1960

c 152 Forest Fires Prevention Act

Ontario
CHAPTER 152

The Forest Fires Prevention Act

1. In this Act,

(a) "Department" means the Department of Lands and Forests;
(b) "fire districts" means the parts of Ontario that are declared to be fire districts under section 2;
(c) "forest travel permit areas" means the parts of Ontario that are declared to be forest travel permit areas under section 8;
(d) "Minister" means the 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 this Act;
(g) "owner" includes a 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 the regulations made under this Act. R.S.O. 1950, c. 144, s. 1; 1952, c. 31, s. 1 (1); 1955, c. 24, s. 1.

2.—(1) This Act applies only to fire districts. R.S.O. 1950, c. 144, s. 2 (1).

(2) The Lieutenant Governor in Council may declare parts of Ontario to be fire districts and may declare the name that each fire district shall bear. 1952, c. 31, s. 2.

(3) Nothing in this Act affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire. R.S.O. 1950, c. 144, s. 2 (3).

3. The Minister may employ, for the purpose of enforcing this Act, such officers as he deems necessary, who shall act in accordance with his instructions. R.S.O. 1950, c. 144, s. 3.
4. The Minister may appoint honorary fire wardens who,
   (a) shall act without salary or other remuneration;
   (b) shall have authority to enforce such of the provisions
       of this Act as the Minister deems necessary; and
   (c) shall wear a special badge issued by the Department.
   R.S.O. 1950, c. 144, s. 4, revised.

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 enfor­
       cement of this Act and the regulations.

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

6.—(1) The period from the 1st day of April to the 31st
       day of October in each year shall be known as a fire season.

   (2) The Minister may declare any period after the 31st
       day of October in any year and before the 1st day of April
       in the following year to be a fire season for any fire district
       or any part of a fire district.

   (3) The Minister may extend or restrict any fire season to
       such date as he deems proper and any such extension or
       restriction may be made applicable to any fire district or any
       part of a fire district. 1953, c. 38, s. 1.

7.—(1) Upon application, an officer may issue a permit,
       called a "fire permit", to set out fire during a fire season.
       R.S.O. 1950, c. 144, s. 7 (1); 1953, c. 38, s. 2 (1).

   (2) A fire permit is 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. R.S.O. 1950, c. 144, s. 7 (2).

   (3) Except under a permit, no person shall set out fire during
       a fire season for any purpose other than cooking or obtaining
       warmth. R.S.O. 1950, c. 144, s. 7 (3); 1953, c. 38, s. 2 (2).
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(4) A fire permit may be limited as to duration and area, but in any event it expires on the 31st day of March next following the date of its issue, and it may contain such other terms and conditions as the issuing officer deems necessary.

(5) 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. R.S.O. 1950, c. 144, s. 8.

8.—(1) The Lieutenant Governor in Council may declare parts of Ontario that are within one or more fire districts to be forest travel permit areas.

(2) Upon application, an officer may issue, without charge and on such terms and conditions as he deems proper, a permit called a “forest travel permit” authorizing the permittee to enter and travel about during a fire season in a forest travel permit area or such part thereof as is designated in the permit.

(3) Notwithstanding subsection 3 of section 7, an officer under the terms and conditions of a forest travel permit, may prohibit the permittee from setting out fire for the purpose of cooking or obtaining warmth.

(4) No person shall enter and travel about in a forest travel permit area during a fire season except under and in accordance with the terms and conditions of his forest travel permit and in accordance with the regulations. 1955, c. 24, s. 2, part.

(5) A forest travel permit may be limited as to duration, but in any event it expires on the 31st day of March next following the date of its issue.

(6) A forest 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 leave the forest travel permit area. 1955, c. 24, s. 2, part.

9.—(1) Whenever the Minister deems it expedient to close one or more fire districts owing to extremely hazardous fire conditions therein, he may make an order in writing closing the fire district or fire districts that he designates, specifying therein the period during which such closure shall be in force and prescribing therein such other terms and conditions as he deems proper. 1952, c. 31, s. 4 (1).

(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 fire district or fire districts closed.
and the period of closure in such newspapers as in his opinion will give the greatest publicity. R.S.O. 1950, c. 144, s. 11 (2); 1952, c. 31, s. 4 (2).

(3) Unless specially authorized by the Minister, no person shall enter a closed district during the period of closure. R.S.O. 1950, c. 144, s. 11 (3); 1952, c. 31, s. 4 (3).

(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 is upon the accused. R.S.O. 1950, c. 144, s. 11 (4).

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

(b) operating in a fire district a mill for the purpose of manufacturing timber. R.S.O. 1950, c. 144, s. 12 (1).

(2) The application for such permit shall be in the prescribed form, and, in addition to any other information required in the form, shall describe the lands upon which the proposed operation is to be carried on and shall state the character thereof, the number of men to be employed, the location of camps and the probable duration of the operation. R.S.O. 1950, c. 144, s. 12 (2); 1951, c. 28, s. 1 (1).

(3) An officer may in the interest of forest protection,

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

(b) require that any permittee carrying on an operation under this section maintain such fire-fighting equipment in good repair and at specified locations as the officer deems necessary for the control of fires that might be caused either directly or indirectly by the operation; or
(c) cancel at any time any permit issued under this section.

(4) Where fire originates in a particular area in which a 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 is 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. R.S.O. 1950, c. 144, s. 12 (3, 4).

(5) A work permit shall describe the lands upon which the proposed operation is to be carried on and may be limited as to duration, but in any event expires on the 31st day of March next following the date of its issue, and it may contain such other terms and conditions as the issuing officer deems necessary. R.S.O. 1950, c. 144, s. 12 (5); 1951, c. 28, s. 1 (2).

(6) Where an officer finds an operation mentioned in subsection 1 being conducted without a permit, he may give notice that the 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 is, in addition to any penalty imposed, subject to a fine of $25 for each day such operation is continued without a 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 person, firm or corporation has furnished the Department with a bond in such amount and subject to such conditions as are satisfactory to the officer. R.S.O. 1950, c. 144, s. 12 (6, 7).

11.—(1) Wherever an officer finds upon the land of any person in a fire district conditions existing that, 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 deems necessary for the purpose of removing the conditions.

(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 land and is recoverable by the Minister by action in any court of competent jurisdiction.

(3) Any person who neglects or refuses to carry out any order given under the authority of subsection 1 is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 13.
12.—(1) Wherever an officer finds in a forest in a fire district a building or structure having a chimney so constructed or used that, in his opinion, it may cause danger to life or property from fire, he may order the owner or person in control of the building or structure to install a spark arrester of such type as he approves and to do whatever else that in his opinion is necessary to remove the danger.

(2) Any person who neglects or refuses to carry out any order given under the authority of subsection 1 is guilty of an offence against this Act. 1953, c. 38, s. 4.

13.—(1) In this section, “owner” means a locatee, purchaser from the Crown, assignee, purchaser or occupant.

(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.

(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 recommendations as to what action, if any, should be taken thereon.

(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 directs and designates in his report and to remove, so 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 is a charge upon the land and is payable by the owner forthwith. R.S.O. 1950, c. 144, s. 14 (1-5).

(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 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, stating that the municipal corporation claims a lien upon the land for the amount so paid and interest thereon at the rate of 6 per cent per annum from the date of the declaration.

(7) If the land is patented and lies in territory without municipal organization, the municipal corporation doing the work may register 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 6 per cent per annum from the date of the declaration.

(8) Upon the registration of the declaration mentioned in subsections 6 and 7, the municipal corporation making the declaration has a lien upon the land for the amount claimed and the lien has priority according to the general law of Ontario, and, if the claim remains unpaid for a period of three months after registration, it may be enforced by the sale of the land in the manner provided in the regulations. R.S.O. 1950, c. 144, s. 14 (6-8), revised.

14.—(1) The Minister and any municipality, any licensee under The Crown Timber Act or any owner or tenant of railway lands under The Railway Fire Charge Act may enter into an agreement with respect to the prevention and control of forest fires.

(2) So long as such an agreement with a municipality is in effect, any expenses incurred by the Department in carrying out the agreement shall be paid out of the moneys that are appropriated therefor by the Legislature.

(3) So long as such an agreement with a Crown timber licensee or with an owner or tenant of railway lands is in effect, subsection 4 of section 10 does not apply to that licensee, owner or tenant. 1959, c. 38, s. 1.

15.—(1) Every person clearing land for a right of way for a road, trail, tote-road, ditch or flume, or for a 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, non-merchantable timber, brush and other flammable material cut or accumulated thereon. R.S.O. 1950, c. 144, s. 16 (1); 1951, c. 28, s. 2 (1).

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

(3) A person shall not fell or permit to be felled trees or brush in such manner that the trees or brush fall and remain on land not owned by him. R.S.O. 1950, c. 144, s. 16 (2, 3).

(4) Every person having charge of a camp, a mine, a sawmill, or a portable or stationary engine that is located within one-half mile of a 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 in the opinion of an officer is required. R.S.O. 1950, c. 144, s. 16 (4); 1951, c. 28, s. 2 (2).

(5) No person shall within one-half mile of a village, town or city accumulate flammable debris or permit any such accumulation to remain on any property owned by him or under his control. R.S.O. 1950, c. 144, s. 16 (5).

16. Every municipality in a fire district shall do all necessary things to extinguish grass, brush or forest fires within its limits, and the costs and expenses thereof shall be borne by it, provided that if the action taken by it 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 them, and any costs and expenses incurred by the Department in controlling or extinguishing them is a debt due by the municipality 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. R.S.O. 1950, c. 144, s. 17.

17.—(1) Upon satisfactory proof being furnished by the municipality that a fire has started on Crown land within its limits, half of the total cost of extinguishing the fire shall be borne by the Department.

(2) Where a fire is confined entirely to Crown lands, other than the lands of an owner as defined by subsection 1 of section 13, the total cost of extinguishing the fire shall be borne by the Department. R.S.O. 1950, c. 144, s. 18.

18.—(1) For the purpose of controlling and extinguishing a fire, an officer may use any privately-owned equipment and may employ or summon the assistance of any male person 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.
Every person who refuses or neglects to provide any privately-owned equipment or to render assistance when required under this section is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 19.

19.—(1) Every owner, within the meaning of subsection 1 of section 13, of land upon which there is a fire other than,

(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 the fire and shall report it without undue delay to an officer, and in any prosecution or action the onus is upon him to prove that he used all such reasonable efforts and that he so reported the fire.

(2) In addition to the other penalties provided by this Act, every owner who contravenes subsection 1 is liable for all expenses incurred by the Department in attempting to extinguish the fire upon the land of which he is the owner or upon any land to which it spreads, and the amount thereof is recoverable with costs as a debt due by action in any court of competent jurisdiction at the suit of the Minister. R.S.O. 1950, c. 144, s. 20.

20.—(1) During a fire season, no person, company or corporation in a fire district shall,

(a) use or operate within a quarter of a mile of a forest, slashing or bushland any engine that 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 that does not comply in all respects with the regulations; or

(b) destroy any wood or waste material by fire in a burner or destructor operated at or near a mill or manufactory, or operate any power-producing plant using in connection therewith a 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. R.S.O. 1950, c. 144, s. 21 (1); 1953, c. 38, s. 5.

(2) No railway company operating in a 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.
(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. R.S.O. 1950, c. 144, s. 21 (2, 3).

21. Every person in charge of an engine that is not subject to the jurisdiction of the Board of Transport Commissioners for Canada shall see that all safety appliances required by this Act and the regulations are properly used and applied, and in default he is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 22.

22. No person shall,
   (a) throw or drop a 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. R.S.O. 1950, c. 144, s. 23.

23. Every officer has 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 him in the performance of his duty is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 24.

24. Every person using or travelling in a 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 is guilty of an offence against this Act. R.S.O. 1950, c. 144, s. 25.

25.—(1) Every person who disobeys or refuses or neglects to carry out any of the provisions of this Act or the regulations or of any order made thereunder is guilty of an offence and on summary conviction is liable to a fine of not less than $25 and not more than $300 or to imprisonment for a term of not more than three months, or to both, and such person is also 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. R.S.O. 1950, c. 144, s. 26 (1), amended.

(2) The amount of any expenses for which a person is liable to the Department under subsection 1 are recoverable with costs as a debt due by action in any court of competent jurisdiction at the suit of the Minister, but, 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. R.S.O. 1950, c. 144, s. 26 (2).

26. The Lieutenant Governor in Council may make regulations,

(a) prescribing forms and providing for their use;

(b) respecting the granting of permits and prescribing the terms and conditions thereof;

(c) 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;

(d) 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;

(e) 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;

(f) regulating or preventing the piling or accumulation of brushwood, debris and other flammable material;

(g) 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;

(h) prescribing the manner in which land may be sold under subsection 8 of section 13;

(i) providing for the collection of the cost of any work done by an officer or by a municipality under the authority of this Act in cases not provided for under this Act;
(j) respecting any matter necessary or advisable to carry out effectively forest fire prevention and the intent and purpose of this Act. R.S.O. 1950, c. 144, s. 27; 1953, c. 38, s. 6.