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RANGER TRAINING COURSE

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THE ACTS AND REGULATIONS CONCERNING FIRES IN THE OPEN AIR
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INTRODUCTION

The appointment of Rangers to the position of Honorary Forest Officers means that the Ranger now has powers and responsibilities conferred by the Forests Act. These notes have been prepared to set out the laws and regulations relating mainly to fires in National Parks and the powers and duties of Forest Officer/Rangers relating to fires in National Parks.

We are studying only those matters concerning "fires in the open air". That is fires which are not in fireplaces contained in dwellings, offices, lodges, enclosed picnic shelters or similar structures. There appears to be no law in existence which restricts or regulates the use of fire in a building.

The related sections of Acts and clauses of the Regulations have not been included in the text of these notes. You must refer to the actual wording set out in the Acts and Regulations and should amendments be made we shall advise you by circular. The references in these notes will refer to a section of the appropriate Act, or a clause of the regulations for you to read in conjunction with these notes.

1. Fundamental Definitions

The powers and responsibilities conferred on fire control officers attending a fire are very extensive and must be fully understood.

The powers and responsibilities of a fire control officer are set out in Section 30, 31 and 33 of the Country Fire Authority Act No. 6228, 1958. It is important that we understand where and when to use these far reaching powers so that we may not be criticised or reprimanded for exceeding our authority.

(i) Where - Fire Protected Area - (F.P.A.)

This is the area for which a forest officer (including any Honorary Forest Officer) has fire protection and suppression responsibilities.

The legal definition of the F.P.A. is contained in Section 3(1) of the Forests Act No. 6254, 1958. Generally for Rangers responsible to the National Parks Authority this is limited to mean:

(a) land within any National Park

(b) land within one mile of a National Park

This is commonly called the Marginal Mile. This margin does not apply in the Mallee Country (i.e. Little Desert, Wyperfeld and Hattah Lakes National Parks) or where it has been specifically excised from the F.P.A. (e.g. Fern Tree Gully and possibly Churchill National Park. This must be checked with your local District Forest Officer.

(ii) When - Prohibited Period

The need for written authority to light fires and the application of regulations governing the use of fires applies in the F.P.A. during the time known as the Prohibited Period (refer Section 3(1) Forests Act 1958.). The prohibited period applies at all times in a National Park. However, where the marginal mile is in the F.P.A. the Prohibited Period only applies when it has been declared by the Minister of Forests for the Fire Protection Authority within the Shire in which the park is located. Generally it is announced over the air and published in the local papers, and usually applies during the summer months.

(iii) Country Area of Victoria

If it was necessary to attend a fire in private property one and a half miles away from the boundary of a National Park, it is likely (providing there was no State Forest within one mile of that fire) that you would be operating within the Country Area of Victoria (see Section 3, C.F.A. Act No. 6228).

The Country area of Victoria covers all the State except the metropolitan fire district, State Forests and National Parks. By reference to Section 33(2)(a) of the C.F.A. Act you will see that C.F.A. fire control officers have responsibility over this area.

(iv) Summer Period

This is the period during which restrictions are placed on the use of fire in the Country area. (Ref. C.F.A. Act Section 3). The mechanism to be followed when introducing or closing the summer period is set out in Section 4 of C.F.A. Act, and is published in the Government Gazette and in local papers.

2. THE LAW COVERING FIRE PREVENTION(i) Honorary Forest Officer

An Honorary F.O. is defined in Section 3(1) of the Forests Act. He is able to carry out all the functions of a Forest Officer. Therefore it is important to know what restrictions are imposed on the use of fire in the F.P.A.

(ii) Lighting of Fires in National Parks

Section 63(1) of the Forests Act

In a National Park a person must only light or maintain a fire -

- (a) in accordance to the conditions contained in a written permit issued by a Forest Officer.
- (aa) according to the fire lighting regulations for the area.

- (b) when all reasonable precautions have been taken to prevent the spread of and damage from a fire.
- (c) a person leaves the fire only after all reasonable precautions are taken to stop the fire spreading or causing injury.

The maximum penalty for a person convicted under this section of the Act is \$400 fine and 2 years imprisonment.

It is important to establish that an offence against this section was committed in the F.P.A. where the Prohibited Period is in force at all times (that is not the "marginal mile" F.P.A.)

(iii) Fires in Areas Adjacent to National Parks
Section 63(2) of the Forests Act

- This section requires a person to take the same precautions to prevent fires in the marginal mile as in the preceding section. It will be noted that in:
- Subsection (2)(9) A written Authority from a Forest Officer is required only during the declared Prohibited Period;
 - Subsection (2)(aa) requires observance of the fire lighting regulations at any time (whether or not Prohibited Period is in force) - when there is danger of spread of fire

- Subsection 2(c)(d) requires that all reasonable precautions are observed to prevent spread of or damage by a fire and to extinguish that fire before leaving. A conviction under this section may receive a maximum penalty of \$200 and imprisonment for one year. It is important to establish that the area in question is a F.P.A. within one mile of the boundary of a park and that a written permit has been obtained for any fire not covered by regulation (i.e. - cooking, warmth and incinerator fires) during the Prohibited Period.

(iv) Directions to Extinguish Fires

Section 63(3) and (4) of the Forests Act

A Forest Officer can direct that fires be extinguished or prevented from spreading on private property or Crown lands under purchase lease within two miles of the boundary of a National Park. This power may over ride any written authority issued to allow the owner or occupier of land to light a fire. Caution is required in using this power. It is obvious that weather and fuel conditions must combine to create a dangerous situation threatening a park within two miles of a fire. Penalties can be applied to an occupier convicted of refusing, neglecting or failure to satisfactorily follow the directions given by a Forest Officer.

(v) Power of Arrest

Section 63(6) of the Forests Act

The power of arrest is given to a Forest Officer in the event that an offender against Section 63 of the Forest Act refuses to provide a name and address. If a person is arrested he must be immediately taken before a Justice of the Peace.

(vi) Closure and Total Ban of Fire

Section 64 of the Forests Act

This Section is sometimes known as "the closure".

Our concern here is to know that absolute prohibition on the use of fire and the suspension of forest works may be introduced by the mechanism set down by the legislation. If the closure were applied over a National Park, fires in the open air are absolutely prohibited. The prohibition applies to the F.P.A. during the period prescribed by radio, phone message or the newspapers.

(vii) Fire Hazard Removal

Section 65 of the Forests Act

A Forest Officer may direct in writing the removal of fire hazards in an adjoining marginal mile area. A Forest Officer/Ranger cannot exercise this power unless he has the authority of the Forests Commission. If it were necessary to use this section of the Forests Act the National Parks Authority may request the Commission to issue written directions to land owners. However, if land adjoining a National Park was excluded from the F.P.A. the Proper Officer appointed under the C.F.A. Act may be requested by the National Parks Authority to issue a notice to the land owner in the Country Area of Victoria.

(viii) Leaving A Device to Light Fires

Section 66 of the Forests Act

A felony, punishable by imprisonment for up to 10 years, is committed within the F.P.A. during the Prohibited Period if a person sets up a device for lighting a fire with intent to injure vegetation or property.

(ix) Duty of All Citizens with Regard to Fire

Section 67 of the Forests Act

Subsection (1) It is the duty of every citizen to prevent the spread of fire and to report any fires to the nearest Forest Officer or member of the Police which may occur in the F.P.A. at any time the fire danger is high.

Subsection (2) It is the duty of the occupier of land within the F.P.A. to extinguish any unlawful fire on his land and report the existence of the fire to the nearest Forest Officer or member of the Police Force.

Subsection (3) It is the duty of every licensee under the Forests Act and every employee of the State of Victoria to pass on information concerning fires in the F.P.A. during the Prohibited Period to the nearest Forest Officer or member of the Police Force.

(x) Power to Prosecute

Section 70(2)(a) of the Forests Act

A Forest Officer has power to prosecute an offender against the fire protection sections of the Forests Act.

(xi) Liability for Damages Due to Escape of Fire

Section 71 of the Forests Act

Subsection (1) makes the Forests Commission liable for damages arising from the negligence of any Forest Officer in the use of fire.

This must be remembered at all times by those of us who may be involved in fuel reduction burning or in suppressing fires.

Forest Officer/Rangers however will not be required to exercise this power, as apart from the background required, the Authority would first need to obtain the approval of the Forests Commission whose duty it is to administer the Forests Act. The District Forester would normally launch the prosecution.

(xii) The Fire Prevention Provisions of the Country Fire Authority Act

Division 3 details the duties and responsibilities of C.F.A. Officers, land occupiers and the general public in protection of the Country Area from fire. While these sections of the C.F.A. Act may be of interest, they are of no concern to Rangers involved in the management of National Parks within the F.P.A.

(xiii) General Fire Lighting Regulations

Fire prevention regulations are set out in the Forests (Part 1- Fire Protection) Regulations 1967. Under Section 63 of the Forests Act, all fires lit in a F.P.A. must conform to the regulations.

(a) Total Ban on Fires

Remember that when "the closure" is applied, or a day of Total Fire Ban has been declared, the regulations permitting the lighting of fires in the open area suspended. (See Clause 1103)

Fires must not be lit and those alight must be extinguished on days of closure or of total fire ban

(b) Fires in the Fire Protected Area

Clause 1101 of the Forests Regulations requires fires which are lit in the F.P.A. during the Prohibited Period to comply with the conditions set down. The conditions applied under the regulation depend on the purpose for which fire is used.

(c) Fires for Cooking or Personal Comfort

Clause 1101(1) you are or should be familiar with these general fire lighting regulations. They however apply only under circumstances of weather or position when there is possibility of the spread of fire.

Under dangerous conditions (sub-clause (1)(b) or if personal property is likely to be damaged or destroyed, a fire shall be extinguished.

A Forest Officer has Power to request that a fire be extinguished

(d) Fires for Burning Rubbish in an Incinerator

In many parks small incinerators have been provided. Unlike the incinerator at Tidal River, these must be regarded as fires in the open air. Consequently during the Prohibited Period the conditions laid down in Clause 1101(2) must be observed by Rangers and their staff as well as any person with incinerators situated in the F.P.A.

(e) Fires for any Other Purpose

Clause 1101(3) requires that the written authority be obtained from a Forest Officer during the Prohibited Period for using fires in the F.P.A. for any other purpose than that specified by clause 1101. This is not a function which Forest Officer/Rangers can undertake.

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(f) Obligations of Beekeepers

Clause 1201 of the Forests Regulation requires a beekeeper in a F.P.A. to carry a knapsack spray pump and rake during the period from September to April every year.

Clause 1201 requires a beefarmer in the F.P.A. to clear at least 10 ft. around hives and equipment. Exemption in writing from this clause may be granted by the Secretary of the Forests Commission.

(g) Requirements for Exhausts

Clause 1214 requires the provision of vertical exhaust pipes to tractors, diesel trucks or stationary engines operating in the F.P.A.

(h) Additional Restrictions on use of Fire in the F.P.A. with Particular Reference to National Parks

Clause 1502

This clause gives the Forests Commission power to restrict the use of fire in any part of the F.P.A. over a prescribed period.

The Authority has requested the Commission to use this clause to restrict the use of fires from 1st November to 30th April in an area of Wilson's Promontory National Park bounded by the Main Road and the coast line between Norman Bay and Darby River.

The restrictions which are to be applied are designed to:

- allow fires used for personal comfort and cooking
- restricts fires only to those which burn L.P. gas kerosene or similar fuels in a safe appliance
- the fires burn in an area with 5 ft. clearing around and above.
- Fires are not left unattended and shall be extinguished on the request of a Forest Officer.
- Fires which escape are extinguished and the Forest Officer notified of the existence of the fire.
- No fires are permitted if "the closure" is applied or on a day of Total Fire Ban.

(i) Prohibition of Use of Safety Fuse on Days of Total Fire Ban

Clause 1602

Safety fuse, fuse lighters and splitting guns are prohibited in the F.P.A. on declared days of Total Fire Ban.

(Note that safety fuse is considered unsafe for use after 9.30 a.m. in State Forest during the drier months of the year. It is for this reason that electrical detonating methods are recommended for blasting operations in National Parks during the summer)

3. Fire Suppression Powers and Responsibilities(i) Fire Protected Area

These powers and responsibilities are set down in the Country Fire Authority Act No. 6228, 1958.

Section 33(2)(b) of the C.F.A. Act places the responsibility of fire suppression in the F.P.A. with a Forest Officer. In the absence, or while awaiting the arrival of a Forest Officer, the officer in charge of a C.F.A. group or brigade (who adopts the powers of the Chief Officer) is to act as the fire control officer

(ii) Within Country Area of Victoria

Section 33(2)(a) of the C.F.A. Act places the responsibility of fire suppression in the Country Area of Victoria with the Chief Officer (or any officer in charge of a Group or Brigade). If for any reason a designated C.F.A. fire control officer is not present at a fire in the Country Area, a Forest Officer is required to act as fire control officer.

(iii) Duties and Powers of a Fire Control Officer

The Duties and Powers of a Fire Control Officer are contained in Section 30 of the C.F.A. Act. To enable a fire control Officer to stop or restrict fires and protect life and property this section provides that he:

- have control and direct the activities of fire fighters, (volunteers, members of organizations, etc.)

- may enter on any land or into any building with means and equipment.
- may force entry into any building on fire or nearby a fire
- may pull down destroy or remove buildings or structures
- destroy, remove or burn vegetation
- manipulate reticulated water systems for water
- take water from any source convenient
- block off roads or streets
- order persons removed (who refuse to go) who are interfering in fire fighting operations.

Members of the Police Force are required to assist Fire Control Officers in the performance of their duties under Section 31 of the C.F.A. Act.

(iv) Rights of Owners or Occupiers

Subsection (4) safeguards the rights of any person having some investment in or valuables at the scene of a fire. The fire control officer or members of the police force are not authorized to request or force such person to leave the area.

(v) Failure to Extinguish or Report Fire

Section 34 of C.F.A. Act prescribes the penalty for occupiers of land failing to extinguish a fire or report the fire to the nearest Brigade Officer, Forest Officer or member of the Police Force in the rural area during the Summer Period. Like Section 67 of the Forests Act, this provision is more a fire protection aspect rather than a fire suppression activity.