

## **OFFENCES AND PENALTIES**

### **Offences**

- When a person is found guilty by a court of not obeying a provision of the Act, s/he has committed an offence.
- An offence means a wrong has been committed against the people of South Africa as a whole, and it is prosecuted under the criminal law.
- The Act sets out what offences there are in section 25.
- The regulations may also set out more offences and penalties.

### **Penalties**

- A penalty is the punishment a person gets for committing an offence.
- The Act sets out the maximum penalties for each offence in section 24.
- But the court can use its discretion about what an appropriate penalty is.
- There are three categories of offence:
  - Category 1 – e.g. lighting a fire in the open air when the fire danger rating is high.
  - Category 2 – e.g. failing to prepare a firebreak when one is required.
  - Category 3 – e.g. interfering with an FPO in the performance of his/her duties
- Each category has a different penalty, which may increase with the second conviction.
- First conviction:
  - Category 1: Fine, prison up to 2 years or both.
  - Category 2: Fine, prison up to 1 years or both.
  - Category 3: Fine, community service, both (community service should benefit the environment if possible).
- Second conviction:
  - Category 1: No change.
  - Category 2: Fine, prison up to 2 years or both.
  - Category 3: Fine, prison up to 1 year or both.
- The maximum amount of the fine may be put into the Government Gazette and changed from time to time to take account of inflation.
- When a court orders an offender to pay a fine, a part of the fine (no more than 1/4) may go to any person who helped to bring the offender to justice.
- But anyone who is in the service of the State cannot get this reward.

### **Category 1 offences**

- Carry on first conviction, imprisonment up to 2 years, a fine or both.
- Offences:
  - Failure to take reasonable steps to stop a fire from occurring or spreading, which fire causes damage or injury.
  - Making a fire in the open air when the fire danger rating is high ie in contravention of section 10(2).

### **Category 2 offences**

- Carry on first conviction, imprisonment up to 1 year, a fine or both
- Offences:
  - Lights, uses or maintains a fire with or without permission of the owner, which fire spreads and causes damage or injury.
  - Any person who, in the open air, leaves fire unattended a fire which s/he lit, used or maintained before that fire is extinguished.
  - Throws, puts down or drops a match or other material capable of causing ignition and as a result fire starts, spreads and causes damage or injury.
  - Makes a fire in a road reserve that is not in a designated fire place.
  - Smokes where smoking is prohibited.
  - Fails to prepare a firebreak when obliged to do so.
  - Fails to notify a neighbour of intention to burn a firebreak.

- Burns a firebreak in contravention of FPA rules.
- Fails to meet readiness standards.
- Fails to inform FPO and owners of adjoining land that a fire has broken out.
- Refuses to assist an FPO or Forest Officer who is in charge of fire fighting.
- Hinders or obstructs any person, FPO or Forest Officer who is fighting a fire.

**Category 3 offences**

- Carry on first conviction, a fine, community service or both
- Community service to benefit the environment as far as possible.
- Offences:
  - Prevents an FPO, Forest Officer, police officer or an officer appointed in terms of Fire Brigade Services Act from exercising his or her duties.