

NORFOLK



ISLAND

FIRE CONTROL ACT 2000

[Consolidated as at 20 December 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Fire Control Act 2000

An Act to provide for controlling use of fire and for related purposes.

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows:

PART I — PRELIMINARY

Short title

1. This Act may be cited as the *Fire Control Act 2000*.

Commencement

2. This Act commences on the day on which notification of assent is published in the Gazette.

Application

3. This Act applies to freehold land and to Crown land whether or not subject to a lease.

Crown to be bound

4. This Act binds the Crown.

Interpretation

5. In this Act, unless the contrary intention appears —
 - “approved” means approved in writing by the Minister;
 - “authorised person” means a person authorised by the Minister under section 17;
 - “Board” means the Fire Advisory Board established under section 6;
 - “Chairperson” means the Chairperson of the Board;
 - “Chief Fire Control Officer” means the person appointed to be the Chief Fire Control Officer under section 14;
 - “Court” means the Court of Petty Sessions;
 - “fire danger period” – means a period declared under section 21;
 - “Fire Officer” means a Fire Control Officer appointed under section 16;

“land” includes buildings on the land;

“member” means a member of the Board;

“owner”, in relation to land, includes the occupier of the land;

“period of acute fire danger” means a period in respect of which a fire danger period or a total fire ban has been declared under section 21;

“total fire ban” – means a total fire ban declared under section 21;

“Volunteer Fire Officer” – means a person who —

- (a) is requested or directed by, or under the control of, the Chief Fire Control Officer, a Fire Officer, or an authorised person to engage and participate voluntarily in any function or act outlined in section 19; or
- (b) acts in a reasonable manner to protect persons or property, or to ascertain the existence or nature of a fire, in circumstances of emergency, or where a person mentioned in section 19 could not reasonably be contacted or expected to attend within a reasonable time.

PART 2 — FIRE ADVISORY BOARD

Fire Advisory Board

6. (1) There is established by this section a Board to be known as the Fire Advisory Board.

(2) The Board consists of the Chief Fire Control Officer and 3 other persons appointed by the Minister by notice in writing published in the Gazette.

(3) The exercise of a power or the performance of a function by the Board is not affected by reason only of a vacancy in the membership of the Board.

Deputy members

7. (1) The Minister may, in respect of each member of the Board, appoint a person to be the deputy of the member.

(2) A person appointed to be a deputy member shall, in the event of the absence of the member of whom he or she is the deputy, have all the powers of the member during his or her absence.

Period of appointment

8. (1) Subject to this Act, a member, and his or her deputy, holds office until the expiration of the period, not exceeding 3 years, specified in their instrument of appointment, but is eligible for re-appointment.

(2) Subsection 8(1) applies in relation to the deputy of a member subject to the member remaining in office.

Resignation

9. A member or deputy member may resign office by writing signed by him or her and given to the Minister.

Termination of appointment

10. The Minister may terminate the appointment of a member or deputy member for misbehaviour or physical or mental incapacity.

Chairperson

11. The Minister shall appoint a member, other than the Chief Fire Control Officer, to be the Chairperson of the Board.

Meetings of Board

12. (1) The Board shall meet as often as it considers necessary for the performance of its functions and at such other times as the Minister requires.

(2) Meetings of the Board shall be held at such places as the Chairperson determines.

(3) The Chairperson shall preside at all meetings of the Board at which he or she is present but if the Chairperson is absent from a meeting the members present shall appoint one of the members present to preside at the meeting.

(4) The quorum at a meeting of the Board is 2 members.

(5) The Board shall cause minutes of its proceedings to be recorded and kept and shall, not later than 7 days after a meeting, send a copy of the minutes to the Minister.

(6) The procedures at a meeting of the Board shall be as determined by the Board.

Functions of Board

13. The functions of the Board are to make recommendations to the Minister concerning -

- (a) the prevention of fire; and
- (b) the control of fire and prevention of the spread of fire; and
- (c) the protection of life and property from the effects of fire.

Chief Fire Control Officer

14. (1) The Minister may appoint an officer or employee of the Administration to be the Chief Fire Control Officer.

(2) The Chief Fire Control Officer holds office until the expiration of a period, not exceeding 3 years, specified in the instrument of appointment, but is eligible for re-appointment.

Powers and functions of Chief Fire Control Officer

15. (1) The functions of the Chief Fire Control Officer are, in the event of a threat of a fire, to extinguish or to prevent the outbreak or spread of fire.

(2) In the performance of his or her functions the powers of the Chief Fire Control Officer include the power —

- (a) to control and to direct all persons employed in extinguishing a fire and all persons who voluntarily place their services at his or her disposal; and
- (b) to enter on land, either alone or with others under his or her control; and

- (c) to close a street, road or other thoroughfare to traffic; and
- (d) to shut off or disconnect the supply of electricity to land; and
- (e) to remove from land any flammable, explosive or dangerous material, and to remove stock; and
- (f) to order a person to leave land; and
- (g) to remove a person or thing that, in the opinion of the Chief Fire Control Officer, is threatening to interfere with the control of a fire; and
- (h) to take fire fighting equipment through, over or on land; and
- (j) to shore up or pull down a fence or a building or part that is, in the opinion of the Chief Fire Control Officer, damaged or insecure or may be dangerous to a person or to property; and
- (k) to take such measures as the Chief Fire Control Officer thinks proper for the protection of life and property; and
- (m) to exercise such other powers as are necessary or desirable for the performance of his or her functions.

(3) If the Chief Fire Control Officer has, under this section, removed a fence or part of a fence, he or she shall cause the fence to be temporarily repaired in an appropriate manner and shall notify the owner without delay.

Fire Control Officers

16. (1) The Minister may appoint such number of Fire Control Officers as the Minister thinks fit.

(2) A Fire Officer holds office until the expiration of the period not exceeding 3 years specified in the instrument of appointment, but is eligible for re-appointment.

(3) A Fire Officer may resign office by writing signed by him or her and given to the Minister.

(4) The Minister may terminate the appointment of a Fire Officer for misbehaviour or physical or mental incapacity.

(5) In the absence from duty or from Norfolk Island (whether or not on duty) of the Chief Fire Control Officer, a Fire Officer designated by the Chief Fire Control Officer may perform the functions and exercise the powers of the Chief Fire Control Officer.

Authorised persons

17. The Minister may appoint a person to be an authorised person for the purposes of this Act.

Identification

18. (1) The Minister shall issue a certificate of identification to the Chief Fire Control Officer, each Fire Officer and each authorised person.

(2) The Chief Fire Control Officer, a Fire Officer and an authorised person must, on request, show his or her certificate of identification to the owner where the Chief Fire Control Officer, a Fire Officer or authorised person has entered or seeks to enter land for the purposes of this Act.

PART 3 — PREVENTION AND CONTROL OF FIRES**Power to enter land**

19. Where a fire occurs on any land, the Chief Fire Control Officer, a Fire Officer, a Volunteer Fire Officer, or an authorised person may enter land for the purpose of inspecting, checking or extinguishing the fire and may, for the purpose of checking or stopping the progress of the fire, light other fires on land.

Protection of Chief Fire Control Officer, etc

20. (1) An action or proceeding, civil or criminal, shall not lie or be continued against the Chief Fire Control Officer, a Fire Officer, a Volunteer Fire Officer, or an authorised person for or in respect of damage or personal injury caused either directly or indirectly by an act or thing done in good faith by him or her in the exercise or performance, or purported exercise or performance, of a power or function under this Act.

(2) Any damage referred to in subsection 20(1) shall be taken to be damage by fire within the meaning of a policy of insurance against fire covering the property so damaged notwithstanding any clause or condition in the policy.

Acute fire danger

21. (1) The Minister may —

- (a) by notice in the Gazette; or
- (b) by public broadcast by radio,

declare a fire danger period or a total fire ban for the period, and in relation to the area, specified in the notice or broadcast.

(2) In a declaration of a fire danger period, the Minister may warn of weather conditions conducive to the spread of fires.

(3) A person must not light, use or maintain a fire in the open air during a total fire ban.

Penalty: 20 penalty units or imprisonment for 2 years, or both.

Prevention of fires

22. (1) During a period of acute fire danger, the Chief Fire Control Officer may direct the owner of land to take such measures as are reasonable in the circumstances to prevent and inhibit the outbreak and spread of fire on the land and to protect property from fire on the land or spreading from the land.

(2) A person must not without reasonable excuse fail to comply with a direction given under subsection 22(1).

Penalty: 5 penalty units or imprisonment for 6 months, or both.

(3) The circumstances referred to in subsection 22(1) include:

- (a) the amount and type of litter, timber or vegetation on the land (whether that timber or vegetation is alive or dead);
- (b) the amount and type of flammable material on the land;
- (c) climatic conditions affecting the land;

- (d) the location and use of the land and nearby land;
- (e) the possible effect of fire on the land and nearby land.

Lighting fires for burning off

23. (1) During a fire danger period, a person may light a fire in the open air —

- (a) for the purpose of cooking food or heating liquids in a properly constructed fireplace; or
- (b) in a properly constructed incinerator designed to prevent the escape of sparks or incandescent material; or
- (c) in accordance with a permit in writing issued to the person by the Chief Fire Control Officer.

(2) A permit under paragraph 23(1)(c) may be subject to conditions endorsed on the permit.

(3) A person who lights a fire in the open air during a fire danger period other than in accordance with subsection 23(1), is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 1 year, or both.

(4) A person must comply with the conditions of a permit issued under paragraph 23(1)(c).

Penalty: 10 penalty units or imprisonment for 1 year, or both.

Fires to be notified

24. (1) During a period of acute fire danger, the owner of land shall, immediately he or she becomes aware of an uncontrolled fire on the land or on land adjoining it, notify the Chief Fire Control Officer.

Penalty: 5 penalty units or imprisonment for 6 months, or both.

(2) The owner of the land shall use all means available to extinguish a fire on the land.

Penalty: 5 penalty units or imprisonment for 6 months, or both.

Extinguishing fires

25. (1) A person must not leave a fire in the open air unattended during a period of acute fire danger.

Penalty: 5 penalty units or imprisonment for 6 months, or both.

(2) Where the Chief Fire Control Officer is of the opinion that, during a period of acute fire danger, a fire is, or is likely to become, a danger to life or property, the Chief Fire Control Officer may direct a person that he or she believes to be responsible for the fire to extinguish the fire.

(3) A person must not without reasonable excuse fail to comply with a direction given under subsection 25(2).

Penalty: 5 penalty units or imprisonment for 6 months, or both.

Tampering etc.

26. (1) A person must not tamper with or interfere with, or damage fire protection equipment.

Penalty: 5 penalty units.

(2) A person shall not tamper or interfere with, or damage fire fighting equipment.

Penalty: 5 penalty units.

- (3)** In this section —
 “fire fighting equipment” includes a vehicle used in fighting fires; and
 “tamper” includes to remove fuel from a tank or air from tyres.

PART 4 — MISCELLANEOUS**Liability for payment of costs**

27. (1) A person who is convicted of an offence against this Act is liable for the costs incurred as a result of the offence in extinguishing a fire or restoring fire fighting equipment or fire protection equipment.

(2) Costs referred to in subsection 27(1) are a debt due and payable by the person to the Administration.

Common law rights preserved

28. Nothing in this Act shall take away or interfere with the right of a person to sue for and recover, at common law or otherwise, compensation for or in respect of damage or injury caused by reckless or negligent use of fire.

Regulations

29. The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and in particular may prescribe —

- (c) the method of notification of matters related to prevention of fire;
- (d) places, including reserves, areas and buildings, where smoking is prohibited;
- (e) classification of fire protection equipment and methods of installation;
- (f) penalties, not exceeding 10 penalty units, for a contravention or breach of the Regulations and, where the offence is a continuing offence, the imposition of a penalty not exceeding 5 penalty units for every day on which the offence is committed.

NOTE**Penalty units**

See section 12A of the *Interpretation Act 1979*

NOTES

The *Fire Control Act 2000* as shown in this consolidation comprises Act No. 15 of 2000 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Fire Control Act 2000</i>	15, 2000	29.6.00	
<i>Interpretation (Amendment) Act 2012</i> [to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]	14, 2012	28.12.12	

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