



CHAPTER 141

An Act Respecting Forest Fires

1. This Act may be cited as The Forest Fires Act. Short title.

2. In this Act Interpretation.

- (a) "Department" means the Department of Forestry and Agriculture;
- (b) "Minister" means the Minister of Forestry and Agriculture;
- (c) "regulations" means regulations made under this Act; and
- (d) "woods" includes wood, forest, track covered by underwood, barren and dry marsh or bog."

1973- c.22  
s. 2

3.—(1) Every person who

Precautions against forest fires: penalty for non-observance.

- (a) sets out, lights or starts, or causes to be set out, lighted or started, a fire in or near woods, except for the purposes of cooking or obtaining warmth, between the fifteenth day of April and the first day of November without first having obtained a permit from the Minister of ~~Mines, Agriculture and Resources~~ or from a person authorized by the Minister to issue permits to burn;
- (b) makes or starts or causes to be made or started a fire for the purposes of clearing land or the cutting of a right of way for a road, trail, telephone line, telegraph line, power line or pipe line, tote road, ditch or flume or for any other agricultural or industrial purposes without first having obtained a permit to burn;
- (c) between the fifteenth day of April and the first day of November, makes or starts or causes to be made or started, a fire in or near any woods, or upon any island, for cooking or obtaining warmth, without observing the following precautions, that is to say:

1973- c.22, s.3

1973- c.22, s.4

1973- c.22, s.3

(2) The holder of a permit referred to in subsection (1) shall exercise and observe every reasonable care and precaution in the making and starting of a fire and in the managing of and caring for and controlling it after it has been made and started, in order to prevent it from spreading and burning the trees, scrub or plants surrounding, adjoining or in the neighbourhood of the place where it has been made and started.

Permit holders exercise

4. The owner or occupant of the land upon which any fire mentioned in the next preceding section is made or originates shall be deemed and taken to be the person offending, and shall be liable to the several penalties provided by this Act, unless such owner or occupant proves to the satisfaction of the justice, court or judge before whom he is tried that such fire was not made, lighted or started by him, nor by any person by his direction or in his employment.

Owner occupant land, li

5.—(1) Every person who between the fifteenth day of April and the first day of November sets a fire under a permit referred to in subsection (1) of Section 3 shall do so subject to this section and a person who does not comply with any provision of this section or who does not take precautions as prescribed by subsection (2) is guilty of an offence and liable on summary conviction to a fine of not less than fifty dollars and not more than four hundred dollars for each offence, or to imprisonment for a period not exceeding twelve months.

Permit burn.

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s. 3

(2) A person issuing a permit to burn shall, in accordance with instructions issued by

- (a) the Minister; or
- (b) other person designated by the Minister generally or specially for the purpose,

prescribe, subject to this Act, what precautions are to be taken in the special circumstances of each case.

(3) The fact of obtaining a permit to burn shall not discharge the person obtaining the same from general responsibility for any damages caused by the fire so lighted.

(4) The permit thus obtained shall not allow the setting of a fire at the time mentioned if a heavy wind is blowing at that

time, or if conditions of special fire hazard exist such as might cause a fire outside of the place indicated.

(5) The permit to burn may be cancelled or temporarily suspended by the issuer or the Minister at discretion. The Minister may suspend the operation of all permits by public notice during the periods of extreme fire hazard.

(6) A permit to burn shall be in a form prescribed by the Minister of Mines, Agriculture and Resources.

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s.4

(7) The person granting the permit shall define in writing on the back of the permit the precautions to be taken under the special circumstances of each case and shall explain the provisions of this Act to the holder of the permit as well as the responsibility he may incur under the same.

Penalty  
where gross  
negligence.

6. Notwithstanding any other provision of this Act, where a magistrate who convicts a person of an offence under Section 3 or Section 5 is satisfied that the person who was convicted of the offence was grossly negligent in the commission of the offence the magistrate shall instead of imposing the fine or penalty of imprisonment provided in those sections impose a penalty of imprisonment for a period of not less than two weeks and not more than two years.

Deliberate  
starting of  
forest fire.

7. Notwithstanding any other provision of this Act, a person who deliberately lights or starts a forest fire is guilty of an offence and liable on summary conviction to imprisonment for a period of not less than two weeks and not more than two years.

*prima facie*  
evidence as  
to starting  
of fires.

8. When a fire originates on Crown lands and in the neighbourhood of any place where it has been ascertained that a person or number of persons were a short time previously to the happening of such fire camping, cooking, fishing, or engaged in some industrial occupation, he or they shall be taken to be the party or parties offending against Section 3 of this Act, and shall be liable to the penalties thereunder, unless he or they shall prove to the satisfaction of the court or judge before whom the trial takes place that such fire was not made, started or lighted by him or them or by anyone in his or their company or service, or by his or their direction.

Precautions to be taken in relation to locomotives; duties of officials; inspectors.

12.—(1) It shall be the duty of every engine driver in charge of a locomotive engine passing over such railway to see that all such appliances as are in the next preceding section mentioned are properly used and applied, so as to prevent the unnecessary escape of fire from any such engine. Where engineers or conductors or train-men discover that any portion of the railway premises or woodlands adjacent to the railroad are burning or in danger from fire, it shall be their duty to take immediate steps to extinguish such fire and to prevent it from extending from the railway premises to any adjoining woods or premises, and to report the same to the company at the next telegraph station on or in connection with the railway and it shall be the duty of the company to advise the Minister ~~of Mines, Agriculture and Resources~~ forthwith of the nature, extent and location of such fire.

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s.4

(2) Every engine driver or other railway official, or railway company, who violates the provisions of this section shall be liable to a penalty of not less than ten dollars nor more than two hundred dollars for each offence.

(3) Every company operating any railway in Newfoundland, and the Canadian National Railway, shall make provision for regular places along its line of railway at which places, and at no others, ashes from fire boxes of locomotives may be dumped, and notification of the provision of such places shall be sent to the Lieutenant-Governor in Council by the said company and by the Manager of the Canadian National Railway, Newfoundland Services. Any company or engine driver or other railway official who violates the provisions of this section shall be liable to a penalty for each offence not exceeding twenty-five dollars.

(4) In any action for a penalty for violation of any of the provisions of Section 11 or 12 and in any action for damages occasioned, or alleged to have been occasioned, by fire from locomotive engines on any railway, said engines shall be presumed not to be provided with the most improved and efficient means used to prevent the escape of fire from the furnace or ashpan of such engine, and the smokestack thereof not to be constructed as required by Section 11 hereof, unless and until it is proved by the railway company or engine driver that such engine is so provided and constructed.

(5) Any company operating locomotives in Newfoundland shall make arrangements whereby the Government Engineer, any fire warden, and any other person duly authorized by him or them, shall be permitted to board any engine wherever the same may be stopped for any purpose, and to travel on such engine free of charge, and every facility and assistance shall be given to such engineer, fire warden, and any such other person to examine everything in connection with the said engine and its operation: Provided that no company shall be compelled to receive on board an engine more than one such person at one time. Should the said engineer, fire warden, or other person discover that the contrivances for arresting sparks or for the prevention of the escape of ashes from the ashpan of the engine be out of order or defective, or that anything else in connection with the engine is in a condition to endanger in any way property along the railway, it shall be his duty and he is hereby empowered to order the engine to be stopped until such defect be remedied to his satisfaction.

13. Wherever a railway passes through woods the railway company shall clear from off the sides of the railway to a reasonable distance therefrom all combustion material by safe burning or otherwise, and any company violating the provisions of this section shall be liable to a penalty for each offence of one hundred dollars.

Clearing woods,  
etc., along  
track or  
railways.

14. Nothing in this Act contained shall be held to limit or interfere with the right of any person to maintain an action for damages occasioned by fire and such right shall remain and exist as though this Act had not been passed. And in such action for damages proof that the defendant, or any person by his direction or authority or in his employment, or with his consent, expressed or implied, started such fire in violation of this Act, shall be conclusive evidence of negligence on the part of the defendant in starting such fire.

Saving of  
civil remedies.

15.—(1) (a) The Minister ~~of Mines, Agriculture and Resources~~ shall have the management and control of all measures for carrying into effect the provisions of this Act.

Chief Fire  
Warden; other  
fire wardens.

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s.4

(b) The Minister of ~~Mines, Agriculture and Resources~~ shall have the power to appoint a Chief Fire Warden and such other persons to act as fire wardens or assistant fire wardens as he may deem necessary to carry out the provisions of this Act.

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s. 4

(2) The duties of the Chief Fire Warden shall include the following:

(a) to travel periodically over all woodlands whether belonging to the Crown or private owners or under lease from the Crown;

(b) to institute prosecutions against all persons offending against any of the provisions of this Act;

(c) to trace the origin of every woods fire and fully report the same to the Minister of ~~Mines, Agriculture and Resources~~;

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s. 4

(d) to placard or cause to be placarded notices containing warnings with reference to woods fires throughout Newfoundland;

(e) to perform such other duties as may, from time to time, be required of him by the Minister of ~~Mines, Agriculture and Resources~~;

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s. 4

(f) to board any engines belonging to any railway being operated in Newfoundland and to instruct when necessary, any other persons who may be appointed either under subsection (1) last preceding or who may be specially appointed by him for the purpose, to board any such engines, and to travel upon the same and to examine them both regarding the apparatus with which they are fitted and regarding the manner of their operation, with a view to the proper carrying out of this Act and to the prevention of fire generally.

(3) Any men appointed as assistant fire wardens shall be entitled to be paid by the proprietor or proprietors of the property that they are appointed to patrol, when such persons are so ap-

pointed at the request or on the application of such proprietor or proprietors, at a rate to be settled between the Chief Fire Warden and such proprietor or proprietors at the time of appointment.

16.—(1) When a forest fire occurs or is in progress the Minister ~~of Mines, Agriculture and Resources~~ may by order for the more effectual carrying on of this section declare that part of the province in which the forest fire occurs or is in progress to be a fire disaster area and may include in the fire disaster area any portion of the province which may be in danger from the spread of fire or from or to which persons are being evacuated under power conferred by this section.

Minister may  
declare fire  
disaster area. | 1973 - c.22  
S.4

(2) When a forest fire occurs or is in progress the Minister ~~of Mines, Agriculture and Resources~~ may make such orders and take such action as he deems necessary in respect of that part of the province in which the forest fire occurs or is in progress or from or to which persons are being evacuated, whether or not that part of the province has been declared to be a fire disaster area or is included in a fire disaster area, and in particular, but without restricting the generality of the foregoing the Minister may

Powers of  
Minister  
where fire  
occurs or  
in progress. | 1973 - c.22  
S.4

(a) require

- (i) employers, for or without compensation, whether carrying on business in or outside a fire disaster area, to place their employees or any group of employees at the disposal of and under the direction of, and
- (ii) employees referred to in subparagraph (i) and any other persons, whether residing or employed in or outside a fire disaster area, for or without compensation, to place themselves at the disposal of and under the direction of

the Minister or of the person in charge of fighting a forest fire or any operation arising out of, in support of or made necessary by the forest fire or threat of fire and require those employees and other persons to fight the

“16A.—(1) The Lieutenant-Governor in Council may by order published in *The Newfoundland Gazette* require owners, lessees, licencees and other persons having possession or control of lands within the province to pay the total costs, or such proportion of the total costs as may be specified in the order, incurred by Her Majesty in extinguishing forest fires from such lands, and an order made under this section may specify the circumstances in which payment shall be made, including without limiting the generality of the foregoing the location, cause, extent and period of duration of forest fires, and any payment required to be made under this section pursuant to such order may be recovered by Her Majesty as a debt following action in a court of competent jurisdiction.

Power to recover costs.

(2) An order made under subsection (1) may be amended or revoked by order made and published in the manner required under that subsection.”

Amdt. or revocation of order.

Exercise of powers during emergency.

17. During the existence of a state of civil disaster proclaimed under The Emergency Measures Act, the Minister and every person or committee may continue to exercise the powers conferred on them by or under this Act, but the powers conferred on the Lieutenant-Governor in Council by The Emergency Measures Act, are paramount.

Stipendiary magistrate may hold enquiries; oaths.

18. Any stipendiary magistrate shall have power to hold formal investigations as to the origin of fires, and may summon persons to appear before him to give evidence, and shall be authorized to administer an oath to all witnesses examined before him. The form of oath to be administered to any witness shall be as follows:

“You, A. B., do swear that you will make true answers to all questions that may be put to you on this examination. So help you God”.

Evidence in enquiries, preservation of.

19. The evidence taken before such stipendiary magistrate and his report in respect to any such investigation shall, at its conclusion, be forwarded to the Minister ~~of Mines, Agriculture and Resources~~

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s.4

20. Where portable mills are used in or within sixty rods of any woods, a competent person shall, during such portions of the year as the same are in operation, be employed by the owners or proprietors to act as fire watchman during such hours of the day or night as the mill is not running, under a penalty of twenty dollars a day for each day that such watchman is not employed.

Watchman on portable mills.

21. Every saw mill or other factory manufacturing or burning wood in this province shall if it use a steam boiler be fitted with a substantial smoke-stack, and such smoke-stack shall be of a height to be designated by the boiler inspector in accordance with the size of the boiler employed. Unless such smoke-stack exceed fifty feet in height from the ground it shall be fitted with a spark arrester, the form of which shall be approved by the boiler inspector, and the same shall be kept in good order and shall be subject to the inspection of the boiler inspector, whose duty it shall be to report to the Minister ~~of Mines, Agriculture and Resources~~ all cases where these provisions are neglected or improperly carried out. It shall be the duty of the boiler inspector to draw up regulations regarding the height of the smoke-stacks and form of spark arresters as above provided, and to publish such regulations in *The Newfoundland Gazette*.

Precautions in connection with sawmills.

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s.4

22. Where any fire starts in the immediate vicinity of a saw mill or plant with a defective spark arrester, the owner or owners shall be taken to be a party or parties offending against Section 3 of this Act and shall be liable to the penalties thereunder, unless he or they shall prove to the satisfaction of the court or judge before whom the trial takes place that such fire was not made, started or lighted as the result of defective stack or by him or them or anyone in his or their company or service or by his or their direction.

prima facie evidence where fire starts near mill.

23. Any person tearing down, defacing or destroying any fire-warning poster shall be liable to a penalty of not less than five dollars nor more than twenty-five dollars for each offence.

Destruction of fire-warning posters: penalty

24. It shall be the duty of the Chief Fire Warden, any fire warden or assistant fire warden to erect, or cause to be erected, in conspicuous places at the side of every highway as they may deem proper, and at suitable distances alongside the rivers and

Warning notices.

lakes frequented by camping parties, tourists, hunters and fishermen, notices in large letters, to be furnished by the Department of Mines, Agriculture and Resources, substantially in the following form:

Camp fires must be totally extinguished before breaking camp, under penalty of not more than twelve months' imprisonment or four hundred dollars fine, as provided by law.

(Signed)

Minister of Mines, Agriculture and Resources.

Reports by  
fire wardens.

25. The Chief Fire Warden, any fire warden or assistant fire warden shall report to the Minister of Mines, Agriculture and Resources as to the extent of all woods fires which occur in the district in which they reside, together with the probable amount of property destroyed, specifying the value of timber as near as may be, the amount of cord wood, logs, bark or other woods products, fences, bridges, and buildings that have been burned, the causes of such fires (if they can be ascertained), and the measures employed and found most effective in checking their progress. Forms for the reports required in this Act shall be furnished by the Department of Mines, Agriculture and Resources.

Rewards, for  
information.

26. The Lieutenant-Governor in Council may, from time to time, authorize the Minister of Mines, Agriculture and Resources to offer rewards for information that will lead to the recovery of any of the penalties imposed by this Act.

Limitation of  
prosecutions.

27. Every prosecution for an offence against this Act shall be begun within two years immediately following such contravention.

Regulations.

~~28. (1) Notwithstanding anything contained in this Act, the Minister of Mines, Agriculture and Resources may make regulations to prohibit the lighting of fires outdoors during any period specified in the regulations.~~

~~(2) Regulations made under subsection (1) may be made to apply to the whole of the province or to part only of the province and may exclude from the regulations~~

Repeal and  
substitution  
Sec. 28.

~~5. Section 28 of the said Act is repealed and the following substituted therefor:~~

Regulations.

"28.—(1) Notwithstanding any of the provisions of, or rights given or granted under, any other Act or any of the other provisions of this Act, for the purpose of carrying into effect the provisions of this Act according to their true intent and meaning or for supplying any deficiency therein or for meeting cases which arise for which no provision or inadequate provision has been made, the Minister may make such regulations as he deems necessary or advisable and, without limiting the generality of the foregoing, may make regulations

- (a) prohibiting the lighting of fires outdoors during any period specified in such regulations;
- (b) specifying conditions under which logging operations may be carried out on Crown lands during the forest fire season, prescribing and defining such season for the purposes of the regulations and prohibiting such logging operations to be carried out by any person except in compliance with such conditions;
- (c) providing that logging operations shall not be carried out on Crown lands unless the person carrying out such operations provides on the site of such operations such equipment, of such a type, in such an amount and in such location as the regulations may specify;
- (d) providing that any person carrying out logging operations on Crown lands shall take such action as the regulations may specify for the purposes of preventing, extinguishing and assisting in the extinguishing of forest fires in the area where such person is carrying out logging operations, or for any of such purposes;
- (e) prohibiting or controlling the use of specified stoves or devices or stoves or devices utilizing such fuel

1973-c.22  
s.5

as may be specified during the forest fire season as prescribed and defined by the regulations;

- (f) prohibiting the use of power saws and other specified machinery or equipment utilized in the harvesting or extraction of timber except in accordance with such safeguards for the prevention of forest fires as may be specified in the regulations;
- (g) considered necessary by him for preventing the originating or spread, or both, of forest fires;
- (h) exempting any person or persons or class or classes of persons from any or all of the provisions of this Act or the regulations; and
- (i) respecting any other matter necessary or advisable to carry out effectively the purposes of this Act,

and different regulations may be made respecting different classes or kinds of stoves, devices, machinery or equipment or respecting different periods of the year or respecting different classes of persons or respecting the same class of persons under different circumstances.

(2) Regulations made under subsection (1) may be made to apply to the whole of the province or to part only of the province and, without limiting the generality of subsection (1) or any paragraph thereof, regulations made under paragraph (a) or (e) of that subsection may exclude from such regulations

Idem.

- (a) fires made for purposes or under circumstances or conditions specified in such regulations; or
- (b) fires made in stoves or devices of any description specified in such regulations.

(3) A person who violates any provision of regulations made under subsection (1) is guilty of an offence and liable on summary conviction to

Offence

- (a) imprisonment for a period of not less than two weeks and not exceeding two years; or
- (b) a fine of not less than two hundred dollars and not exceeding ten thousand dollars."

1973-c.22  
s. 5