



**Lions River Fire Protection Association**  
By Landowners - For Landowners

## **NATIONAL VELD & FOREST FIRE ACT 101, 1998**

### **AN OVERVIEW**

- **LANDOWNERS RESPONSIBILITIES**
- **OFFENCES & PENALTIES**
- **BURNING REGULATIONS**

#### **Duty to prepare and maintain firebreaks**

1. Every owner on whose land (regardless of property size) a veldfire may start or burn or from whose land it may spread must prepare and maintain a firebreak on his or her side of the boundary between his or her land and any adjoining land.
2. If an owner referred to in (1) intends to prepare and maintain a firebreak by burning, he or she must determine a mutually agreeable date or dates with the owners of adjoining land for doing so, and inform the fire protection association for the area, if any.
3. If agreement cannot be reached, such owner must give to the owners of adjoining land and the fire protection association for the area, if any, at least 14 days written notice of the day or days during which he or she intends burning firebreaks, fire danger permitting.
4. It is not necessary for the owner to give 14 days notice of the additional days.
5. Owners of adjoining land may agree to position a common firebreak away from the boundary.
6. Should an owner intend to be absent for a period longer than 14 days during the period or part of any period in which burning normally takes place, he or she must give all owners of adjoining land an address and telephone number, if any, at which he or she may be contacted.
7. If an owner of adjoining land—
  - a. is not present on the agreed or notified day or days; or
  - b. has not given an address and telephone number, if any, as required, the owner may proceed with the burning in his or her absence.
8. A fire protection association may make new rules different, if the new rules are approved by the Minister, in which event members are bound by the new rules.

#### **Requirements for firebreaks**

1. An owner who is obliged to prepare and maintain a firebreak must ensure that, with due regard to the weather, climate, terrain and vegetation of the area—

- a. it is wide enough and long enough to have a reasonable chance of preventing a veldfire from spreading to or from neighbouring land;
- b. it does not cause soil erosion; and it is reasonably free of inflammable material capable of carrying a veldfire across it.

### Notices to owners

1. Where any person is required to give notice to an owner in terms of this Act, he or she
  - a. must do so—
  - b. by hand delivery of the notice; or
  - c. by registered mail.
2. If notice cannot be given to an owner because he or she is absent, notice may be given to the person apparently in charge of the land or, failing such a person, any person over the age of 16 years apparently residing on the land.
3. If there is no person referred to in 2 above, notice may be given by leaving a copy of the notice in a prominent place on the land in question.

### Fire Fighting – Your responsibility as a Landowner

It is the duty on all owners to acquire equipment and have available personnel to fight fires.

#### Readiness for fire fighting

1. Every owner on whose land a veldfire may start or burn or from whose land it may spread must—
  - a. have such equipment, protective clothing and trained personnel for extinguishing fires as are —
    - i. prescribed; or
    - ii. in the absence of prescribed requirements, reasonably required in the circumstances;
  - b. ensure that in his or her absence responsible persons are present on or near his or her land who, in the event of fire, will—
    - i. extinguish the fire or assist in doing so; and
    - ii. take all reasonable steps to alert the owners of adjoining land and the relevant fire protection association, if any.
2. An owner may appoint an agent to do all that he or she is required to do in terms of this section.

#### Actions to fight fires

1. Any owner who has reason to believe that a fire on his or her land or the land of an adjoining owner may endanger life, property or the environment, must immediately—
  - a. take all reasonable steps to notify—
    - i. the fire protection officer or, failing him or her, any member of the executive committee of the fire protection association, if one exists for the area; and
    - ii. the owners of adjoining land; and
  - b. do everything in his or her power to stop the spread of the fire.
2. Any person who has reason to believe that a fire on any land may endanger life, property or the environment, may, together with any other person under his or her control, enter that land or land to which the fire can spread in order to prevent that fire from spreading or to extinguish it.
3. In taking control over the fighting of a fire (in terms of section 6(1)(c)), any fire protection officer may—

- a. take control from any person who has, until his or her arrival, controlled the fighting of the fire;
  - b. order any person who is apparently not younger than 16 years and not older than 60 years to assist him or her.
4. Any person acting in terms of 1, 2, 3 or 4 above may, if he or she considers it necessary for the protection of life, property or the environment or for preventing a fire from spreading or for extinguishing it—
- a. enter any land / enter or break and enter any premises
  - b. destroy trees, grass, crops or other vegetation;
  - c. prevent any person from entering any premises / forcibly remove from the scene any person who is in danger or who obstructs him or her in the performance of his or her duties; and
  - d. remove or order to be removed any vehicle or other thing.
5. Whenever a fire spreads or may spread across a boundary of a fire protection association, the fire protection officer must—
- a. inform the fire protection officer of the area to which the fire spreads or may spread;
  - b. take all steps needed to co-ordinate the fire-fighting operation in accordance with the fire management strategy ( as referred to in section 5(1)(a) and (b) of the Act).

## Offences & Penalties

In terms of the Act the following offences and penalties are applicable.

### Offences

1. Any person who lights, uses or maintains a fire in the open air in contravention of section 10(2) (i.e. when a fire warning has been issued) is guilty of a first category offence.
2. Any person who, in the open air—
  - a. leaves unattended a fire which he or she lit, used or maintained before that fire is extinguished;
  - b. lights, uses or maintains a fire, whether with or without permission of the owner, which spreads and causes injury or damage;
  - c. throws, puts down or drops a burning match or other burning material or any material capable of spontaneous combustion or self-ignition and, by doing so, makes a fire which spreads and causes injury or damage;
  - d. lights, uses or maintains a fire in a road reserve—
    - i. other than in a fireplace which has been designated by a competent authority; or
    - ii. for a purpose other than the burning of a firebreak in terms of sections 12 to 16; or
  - e. smokes where smoking is by notice prohibited,

is guilty of a second category offence.
3. Any person who—
  - a. fails to prepare a firebreak when obliged to do so in terms of section 12(1) or 14 (i.e. all landowners are required to prepare fire breaks if the risk for spread of fire is evident and agreement between neighbours re. dates has been set);
  - b. fails to give notice of intention to burn a firebreak in terms of section 12(2)(b);

- c. burns a firebreak when a fire protection association has objected in terms of section 12(4)(a); or
  - d. fails to inform adjoining owners of the matters referred to in section 12(5),
- is guilty of a second category offence.

4. Any person who—

- a. fails to meet the standards of readiness for fire fighting;
- b. fails to notify the correct persons;
- c. refuses to assist a fire protection officer or a forest officer; or
- d. hinders or obstructs any person (as referred to in section 18(2) of the Act) or any fire protection officer or any forest officer,

is guilty of a second category offence.

5. Any owner, occupier or person in control of land on which a fire occurs who fails to take reasonable steps to extinguish the fire or to confine it to that land or to prevent it from causing damage to property on adjoining land, is guilty of a first category offence.

6. Any person who—

- a. prevents a fire protection officer, forest officer, a police officer or an officer appointed in terms of section 5 or 6 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), from acting in terms of section 27, 28 or 29 of the Act; or
- b. in any way interferes with him or her in the performance of his or her duties in terms of section 27, 28 or 29 of the Act,

is guilty of a third category offence.

7. Negligence amounts to fault for the purposes of an offence in terms of this section.

## Penalties

1. A person who is guilty of a first category offence referred to in section 25 may be sentenced on a first conviction for that offence to a fine or imprisonment for a period of up to two years, or to both a fine and such imprisonment.
2. A person who is guilty of a second category offence referred to in section 25 may be sentenced on a first conviction for that offence to a fine or imprisonment for a period of up to one year, or to both a fine and such imprisonment.
3. A person who is guilty of a third category offence referred to in section 25 may be sentenced on a first conviction for that offence to a fine or community service for a period of up to six months, or to both a fine and such service.
4. A person who is guilty of a second or third category offence may be sentenced on a second conviction for that offence as if he or she has committed a first or second category offence, respectively.
5. A court which sentences any person to community service for an offence in terms of this Act must impose a form of community service which benefits the environment if it is possible for the offender to serve such a sentence in the circumstances.

## Presumption of negligence

1. If a person who brings civil proceedings proves that he or she suffered loss from a veldfire which—
  - a. the defendant caused; or
  - b. started on or spread from land owned by the defendant, the defendant is presumed to have been negligent in relation to the veldfire until the contrary is proved, unless the defendant is a member of a fire protection association in the area where the fire occurred.
2. The presumption in 1 above does not exempt the plaintiff from the onus of proving that any act or omission by the defendant was wrongful.