



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen'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\*](#).

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## CHAPTER F-11

### FIRE PREVENTION ACT

#### 1. In this Act

#### Definitions

- (a) “business of fire insurance in the province” means all contracts of fire insurance including fire insurance on automobiles on which premiums are receivable from or in respect of persons whose property insured thereunder was situated in the province at the time their premiums became payable; business of fire insurance in the province
- (a.1) “capacity permit” means a permit issued by the Fire Marshal under section 15; capacity permit
- (a.2) “Deputy Fire Marshal” means the Deputy Fire Marshal of Prince Edward Island; Deputy Fire Marshal
- (b) “Fire Marshal” means the Fire Marshal of Prince Edward Island; Fire Marshal
- (c) “forest” includes wood, barren or tract covered by underwood or any dry vegetable matter; forest
- (d) “inspector” includes the Deputy Fire Marshal and any other person designated by the Fire Marshal as an inspector; inspector
- (e) “Minister” means the member of the Executive Council charged with the administration of this Act; Minister
- (e.1) “occupier” has the same meaning as set out in clause 1(a) of the *Occupiers' Liability Act* R.S.P.E.I. 1988, Cap. O-2; occupier
- (f) “owner” includes owner
- (i) a person who is registered as the owner of a freehold estate in possession of land,
  - (ii) a person who has purchased or otherwise acquired land and has not become the registered owner thereof, and
  - (iii) a person who holds himself out as the person having the powers and authority of ownership;
- (g) “taxation year” means the financial year of an insurer in which premiums are receivable in respect of the business of fire insurance transacted by the insurer in the province. 1983, c.16, s.1; 1994, c.18, s.1{*eff.*} July 14/94; 1997,c.18,s.1,2; 1998,c.89,s.1. taxation year

PART I  
ADMINISTRATION

Officers	<p><b>2.</b> There shall be appointed, pursuant to the <i>Civil Service Act</i> R.S.P.E.I. 1988, Cap. C-8</p> <ul style="list-style-type: none"> <li>(a) a public officer to be known as the Fire Marshal who is responsible for the administration of this Act;</li> <li>(b) a public officer to be known as the Deputy Fire Marshal, who shall assist the Fire Marshal in the administration of this Act; and</li> <li>(c) such other officers as the Minister considers necessary for the proper administration of this Act. 1983, c.16, s.2; 1997,c.18,s.1; 1998,c.89,s.2.</li> </ul>
Functions of Deputy Fire Marshal	<p><b>3.</b> (1) The Deputy Fire Marshal may act in the place of the Fire Marshal</p> <ul style="list-style-type: none"> <li>(a) in the absence of the Fire Marshal from his post of duty;</li> <li>(b) during the Fire Marshal's illness or other physical disability;</li> <li>(c) in case of a vacancy in the office of Fire Marshal; or</li> <li>(d) when ordered to do so by the Fire Marshal,</li> </ul> <p>and when so acting has all the powers and authority of the Fire Marshal.</p>
Powers	<p>(2) The Deputy Fire Marshal, when conducting an inquiry into the cause, origin and circumstances of a fire, has the same powers as are given the Fire Marshal under this Act. 1983, c.16, s.3; 1997,c.18,s.1.</p>
Designation of inspectors	<p><b>4.</b> The Fire Marshal may designate any person as an inspector for the purposes of this Act and shall issue to each inspector a card or certificate as evidence of the designation. 1983, c.16, s.4.</p>
Local assistants	<p><b>5.</b> (1) The Fire Marshal may appoint the following persons as local assistants:</p> <ul style="list-style-type: none"> <li>(a) in a municipality that maintains a fire department, <ul style="list-style-type: none"> <li>(i) the chief of the fire department, and</li> <li>(ii) any other member of the fire department authorized by the fire chief to act as a local assistant; and</li> </ul> </li> <li>(b) in a municipality where no fire department is maintained, the mayor or chairman of council or any other fit and proper person.</li> </ul>
Functions of local assistants	<p>(2) A local assistant</p> <ul style="list-style-type: none"> <li>(a) shall perform the duties required of him by this Act; and</li> <li>(b) may within the jurisdiction for which he is appointed administer this Act and regulations,</li> </ul> <p>but shall commence no proceedings to enforce this Act or regulations unless he obtains the consent of the Fire Marshal. 1983, c.16, s.5.</p>
Duties of Fire Marshal	<p><b>6.</b> (1) The Fire Marshal shall enforce all laws in force in the province relating to</p> <ul style="list-style-type: none"> <li>(a) the prevention of fires;</li> </ul>

- (b) the storage, sale and use of combustibles and explosives;
- (c) the installation and maintenance of automatic or other fire alarm systems and fire-extinguishing equipment;
- (d) the construction, maintenance and regulation of fire escapes;
- (e) the means and adequacy of exit in case of fire from factories, psychiatric facilities, hospitals, churches, schools, halls, theatres, amphitheatres and all other places in which numbers of persons work, live, congregate or are detained from time to time for any purpose; and
- (f) the suppression of arson and investigation of the cause, origin and circumstances of fires.

(2) The Fire Marshal shall

Other functions

- (a) collect and disseminate information with regard to fires in the province;
- (b) investigate conditions under which fires are likely to occur;
- (c) study methods of fire prevention; and
- (d) render such advice and make such recommendations as he may consider advisable with regard to
  - (i) the establishment and administration of fire brigades and fire departments,
  - (ii) the provision of adequate water supply for fire fighting,
  - (iii) the enactment and enforcement by municipalities of bylaws for the prevention of fire or the protection of life and property against fire,
  - (iv) the means and adequacy of fire alarms and smoke detectors in buildings and of exits from buildings in case of fire.

(3) Where an emergency arises from a fire hazard or from a risk of explosion that causes the Fire Marshal or an inspector to be apprehensive of imminent and serious danger to life or property, or of a panic, he may forthwith take such steps as he thinks advisable to remove the hazard or risk and he may cause the evacuation of any building or area and he may direct the police or fire prevention authorities having jurisdiction to assist him. 1983, c.16, s.6.

Emergency measures

7. (1) The Fire Marshal, in carrying out his duties under this Act, may exercise the powers of a peace officer but is not empowered to carry a firearm.

Powers

(2) Where there is conflict between the authority of the Fire Marshal and that of an official of any municipality in respect of any matter falling within the functions of the Fire Marshal under this Act, the authority of the Fire Marshal shall prevail.

Conflict of jurisdiction

Assistance	(3) The Fire Marshal may request the assistance of one or more police officers for the service of any summons or order issued by him.
<i>Idem</i>	(4) It is the duty of a police officer to provide assistance to the Fire Marshal where requested under subsection (3). 1983, c.16, s.7.
Duties in municipalities	<b>8.</b> Nothing in this Act requires the Fire Marshal or inspectors to perform in any municipality any of the duties prescribed by bylaws of the municipality other than the investigation of or inquiry into the origin of fires. 1983, c.16, s.8.
Tax on fire insurers	<b>9.</b> (1) For the purpose of maintaining the office of the Fire Marshal and paying the expenses incident thereto, every insurer transacting the business of fire insurance in the province shall pay to the Superintendent of Insurance in addition to the taxes and fees required by law to be paid by the insurer, a tax equal to one per cent of its gross premiums on contracts of fire insurance, including premiums or part premiums covering fire risks on automobiles other than premiums in respect of reinsurance ceded to the insurer by other insurers transacting the business of fire insurance in the province, receivable by the insurer during a taxation year after deducting premiums that have been returned by the insurer.
Application of Premium Tax Act	(2) The provisions of sections 3 and 4 of the <i>Premium Tax Act</i> R.S.P.E.I. 1988, Cap. P-19 apply to the tax imposed under subsection (1). 1983, c.16, s.9; 1990, c.16, s.1 <i>{eff.}</i> April 1, 1990.

## PART II INVESTIGATION OF FIRES

Investigation	<b>10.</b> (1) The Fire Marshal, an inspector or a local assistant may investigate or cause to be investigated the origin and circumstances of every fire by which <ul style="list-style-type: none"> <li>(a) any person has lost his life or suffered injury; or</li> <li>(b) property has been destroyed or damaged.</li> </ul>
Report to Fire Marshal	(2) Where <ul style="list-style-type: none"> <li>(a) a local assistant making an investigation pursuant to subsection (1) finds that <ul style="list-style-type: none"> <li>(i) the fire has been caused by negligence or design,</li> <li>(ii) any person lost his life as a result of the fire, or</li> <li>(iii) property in respect of which no contract of insurance was in effect, was damaged or destroyed; or</li> </ul> </li> <li>(b) a local assistant is instructed to do so by the Fire Marshal,</li> </ul>

he shall complete the prescribed form setting out the facts relating to the fire, its cause and its origin, and send the completed form to the Fire Marshal immediately following the investigation.

(3) The Fire Marshal, an inspector or a local assistant has authority at all times, by day or night, in the performance of the duties imposed upon them by this Act or the regulations, to enter in and upon and to examine any building or premises where a fire has occurred and other buildings and premises adjoining or near the same. Entry

(4) The Fire Marshal or an inspector may make an investigation in addition to or in lieu of an investigation made by a local assistant. Additional investigation

(5) The Fire Marshal, an inspector or a local assistant may Closure of building

(a) close a building in which a fire has occurred and prohibit any person other than a police officer in the execution of his duty from entering or remaining in the building until such time as the investigation of the fire is completed; and

(b) remove from a building or premises and retain for the purpose of the investigation or any subsequent proceedings anything that in his opinion is material to the investigation.

(6) The Fire Marshal may summon witnesses to appear before him and may require the witnesses to give evidence orally or in writing, upon oath, and to produce documents and things requisite to the full investigation of the matter under inquiry and he shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in the Supreme Court. Evidence

(7) An investigation held by or under the direction of the Fire Marshal may, in his discretion, be private. 1983, c.16, s.10. Proceedings in camera

**11.** If the Fire Marshal is of the opinion at any time that there is evidence sufficient to charge a person with Arson

- (a) the crime of arson; or
- (b) an attempt to commit arson,

he shall at once report to the Attorney General and furnish him with the evidence, together with the names of the witnesses and the information obtained by him. 1983, c.16, s.11.

**12.** (1) The Fire Marshal, an inspector or a local assistant may, Inspection

- (a) upon complaint of a person interested; or
- (b) when he considers it necessary, without complaint,

inspect all buildings, structures or places within his jurisdiction and for that purpose may at reasonable hours, enter them.

Inspection of  
heaters and burners

(2) The Fire Marshal may order the inspection by a person approved by him, of the installation and operation of any oil, gas or solid fuel heaters or burners wherever used, and if they are found to be in a hazardous condition or location, the Fire Marshal may order their use to be discontinued until made safe for use. 1983, c.16, s.12.

Order

**13.** Where the Fire Marshal has reasonable and probable grounds to believe and does believe that

(a) a building or structure

(i) is in such condition or is so situated that the rapid spread of fire therefrom to other buildings or structures can reasonably be anticipated, or

(ii) by reason of disrepair, age or dilapidated condition or for any other cause is specially liable to catch fire,

he may order

(iii) that the owner remove or destroy the building or structure, or  
(iv) that the owner or occupier alter or repair the building or structure;

(b) the nature of the use or occupancy of a building, structure or place is such that there is a special danger of fire, he may order that the owner or occupier alter the use or occupancy of the building, structure or place;

(c) in or about a building, structure or place

(i) combustible or explosive material is so kept as to endanger life or property, or

(ii) such other inflammable conditions exist as to endanger life or property,

he may order that the occupier remove the combustible or explosive material or remedy the inflammable conditions;

(d) a special fire hazard exists in or about a building, structure or place, he may order that the owner or occupier remove or take proper precautions against the special fire hazard;

(e) where, in contravention of any applicable code of fire safety rules, there are no suitable and efficient automatic or other approved fire alarms and no suitable and efficient fire extinguishing equipment maintained in a building, structure or place,

he may order that the owner or occupier

(i) install an approved automatic or other approved fire alarm system and approved fire extinguishing equipment suitable to the use and occupancy of the building or structure, or

(ii) change the existing fire alarm system and change or supplement the fire extinguishing equipment to provide reasonable protection from fire to the persons occupying the building or structure;

(f) there are no fire escapes maintained in a building or structure, or the fire escapes and means of access thereto are not suitable for the safe and rapid evacuation of persons from the building or structure in the event of a fire, he may order that the owner install and maintain in good repair fire escapes and exits suitable to and sufficient for the type and class of building or structure, and that the means of access thereto be by doors opening outward;

(g) a building or structure, or its occupancy or use, does not comply with codes or standards declared to be in force pursuant to subsection 24(2), he may order that the owner or occupier make such changes as may be specified in the order in order to comply with them. 1983, c.16, s.13; 1994, c.18, s.2 *{eff.}* July 14/94.

- 14.** (1) Any order made pursuant to section 13 shall Form of order  
 (a) be in writing; and  
 (b) allow and fix a reasonable time within which the owner or occupier is to comply with the directions contained in the order.

(2) Any two or more orders may be combined in one order, and an order may be made in the alternative or subject to such conditions with regard to alteration, repair or replacement of a portion of the building, structure or place or such other conditions as are reasonable under the circumstances. Conditions

(3) A copy of an order made pursuant to section 13 shall be delivered to the person to whom it is directed Service  
 (a) by personal service on him;  
 (b) if he cannot be found, by personal service on a responsible person of the apparent age of eighteen years or more at the usual place of abode or business of the person to whom it is directed; or  
 (c) where he is not a resident of the province, by sending it to him by registered mail at his latest known address. 1983, c.16, s.14; 1994, c.18, s.3 *{eff.}* July 14/94.

**15.** (1) Any owner or occupier of buildings or premises who fails to comply with any order of the Fire Marshal, duly made under the authority of this Act, is guilty of an offence and liable upon summary conviction to a fine of not less than \$200 and not more than \$5,000 and in addition thereto to a fine not exceeding \$100 for each day during which the offence continues. Penalty

(2) Any act done or commenced contrary to this Act or the regulations, or contrary to an order of the Fire Marshal, may be restrained by injunction in the Supreme Court in an action at the suit of the Minister. Injunction  
 1983, c.16, s.15; 1994, c.18, s.4 *{eff.}* July 14/94.



- Permit maximum occupancy **15.1** (1) The Fire Marshal may issue a capacity permit for premises on which shall be specified the maximum number of persons who may enter, be in, or remain in the premises at one time.
- Posting of permit (2) The owner or occupier of a premises for which a capacity permit has been issued shall post the capacity permit in a prominent place within the public area of the premises, and shall ensure that the capacity permit remains so posted. 1994, c.18, s.5 *{eff.}* July 14/94.

### PART III APPEAL FROM ORDERS

- Alterations **16.** (1) Where an order is made under section 13 any owner or occupier aggrieved by the order may, within ten days of the service on him of the order, in writing require the Fire Marshal to review the order and indicate the reasons why the order should not be revoked.
- Decision (2) The Fire Marshal shall forthwith review the order, and affirm, modify or revoke it, and cause a copy of his decision to be served upon the aggrieved person.
- Appeal to Supreme Court (3) If the aggrieved person is dissatisfied with the decision of the Fire Marshal he may, within five days of service upon him of a copy of the decision, apply to a judge of the Supreme Court.
- Idem* (4) The party appealing
  - (a) shall file his application with the prothonotary; and
  - (b) shall within five days of the filing, or within such extended time as the judge may allow, file with the prothonotary a bond
    - (i) in an amount to be fixed by the judge, in no case less than \$100,
    - (ii) with at least two sufficient sureties to be approved by the judge, and
    - (iii) with the condition that, if he fails to sustain the appeal, he will pay all costs thereon or such costs as may be awarded against him. 1983, c.16, s.16.

### PART IV REPORTS AND RECORDS OF FIRES

- Fire reports **17.** (1) Every licensed fire insurance company shall furnish to the Fire Marshal on forms provided for the purpose, a statement or report of every fire that occurs in the province and in which that company is interested as insurer.
- Details of statement (2) The statement shall show
  - (a) the name of the insured;

- (b) the address of the insured;
- (c) the location of the risk;
- (d) the value of the building and contents;
- (e) the amount of insurance carried; and
- (f) the amount of loss sustained,

and the statement shall be filed in the office of the Fire Marshal within seven days after the end of the calendar month for which it is made.

(3) Any person, firm or corporation who sustains or claims to have sustained loss by fire on property in the province shall, upon the request of the Fire Marshal, advise him of the date of the fire and the amount of loss sustained, and furnish him with such further information concerning the fire as he may require.

Statements by persons sustaining loss by fire

(4) A person, firm or corporation engaged in making adjustments of a loss or damage by fire

Insurance adjusters' reports

- (a) shall report the adjustments to the Fire Marshal upon such form as may be prescribed by him; and
- (b) shall file the same with the Fire Marshal within seven days after the end of each calendar month.

(5) Any insurance adjuster and any person, other than a police officer, who has any knowledge that indicates the origin of a fire is open to suspicion shall forthwith make a report to the Fire Marshal or his local assistant giving,

Report of fires of suspicious origin

- (a) the location of the premises where the fire occurred;
- (b) the date of the fire; and
- (c) such facts and circumstances as have come to his attention and tend to establish the cause or origin of the fire. 1983, c.16, s.17.

**18.** (1) The Fire Marshal shall keep in his office a record of fires occurring in the province together with all facts, statistics and circumstances, including the origin of fires, as are determined by inquiry.

Record of fires

(2) Records relating to the location, time and date of occurrence, and suggested cause of a fire and name of the owner of the property affected shall be open to public inspection. 1983, c.16, s.18.

Public inspection

#### PART V OFFENCES AND PENALTIES

**19.** A person

General penalty

- (a) who hinders or disturbs the Fire Marshal, an inspector or a local assistant in the execution of his duties under this Act;
- (b) who contravenes a provision of this Act or of the regulations for which contravention no other provision is made,

is guilty of an offence and liable upon summary conviction to a fine of not less than \$50 and not more than \$1,000. 1983, c.16, s.19.

Penalty, violation of maximum occupancy **19.1** Any owner or occupier of premises who permits more persons than the maximum number specified in the capacity permit for those premises to enter, be in, or remain in the premises at one time, is guilty of an offence and liable upon summary conviction, for a first offence, to a fine of not less than \$200 and not more than \$1,000 and for a subsequent offence, to a fine of not less than \$500 and not more than \$3,000. 1994, c.18, s.6 *{eff.}* July 14/94.

Penalty, violation of codes or standards **19.2** Any owner or occupier of premises that do not comply with the codes or standards declared to be in force pursuant to subsection 24(2) is guilty of an offence and liable upon summary conviction to a fine of not less than \$200 and not more than \$1,000 and in addition thereto to a fine not exceeding \$100 for each day on which the offence continues. 1994, c.18, s.6 *{eff.}* July 14/94; 1997,c.18,s.3.

Penalty for failure to report **20.** A person whose duty it is to furnish to the Fire Marshal a statement or report referred to in this Act, and who neglects or fails to perform that duty is guilty of an offence and liable upon summary conviction to a fine not exceeding \$200. 1983, c.16, s.20.

*Idem* **21.** A company that neglects or fails to furnish a statement or report required by this Act is guilty of an offence and liable upon summary conviction to a fine of \$25 for each day during which the neglect or failure continues. 1983, c.16, s.21.

Failure to pay tax **22.** A person or a company that neglects or refuses to make the payment required by section 9 is guilty of an offence and liable upon summary conviction to a fine of \$25 for each day that the default continues, in addition to the amount that should have but has not been paid. 1983, c.16, s.22.

Limitation period **23.** No information or complaint in respect of an offence under this Act shall be made or laid except within two years after the time when the matter of the information or complaint arose. 1983, c.16, s.23.

## PART VI REGULATIONS

Regulations **24.** (1) The Lieutenant Governor in Council may make regulations for the purposes of this Act and in particular  
 (a) prescribing forms and providing for their use;  
 (b) governing the sale, installation and maintenance in any building or premises of any appliance, fixture or thing that in the opinion of the Fire Marshal is likely to present a fire hazard;

- (c) governing the manufacture, sale, storage, carriage and disposal of any combustible, explosive or flammable matter;
- (d) governing the locations, construction, occupancy, equipment and general fire safety of factories, psychiatric facilities, hospitals, churches, schools, halls, theatres, stadia, dormitories, homes for seniors, nursing homes, children's homes, kindergartens, apartment houses, public garages, service stations, bulk fuel oil plants, office buildings, and all other places where numbers of persons work, live, congregate or are detained.

(2) If a code of fire safety rules or standards for fire safety has been promulgated by any association or body of persons and is available in printed form, the Lieutenant Governor in Council may, upon the recommendation of the Minister, by Order in Council declare such codes or standards to be in force either in whole or in part or with such variations as may be specified in the order.

Adoption of fire safety codes and standards

(3) Where a municipality has enacted a bylaw to regulate subjects which are regulated by regulations adopted under the provisions of this Act and the bylaw is considered by the Fire Marshal to be less restrictive than the regulations, the provisions of the regulations prevail. 1983, c.16, s.24.

Conflicts with municipal bylaws

## PART VII FOREST FIRES

### 25. In this Part

Definitions

(a) “forest service officer” means a person employed as a forest technician or as a forester by the Department of Agriculture, Fisheries, Aquaculture and Forestry;

forest service officer

(b) “Minister” means the Minister of Agriculture, Fisheries, Aquaculture and Forestry. 1988, c.25, s.1; 1993, c.29, s.4.; 1997,c.20,s.3; 2004,c.36,s.3.

Minister

26. It shall be the duty of forest service officers designated by the Minister and of the other persons designated by the Lieutenant Governor in Council to take all suitable measures for carrying into effect the provisions of this Part. 1988, c.25, s.2.

Duties of officers

27. The Minister is responsible for the administration and enforcement of this Part. 1988, c.25, s.2.

Responsibility of Minister

28. The duties of the persons designated under section 26 include the following:

Duties

- (a) to travel periodically over forest land within the province, whether belonging to the Crown or private owners, or under lease from the Crown;
- (b) to report forest fires to the Royal Canadian Mounted Police for investigation, where necessary;
- (c) to determine and authorize time and location for prescribed burning;
- (d) to keep a record of persons intending to start fires and notify the Fire Marshal, when required, of the names on the record;
- (e) to report periodically the occurrence of forest fires to the Fire Marshal;
- (f) to advise and educate the public on the dangers of forest fires;
- (g) to inspect all Crown lands, and guard them against destruction or damage by trespassers;
- (h) to order any person residing in the neighbourhood of the place where the fire is, to repair to the place where the fire prevails, and there to assist in extinguishing it or in stopping its progress;
- (i) to enforce and carry out the provisions of this Part and the regulations made under this Part;
- (j) to perform such other duties as may from time to time be required of him by the Minister. 1983, c.16, s.26; 1988, c.25, s.3.

Forest Fire Manual **29.** (1) The Minister shall develop a Forest Fire Policy and Procedures Manual which shall set out the policies, procedures and responsibilities of all of the parties involved in the protection of the forest from fire.

*Idem* (2) All persons involved in fighting forest fires or protecting the forest from fires shall be bound by the Manual as if it were set out in the regulations. 1988, c.25, s.4.

Permit required for woodland fire **30.** (1) Subject to subsections (4) and (5), a person who sets out, or causes to be set out, started or kindled, any fire in or within 200 metres of any forest, wood or other fine fuel combustible material as prescribed in the regulations, between March 15 and December 1 in any year, shall, before starting the fire, notify and obtain a permit from a person designated under section 26 setting out the site, date and time or range of dates and times the fire may be set.

Types of permit (1.1) A permit issued under subsection (1) may be either an industrial burning permit or a domestic burning permit.

Precautions (2) A person referred to in subsection (1) shall exercise and observe every reasonable care and precaution in the making and starting of the fire, and in managing, caring for, and controlling it after it has been made and started, in order to prevent the fire from spreading and burning in forest land adjoining or in the neighbourhood of the place where it has

been so made or started, or any fences, crops, or improvements upon land lying adjacent thereto.

(3) A permit issued under subsection (1) shall not become valid until the applicant has notified the fire department responsible for structural fire control in the area in which the fire is to be started and given details of the proposed fire. Validity of permit

(4) A fire may be set pursuant to an industrial burning permit or a domestic burning permit only if Conditions

- (a) fire suppression personnel and equipment and a communication facilities as prescribed in the regulations are present at the site;
- (b) at the time of starting the fire the forest fire weather index and fine fuel moisture code as determined by a forest service officer for the date of the burn are within the limits specified in the permit; and
- (c) the wind speed at the nearest weather monitoring station or at the site as determined by a forest service officer using a method prescribed in the regulations is below the limit specified in the permit,

and where, after the fire is started, the weather conditions change to exceed the limits referred to in clauses (b) and (c) or a forest service officer so directs, the person to whom the permit was issued shall extinguish the fire.

(5) Subject to a fire closure order under section 37, subsection (1) does not apply where Exception

- (a) the person setting the fire does so for the purpose of cooking food or obtaining necessary warmth and takes such precautions as are prescribed in the regulation;
- (b) the fire is set by a forest service officer in performance of his fire suppression duties; or
- (c) the fire is set in a recognized campground facility and the fire is enclosed in such manner as may be prescribed in the regulations. 1983, c.16, s.27; 1988, c.25, s.5; 1994, c.18, s.7{eff.} July 14/94.

**31.** (1) In this section “logging operation” means any land clearing, lumbering or wood harvest, industrial engineering or construction operation within fifty metres of any forest. Definition

(2) When a fire is burning or starts upon any land upon which a logging operation is being carried out, the person in charge of the operation shall diligently attend to the controlling and extinguishing of the fire. 1983, c.16, s.28. Fire control at logging operation

**32.** It shall be the duty of every person who is aware that a fire has started and exists in any forest lands if fire suppression operations have Duty to notify

not been started by fire department staff or Department of Agriculture, Fisheries, Aquaculture and Forestry staff to notify the Department of Agriculture, Fisheries, Aquaculture and Forestry, and if he neglects or refuses to do so, he shall be guilty of an offence against this Part. 1983, c.16, s.29; 1988, c.25, s.6; 1993, c.29, s.4; 1997,c.20,s.3; 2004,c.36,s.3.

Duty to assist	<b>33.</b> Where any woods or other property are on fire, it is the duty of the Fire Marshal, police officers, constables and persons designated under section 26 to order any person living or residing in the neighbourhood of the place where the fire is, to repair to the place where the fire prevails, and there assist in extinguishing it or in stopping its progress, and any person so ordered, who without lawful excuse refuses or neglects to obey the order is guilty of an offence against this Part. 1983, c.16, s.30; 1988, c.25, s.7.
Offence not to extinguish fires	<b>34.</b> Every person who throws or drops a burning match, ashes of a pipe, lighted cigar, cigarette or any other burning substance within or near any forest, or woodlot, or other place where there is flammable matter, is guilty of an offence against this Part if he negligently omits wholly to extinguish before leaving the spot the fire of such match, ashes of a pipe, cigar, cigarette or other burning substance. 1983, c.16, s.31; 1988, c.25, s.8.
Penalty	<b>35.</b> Any person violating this Part is liable on summary conviction to a fine of not less than \$200 and not more than \$1,000. 1983, c.16, s.32; 1994, c.18, s.8 <i>{eff.}</i> July 14/94.
Application	<b>36.</b> This Part does not apply to any incorporated city or town. 1983, c.16, s.33.
Fire closure order	<b>37.</b> (1) Notwithstanding section 30, the Minister may issue a fire closure order which prohibits all open fires and renders all permits issued under this Part invalid.
Publication	(2) The Minister shall in his discretion determine when and where conditions warrant the issuance of a fire closure order and such order shall take effect immediately upon publication of the order in any two daily newspapers published in the province.
Duration	(3) Fire closure orders shall remain in effect for the period specified in the order.
Offence	(4) It is an offence for any person to start, kindle or cause to be started any open fire in an area for which a fire closure order is in effect.

(5) Any person violating subsection (4) is liable on summary conviction to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for up to three months, or both. 1988, c.25, s.9. Penalty

**38.** Any person who is convicted of an offence for starting, or causing to be started, a forest fire shall be liable for the costs of extinguishing that fire including Costs of extinguishing forest fire

- (a) wages and salaries associated with all aspects of the forest fire control operation;
- (b) the costs of operating fire control equipment at that fire;
- (c) the value of wood products lost as a result of the fire which may include both the fair market value of the lost wood products as well as the costs necessary to site prepare, reforest, and maintain trees to the free to grow stage; and
- (d) replacement or repair costs of equipment damaged as a result of the forest fire. 1988, c.25, s.9.

**39.** (1) In the course of fighting a forest fire a forest service officer, or the person in charge of extinguishing the fire, may take or require whatever action as is reasonably necessary to control or extinguish the fire. Powers of forest service officer

(2) Any person in charge of extinguishing a fire or person assisting him, in accordance with the manual developed under section 29, shall not be personally liable for damage or injury to property incurred through reasonable action taken under this section. 1988, c.25, s.9 . Indemnity

**40.** The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements regarding the prevention or control of forest fires. 1988, c.25, s.9. Agreements

**41.** The Lieutenant Governor in Council may make regulations. 1988, c.25, s.9. Regulations

**PART VIII  
RURAL FIRE SERVICES**

**42.** In this Part Definitions

(a) “fire district” means an area designated under section 44 for the purpose of obtaining fire protection; fire district

(b) “resident” means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of the fire district; resident

(c) “fire district committee” means a committee comprised of three residents elected to represent the residents of a fire district; fire district committee



fire brigade	(d) “fire brigade” means a municipal fire department or a rural fire company;
Minister	(e) “Minister” means the Minister of Community and Cultural Affairs. 1988, c.25, s.10; 1993, c.29, s.4; 1997,c.20,s.3; 2000,c.5,s.3.
Object	<b>43.</b> The object of this Part is to provide a means for the collection of fire taxes in areas of the province which do not have a municipal government. 1988, c.25, s.10.
Designation of fire district	<b>44.</b> (1) Upon receipt of an application signed by at least twenty-five residents of an area which does not have a municipal government, the Lieutenant Governor in Council, on the recommendation of the Minister, may designate that area as a fire district and appoint an interim fire district committee.
Details of application	(2) The application referred to in subsection (1) shall include (a) confirmation that the application has been discussed at a public meeting held in the area to be designated and that the residents in attendance at the meeting supported the proposal to designate the area as a fire district; (b) the names and addresses of the petitioners; (c) a boundary plan of the proposed fire district. 1988, c.25, s.10.
Annual meeting to set tax rate	<b>45.</b> (1) Each year, after negotiating the cost of fire service from a fire brigade, the fire district committee shall call a meeting of the residents at which it shall propose a rate of taxation sufficient to defray the cost of the service and the expenses of the committee.
Notice	(2) The annual meeting of residents shall be advertised by the fire district committee on at least two occasions and the first of such notices shall be published at least seven days before the date fixed for the meeting.
Determination of rate	(3) A majority vote of the residents present and voting at the meeting shall determine the rate of taxation to be levied for the calendar year.
Notification to Provincial Treasurer	(4) Prior to March 15 in each year the fire district committee shall notify the Provincial Treasurer of the rate of taxation to be levied in the district for that year.
Collection	(5) Where a rate of taxation for fire protection is levied pursuant to this section, the tax shall be collected in the manner provided in the <i>Real Property Tax Act</i> R.S.P.E.I. 1988, Cap. R-5 for the collection of municipal real property tax.
Failure to notify Provincial Treasurer of tax rate	(6) Where the fire district committee fails to notify the Provincial Treasurer of the tax rate by the date referred to in subsection (4), the

Minister shall collect the tax at the rate applicable in respect of the previous year. 1988, c.25, s.10; 1990, c.16, s.2; 1993, c.29, s.4.

**46.** (1) A fire district committee shall be comprised of a chairman, a secretary and a treasurer. Composition

(2) Members of the fire district committee shall hold office for three years and are eligible for re-election. Term of office

(3) At the first annual meeting following its appointment the interim committee shall resign to permit the residents to elect a committee. 1988, c.25, s.10. Resignation of interim committee

**47.** The Lieutenant Governor in Council may make regulations. 1988, c.25, s.10. Regulations

#### PART IX GENERAL

**48.** Nothing in this Act limits or interferes with the right of any party to bring and maintain civil action for damages occasioned by fire, and that right remains and exists as if this Act had not been passed, and shall be in addition to the penalty provided for offences under this Act. 1983, c.16, s.35. Civil actions not affected

**49.** The Fire Marshal shall Annual report  
 (a) submit annually to the Minister a detailed report of his official actions;  
 (b) publish such portion of the report as the Minister may direct.  
 1983, c.16, s.36.