

POLICY ON EXEMPTIONS FROM THE DUTY TO PREPARE AND MAINTAIN FIREBREAKS IN TERMS OF SECTION 14 OF THE NATIONAL VELD AND FOREST FIRE ACT

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Background

1. The National Veld and Forest Fire Act requires an owner where there is a risk of veldfire to prepare a firebreak on his or her side of the common boundary with adjoining land (Section 12(1)).
2. The Act gives the Minister the discretion to exempt an owner or group of owners from the duty to prepare and maintain firebreak. The Minister must consult the Fire Protection Association (FPA) before making any exemption, in the case where an FPA exists.
3. This policy guides decisions on exemptions.

Policy goal

4. The overall goal of this policy on exemptions from the duty to maintain firebreaks is to ensure that the granting of exemptions does not adversely affect the protection of life, property and the environment from wildfires.

Considerations

5. Firebreaks are required only where there is a risk of veldfire arising on and spreading from any given property. The veldfire risk will be too small to justify firebreaks in many cases.
6. This is the case where the natural vegetation is usually too sparse to carry risky fires, such as in the desert environments of the western parts of the country, such as the Succulent Karoo.
7. **[The Minister will consult with the Minister of Provincial and Local Government and indicate in which metropolises or local municipalities the natural vegetation is too sparse to justify firebreaks.]**
8. Cases where the risk along or near a boundary is too low to justify the preparation of a firebreak also include (a) where natural or artificial features reduce or eliminate the risk of veldfires, e.g. where a natural forest, river or road occurs on a boundary, (b) the natural vegetation has been replaced by crops that are not flammable, and (c) where the vegetation has been reduced by other developments to the point that it does not readily carry a fire.
9. The Act provides for changing the alignment of a common firebreak by mutual agreement between neighbours (Section 12(7)); this allows neighbouring owners to adjust their firebreaks to avoid difficult or costly alignments.
10. The objectives of the Act in requiring firebreaks is to assist in managing veldfire risk, bearing in mind that veldfires can never be entirely eliminated in regions where fire occurs naturally. Firebreaks are an aid in managing this risk, and serve to help prevent fires from spreading. Firebreaks also assist fighting wildfires by providing fire control lines for backburning. They often facilitate access for firefighting teams to the scene of a wildfire.
11. Experience over time has proven the value of firebreaks and they continue to be used as practical aids in controlling veldfires.
12. Where an FPA exists, members will be able to co-operate to develop an optimum veldfire management strategy. Firebreaks constitute one instrument among several that they can use to manage the risk of veldfires.
13. Where there is a veldfire risk, firebreaks cannot be exempted unless alternative measures have been adopted to provide equivalent or better management of veldfire risk.

Statement of the problem

14. It is in the public interest as well as the interest of owners of land in areas with a veldfire risk to mitigate this risk. Nevertheless the preparation of firebreaks can often be onerous. Examples include cases where land is in difficult terrain, or where boundaries are very long, such as along road reserves. In such circumstances landowners often wish to be exempt from the duty of preparing firebreaks. Firebreaks may also be inappropriate where there are many contiguous small properties. Firebreaks can also be aesthetically and environmentally undesirable.
15. In other cases landowners judge that the risk of veldfires is too small to justify the cost of firebreaks.
16. Though the Act gives the Minister discretion to exempt landowners from the duty of firebreaks, he or she must have good reason to do so. The Minister would need in every case to ensure that the veldfire risk is mitigated by some other means or that landowners exposed to the risk agree to accept an unmitigated risk. The Minister would further need to ensure that government does not take on a liability by granting an exemption.
17. However, it is not feasible for the Minister, i.e. the relevant organs of state, to judge local levels of veldfire risk. There are too many cases that would need to be identified and considered, and conditions of risk vary from one place to the next, from season to season, and year to year.

Policy statement

18. The Minister will not consider an exemption where there is no or little veldfire risk, since the Act does not require firebreaks under those circumstances. Local parties, i.e. neighbouring landowners, the municipal fire services functionaries, and, where they exists, Fire Protection Associations, must judge the level of risk that justifies the making of firebreaks. Guidelines for formal veldfire risk management are included in the guidelines for the preparation of FPA business plans, available from the Department.
19. The Minister will grant exemptions where the veldfire management strategy in the business plan of an FPA provides for specified owners or classes of owners to do without firebreaks on specified boundaries or under specified conditions. In such cases the Minister will need to be satisfied that the alternative measures are adequate to protect the public interest. This approval will therefore be on one or more of the following conditions:
 - a) that alternative measures adopted in the veldfire management strategy have been agreed upon among affected members
 - b) that the FPA through Chairperson certifies that these measures provide at least equivalent protection as firebreaks would have given, or
 - c) affected members have agreed to bear the veldfire risk in other ways and this is documented with the alternative ways that they will employ to bear the risk, and furthermore that the Fire Protection Officer certifies that the public interest will not suffer through doing without firebreaks in such a case.

17. In areas where there is a risk of veldfire and (a) no FPA exists or (b) the owner is not a member of the FPA, the Minister will not grant exemptions.

Definition of terms

Backburning: a fire ignited along the inner edge of a control line to consume the fuel in the path of a wildfire.

Fire control line: a natural or constructed barrier used in fire suppression and prescribed burning to limit the spread of veldfire.

Fire protection: All activities designed to protect an area (including human life, property, assets and values) from damage by wildfire.

Fire Protection Association: an association registered in terms of Chapter 2 of the Act for the purposes of predicting, preventing, managing and extinguishing veldfires.

Fire Protection Officer: a person who performs the function of chief executive officer of a Fire Protection Association, appointed in terms of section 5 of the Act.

Fire suppression: the activities connected with restricting the spread of wildfire following its detection and making it safe.

Firebreak: a strip of land where vegetation has been removed or modified to contain or to reduce the spread and intensity of any veldfire that may occur in or enter a property.

Flammability: The ease with which a substance is set on fire.

Owner: as defined in the Act, an owner of property as meant in common law and including the following:

- (a) private: private title-deed holders, lessees and other owners such as managers of land under contract or servitude, as defined in section 2(1)(xiii)(a) of the Act;
- (b) communal: owners as defined in section 2(1)(xiii)(b) of the Act;
- (c) state: owners as defined in section 2(1)(xiii)(c) of the Act; and
- (d) municipal: owners as defined in section 2(1)(xiii)(d) of the Act.

Prescribed burning: the controlled application of fire under specified environmental conditions to a predetermined area and at the time, intensity and rate of spread required to attain planned management objectives.

Veldfire: a veld, forest or mountain fire, where veld means the open countryside beyond the urban limit or homestead boundary.

Veldfire management strategy: the strategy, as prescribed, of the FPA to manage veldfires within its area of jurisdiction.

Veldfire risk: the chance of a veldfire igniting, spreading and causing damage to one or more assets, measured in terms of consequences and likelihood.