

1982 BILL 31

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 31

FIRE PREVENTION ACT

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 31

1982

FIRE PREVENTION ACT

(Assented to _____, 1982)

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

Definitions

1 In this Act,

- (a) "Council" means the Fire Prevention Council;
- (b) "fire protection" means all aspects of fire safety including fire prevention, suppression, investigation, public education and information and training and advising;
- (c) "lightning rod" means an apparatus or system that is or purports to be designed or intended to be installed in or on a building to protect the building against damage by lightning;
- (d) "local authority" means
 - (i) a city, town, new town, village, summer village, county and municipal district, and
 - (ii) the Minister of Municipal Affairs, in the case of an improvement district or special area;
- (e) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (f) "municipality" means the area of a city, town, new town, village, summer village, county, municipal district, improvement district or special area.

Appointment and Duties of Officials

Officials

2 In accordance with the *Public Service Act* there may be appointed a fire commissioner, deputy fire commissioners, inspectors and any other employees necessary for carrying out this Act and the regulations.

Deputy fire commissioner

3 A deputy fire commissioner may act in the place of the fire commissioner

(a) in the temporary absence or inability to act of the fire commissioner,

(b) in case of a vacancy in the office of fire commissioner, or

(c) when directed to do so by the fire commissioner or the Minister or his deputy,

and when so acting has all the powers and authority of the fire commissioner.

Local assistants

4(1) Subject to subsections (2) and (3),

(a) the fire chief of the fire department, in a municipality that has a fire department,

(b) the mayor, reeve or chairman of the board of administrators, as the case may be, in a municipality that has no fire department, and

(c) a person appointed by the Minister of Municipal Affairs, in an improvement district or special area

are local assistants to the fire commissioner for the purposes of this Act and the regulations.

(2) A fire chief may designate another member or members of the fire department to act as local assistants on his behalf, and a person so designated has all the powers and duties and is subject to the same obligations as a local assistant.

(3) The mayor, reeve or chairman of the board of administrators of a municipality may appoint a person other than himself to be the local assistant for that municipality or part of it.

(4) A mayor, reeve or chairman of a board of administrators shall forthwith advise the fire commissioner in writing of any appointment or change in an appointment he makes under subsection (3).

(5) A local assistant shall, in the area over which his jurisdiction as local assistant extends, perform the duties imposed on him under this Act and the regulations.

Duties of fire commissioner

5 The fire commissioner shall

(a) assist in the enforcement of laws relating to the suppression of arson, and

(b) do any other things he considers necessary or advisable to promote fire protection in Alberta.

Minister's agreements

6 The Minister may enter into agreements with a local authority regarding the provision of fire protection services in the municipality.

Fire Prevention Council

Fire Prevention
Council

7(1) There is hereby established the Fire Prevention Council consisting of those members appointed by the Lieutenant Governor in Council for the terms prescribed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall designate a member as chairman and 1 or more members as vice-chairmen.

(3) There may be paid to the members of the Council who are not officers or employees of the Crown or of an agency of the Crown remuneration at the rate determined by the Lieutenant Governor in Council.

(4) There may be paid to the members of the Council their travelling and living expenses while absent from their ordinary places of residence in the course of their duties as members, at the rates determined by the Lieutenant Governor in Council.

(5) The Council shall

(a) advise the Minister on matters concerning this Act and the regulations,

(b) hear appeals under section 14, and

(c) perform any other duties assigned to it by the Minister.

Investigations

Investigation
of fires

8(1) The local assistant of a municipality shall investigate the cause, origin and circumstances of every uncontrolled fire, excluding a forest fire, that occurs in the municipality or part of a municipality over which he has jurisdiction.

(2) When he considers it necessary for the purposes of an investigation pursuant to subsection (1), the local assistant may at any time of day or night and without warrant enter

(a) the building, structure or place where the fire occurred, and

(b) any other building, structure or place adjoining or near to the building, structure or place where the fire occurred.

(3) The local assistant may

(a) take with him any person or thing that he considers would be of assistance in making the investigation;

(b) close the building, structure or place in which the fire occurred and prohibit any person other than a peace officer in the execution of his duty from entering or remaining in the building, structure or place until the investigation of the fire is completed;

(c) perform or cause to be performed any tests he considers necessary on the building, structure or place or any thing in it in order to determine the cause, origin and circumstances of the fire, and may remove any thing for the purposes of the investigation or for the purpose of retaining it as evidence.

(4) The local assistant shall, on completion of the investigation, return to the person entitled to it any thing removed from a building, structure or place under subsection (3)(c) unless

(a) it is required as evidence in a prosecution under a provincial or federal enactment arising out of the fire, or

(b) for any other reason it is impossible or impractical to return it.

(5) The local assistant shall,

(a) as soon as possible after the completion of the investigation, prepare and submit to the fire commissioner a report in the form prescribed by him,

(b) if it appears that a report under clause (a) will not be submitted within 10 days after the date of the fire, prepare and submit to the fire commissioner an interim report in the form prescribed by him within that 10-day period,

(c) if he has information that indicates to him that the fire

(i) is or may be of incendiary origin, or

(ii) has resulted in loss of life,

report that information immediately to the fire commissioner, and

(d) provide to the fire commissioner any further information respecting the investigation that the fire commissioner requests.

(6) The fire commissioner, or a deputy fire commissioner or inspector on the direction of the fire commissioner, may make an investigation under this section in addition to or instead of the investigation made by the local assistant and, for the purposes of such an investigation, has the powers of a local assistant under subsections (2) and (3).

Inquiries

Inquiry in respect
of fire

9(1) The fire commissioner, or a person appointed by him in writing for that purpose, may hold an inquiry into the cause, origin and circumstances of a fire by which property has been destroyed or damaged.

(2) The person holding the inquiry has all the powers and immunities of a commissioner appointed under the *Public Inquiries Act*.

(3) The person holding the inquiry may admit in evidence at the inquiry, whether or not it is admissible as evidence in a judicial proceeding,

- (a) any oral testimony, or
- (b) any document or other thing,

that is relevant to the purposes of the inquiry.

Record open
to public

10 The record of an inquiry held under section 9 is open to public inspection unless the inquiry was held in private.

Inspections and Orders

Inspection
of buildings

11(1) The fire commissioner, a deputy fire commissioner, an inspector or a local assistant may inspect or cause to be inspected by another person named in this subsection any building, structure or place.

(2) A person making an inspection under this section

- (a) has the right to enter at reasonable times the building, structure or place that is the subject of the inspection;
- (b) may take with him any person or thing that he considers would be of assistance in making the inspection;
- (c) may temporarily close the building, structure or place for the purposes of making the inspection;
- (d) may, for the purposes of the inspection, perform or cause to be performed any tests he considers necessary on the building, structure or place or any thing in it, and may remove any thing for the purposes of the inspection or for the purpose of retaining it as evidence.

(3) The person making the inspection shall, on completion of the inspection, return to the person entitled to it any thing removed from a building, structure or place under subsection (2)(d) unless

- (a) it is required as evidence in a prosecution under a provincial or federal enactment arising out of the inspection, or
- (b) for any other reason it is impossible or impractical to return it.

Order

12(1) When an inspection under section 11 is completed, the person making it may make an order in writing in accordance with this section where

- (a) the condition of the building, structure or place or the nature of the use or occupancy of it is such that there is an unacceptable danger to life or property from fire, or

(b) the building, structure or place is in contravention of the regulations.

(2) An order under this section

(a) shall be directed to the owner, occupier or other person responsible for the use of the building, structure or place, or to all of them;

(b) shall set out what the owner, occupier or other person is required to do in respect of the building, structure or place, and the time within which it must be done;

(c) shall be served on the owner, occupier or other person

(i) in the case of an individual,

(A) personally or by leaving it for him at his last or most usual place of abode with a person who is apparently at least 16 years old, or

(B) by mailing it to him by registered mail or certified mail at his last known address, and

(ii) in the case of a corporation,

(A) personally on a director, manager or officer of the corporation, or

(B) by leaving it at or by sending it by registered or certified mail to the registered office of a corporation or to the office of the attorney of an extra-provincial corporation.

(3) A person, other than the fire commissioner, making an order under subsection (2) shall forthwith send a copy of it to the fire commissioner.

(4) The fire commissioner may, on the request in writing of the owner, occupier or other person to whom an order is directed under subsection (2), or without such a request if he considers it appropriate to do so, review the order and by order revoke or vary the order made under subsection (2) and, in so doing, the fire commissioner is not required to hold a hearing.

(5) Subsection (2) applies to an order made under subsection (4).

Emergency
situation

13 If, in the course of an investigation or inspection under this Act, the person making the investigation or inspection is of the opinion that a condition of emergency exists due to a fire hazard or risk of explosion, he may, notwithstanding anything in this Act, forthwith take any steps he considers appropriate to remove or lessen the hazard or risk.

Appeal to
Council

14(1) An owner, occupier or other person to whom an order is directed under section 12(2) or (4) who considers himself aggrieved by

the order may appeal the order to the Council in accordance with this section.

- (2) The appeal shall be by way of a notice which shall
 - (a) state the owner's, occupier's or other person's name and address,
 - (b) state the address of the building, structure or place that is the subject of the order,
 - (c) set out the grounds of the appeal, and
 - (d) be served personally or by registered or certified mail on the fire commissioner not more than 15 days after the order was served on the owner, occupier or other person.
- (3) The fire commissioner shall forthwith forward to the chairman of the Council any notice he receives under subsection (2).
- (4) The Council may, on application by the owner, occupier or other person either before or after the expiration of the time referred to in subsection (2)(d), extend that time if it considers it appropriate to do so.
- (5) When the Council is considering appeals under this section,
 - (a) it may, at the direction of the chairman, sit in one or more divisions and the divisions may sit simultaneously or at different times;
 - (b) 3 members constitute a quorum of the Council or of a division of the Council;
 - (c) the chairman shall designate a member to preside at any sitting of the Council or of a division of the Council at which the chairman is not present;
 - (d) an order of a division is an order of the Council and binds all members of the Council.
- (6) The Council may establish rules of procedure respecting the hearing of appeals by it.
- (7) The Council may by order confirm, revoke or vary the order appealed to it and shall give notice in writing of its decision to the fire commissioner and the owner, occupier or other person personally or by registered or certified mail.

Appeal to Court **15(1)** An appeal lies from an order of the Council to the Court of Queen's Bench on a question of law or jurisdiction.

- (2) An appeal under this section shall be commenced
 - (a) by filing an originating notice with the clerk of the Court, and

(b) by serving a copy of the originating notice

(i) on the fire commissioner, where the appellant is the owner, occupier or other person responsible, or

(ii) on the owner, occupier or other person responsible, where the appellant is the fire commissioner,

within 30 days after the date of receipt by the appellant of notice of the Council's decision under section 14(7).

(3) The Court may, on application either before or after the time referred to in subsection (2), extend that time if it considers it appropriate to do so.

(4) An appeal under this section shall be supported by copies, certified by the person presiding at the sitting of the Council at which the appeal was heard, of the notice of the Council's decision, the record of the appeal before the Council and any evidence received by the Council.

(5) On hearing the appeal, the Court may confirm, revoke or vary the order of the Council.

Stay pending appeal

16(1) An appeal taken pursuant to section 14 does not operate as a stay of the order appealed from except so far as the chairman or a vice-chairman of the Council so directs.

(2) An appeal taken pursuant to section 15 does not operate as a stay of the order of the Council except so far as a judge of the Court of Queen's Bench so directs.

Enforcement of order

17(1) In this section, "clerk" means

(a) the city clerk, in the case of a city,

(b) the secretary, in the case of a town, new town, village, summer village, county or municipal district, or

(c) the Deputy Minister of Municipal Affairs, in the case of an improvement district or a special area.

(2) If a person to whom an order is directed under section 12 fails to carry out the order within the time limited by it, in the case of an order that is not appealed, or within the time limited by the Council or the Court, as the case may be, in the case of an order that is appealed to the Council or the Court, then

(a) the fire commissioner or a person appointed by him, or

(b) the local authority, when directed to do so by the fire commissioner,

may, together with any persons that are necessary, enter the building, structure or place and carry out the order.

(3) When the fire commissioner or a person appointed by him carries out an order pursuant to subsection (1), the fire commissioner may certify to the clerk of the local authority for the municipality within which the building, structure or place is situated the amount of the expenses incurred in carrying out the order and the local authority shall forthwith pay to the fire commissioner the amount of those expenses.

(4) When

(a) the local authority pays money to the fire commissioner pursuant to subsection (3), or

(b) the local authority carries out an order,

the local authority shall place the amount paid to the fire commissioner or the amount of the expenses incurred by itself in carrying out the order on the tax roll as an additional tax against the land concerned and that amount

(c) forms a lien on the land in favour of the local authority, and

(d) shall, for all purposes, be deemed to be taxes imposed and assessed on the land and delinquent under the *Municipal Taxation Act* from the date of payment to the fire commissioner or the date the local authority incurred the expenses, as the case may be, and that Act and the *Tax Recovery Act* apply to the enforcement, collection and recovery of the amount.

Reports of Fires

Reports

18(1) Every insurance company licensed to undertake contracts of fire insurance in Alberta shall, within 7 days after the end of every month, furnish a report to the fire commissioner in the form prescribed by him showing, with respect to every fire that occurred in Alberta in the previous month and in which that company is interested as insurer, the information required by the form.

(2) A person who sustains or claims to have sustained a loss by fire on property in Alberta on which no insurance is in effect shall furnish a report to the fire commissioner in the form prescribed by him within 10 days after the occurrence of the fire.

(3) A person who sustains or claims to have sustained a loss by fire on property in Alberta that is insured wholly or partially with an insurance company not licensed or registered under the *Insurance Act* shall, within 10 days after complete proofs of loss are furnished to the company with which the insurance is placed, furnish to the fire commissioner a report in the form prescribed by him.

(4) A person engaged in making adjustments of a loss or damage by fire in Alberta shall, within 7 days after the end of every month, furnish a report to the fire commissioner in the form prescribed by him showing the adjustments made by him in the previous month.

(5) If a person engaged in

(a) making adjustments of a loss or damage by fire, or

(b) investigating a fire, other than a peace officer or a person making an investigation under section 8,

has information that indicates that the fire is or may be of incendiary origin, he shall forthwith report that information to the fire commissioner.

Levy on Insurance Companies

Levy

19(1) In this section, “property insurance” means a class of insurance against loss of or loss of use of or damage to real or personal property, and includes burglary insurance, explosion insurance, extended perils insurance under section 30 of the *Insurance Act*, fire insurance, forgery insurance, inland transportation insurance, livestock insurance, plate glass insurance, property damage insurance, sprinkler leakage insurance, theft insurance and weather insurance.

(2) Every company, whether on the stock or mutual plan, and the attorney of every reciprocal or inter-insurance exchange, transacting the business of fire insurance within the meaning of the *Insurance Act* shall pay to the Provincial Treasurer on or before the end of March in each year a sum equal to 1/3 of 1% of its premium receipts and assessments calculated on its property insurance business in Alberta, as reported to the Superintendent of Insurance for the immediately preceding calendar year.

(3) No sum under this section is payable

(a) by a reinsurer in respect of reinsurance premiums paid or accredited to it by an insurer, or

(b) in respect of return premiums or cancellations.

(4) A person who obtains fire insurance on property in Alberta from an insurance company not licensed or registered under the *Insurance Act* shall, on or before March 31st in every year, pay to the Provincial Treasurer a sum equal to 1/3 of 1% of the premiums paid in the immediately preceding year.

(5) Sums paid to the Provincial Treasurer under this section are for the purpose of maintaining the office of the fire commissioner and paying the expenses incidental to that maintenance.

Offences and Penalties

- General penalty** **20** A person who contravenes this Act or the regulations is guilty of an offence and, if no other penalty is provided, is liable to a fine of not more than \$1000.
- Failure to provide report** **21** A person who fails to furnish, submit, file or provide any statement, report, record or document that he is required by this Act or the regulations to furnish, submit, file or provide is guilty of an offence and liable to a fine of not more than
- (a) \$500, in the case of an individual, and
 - (b) \$100 for each day on which the failure continues, in the case of a corporation.
- Failure to pay levy** **22** A person who contravenes section 19 is guilty of an offence and liable to a fine of not more than \$100 for each day on which the contravention continues.
- Offence by local assistant** **23** A local assistant who fails to perform any duty required of him by this Act or the regulations is guilty of an offence and liable to a fine of not more than \$500.
- Failure to comply with order** **24(1)** A person who contravenes an order made under section 12, 14 or 15 is guilty of an offence and is liable to a fine of not more than \$100 for each day on which the contravention continues.
- (2) If a person contravenes an order made under section 12 or 14, the fire commissioner may, whether or not that person has been charged under subsection (1) with respect to the contravention, apply by originating notice to the Court of Queen's Bench for an order directing that the person comply with the order and, on the application, the judge may make any order he considers appropriate.
- Obstruction** **25** No person shall
- (a) hinder or obstruct the fire commissioner, a deputy fire commissioner, an inspector, a local assistant or any other person acting under the authority of this Act or the regulations, or
 - (b) fail to attend, when summoned to do so, before a person holding an inquiry under section 9.
- Fire commissioner's certificate** **26** For the purposes of a prosecution for a contravention of any provision of the regulations requiring a person to have a permit, a certificate purporting to be signed by the person authorized to issue the permit and stating that a person was or was not on a named day the holder of a valid and subsisting permit is, without proof of the

signature or official character of the person signing the certificate, prima facie proof of the facts stated in it.

Consent to prosecution

27 A local assistant shall not institute a prosecution for a contravention of this Act or the regulations without the written consent of the fire commissioner.

Regulations

Regulations

28(1) The Lieutenant Governor in Council may make regulations

- (a) governing the sale, installation and maintenance in any building or premises of any appliance, fixture or thing that is likely to present a fire hazard;
- (b) governing the manufacture, sale, use, storage and disposal of any combustible, explosive or flammable matter;
- (c) governing the equipment in and the location, occupancy and general fire safety of places where numbers of persons work, live or congregate;
- (d) governing the standardization of fire hose, fire hydrants and other building fire protection equipment;
- (e) respecting the standards for fire apparatus and fire fighting equipment for fire departments;
- (f) respecting the standards for fire department communications equipment, systems and facilities;
- (g) respecting the type, location, servicing and testing of fire fighting apparatus, equipment, devices and systems and fire alarm, fire detection and fire alarm monitoring devices and systems to be used in any class of building or in buildings used for a specified purpose;
- (h) respecting the standards to be met by lightning rods, fire extinguishers and fire extinguishing systems, fire alarm devices and fire alarm systems, fire alarm monitoring devices and fire alarm monitoring systems and fire detection devices and fire detection systems;
- (i) requiring any person who sells, offers for sale, installs, services or maintains any thing referred to in clause (h) to furnish to the fire commissioner reports and other records at the times and in the manner and form prescribed in the regulations;
- (j) respecting and prohibiting the sale of any thing referred to in clause (h);
- (k) prohibiting open fires and firework displays without a permit and respecting the issuance of permits for those purposes;

- (1) exempting any building, structure, place, thing or person or class of building, structure, place, thing or person from the application of the Act or the regulations under this section and attaching terms and conditions to such an exemption.
- (2) If a code or standard relating to fire protection and related matters has been promulgated by any association or body of persons and is available in printed form, the Lieutenant Governor in Council may, in addition to or instead of any regulation it may make under subsection (1), by regulation declare the code or standard to be in force either in whole or in part or with any variations that it specifies.
- (3) The Lieutenant Governor in Council may authorize the Minister to make regulations under subsection (1)(l).
- (4) A regulation under subsection (1), (2) or (3) may be limited in its application territorially or to any class of building, structure, place, thing or person.
- (5) The Minister may make regulations
 - (a) respecting the training of inspectors, local assistants, fire fighters, fire officers and related staff;
 - (b) respecting the qualifications to be possessed by persons engaged in the installation and maintenance of lightning rods or the servicing or maintenance of fire extinguishers, fire extinguishing systems, fire alarm devices, fire alarm systems, fire alarm monitoring devices, fire alarm monitoring systems and fire detection devices or fire detection systems, and prohibiting persons without those qualifications from engaging in those activities;
 - (c) respecting the payment of fees to witnesses and interpreters;
 - (d) respecting the payment of fees for reporting fires.
- (6) The Minister may by order exempt any person or class of person from regulations made under subsection (5)(a) or (b).
- (7) A by-law of a municipality that deals in whole or part with the same subject matter as is dealt with by this Act or the regulations is inoperative.

Repeal and Coming into Force

Repeal **29(1)** *The Fire Prevention Act, chapter F-10 of the Revised Statutes of Alberta 1980, is repealed.*

(2) *The Lightning Rod Act, chapter L-14 of the Revised Statutes of Alberta 1980, is repealed.*

Coming into force **30** This Act comes into force on Proclamation.