

THE GRASS FIRES ACT

(AGRICULTURE: ACT 44/1955)

Date of commencement: 13th May, 1955.

An Act to consolidate the law relating to grass burning and grass fires.

Short title.

1.This Act may be cited as the Grass Fires Act.

Interpretation.

2.In this Act unless the context otherwise requires —

"child" means any person who, in the opinion of the court, is under the age of fourteen years;

"fire-break" means a strip of land which has been cleared of inflammable material to prevent the spread of veld fires;

"land" means any part of the surface of Swaziland;

"occupier" means —

(a) in relation to land which is not Swazi nation land, the person in actual occupation thereof, whether as owner or lessee, or as having charge thereof on behalf of the owner or lessee;

(b) in relation to Swazi nation land, the chief, induna, headman or other person in actual occupation of, and having authority according to Swazi custom over, such land;

"owner" includes a lessee or any other person in charge of any land;

"sponge" means any area of moist or marshy ground situated so as to form the source or course of, or contribute to, a natural watercourse;

"Swazi nation land" includes land to be registered in the name of the Ngwenyama of Swaziland in trust for the Swazi nation. (Amended P.47/1963.)

PART I

OFFENCES COMMITTED IN RESPECT OF LAND BY OWNERS OR OCCUPIERS THEREOF

Prohibition against the burning of grass.

3.(1) No owner or occupier or person acting on behalf of an owner or occupier shall set fire to any standing or uncut grass on any land owned or occupied by him —

(a) at a shorter interval than twenty-four months from the date on which the said grass was previously burned; or

(b) during the period from the first day of May to the last day of September, inclusive, in any year, unless he is in possession of a permit issued to him in terms of section 4:

Provided that this sub-section shall not prohibit an owner or occupier from burning grass on land required for cultivation and which is actually cultivated within a period of three months from the date of such burning.

(2) Notwithstanding sub-section (1) no owner or occupier or person acting on behalf of an owner or occupier shall set fire at any time to grass, reeds or other vegetation whether standing, fallen or cut, living or dead, upon any spongy or any land owned or occupied by him unless he is in possession of a permit issued to him in terms of section 4.

Permit to fire grass.

4. The Director of Agriculture, or any officer authorised thereto by him may in his discretion and on such conditions as he may think fit, issue a permit authorising an owner or occupier to set fire to any grass or other vegetation in any specified area on any land owned or occupied by him during a specified time:

Provided that in the case of Swazi nation land such permit shall be issued by a person appointed for the purpose by the Ngwenyama in Libandhla.

Notification of area to be burnt.

5.(1) Every owner or occupier of land intending to set fire to standing or uncut grass as provided in this Act other than for the purpose of burning a fire-break or for cultivation as provided in section 3 shall before the last day of December in writing addressed to an officer, whom the Director of Agriculture may by notice in the Gazette appoint for the purpose, define the area of land owned or occupied by him which he intends to burn the following year:

Provided that in the case of Swazi nation land such notification may be verbal and shall be made to a person appointed for the purpose by the Ngwenyama in Libandhla.

(2) Any person who after the first day of January, 1956 sets fire to standing or uncut grass without having given the notification required in the preceding sub-section shall be guilty of an offence and liable on conviction to the penalties prescribed by section 7(2). (Amended P.47/1963.)

Notice of intention to fire grass.

6.(1) No owner or occupier or person acting on behalf of an owner or occupier shall set fire to any grass on land owned or occupied by him within Swaziland unless and until he has given at least forty-eight hours' notice and not more than ninety-six hours' notice of his intention to do so to the occupiers, if any, of any land adjoining the land on which the grass to which he desires to set fire is situated, and to the occupiers, if any, of any land to which such fire may reasonably be expected to spread and no sufficient objection has been raised by any such occupier after the receipt of such notice.

(2) In the case of any dispute arising as to the sufficiency of any objection such dispute shall forthwith be referred by either party to a district commissioner, district officer, police officer or agricultural officer, whose decision shall be final.

(3) No person being an owner or occupier or acting on behalf of an owner or occupier after taking the steps prescribed in this section shall set fire to grass under conditions calculated

to render it unusually dangerous to neighbouring property, or unless he shall have provided adequate supervision to prevent such fire from spreading to neighbouring property.

Penalties.

7.(1) Any person who sets fire to any grass or other vegetation in contravention of section 3(1) or 3(2) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or in default of payment thereof to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(2) Any person who sets fire to grass in contravention of section 6 shall be guilty of an offence and liable on conviction to a fine not exceeding forty rand or in default of payment to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

(3) Any person who having set fire to grass for the purpose of cultivation as provided in section 3 hereof who fails to cultivate the land on which the grass was burnt within a period of three months from the date of such burning shall be guilty of an offence and liable on conviction to the penalties prescribed in sub-section (1).

Fire-breaks.

8.(1) Notwithstanding anything in section 6 any owner or occupier who is desirous of burning a fire-break along any portion of his boundary may call upon the occupier of land adjoining such boundary (hereinafter referred to as "the neighbouring occupier") for reasonable assistance in burning such fire-break.

(2) Should such neighbouring occupier after notice in writing given not less than fourteen days beforehand fail or refuse to give such assistance, he shall have no claim for damages against the owner or occupier who has given such notice or his successor in title by reason of any fire spreading on to his land within six months after the date of such notice either through the burning of a fire-break or the absence of a fire-break, unless the spreading of such fire is due to it having been started or allowed to continue burning by such occupier in a manner or under conditions calculated to render it unusually dangerous to neighbouring property.

(3) The owner of land which is not Swazi nation land and of which there is no occupier shall have no claim for damages against the owner or occupier of any adjoining land by reason of any fire spreading from such adjoining land on to his land either through the burning of a fire-break or through the absence of a fire-break unless the spreading of such fire is due to the same having been started or allowed to continue burning by such occupier in a manner or under conditions calculated to render it unusually dangerous to neighbouring property.

(4) Notwithstanding anything in sub-section (1) no owner or occupier shall burn a fire-break along any portion of his boundary unless he shall have given at least fourteen days' notice in writing to the occupiers of any land adjacent to his land of the time when and the place where he intends to burn such fire-break.

(5) Any person contravening sub-section 4 shall, in addition to any liability he may incur to neighbouring occupiers in respect of damage caused by the burning of such fire-break be guilty of an offence and liable on conviction to the penalties prescribed by section 7(2).

(6) The owner or occupier of any land in which any sponge exists shall protect such sponge from fire by adequate fire-breaks whenever grass-burning is to be undertaken in the vicinity of such sponge.

(7) Any person failing to comply with this section (6) shall be guilty of an offence and liable on conviction to the penalties prescribed in section 7(2).

PART II

OFFENCES COMMITTED IN RESPECT OF LAND BY ANY PERSON

Spread of fires started wilfully or negligently.

9. Any person who wilfully and without lawful authority; or negligently, sets fire to or feeds any fire which by spreading sets fire to any grass on land of which he is not the occupier shall be guilty of an offence and liable on conviction thereof to a fine not exceeding two hundred rand or in default of payment to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Throwing burning matches and disturbing bees by fire or smoke.

10. Any person who, in or on land not belonging to him or lawfully occupied by him wilfully or negligently throws down any burning match or other burning material; or disturbs without lawful authority any swarm of bees by the use of fire or smoke., shall be guilty of an offence and liable on conviction to a fine not exceeding forty rand, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

Duty to extinguish fires.

11. (1) Any person who is upon land of which he is not the occupier or upon any road, outspan or vacant land shall completely extinguish any fire there kindled or used by him and until he has so done shall not proceed such a distance from any such fire as to be unable to control it by himself or his servants.

(2) A person contravening this section shall be guilty of an offence and liable upon conviction to the penalties prescribed by section 9.

PART III

MISCELLANEOUS

Powers relating to extinguishment of fires.

12. (1) If any person has good reason to believe that a fire in the open air may become dangerous to life or property he may, either alone or with persons under his control, enter upon any land for the purpose of extinguishing that fire or preventing the extension thereof, and may take such measures as are reasonable and necessary or expedient for the protection of life and property or for the extinguishing or preventing the spread of the fire, and may for such purposes cause reasonable destruction of any trees, grass or other vegetation by cutting, burning or otherwise.

(2) Provided that he acted in good faith and provided that the measures taken were such as, having regard to all circumstances prevailing at the time, would appear necessary to a reasonable man in order to extinguish or prevent the spread of such fire as is mentioned in

sub-section (1); no liability shall attach to any person exercising the powers conferred by this section in respect of damage caused by such exercise.

(3) No action shall lie for trespass or damages caused in good faith in the exercise of the powers conferred by this section.

Special powers of civil nature.

13. (1) Any person convicted of an offence under sections 6, 8, 9, 10 or 11 shall further be liable to compensate any person who has suffered damage by reason of such offence, and the court convicting him may enquire summarily into the amount of damage so suffered, notwithstanding that no civil process has been served upon the accused in respect thereof provided he be present or represented.

(2) Such court may order that compensation be paid to such person by the accused in such sum within the limits of its jurisdiction (together with costs of such enquiry) as it may think fair and reasonable.

(3) Any such order shall be enforceable in the same manner as in a judgment of such court in civil proceedings before it.

Responsibility for child's conduct.

14. Any person having the custody of a child and who by his act, omission or neglect has conduced to the commission of an offence under this Act by that child shall be guilty of an offence and be liable on conviction to the penalties prescribed by sections 5, 7, 8, 9, 10 or 11, as the case may be, and may be charged jointly with such child.

Proof.

15. Notwithstanding any other law if in any proceedings under this Act or at common law the question of negligence in respect of damage from grass fires arises, negligence shall be presumed unless the contrary is proved.

Civil liabilities.

16. Nothing in this Act shall affect the right of any person aggrieved to recover damages by civil action for any loss sustained by him:

Provided that he shall not have obtained judgment in his favour under section 13, in which case he shall have no further remedy against the person against whom he has obtained such judgment.

Powers of Permanent Secretary.

17. Every duty, power and function conferred upon the Director of Agriculture by this Act may be performed and exercised as fully and effectually by the Permanent Secretary for Agriculture.