

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 20 of 1936.

AN ORDINANCE

Relating to the Prevention of the Careless Use of Fire.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1. This Ordinance may be cited as the *Careless Use of Fire Ordinance 1936*. Short title.
2. The Ordinances set forth in the Schedule to this Ordinance are repealed. Repeal.
3. In this Ordinance, unless the contrary intention appears— Definitions.
 - “Inspector” means an inspector appointed under this Ordinance;
 - “Owner”, in relation to a house or building or land, includes the occupier, lessee, tenant or holder of the house, building or land;
 - “the Court” means the Court of Petty Sessions of the Territory.
- 4.—(1.) The Minister may, by writing under his hand, delegate to any person all or any of his powers or functions under this Ordinance except this power of delegation and the power to make regulations under section seventeen of this Ordinance. Delegation by Minister.
(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.
5. The Minister may appoint such inspectors as he thinks necessary for the purpose of this Ordinance. Inspectors.
6. No person shall ignite or use or carry when ignited any inflammable material within one hundred yards of any stacks of corn, pulse, or hay or standing crops in an inflammable condition, or within ten yards of any growing crops, stubble-field, or grass land (the grass being in an inflammable condition), or within twenty-five yards of felled timber awaiting a running fire whereby the property of any other person is endangered, injured, or destroyed. Penalties for setting fire to growing crops, &c.

Penalty: Fifty pounds or imprisonment for three months.

1835.—PRICE 3D.

Lighting fires
in plantations,
&c.

7. A person shall not, except in such places as are constructed or specified by the Minister for the purpose, light any fire in the open air—

- (a) within any plantation the property of the Commonwealth or any area enclosed by a fence, in which any such plantation is situated, or within half a mile of any such plantation or area; or
- (b) on any unleased land the property of the Commonwealth on which there is any growing timber.

Penalty: Fifty pounds or imprisonment for three months.

Smoking
prohibited in
or near
plantations.

8. Any person who, during the period commencing on the first day of October in any year and ending on the thirtieth day of April in the following year, smokes or lights any tobacco pipe, cigar or cigarette or any material whatsoever, within any area enclosed by a fence in which is situated any plantation or afforestation reserve belonging to, maintained by or under the control of, the Commonwealth, or within one hundred yards of any plantation or afforestation reserve situated within the area described in the First Schedule to the *Cotter River Ordinance 1914-1931* shall be guilty of an offence.

Penalty: Ten pounds.

Penalty for not
extinguishing
fire.

9. Any person who, whether temporarily or otherwise, leaves unextinguished any fire which he has lighted or used in the open air shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for three months.

Lighting of
fires for
burning-off
purposes.

10.—(1.) Notwithstanding anything contained in this Ordinance, the occupier of any land may burn any straw, stubble, grass or herbage, or ignite any wood or other inflammable material on his land—

- (a) during the period commencing on the first day of March and ending on the thirty-first day of October in any year—after he has, around the straw, stubble, grass, herbage, wood or other inflammable material, cleared of inflammable substance a space of land of not less than the prescribed distance; and, if no distance is prescribed, a distance of not less than sixty-six feet in breadth, and after he has given to the occupier of all land contiguous to that land at least twenty-four hours' notice in writing; or
- (b) during the period commencing on the first day of November and ending on the last day of February in the following year—in pursuance of and in accordance with the provisions of a permit granted by the Minister for the purpose.

(2.) The occupier of any land who burns any straw, stubble, grass or herbage, or ignites any wood or other inflammable material on his land, except in accordance with the provisions of the last preceding sub-section, shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for three months.

11.—(1.) If the occupier of any land clears it of inflammable materials for the space of twenty feet from any fence dividing that land from the land of any other owner or occupier, and the other owner or occupier neglects or omits so to clear his land and any damage from fire happens to the dividing fence through that neglect or omission, the owner or occupier so neglecting or omitting to clear shall at his own costs and charges cause the fence to be repaired and re-erected within one month after it has been so damaged, or within such extended time as may be allowed by the Court on application made to it in a summary way :

Damage by fire to dividing fence.

Provided that reasonable notice of any such application shall be given to the occupier who has cleared his land.

(2.) If the owner or occupier so neglecting or omitting to clear refuses or omits to repair or re-erect the fence as prescribed in sub-section (1.) of this section, the owner or occupier of the land contiguous to the fence who has cleared his land as prescribed may repair or re-erect the dividing fence.

(3.) All sums of money which are so expended or laid out under the provisions of this section shall be deemed to be money paid to the use of the owner or occupier in default.

12.—(1.) Where the Minister incurs any expenses or charges in extinguishing or endeavouring to extinguish any fire in or on any house, building or land, or of any personal property in or on any house, building or land, the person who caused the fire and the owner of the house, building, land or property shall be severally and jointly liable to pay to the Commonwealth the expenses and charges properly so incurred.

Payment of expenses of extinguishing fires.

(2.) The expenses and charges payable under this section shall be recoverable by the Commonwealth before the Court in a summary manner.

(3.) Where the expenses and charges are paid by or recovered from the person who caused the fire, the liability under this section of the owner of the house, building, land or property shall cease.

13. Where a fire occurs on any land, any officer, employee, servant or agent of the Commonwealth thereto authorized by the Minister may enter upon any 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 any other fire on any land.

Power to enter on lands.

14.—(1.) A member of the Police Force of the Territory or any forest overseer employed by the Commonwealth, or any inspector, or any person thereto authorized in writing by the Minister, may require any person committing or reasonably suspected of having committed or of being about to commit an offence against this Ordinance, to give his name in full and place of abode.

Persons reasonably suspected to give name and address.

(2.) Any person who, after being so required and on production of the necessary authority, refuses or fails to give his real name or place of abode, shall be guilty of an offence.

Penalty: Ten pounds.

(3.) Any such member of the Police Force or any such overseer or inspector or person may arrest without warrant any person acting or reasonably suspected of having acted in contravention of this section, and may keep him in custody until he can be taken before the Court to be dealt with according to law.

Penalty on persons resisting apprehension.

15. Any person who, being liable to be apprehended for any offence, opposes, resists, or assaults any person apprehending or attempting to apprehend him, shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

Rights at common law preserved.

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

Regulations.

17. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

- (a) the prohibition of the sale, offering for sale, distribution or use of any matches other than those so made as to strike only on a preparation affixed to the containing box, or a box containing the same description of matches;
- (b) the manner of mixing, and the use of phosphorus baits for rabbits, and the persons who may sell such baits;
- (c) the burning of fire-breaks on railway lands; and
- (d) the imposition of penalties, not exceeding Twenty pounds, for breaches of the regulations, and, where the offence is a continuing offence, the imposition of a penalty not exceeding Twenty pounds for every day on which the offence is committed.

THE SCHEDULE.

Careless Use of Fire Ordinance 1916.

Careless Use of Fire Ordinance 1926.

Careless Use of Fire Ordinance 1927.

Careless Use of Fire Ordinance 1931.

Dated this thirteenth day of May, 1936.

GOWRIE

Governor-General.

By His Excellency's Command,

T. PATERSON

Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.