



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# FOREST FIRE PROTECTION ACT

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to March 4, 2023. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## FOREST FIRE PROTECTION ACT

### Table of Contents

Section	Page
<b>PART I - INTERPRETATION AND APPLICATION</b>	<b>5</b>
1. Definitions.....	5
2. Responsibility of Minister.....	5
3. Application of Act.....	6
<b>PART II - FOREST SERVICE OFFICERS</b>	<b>6</b>
4. Forest service officers .....	6
5. Duties .....	6
<b>PART III - GENERAL FIRE PRECAUTIONS</b>	<b>7</b>
6. Fire precautions.....	7
7. Duty to notify .....	7
<b>PART IV - FIRE SEASON</b>	<b>7</b>
8. Fire season .....	7
9. Igniting fire within 200 metres of forest .....	8
<b>PART V - FIRE CLOSURE ORDERS</b>	<b>8</b>
10. Fire closure order .....	8
<b>PART VI - BURNING DAYS AND PERMITTED BURNING</b>	<b>9</b>
11. Determination of burning days.....	9
12. Category 1 fire .....	9
13. Category 2 fire .....	10
14. Terms and conditions on permit.....	11
<b>PART VII - FIREFIGHTING EQUIPMENT AND EXPENSES</b>	<b>11</b>
15. Firefighting equipment, etc. ....	11
16. Firefighting expenses .....	12
17. Forest fire in a municipality .....	12
<b>PART VIII - OFFENCES AND PENALTIES</b>	<b>13</b>
18. Penalty .....	13
19. Proof of offence .....	13
20. Additional penalty.....	14
21. Limitation period .....	14
22. Civil actions not affected .....	14
23. Protection from liability .....	14
24. Agreements .....	15
<b>PART IX - REGULATIONS</b>	<b>15</b>
25. Regulations .....	15

**PART X - CONSEQUENTIAL AMENDMENT AND COMMENCEMENT**

**15**

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## FOREST FIRE PROTECTION ACT

### CHAPTER F-13.2

#### PART I - INTERPRETATION AND APPLICATION

##### 1. Definitions

In this Act,

- (a) “**burning permit**” means a burning permit issued under section 13;
- (b) “**Department**” means the Department of Environment, Energy and Climate Action;
- (c) “**forest**” means land not cultivated for agricultural purposes, on which trees, shrubs or woody vegetation are growing;
- (d) “**forestry operation**” means any land clearing or alteration, lumbering or wood harvesting, and includes an industrial, engineering or construction operation that involves any of those activities;
- (e) “**forest service officer**” means a person appointed as a forest service officer by the Minister under section 4;
- (f) “**Minister**” means the Minister of Environment, Energy and Climate Action;
- (g) “**municipality**” means a municipality as defined in the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1;
- (h) “**non-burning day**” means a day during the fire season on which open burning is prohibited in accordance with section 12;
- (i) “**open burning day**” means a day during the fire season on which open burning is allowed in accordance with section 12;
- (j) “**open fire**” means any burning where combustion products are not vented through a stack or chimney;
- (k) “**permit**” means a valid and subsisting permit for a Category 2, 3 or 4 fire issued under section 13;
- (l) “**prescribed burning**” means the burning of forest fuels or cut grass in a specific area under predetermined conditions so that the fire is confined to that area in order to satisfy silvicultural, wildlife management, sanitary or hazard-reduction requirements;
- (m) “**restricted burning day**” means a day during the fire season on which open burning is restricted in accordance with section 12. *2020, c.65, s.1; 2021, c.8, s.3.*

##### 2. Responsibility of Minister

- (1) The Minister is responsible for the administration and enforcement of this Act.

**Delegation**

- (2) The Minister may, in writing, delegate a responsibility or power of the Minister under this Act, other than the authority to appoint a forest service officer under section 4, to any person. *2020, c.65, s.2.*

**3. Application of Act**

- (1) This Act applies
- (a) throughout the province; and
  - (b) to all fires that are threatening or burning forest in the province.

**No obligation**

- (2) Despite section 22, nothing in this Act imposes any obligation on the Minister to fight fires on any land or on the Government to pay compensation for any property destroyed or damaged by fire or as a result of fighting a fire. *2020, c.65, s.3.*

**PART II - FOREST SERVICE OFFICERS**

**4. Forest service officers**

- (1) The Minister may appoint as a forest service officer
- (a) a person employed in the Department as a forest technician or a forester; or
  - (b) a person who has successfully completed training in fire suppression techniques and physical fitness in accordance with the regulations.

**Identification**

- (2) The Minister shall issue identification to each forest service officer that states the person's appointment.

**Training programs, etc.**

- (3) The Minister may establish training programs in fire suppression and standards of physical fitness for forest service officers in accordance with the regulations.

**Production on request**

- (4) A forest service officer shall produce the officer's identification on request by any person unless in the opinion of the officer it would be dangerous or impracticable to comply with the request. *2020, c.65, s.4.*

**5. Duties**

The duties of a forest service officer include the following:

- (a) to travel periodically over forest land within the province, whether belonging to the Government or private owners, or under lease from the Government;
- (b) to report forest fires to a police service, where necessary to reduce the risk of loss of life;
- (c) to determine and authorize time and location for prescribed burning;
- (d) to advise and educate the public on the dangers of forest fires;
- (e) to advise and educate the public on the prevention of forest fires;

- (f) to enforce and carry out the provisions of this Act and the regulations;
- (g) to perform other duties assigned by the Minister. *2020,c.65,s.5.*

## PART III - GENERAL FIRE PRECAUTIONS

### 6. Fire precautions

- (1) Where a person is permitted to ignite a fire pursuant to this Act, that person shall make every reasonable effort to prevent the fire from spreading and shall not leave the fire unattended until it is completely extinguished.

#### Permission required

- (2) No person shall at any time ignite or cause to be ignited a fire on privately owned land without the permission of the owner except in an emergency situation for cooking, warmth or as a distress signal, and only if the person ensures that the fire is made in a suitable place and takes every reasonable precaution to prevent the fire from spreading.

#### Firefighting equipment required

- (3) Every person in charge of a forestry operation, or any other activity, conducted in the forest or within 50 metres of the forest shall provide and maintain at the place of the forestry operation the firefighting equipment required by the regulations.

#### Spark arrester required

- (4) No person shall operate in the forest or within 200 metres of the forest any burner, engine, incinerator or other spark-emitting outlet that is not provided with an adequate device for arresting sparks.

#### Storage and handling of liquid fuels

- (5) A person in charge of a forestry operation, or an owner of land, shall ensure that liquid fuels that are stored or handled within 30 metres of a forest are stored and handled in accordance with the regulations. *2020,c.65,s.6.*

### 7. Duty to notify

It is the duty of any person who is aware that a fire has started and exists in a forest, where if fire suppression operations have not been started by fire department staff or a forest service officer, to notify the Emergency 911 service as soon as possible, and a person who neglects or refuses to do so is guilty of an offence under this Act. *2020,c.65,s.7.*

## PART IV - FIRE SEASON

### 8. Fire season

- (1) The fire season for each county shall be specified in the regulations.

#### Ministerial order

- (2) Despite subsection (1), the Minister may, where the Minister considers it advisable and in the public interest, issue an order to extend or shorten the fire season for the whole or any part of the province.

**Publication of order**

- (3) An order of the Minister under subsection (2) shall be published
- (a) at least once in a newspaper in general circulation in the area or areas affected by the order;
  - (b) by posting the order electronically on the website maintained for the Department.

**Other means**

- (4) The Minister may also publish the order referred to in subsection (2) by any other means that in the opinion of the Minister will bring it to the attention of any person or persons who are likely to be affected by the order. *2020,c.65,s.8.*

**9. Igniting fire within 200 metres of forest**

- (1) During the fire season, no person shall start or ignite a fire in or within 200 metres of the forest except
- (a) where the fire to be started or ignited is a Category 1 fire, in accordance with section 12; or
  - (b) under the authority of a valid burning permit issued under section 13 for the category of fire.

**Burning substance thrown, dropped, etc.**

- (2) During the fire season, no person who is in or within 200 metres of the forest shall throw, drop or otherwise deposit a burning match, cigarette, cigar or other smoking material or live coals, hot ashes or another burning substance, or fail to extinguish any of them.

**Other fires allowed during fire season**

- (3) Except where a fire closure order is in effect, a person may ignite a fire during a fire season
- (a) for cooking, for warmth or as a distress signal, where the person ensures that the fire is made in a suitable place and takes all reasonable precautions against the spreading of the fire;
  - (b) if the person is a fire service officer and the fire is ignited in the performance of the officer's duties; or
  - (c) in a campground that is licensed as a tourism establishment under the *Tourism Industry Act R.S.P.E.I. 1988, Cap. T-3.3*, if the fire is enclosed in a fireplace or fire-pit designed for that purpose. *2020,c.65,s.9.*

**PART V - FIRE CLOSURE ORDERS**

**10. Fire closure order**

- (1) Despite any other provision of this Act, the Minister may, when the Minister considers it in the public interest, issue a fire closure order that prohibits the setting of an open fire in the specified part or parts of the province during the period specified in the order.

**Prohibition**

- (2) While a fire closure order is in force, no person shall ignite or cause to be ignited an open fire in the part or parts of the province to which the order applies.



**Publication of order**

- (3) The Minister shall give public notice of a fire closure order and its terms in accordance with subsections 8(3) and (4).

**Copy as evidence**

- (4) A copy of a print or electronic medium containing the order shall be evidence in court of the publication and the content of the order without further proof of the matter. *2020,c.65,s.10.*

**PART VI - BURNING DAYS AND PERMITTED BURNING****11. Determination of burning days**

Each day during the fire season, a forest service officer shall determine, based on local weather information, whether the day is

- (a) an open burning day;
- (b) a restricted burning day; or
- (c) a non-burning day. *2020,c.65,s.11.*

**12. Category 1 fire**

- (1) A Category 1 fire is an open fire started or ignited in or within 200 metres of a forest

- (a) for no remuneration; and
- (b) to burn no more than two piles of tree limbs, leaves, brush or cut grass, each of which does not exceed three metres in width, three metres in length and two metres in height.

**Open burning day**

- (2) On an open burning day, a person may engage in open burning of a Category 1 fire in or within 200 metres of a forest between the hours of 2 p.m. on that day and 8 a.m. the following day, subject to the following conditions:

- (a) the person shall make every reasonable effort to prevent the fire from spreading;
- (b) the person shall not leave the fire unattended;
- (c) if there is more than one pile of material to be burned, the person shall ensure that the piles are at least 10 metres apart;
- (d) the fire is completely extinguished by 8 a.m. on the day following the day on which it was ignited.

**Restricted burning day**

- (3) On a restricted burning day, a person may engage in open burning of a Category 1 fire in or within 200 metres of a forest between the hours of 8 p.m. on that day and 8 a.m. the following day, subject to the following conditions:

- (a) the person shall take every reasonable effort to prevent the fire from spreading;
- (b) the person shall not leave the fire unattended;
- (c) if there is more than one pile of material to be burned, the person shall ensure that the piles are at least 10 metres apart;
- (d) the fire is completely extinguished by 8 a.m. on the day following the day on which it was ignited.

**Non-burning day**

- (4) On a non-burning day, no person shall start, ignite, tend, fuel or make use of, or cause to be started or ignited, a fire in or within 200 metres of a forest. *2020, c.65, s.12.*

**13. Category 2 fire**

- (1) A Category 2 fire is an open fire started or ignited in or within 200 metres of a forest
- (a) to burn three or more piles of tree limbs, leaves, brush or cut grass, each of which does not exceed three metres in width, three metres in length and two metres in height;
  - (b) to burn one pile of tree limbs, leaves, brush or cut grass that exceeds three metres in width, three metres in length and two metres in height; or
  - (c) for any remuneration.

**Category 3 fire**

- (2) A Category 3 is an open fire started or ignited to burn blueberry plants in or within 200 metres of a forest for the purpose of treating plants in a blueberry field that is located outside the boundaries of a municipality.

**Category 4 fire**

- (3) A Category 4 fire is an open fire started or ignited in or within 200 metres of forest to burn forest fuels and grass
- (a) for the purpose of clearing land; or
  - (b) for the purpose of prescribed burning.

**Prohibition**

- (4) No person shall start or ignite, or cause to be started or ignited, a Category 2, 3 or 4 fire in or within 200 metres of a forest unless the person has applied for and obtained a permit for that category of fire.

**Application for permit**

- (5) A person may apply to the Minister in the form approved by the Minister for a permit for a Category 2, 3 or 4 fire by
- (a) providing the following information
    - (i) name,
    - (ii) home address,
    - (iii) contact information, including phone number,
    - (iv) category of fire proposed,
    - (v) location of proposed burn area, and
    - (vi) type of material being burned; and
  - (b) paying the prescribed fee.

**Inspection prior to issuance**

- (6) Before issuing a permit, the Minister may direct a forest service officer to inspect the land on which the applicant proposes to start or ignite the fire in order to determine whether the location and the conditions are suitable for starting or igniting a fire of the category for which the applicant has applied.

**Issuing of permit**

- (7) The Minister may issue a permit in the category applied for to an applicant where the Minister is satisfied that
- (a) the application is complete and correct;
  - (b) the location and conditions appear to be suitable for the proposed category of fire, and the inspection conducted pursuant to subsection (6), if any, has not disclosed an adverse or unsuitable condition; and
  - (c) the prescribed fee has been paid.

**Refusal to issue permit**

- (8) The Minister may refuse to issue a permit to an applicant who has been convicted of an offence under this Act or the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11, within the 10-year period immediately preceding the application.

**Notification of refusal**

- (9) Where the Minister refuses to issue a permit under subsection (5), the Minister shall give notice of that fact to the applicant, together with the reasons for the refusal.

**Decision final**

- (10) The Minister's decision under subsection (8) is final and shall not be appealed. *2020,c.65,s.13.*

**14. Terms and conditions on permit**

- (1) In addition to the terms and conditions that apply to the category of fire pursuant under section 13, the Minister may impose further terms and conditions on the permit issued to the applicant that the Minister considers necessary.

**Compliance required**

- (2) The holder of a permit, and any person acting under the instructions or on behalf of the permit holder, shall comply with all of the applicable the terms and conditions. *2020,c.65,s.14.*

**PART VII - FIREFIGHTING EQUIPMENT AND EXPENSES**

**15. Firefighting equipment, etc.**

- (1) A forest service officer may requisition for the duration of a forest fire any vehicle, boat, aircraft, tool, appliance and any other equipment or facility for use in connection with the fighting of the fire from any person in possession of that equipment or facility.

**Reimbursement**

- (2) A person from whom equipment or a facility has been requisitioned under subsection (1) shall be reimbursed as specified in the regulations.

**Requirement to comply**

- (3) The person in possession of equipment or facilities requisitioned by a forest service officer shall immediately release the equipment or facility.

**Damage to equipment, etc.**

- (4) Where equipment or facilities requisitioned under this section are damaged, the Minister may, in the Minister's discretion,

- (a) repair the equipment or facilities at the expense of the Minister to a similar condition as at the time of requisition; or
- (b) replace the equipment or facilities at the expense of the Minister. *2020,c.65,s.15.*

**16. Firefighting expenses**

- (1) Where a forest fire occurs because of carelessness, the person responsible shall pay to the Minister of Finance the expenses incurred by the Minister in fighting that fire, subject to the regulations.

**“Carelessness” clarified**

- (2) For the purposes of this section, “carelessness” means that a fire has become uncontrolled because
- (a) a person allowed the fire to start through negligence; or
  - (b) a person failed to make every reasonable effort to prevent the fire from spreading.

**Fire started without permit**

- (3) Where a forest fire occurs because of carelessness, and the person who was required to obtain and comply with a permit for the fire started the fire without obtaining the permit, that person shall pay to the Minister of Finance the expenses incurred by the Minister in fighting the fire and, in addition, is guilty of an offence and liable on summary conviction to the fine specified in Part VIII.

**Lightning strike**

- (4) Where a forest fire has started because of a lightning strike, a property owner shall pay the owner’s own expenses incurred because of the fire but is not required to pay the expenses of the Minister in fighting the fire.

**Exemption**

- (5) The Minister may, in accordance with the regulations, exempt a person from the requirement to pay to the Minister of Finance a part of or all of the expenses for which the person is otherwise liable under subsection (1) or (3). *2020,c.65,s.16.*

**17. Forest fire in a municipality**

- (1) Where the Minister considers it to be in the public interest or when the chief administrative officer of a municipality requests it, the Minister may order a forest service officer to combat a forest fire within the boundaries of that municipality.

**Result of order**

- (2) Where a forest service officer acting on an order of the Minister given under subsection (1) reaches the fire,
- (a) the forest service officer shall assume direct responsibility and authority for combating the fire; and
  - (b) the municipality shall place its aid and the service of its personnel at the disposal of the forest service officer.

**Responsibility for expenses**

- (3) Where a forest service officer acts under an order of the Minister given under subsection (1), the Minister shall pay the expenses of extinguishing the fire within the boundaries of the municipality, except

- (a) the expenses incurred up to the time the forest service officer assumed direct responsibility and authority for combating the fire;
- (b) the expenses incurred by the municipality for the use of its own personnel and equipment; and
- (c) the expenses for additional personnel and equipment hired by the municipality after the forest service officer has assumed direct responsibility and authority. *2020,c.65,s.17.*

## PART VIII - OFFENCES AND PENALTIES

### 18. Penalty

- (1) A person who contravenes or fails to comply with a provision of this Act or the regulations or an order made under this Act is guilty of an offence and liable on summary conviction
- (a) in the case of a corporation, to a fine in an amount not less than \$10,000 and not more than \$100,000; and
  - (b) in the case of an individual,
    - (i) to a fine in an amount not less than \$5,000 and not more than \$50,000,
    - (ii) to imprisonment for a term of not more than six months, or
    - (iii) to both a fine as specified in subclause (i) and imprisonment as specified in subclause (ii).

#### Continuing offence

- (2) Where an offence referred to in subsection (1) is committed or continues on more than one day, the person responsible for the contravention or failure to comply may be found guilty of a separate offence for each day or part of a day on which the offence is committed or continues.

#### Monetary benefit from offence

- (3) Where a person has been convicted of an offence under this Act or the regulations, and the court is satisfied that a monetary benefit accrued to the person as a result of the commission of the offence,
- (a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefit; and
  - (b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed pursuant to this Act. *2020,c.65,s.18.*

### 19. Proof of offence

- (1) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent or any person acting on behalf of the accused, whether or not the employee, agent or other person is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

#### Offence by corporation

- (2) Where a corporation commits an offence under this Act or the regulations an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the contravention is guilty of the offence and is liable to the penalty provided for in section 18 for the offence, whether or not the corporation has been prosecuted for the offence.

**Defence of due diligence**

- (3) No person shall be convicted of an offence under this Act or the regulations if the person establishes that the person exercised due diligence to prevent the commission of the offence. *2020,c.65,s.19.*

**20. Additional penalty**

Where a person is convicted of an offence under this Act, the court may, in addition to any penalty imposed, and having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the court considers appropriate to remedy or to prevent any adverse effect that resulted or may result from the commission of the offence;
- (c) directing the person to post a bond or pay into court an amount of money that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement pursuant to this section;
- (d) requiring the person to undertake remedial action to control, reduce or mitigate the contravention. *2020,c.65,s.20.*

**21. Limitation period**

- (1) Proceedings by way of summary conviction in respect of an offence under this Act or the regulations may not be commenced more than two years after the later of
- (a) the date on which the offence was committed; or
  - (b) the date on which the evidence of the offence first came to the attention of the Minister.

**Evidence of offence**

- (2) A document purporting to have been issued by the Minister certifying the day on which the Minister became aware of the evidence of the offence is admissible without proof of the signature or the official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified. *2020,c.65,s.21.*

**22. Civil actions not affected**

Nothing in this Act limits or interferes with the right of any person to bring and maintain a civil action for damages occasioned by a forest fire, and that right remains and exists as if this Act had not been passed, and shall be in addition to any penalty provided for an offence under this Act. *2020,c.65,s.22.*

**23. Protection from liability**

A forest service officer responsible for extinguishing a forest fire, or a person assisting the forest service officer, shall not be personally liable for damage or injury to property by reason of anything done or omitted to be done in good faith in the execution of a power or the performance of a function under this Act. *2020,c.65,s.23.*

**24. Agreements**

The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements regarding the prevention or control of forest fires, including agreements respecting training of forest service officers. *2020,c.65,s.24.*

**PART IX - REGULATIONS****25. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) specifying fire seasons and establishing criteria for determining when a fire season should begin, be extended or end;
- (b) respecting firefighting equipment required to be maintained at a forestry operation;
- (c) respecting procedures regarding fire closure orders and the restrictions that may or shall be in force during the period when a fire closure order is in force;
- (d) respecting categories of fires established under Part VI, including additional prohibitions, restrictions and requirements in relation to those fires;
- (e) respecting prohibitions, restrictions and requirements in relation to any fire that is not of a category established under Part VI;
- (f) authorizing and prescribing the conditions, restrictions and requirements that apply to trial fires and experimental burns;
- (g) respecting the establishment by the Minister of training programs in fire suppression and standards of physical fitness for forest service officers;
- (h) prescribing the fees to be paid for the issuance of a burning permit;
- (i) respecting reimbursement for equipment of facilities requisitioned under section 15;
- (j) respecting the firefighting expenses to be paid by the Minister pursuant to section 17;
- (k) respecting the firefighting expenses to be paid to the Minister of Finance by a person pursuant to section 16 and providing for the circumstances for full or partial relief from payment;
- (l) respecting the storage and handling of liquid fuels in or within 30 metres of a forest;
- (m) defining any word or expression used in but not defined in this Act for the purposes of the regulations;
- (n) generally for the better administration of this Act. *2020,c.65,s.25.*

**PART X - CONSEQUENTIAL AMENDMENT AND COMMENCEMENT**

**26. (1) The *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11, is amended by this section.**

**(2) Part VII of the Act is repealed. *2020,c.65,s.26.***