

1971 Bill 57

Fourth Session, 16th Legislature, 20 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 57

The Forest and Prairie Protection Act

THE MINISTER OF LANDS AND FORESTS

First Reading

Second Reading

Third Reading

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BILL 57

1971

THE FOREST AND PRAIRIE PROTECTION ACT

(Assented to _____, 1971)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act,

- (a) "fire guardian" means a person appointed as a fire guardian by the Minister or by a municipal district under this Act;
- (b) "forest officer" means a forest officer under The Forests Act, 1971;
- (c) "Minister" means the Minister of Lands and Forests;
- (d) "municipal district" includes a county and a special area;
- (e) "occupied public lands" means public land held by a person under a disposition from the Crown.

2. This Act applies to all land within Alberta except

- (a) lands within the boundaries of a hamlet, village, town, new town or city, and
- (b) land owned by the Government of Canada in the absence of an agreement under section 6, subsection (2), clause (a).

3. (1) The Minister may in writing delegate to any employee of the Department of Lands and Forests or to any *ex officio* forest officer any power, duty or function conferred upon the Minister by this Act other than the power to make regulations.

(2) Where, pursuant to subsection (1), the Minister delegates to any person any power, duty or function, any reference in this Act to the Minister in connection with that power, duty or function shall be construed as also referring to that person.

4. (1) The Minister may appoint fire guardians and specify their powers and duties.

Explanatory Notes

This Bill replaces Part 2 of The Forests Act, chapter 147 R.S.A. 1970 with a separate Act more suitable to the wider range of protection afforded to the Province's non-urban areas.

1. Definitions.

2. Application.

3. Delegation of authority.

4. Appointment of fire guardians.

(2) Each year before the 1st day of April the council of a municipal district shall appoint a sufficient number of fire guardians to enforce the provisions of this Act within the boundaries of the municipal district.

(3) The reeve, each councillor and the secretary of a municipal district council is by virtue of his office a fire guardian in and for the municipal district.

5. Nothing in this Part imposes any obligation on

- (a) the Minister to fight fires on any land, or
- (b) the Crown to pay compensation for any property destroyed or damaged by a fire or as a result of fighting a fire.

6. (1) The Minister may enter into a fire control agreement with any person carrying on any timber, forest, mining, drilling or other industrial or commercial operation over, under, on or adjacent to public land.

(2) The Minister may enter into a fire control agreement with

- (a) the Government of Canada in respect of Crown lands in or adjacent to Alberta under its administration and control, and
- (b) with the government of any province.

7. (1) The council of a municipal district shall be responsible for fighting and controlling all fires within the boundaries of the municipal district and the costs and expenses thereof shall be paid by the municipal district.

(2) When the municipal district cannot recover the costs and expenses incurred by it in fighting a fire from the person who caused the fire, the municipal district may collect the cost and expenses from the person in possession of the land or the owner thereof except when he produces reasonable evidence that the fire originated from a cause unconnected with his possession or ownership.

8. (1) The Minister is not obligated to reimburse a municipal district for any money spent by it in controlling or extinguishing a fire on any land but the Minister may, with the approval of the Lieutenant Governor in Council, reimburse the council of a municipal district for any part of the costs and expenses in controlling or extinguishing a fire on unoccupied public land.

(2) The Minister may enter into a fire control agreement with the council of a municipal district with respect to prevention and control of fires within the boundaries of a municipal district.

5. No obligation by or liability on the Crown.

6. Fire control agreements.

7. Responsibility of municipal districts.

8. Minister not obliged to indemnify municipal district.

9. (1) The Minister may proceed to fight a fire within a municipal district when it appears to him that satisfactory action to control and extinguish the fire is not being taken by the municipal district and that the fire might damage public lands.

(2) When the Minister incurs costs as a result of fighting a fire within a municipal district pursuant to subsection (1), the municipal district shall on demand reimburse the Minister for the entire cost or any part thereof.

(3) The person who caused a fire shall on demand reimburse the Minister or the municipal district for the costs and expenses of fighting the fire.

10. (1) Where the council of a municipal district finds within its boundaries on privately owned land or occupied public land, conditions that in its opinion constitute a fire hazard, it may order the owner or the person in control of the land on which the fire hazard exists to reduce or remove the hazard within a fixed time and in a manner prescribed by the council.

(2) Where the council of a municipal district finds that the order it made pursuant to subsection (1) has not been carried out, it may enter upon the land with such equipment and men as it considers necessary and may perform the required work.

(3) The owner or the person in control of the land on which work was performed pursuant to subsection (2) shall on demand reimburse the council of the municipal district for the cost of the work performed and in default of payment the council shall have a lien for the amount against the land and improvements thereon.

11. (1) Any railway company operating a railway within Alberta shall take such fire control precautions and actions as may be prescribed by this Act and the regulations.

(2) When any fire originates within 300 feet of the nearest railway track on its right of way and spreads to adjacent lands the railway company shall take immediate action to fight and extinguish the fire and it is responsible for all costs of fighting and extinguishing the fire and for all costs incidental thereto.

(3) The Minister or a municipal district within its boundaries, may take action to fight and control a fire that originates within 300 feet of the nearest track on a railway right of way when it is apparent that no satisfactory action to fight and extinguish the fire is being taken by the railway company.

9. Minister may fight fires in municipal district.

10. Fire hazards in municipal districts.

11. Railway companies.

(4) A railway company that fails to extinguish any fire that originates within 300 feet of the nearest railway track on its right of way shall on demand reimburse the authority that suppressed the fire for all costs of suppressing the fire and all costs incidental thereto.

12. (1) A forest officer or a fire guardian may require any able bodied male person between the ages of 16 and 60 not exempted by regulations, to assist in fighting a fire.

(2) A forest officer or a fire guardian may commandeer and authorize payment for the possession or use of any equipment, for the purpose of fighting a fire.

(3) A forest officer or fire guardian may in writing delegate his powers under subsections (1) and (2) to any person.

13. (1) The Minister may, by order, close to public entry any land where fire danger warrants a closure.

(2) An order made pursuant to subsection (1) shall be immediately published at least twice a day for not less than two consecutive days by such radio and television stations as are considered by the Minister most likely to bring the matter to the attention of the public.

(3) Subject to the regulations, no person other than a forest officer or fire guardian may enter a closed area without a permit or the written permission of a forest officer until the Minister, by order, reopens the closed area.

14. Every person found on public land or leaving or entering public land shall at the request of a forest officer or fire guardian give his name, address and an account of his activities and route or the activities he proposes to carry out and the route he intends to follow on the public land.

15. Where any lake is used by aircraft carrying on fire bombing operations, no person shall, without the prior permission of the Minister venture on or into the water beyond 100 feet from the nearest water's edge.

16. (1) The period from the 1st day of April to the 31st day of October in each year is the fire season for the purposes of this Act.

(2) The Minister may at any time extend or shorten the fire season for any area of Alberta.

12. Conscription and commanding for fire fighting purposes.

13. Closing forest areas and publication.

14. Information of forest travellers.

15. Restricted use of lake while aircraft are using it.

16. Fire season.

17. No person may light an outdoor fire during a fire season without first obtaining a fire permit unless

- (a) the fire is an outdoor camp fire for cooking or warming purposes or both and the fire is never left unattended, or
- (b) the fire is lit in an area designated by the Minister as a non-permit area.

18. (1) A forest officer or a fire guardian appointed by the Minister may in his discretion issue to an applicant a fire permit in respect of any land.

(2) A fire guardian appointed by a municipal council may in his discretion issue to an applicant a fire permit in respect of any land within the boundaries of that municipal district.

(3) A fire permit is valid only for the period for which it is issued.

(4) A forest officer or fire guardian issuing a fire permit may endorse on the permit any special fire control conditions with which the applicant must comply in addition to the provisions of this Act and the regulations.

19. A fire permit may be suspended or cancelled at any time by a forest officer or fire guardian and upon receiving notice of the suspension or cancellation the person concerned shall immediately extinguish any fire set pursuant to his permit.

20. (1) For the purpose of fire control the Minister may, by order,

- (a) suspend or cancel within any part or all of Alberta all fire permits, or
- (b) prohibit the lighting or require the extinguishing of a fire set other than under the authority of a fire permit.

(2) The order made pursuant to subsection (1) shall be immediately published at least twice a day for not less than two consecutive days by such radio and television stations as are considered by the Minister most likely to bring the matter to the attention of the public.

(3) In any area affected by an order made pursuant to subsection (1), every person shall immediately proceed to extinguish every open outdoor fire lit by him or under his authority and every fire located on land occupied or owned by him.

17. Fire permits not required.

18. Issue of permit by fire guardian.

19. Suspension or cancellation by forest officer or fire guardian.

20. Suspension, cancellation of fire permit.

21. No person shall

- (a) light an outdoor fire without first taking sufficient precautions to ensure that the fire can be kept under control at all times, or
- (b) light an outdoor fire when weather conditions are conducive to a fire readily escaping out of control, or
- (c) fail to take reasonable steps to control a fire for the purpose of preventing it from spreading onto land other than his own, or
- (d) deposit, discard or leave any burning matter or substance in a place where it might ignite other matter and result in a fire.

22. (1) Every person carrying on or having charge of a timber, forest, mining, drilling or other industrial or commercial operation on public land shall at the Minister's request submit to him for his approval a fire control plan.

(2) The Minister may, by order, suspend the operations of any person until a satisfactory fire control plan has been submitted to him and the plan has received his approval.

23. Every person carrying on or having charge of a timber, forest, mining, drilling or other industrial or commercial operation in or within one-half mile of any public land shall have on hand fire fighting equipment in accordance with the regulations capable of controlling and suppressing any fire that may occur directly or indirectly as a result of the operation.

24. Any person who creates a fire hazard in any manner shall reduce or eliminate the fire hazard in such manner as may be prescribed by the regulations.

25. (1) Where a forest officer finds on any land conditions that in his opinion constitute a fire hazard endangering life or property, he may order the owner or the person in control of the land on which the fire hazard exists to reduce or remove the hazard within a fixed time and in such a manner as the forest officer prescribes.

(2) Where a forest officer finds that the order he made pursuant to subsection (1) has not been carried out in accordance with his order, he may enter upon the said land with such equipment and persons as he considers necessary and may perform the required work.

21. General prohibition.

22. Fire control plan.

23. Fire fighting equipment.

24. Reduction of fire hazards.

25. Hazardous fire conditions.

(3) The owner or the person in control of the land on which work was performed pursuant to subsection (2) shall on demand reimburse the Minister for the cost of the work performed.

26. Every town, new town, village and hamlet in a forest protection area shall take all necessary precautions which the Minister may prescribe, to prevent and suppress fires within or adjacent to its boundaries.

27. The Minister may carry out on any land such control measures as he considers advisable for the prevention and control of injurious forest tree pest infestations.

28. The Minister, upon the request of any Department or agency of the Government charged with responsibility in relation to pollution related to the oil and gas industry in Alberta, may authorize the use of employees and equipment of the Department of Lands and Forests for clean-up operations necessitated by such pollution and in that event forest officers and fire guardians may

- (a) require any able bodied male person between the ages of 16 and 60 not exempted by regulations, to assist in clean-up operations, or
- (b) commandeer and authorize payment for the possession or use of any equipment for clean-up operations.

29. (1) A forest officer may without a warrant enter upon any lands and premises, except a private dwelling house, for the purpose of discharging his duties under this Act or the regulations.

(2) A forest officer may without a warrant enter any private dwelling house which is on fire and proceed to fight the fire.

30. Where a fire originates in an area in which any person or someone on his behalf is conducting any activity that may cause a fire, the fire shall be deemed to be caused by that person except when he produces reasonable evidence that the fire originated from a cause not connected with his activity.

31. Unless authorized by the Minister, no person shall use except in an emergency, damage, destroy or remove any sign, tool, equipment, material or structure left, situated or erected by the Minister or any employee of the Department of Lands and Forests pursuant to this Act or the regulations.

26. Precaution to be taken by towns, new towns, villages and hamlets.

27. Forest pest control.

28. Conscription and commandeering for pollution clean-up operations related to the oil and gas industry.

29. Right of entry without warrant.

30. Presumption of responsibility for causing a fire.

31. Prohibited use.

32. No person shall make a false statement in any document required under this Act or the regulations.

33. A person who contravenes any provision of this Act or the regulations or who refuses or neglects to comply with any condition in a permit or with any order or request directed to him pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction

- (a) if the offence was a contravention of section 17 or 21 within a forest protection area to a fine of not less than \$100 and not more than \$1,000 and in default of payment to imprisonment for a term of not more than one year, or
- (b) in any other case to a fine of not less than \$25 and not more than \$300 and in default of payment to imprisonment for a term of not more than 90 days or to both fine and imprisonment.

34. (1) In addition to any fine imposed under section 33 at the request of the Crown the Court may order the convicted person to reimburse the Minister for the fire fighting costs involved as a debt to the Minister and in such event shall determine those costs.

(2) An order of the Court made pursuant to subsection (1) may be entered with the clerk of a district court and upon entry may be enforced by the Minister in the same manner as a judgment debt of the district court.

(3) Subsection (1) does not apply where the convicted person is a party to an agreement under section 6, subsection (1).

35. In disposing of a complaint brought by the Crown in respect of the use or operation of any machinery, equipment or installation which creates a fire hazard, notwithstanding any fine that is imposed, the Court may grant an injunction restraining the use of the machinery, equipment or installation complained of until the Minister has approved its use.

36. The common law right to bring and maintain a civil action for damages caused by fire is not affected by this Act.

37. The Lieutenant Governor in Council may make regulations:

- (a) relating to the issue and use of permits;

32. False statements in documents.

33. Offences.

34. Fire fighting costs.

35. Injunction.

36. Civil rights not affected.

37. Regulations by the Lieutenant Governor in Council.

- (b) prescribing forest fire prevention and control measures to be observed;
- (c) designating any part of Alberta as a protection area and prescribing control measures applicable thereto;
- (d) providing for the prevention and control of forest tree pests;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

38. The Minister may make regulations:

- (a) governing the disposal of debris and waste materials;
- (b) regulating the use of airstrips on public lands for fire fighting purposes;
- (c) establishing training programs and facilities;
- (d) governing the conduct of fire fighting operations;
- (e) governing the conduct of pollution clean-up operations;
- (f) prescribing rates of pay for persons required to assist under section 12 or 28 and rates of compensation for the use of equipment and other services;
- (g) prescribing amounts and types of fire fighting equipment required by timber, forest, mining, drilling or other industrial or commercial operations operating in or within one-half mile of public lands;
- (h) prescribing the manner of reducing fire hazards;
- (i) prescribing precautions to be taken to prevent and suppress fires in a forest protection area.

39. (1) The Metis Betterment Act is amended as to section 13 by striking out the words "The Forests Act" and by substituting the words "The Forest and Prairie Protection Act".

(2) The Municipal Government Act is amended as to section 155, clause (b) by striking out the words "The Forests Act" and by substituting the words "The Forest and Prairie Protection Act".

40. Part 2 of The Forests Act, being chapter 147 of the Revised Statutes of Alberta is hereby repealed.

41. This Act comes into force on July 1, 1971.

38. Regulations by the Minister.

39. Consequential amendments.

40. Repeal