deems danger from fire to any town or settlement specially imminent;
- (g) regulating or preventing the piling or accumulation of brushwood, debris and other flammable material;
- (h) prescribing the use of fire protective appliances on engines, and the precautions to be taken for preventing forest fires being caused by the use and operation of engines;
- (i) prescribing the manner in which land may be sold under subsection 8 of section 14;
- (j) providing for the collection of the cost of any work done by an officer or by a municipal corporation under the authority of this Act in cases not provided for under this Act;
- (k) respecting any other matter necessary or advisable to carry out effectively forest fire prevention and the intent and purpose of this Act. 1948, c. 32, s. 28; 1950, c. 79, s. 8 (5).