



LAWS OF KENYA

GRASS FIRES ACT

CHAPTER 372

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CHAPTER 327

GRASS FIRES ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 327**GRASS FIRES ACT**

[Date of commencement: 15th January, 1942.]

An Act of Parliament to provide for the control of grass fires

[Cap. 185 (1948), Act No. 18 of 1949, G. N. 1721/1955, L. N. 173/1960, Act No. 36 of 1962, L. N. 256/1963, L.N. 2/1964, L. N. 303/1964, Act No. 9 of 1967.]

1. Short title

This Act may be cited as the Grass Fires Act.

2. Interpretation

In this Act, except where the context otherwise requires—

“**Director**” means the Director of Agriculture or any person deputed by him to act in his stead;

“**firebreak**” means a strip of land not less than thirty feet on either side of a boundary, whether under trees or not, which has been cleared of inflammable matter to prevent the spread of fire;

“**local authority**” means a municipal council, county council, urban or area council, or a township authority established by regulation 50 of the Local Government Regulations, 1963 (L.N. 256/1963, Sub. Leg.), and, in respect of any functions delegated to or conferred upon a local council, such local council;

“**owner and occupier**”, in relation to any land, includes any person who is for the time being managing a farm on such land and in respect of Government land includes the Commissioner of Lands, and in respect of Central Forests includes the Chief Conservator of Forests, and in respect of Trust land the county council in which the land is vested;

“**reserved areas**” means Trust land in the North-Eastern Province and the Isiolo, Marsabit, Turkana and Samburu Districts;

“**vegetation**” means growing or standing vegetation, and includes any tree and any part thereof, and any bush, shrub, brushwood, undergrowth, grass, crops and stubble.

[L.N. 256/1963, Sch., L.N. 303/1964, Sch., Act No. 9 of 1967, Sch.]

3. Burning of vegetation without authority

(1) No person shall set fire to any vegetation which is not his property unless he has lawful authority so to do.

(2) No person shall wilfully or negligently kindle any fire, which by spreading may damage or destroy the property of any other person.

4. Notice to be given before burning vegetation

(1) Save in reserved areas, every person, before proceeding to burn vegetation upon his own land or upon land on which he is permitted or authorized to burn vegetation, shall give at least two days’ notice in writing of his intention to

do so to all owners or occupiers of adjoining land which is within half a mile of the land on which the burning is to take place; such notice shall be delivered by hand, and shall be deemed to commence from the time when it is received by the person to whom it is addressed, or any servant or agent of his, and shall state as nearly as possible the time at which the burning will take place:

Provided that, in the case of the reserved areas, no person shall burn growing or standing vegetation within half a mile of any land situate outside the reserved areas unless such person gives two days' notice to the owner or occupier of such latter land, which notice need not be in writing.

(2) If a fire lawfully kindled after notice given in terms of subsection (1) of this section spreads to adjoining land, the fact that such notice was given—

- (a) shall to the person who kindled or was responsible for kindling such fire be a sufficient defence to any charge of contravening the provisions of section 3 of this Act, unless it is proved that he wilfully or by the negligence of himself, his servants or agents caused or permitted such fire to spread across his boundaries to such adjoining land; but
- (b) shall not affect the right of any person aggrieved to receive damages for any loss sustained by him as the result of such fire.

5. Power to prohibit burning of vegetation

(1) In the case of—

- (a) any area referred to in the definition of “local authority” in section 2 of this Act, the local authority, and
- (b) any other area, the Director, after consulting the local authority of such area,

may by order prohibit the burning of vegetation except at such times and under such conditions as may be stated in the order, and by such order may exempt any person from the provisions thereof.

(2) Any such order shall specify the place or area within which, and the purposes for which, such prohibition is to remain in force, and shall be published in the *Gazette* and one newspaper circulating in such place or area at least fourteen days before the commencement of such prohibition.

[L.N. 303/1964, Sch.]

6. Burning of vegetation by employees

(1) No employee of the owner or occupier of any land shall burn any vegetation thereon except with the consent and under the personal direction of such owner or occupier or such person as may be authorized by such owner or occupier.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence.

(3) *Deleted by L.N. 303/1964, Sch.*

[L.N. 303/1964, Sch.]

7. Firebreaks

(1) Any owner or occupier of land, who desires to guard against fires spreading beyond the boundaries of such land may call upon the owner or occupier of any adjoining land on the boundaries of which sufficient firebreaks have not been provided and maintained, to construct and maintain the half firebreak on his side of the common boundary or to contribute one half of the labour or cost necessary to provide and maintain sufficient firebreaks on their common boundaries or at such other points as are mutually agreed upon for the protection of the property:

Provided that, notwithstanding the definition of “firebreak” in section 2 of this Act, in the case of land contiguous to railway land adjoining a railway, the owner or occupier thereof may agree with the Community that for the purpose of this section a firebreak shall be of such dimensions, and sited at such places, as are mutually agreed.

(2) Any person so called upon may appeal to the Director on the ground that it is unnecessary to provide and maintain such firebreaks, and the decision of the Director on such appeal shall be final.

(3) Subject to the provisions of subsection (2) of this section, if any person so called upon refuses or neglects to contribute as required by that subsection, the person so calling upon him shall be entitled to—

- (a) enter upon the land of such first-mentioned person, without being answerable or chargeable with any act of trespass, and may construct and maintain half such firebreak; and
- (b) recover from such first-mentioned person the cost of such construction and maintenance.

(4) If any firebreak is of the width required by the definition of “firebreak” in section 2 of this Act, but its sufficiency for the purposes of this section is disputed on the ground that such firebreak is not so cleared of inflammable matter as to prevent the spread of fire, the dispute shall be referred to the Director, and his decision thereon shall be final.

(5) If the decision of the Director is that any such firebreak has not been so cleared of inflammable matter as to prevent the spread of fire, he may give such written directions to the person in default as, in the opinion of the Director, are necessary, and any such person failing to carry out such directions shall be guilty of an offence and liable to a fine of four hundred shillings for every day during which such default continues.

[L.N. 303/1964, Sch.]

8. Local authorities may order compulsory firebreaks

(1) Notwithstanding anything contained in section 7 of this Act, a local authority may by order require that in any specified place or area within its jurisdiction firebreaks shall be constructed and maintained by any owners or occupiers of land situate in such place or area; and such order shall be published in the *Gazette* and in one newspaper circulating within such place or area at least one month before the coming into operation of such order.

(2) Any owner or occupier who, in contravention of any order made under subsection (1) of this section, fails to construct or maintain the half firebreak on his side of a boundary shall be guilty of an offence.

(3) Where any owner or occupier, in contravention of any order made under subsection (1) of this section, fails to construct or maintain the half firebreak on his side of a boundary, then, without prejudice to any penalty to which such owner or occupier may be liable under subsection (2) of this section, the local authority or the owner or occupier of the land adjoining such boundary shall be entitled to—

- (a) enter upon the land of such first-mentioned owner or occupier without being answerable for any act of trespass, and may construct and maintain the half firebreak on the side of the boundary which is occupied by such first-mentioned owner or occupier; and
- (b) recover from such first-mentioned owner or occupier the cost of such construction and maintenance.

(4) Nothing in this section contained shall apply to—

- (a) the reserved areas;
- (b) the boundary of any owner or occupier where such boundary adjoins the reserved areas;
- (c) railway land adjoining a railway; and
- (d) land which is contiguous to railway land adjoining a railway.

9. Restrictions as to removal of bees and honey from land

No person shall take or remove honey or bees from, or place beehives on, the land of another without the consent of the owner or occupier thereof:

Provided that this section shall not apply to the North Eastern Province and the Isiolo, Marsabit, Samburu, Tana River and Turkana Districts.

[L.N. 303/1964, Sch.]

10. Engagement of fire-rangers

A local authority, for the purpose of controlling grass fires within the area under its jurisdiction, may—

- (a) engage such number of fire-rangers as the local authority may think fit, who shall be remunerated out of the revenue of the local authority;
- (b) appoint any person to be an honorary fire-ranger.

11. State of danger

(1) (a) In the case of any area referred to in the definition of “local authority” in section 2 of this Act, the local authority may by order declare a state of danger in respect of any area within its jurisdiction, and in the same or any subsequent order may prohibit the burning of vegetation within the whole or any part of such area for such period and under such conditions during the continuance of the state of danger as it may think fit, and by such order may exempt any person from the provisions thereof.

(b) Every order made under this subsection shall be published in the *Gazette* and in one newspaper circulating within such area, and, in the case of an order prohibiting the burning of vegetation, shall be so published at least seven days before its coming into operation.

(2) Deleted by L.N. 303/1964, Sch.

[L.N. 256/1963, L.N. 303/1964, Sch.]

12. Refusal to assist in putting out fire

(1) Any owner or occupier on whose land a fire is burning, and any police officer, and any fire-ranger or honorary fire-ranger engaged or appointed under section 10 of this Act, who has good reason to believe that such fire may become dangerous to life or property, may require any person present at or in the vicinity of such fire to render assistance, or to do any act or perform any service as may reasonably be considered necessary or expedient to control or extinguish or prevent the spread of such fire; and any person who fails to comply with such requirement shall be guilty of an offence.

(2) Any person acting in good faith may either alone or with persons under his control enter upon any land for the purpose of extinguishing a fire which he has good reason to believe is not under control or may become dangerous to life or property.

13. Protection of life, person or property by counter-firing

Nothing in this Act shall prohibit any person, when his life, person or property is in danger of loss or injury from an approaching fire, from setting alight to and burning vegetation, in the manner commonly known as counter-firing, in order to prevent such loss or injury:

Provided that he shall take reasonable care that the fire so kindled does not spread beyond the limits necessary to secure him from such loss or injury.

14. Liability of servant

If any servant, when acting under the direction or command of his employer, by any act or omission contravenes any of the provisions of this Act, or of any rules or order made thereunder, such employer and such servant may both or either of them be prosecuted and, if convicted, punished under this Act or such rules, as the case may be.

15. Arrest

(1) Any person found committing an offence under this Act or under any rules made thereunder may, if there are reasonable grounds for believing that he will abscond or if his name and address are unknown and cannot be ascertained, be apprehended by the owner or occupier of the land on which the offence is committed or by the servant of such owner or occupier or by any fire-ranger engaged under section 10 of this Act, and such person, when so apprehended, shall be handed over to the nearest police officer without unnecessary delay.

(2) Offences under this Act or under any rules made thereunder shall be cognizable to the police.

16. General penalty

Any person who is guilty of an offence under this Act for which no penalty is specially provided, or who fails to comply with any of the provisions of this Act or of any order made thereunder, shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment.

[Act No. 18 of 1949, s. 2.]

17. Civil remedy preserved

Nothing in this Act shall affect the right of any person aggrieved to receive damages by civil action for any loss sustained by him.

18. Rules

The Minister may make rules for the better carrying into effect of the provisions of this Act.

[G.N. 1721/1955, Sch., L.N. 173/1960, s. 2.]

CHAPTER 327

GRASS FIRES ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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PERSONS DEPUTED

UNDER SECTION 2

[L.N. 85/1969.]

All District Agricultural Officers.

All Divisional Agricultural Officers.

ORDERS

UNDER SECTION 11(1)

These orders are not included in the Laws of Kenya as they are of local application only. They may be found in—

[G.N. 2472/1954, G.N. 591/1961, L.N. 152/1962, L.N. 185/1962, L.N. 38/1963, L.N. 145/1963.]
