

Interpreting Chapter 4: [Veldfire prevention through firebreaks](#)

General

136. Chapters [4](#) and [5](#) must be read together as the provisions that determine the duties of owners in respect of preventing and combating wildfires. The Act places the primary responsibility on the owner for managing and controlling fires on his or her land but places a duty on owners to report fires that threaten to spread, to their FPO. The Act recognises several things here, most importantly, that owners can only be expected to take reasonable precautionary measures. It is also important to note that these apply only where there is a risk of a veldfire originating on or spreading from or to the owner's land.

Duty to prepare and maintain firebreaks

137. [Section 12\(1\)](#) 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; note that this refers to neighbours, and not to boundaries within the owner's land. The firebreak need not follow the common boundary if neighbours agree to locate it elsewhere ([Section 12\(7\)](#)). This offers the flexibility needed to adjust for problems such as difficult terrain.

138. [Sections 12\(2\) and 12\(3\)](#) provide for notice and co-operation between neighbours in the case of firebreaks that are to be burnt. The owner intending to burn must consult with the neighbour to find a suitable date for both, but if the owner cannot obtain agreement then he or she may simply give 14 days' written notice of the intention to burn. In either case the Act requires the neighbour to burn his or her firebreak on the same day as agreed or notified, to be present or have an agent present, and have sufficient fire fighters available to prevent the spread of the fire.

139. Owners must also notify the FPA of the intention to burn a firebreak, if there is one in the area. If the FPA objects the owner may not burn the break on the day or days chosen.

140. Similarly, owners may not burn breaks if the fire danger is forecast to be high, or if the conditions are not conducive to the burning of firebreaks, that is, if there is a danger of the fire spreading.

141. If the owner cannot burn on the days originally chosen then he or she must inform the neighbour and the FPA if any and notify both of the new dates, but need not give 14 days' notice.

142. [Sections 12\(8\) and 12\(9\)](#) provide for the case of absentee owners. First, when an owner is to be absent for more than 14 days during the season of burning firebreaks then he or she must inform all neighbours of the address and telephone number where he or she may be contacted. If an owner cannot contact a neighbour about his or her intention to burn, or if the neighbour does not show up on the designated days, then the owner may proceed to burn without the neighbour.

143. Finally, [section 12\(10\)](#) allows an FPA to make its own rules for firebreaks, which require the approval of the Minister and bind members to the new rules rather than the provisions of the Act.

Requirements for firebreaks

144. The Act does not specify detailed requirements for firebreaks. This is because the requirements will vary from one situation to the next. On the whole, local practice and local issues must determine what these requirements are.

145. Nevertheless, the Act does require owners to pay attention to the length and width of firebreaks. Breaks must also be reasonably free of inflammable material, and not cause erosion.

146. It is obvious to anyone with knowledge of veldfires that a firebreak can never stop every veldfire. There will inevitably be a time when conditions are so severe that a fire will cross a break, by spotting or otherwise. On the other hand, experience has shown consistently and repeatedly that firebreaks are useful in stopping many fires, in providing a line from which to combat wildfires by backburning or other measures, and for protection of property generally. The preparation of firebreaks must be seen as one essential element of fire management.

Firebreaks on borders of Republic

147. [Section 14](#) provides for the case of the property that borders on another state, where an owner cannot be expected to comply with all the requirements of this chapter, and they are correspondingly relaxed for such cases.

Exemption from duty to prepare and maintain firebreaks

148. [This section](#) gives the Minister the discretion to exempt an owner or group of owners from the firebreak duty, but he or she must have good reason to do so. The FPA must be consulted before making any exemption. One clear example is where the Minister approves the rules of an FPA where those rules may allow certain owners to do without firebreaks, but the veldfire management strategy in such cases would have to assure that fire risk is adequately managed without those firebreaks.

Exemptions from prohibitions on damaging plants

149. [Section 16](#) allows the owner to make a firebreak in spite of any prohibition on damaging plants, for the obvious reason that preparing a firebreak of any kind involves some form of damage to plants. However, the owner is obliged to take certain mitigatory measures, that is, to transplant protected plants if possible, and to avoid damage to protected plants by placing the firebreak on a different alignment.

150. The requirement that firebreaks should not cause erosion also limits the means that owners may use to prepare the breaks.

151. Because of the principle in the National Environmental Management Act that requires biodiversity to be protected or where loss is unavoidable, minimised or mitigated, officers advising landowners on preparing firebreaks are bound to advise them to protect biodiversity as far as possible.