



New South Wales

# Rural Fires Amendment Regulation 2020

under the

Rural Fires Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Rural Fires Act 1997*.

DAVID ELLIOTT, MP  
Minister for Police and Emergency Services

## Explanatory note

The objects of this Regulation are as follows—

- (a) to enable the Commissioner of the NSW Rural Fire Service to appoint any member of the NSW Rural Fire Service to take disciplinary action in relation to members of the Service,
- (b) to confer on the Commissioner of the NSW Rural Fire Service certain functions in relation to the approval of rural fire brigade constitutions and the provision of reports of fire and other incidents and emergencies,
- (c) to prescribe 21 days as the period within which officers are to be appointed to a new rural fire brigade,
- (d) to extend the circumstances in which rural fire brigades are able to assist public authorities in the exercise of the functions of the public authorities,
- (e) to make further provision for the kinds of development on bush fire prone land for which a bush fire safety authority is not required,
- (f) to update references to the document known as *Planning for Bush Fire Protection*, prepared by the NSW Rural Fire Service and published in November 2019, which contains specifications and requirements for development on bush fire prone land,
- (g) to update terminology consequent on the enactment of the *Biodiversity Conservation Act 2016*,
- (h) to make other minor amendments and law revision amendments consequent on administrative changes.

This Regulation is made under the *Rural Fires Act 1997*, including sections 4(1) (definitions of *managed land* and *public authority* in the Dictionary), 18(2), 21(1), 33(1), 50(4), 69(2), 86(1), 100A (1) (definition of *excluded land*), 100B(4) and (5)(a1), 100F(1) and 135 (the general regulation-making power).

## **Rural Fires Amendment Regulation 2020**

under the

Rural Fires Act 1997

### **1 Name of Regulation**

This Regulation is the *Rural Fires Amendment Regulation 2020*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Rural Fires Regulation 2013

### [1] Clause 3 Definitions

Omit “an officer of or above the rank of Superintendent” from paragraph (a) of the definition of *appropriate disciplinary authority* in clause 3(1).

Insert instead “a member of the Service”.

### [2] Clause 3(1), definition of “appropriate disciplinary authority”

Omit “an officer” from paragraph (b) of the definition. Insert instead “a member”.

### [3] Clause 3(1), definition of “Department”

Insert in alphabetical order—

*Department* means the Department of Planning, Industry and Environment.

### [4] Clause 3(2)

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006”.

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department, dated November 2019”.

### [5] Clause 4 Constitution for rural fire brigade

Omit clause 4(2). Insert instead—

- (2) The Commissioner may direct a local authority that is the responsible authority for a rural fire brigade to approve the form of the constitution of the rural fire brigade.
- (3) If the local authority fails to comply with a direction under subclause (2) within 21 days—
  - (a) the Commissioner may approve the form of the constitution making provision for the matters referred to in subclause (1), and
  - (b) the local authority may not amend, revoke or replace the constitution.
- (4) The Commissioner is to review the constitution for the brigade annually to determine whether it should be amended.
- (5) In determining whether the constitution is to be amended, the Commissioner is to take into consideration any relevant Service Standards.

### [6] Clause 4A

Insert after clause 4—

#### 4A Time for appointing officers of rural fire brigades

For the purposes of section 18(2) of the Act, the period of 21 days is prescribed as the period within which the body or person that forms a rural fire brigade is to appoint officers for the brigade.

### [7] Clause 11 Incident reports

Omit “fire control officer is” from clause 11(1).

Insert instead “fire control officer and the Commissioner are”.

- [8] Clause 11(2)(a)**  
Omit “fire control officer within”.  
Insert instead “fire control officer and the Commissioner within”.
- [9] Clause 14 Eligibility for membership of Bush Fire Management Committees**  
Omit “Roads and Maritime Services” from clause 14(b)(i).  
Insert instead “the Forestry Corporation of New South Wales”.
- [10] Clause 14(b)(ii)**  
Omit “Government”.
- [11] Clause 14(b)(vii) and (viii)**  
Omit the subparagraphs. Insert instead—
- (vii) the part of the Department comprising persons employed in the Department who are principally involved in the administration of the *National Parks and Wildlife Act 1974*,
  - (viii) the part of the Department comprising persons employed in the Department who are principally involved in the administration of the *Crown Land Management Act 2016*,
- [12] Clause 14(b1)**  
Insert after clause 14(b)—
- (b1) at least one person nominated by Transport for NSW as being in charge of its affairs in the Bush Fire Management Committee’s area,
- [13] Clause 17 Chairperson**  
Insert “, (b1)” after “clause 14(b)” wherever occurring in clause 17(1) and (3).
- [14] Clause 30, heading**  
Insert “and signs” after “notices”.
- [15] Clause 30**  
Insert “, or sign placed,” after “notice displayed”.
- [16] Clause 31 Bush fire hazard reduction work required by hazard management officers**  
Omit clause 31(1) and (2). Insert instead—
- (1) For the purposes of section 69(2) of the Act, a hazard management officer must send a copy of the bush fire hazard reduction notice to the office of the Department or the Forestry Corporation that is nearest to the relevant land as soon as is reasonably practicable but not later than 72 hours after the notice has been served under section 66 of the Act.
- [17] Clause 32 Bush fire hazard reduction work in default of compliance with notice**  
Omit “Office of Environment and Heritage” from clause 32(1).  
Insert instead “office of the Department”.
- [18] Clause 33 Notice of intention to burn off or burn firebreak**  
Omit “the fire control officer for the district” from clause 33(3)(b).

Insert instead “a member of the fire control centre in the rural fire district”.

**[19] Clause 34 Notice of issue of fire permit**

Omit “within 24 hours of issuing the fire permit, give notice to the Office of Environment and Heritage” from clause 34(1).

Insert instead “as soon as is reasonably practicable but not later than 72 hours after issuing the fire permit, give notice to the office of the Department”.

**[20] Clause 36 Notices of fire prohibition in specified zones**

Insert after clause 36(1)—

**Note.** See also section 99(2) of the Act in relation to the identification of the part or parts of the State to which a total fire ban order applies.

**[21] Clause 40**

Omit the clause. Insert instead—

**40 Voluntary work by rural fire brigades**

(1) For the purposes of the definition of *public authority* in the Dictionary to the Act, the following are prescribed, but only for the purposes of section 33 of the Act—

- (a) the Commissioner of Fire and Rescue NSW,
- (b) the Commissioner of the NSW State Emergency Service,
- (c) the Health Secretary under the *Health Services Act 1997*,
- (d) a police officer.

**Note.** *Public authority* is defined in the Act to mean a public or local authority constituted by or under an Act, a Public Service agency, a statutory body representing the Crown and a State owned corporation.

(2) For the purposes of section 33(1) of the Act, the following functions of a public authority are prescribed—

- (a) any function of a public authority under the *State Emergency and Rescue Management Act 1989*,
- (b) any function of a public authority in relation to the prevention and suppression of bush fires and other fires,
- (c) any function of the Commissioner of Fire and Rescue NSW that relates to hazardous materials and similar matters or assisting members of the NSW Rural Fire Service in dealing with any incident or emergency,
- (d) any function of the Commissioner of the NSW State Emergency Service that relates to assisting members of the NSW Rural Fire Service in dealing with any incident or emergency,
- (e) any function of the NSW Police Force or police officers that relates to traffic control or assisting members of the NSW Rural Fire Service in dealing with any incident or emergency,
- (f) any function of the Health Secretary under the *Health Services Act 1997* that relates to assisting members of the NSW Rural Fire Service by providing, conducting or operating ambulance services under Chapter 5A of that Act,
- (g) any function of Local Land Services (within the meaning of the *Local Land Services Act 2013*) that relates to assisting members of the NSW Rural Fire Service in dealing with any incident or emergency involving local land services (within the meaning of that Act).

- (3) A fire control officer for a rural fire district must consult with the Commissioner before giving the officer's consent under section 33(1) of the Act to a rural fire brigade voluntarily co-operating with a public authority.

**Note.** Section 33(1) of the Act requires the consent of the fire control officer for a rural fire district or the Commissioner before a rural fire brigade may voluntarily co-operate with a public authority in the exercise of any functions of the public authority that are prescribed by the regulations.

**[22] Clause 41 Reduction of fire hazards on managed land**

Omit "Primary Industries" from clause 41(e)(i).

Insert instead "Agriculture and Western New South Wales".

**[23] Clause 43 Section 100A definition of "excluded land"**

Insert "that was, immediately before the commencement of the *Biodiversity Conservation Act 2016*, land" after "land" in clause 43(a).

**[24] Clause 44 Application for bush fire safety authority**

Omit ", population or ecological community identified under the *Threatened Species Conservation Act 1995*" from clause 44(1)(e).

Insert instead "or threatened ecological community under the *Biodiversity Conservation Act 2016*".

**[25] Clause 44(1)(g)(ix)**

Insert after clause 44(1)(g)(viii)—

- (ix) any registered fire trails on the property,

**[26] Clause 44(1)(h)**

Omit "the standards, specific objectives and performance criteria set out in Chapter 4 (Performance Based Controls) of".

**[27] Clauses 44(2)(b) and 45(1)(b) and (d)**

Omit "section 79BA" wherever occurring. Insert instead "section 4.14".

**[28] Clause 44(3), note**

Omit "Table A3.4.2 of *Addendum: Appendix 3* (published by the NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in 2006".

Insert instead "Table A1.7 of *Planning for Bush Fire Protection* ISBN 978 0 646 99126 9, published by the NSW Rural Fire Service in November 2019".

**[29] Clause 45 Development excluded from requirements for bush fire safety authority**

Omit "Appendix 3 (Site Bush Fire Attack Assessment)" from clause 45(1)(f).

**[30] Clause 45(1)(g)**

Omit "native vegetation".

Insert instead "any land that is not managed land within the meaning of *Planning for Bush Fire Protection*".

**[31] Clause 45(1)(i)(ii)**

Omit the subparagraph (i)(ii). Insert instead—

- (ii) the bush fire prone land that is Category 1 or 2 vegetation is less than 10% of the lot, and

**[32] Clause 45(1)(j)–(o)**

Insert after clause 45(1)(i)—

- (j) the construction or installation of a flagpole, aerial, antenna or satellite dish,
- (k) the construction or installation of a driveway, pathway or other paved area,
- (l) the carrying out of earthworks or drainage works,
- (m) construction of a class 10a building that is at least 6 metres from a dwelling,
- (n) minor external non-structural building alterations carried out in accordance with *Planning for Bush Fire Protection*,
- (o) development of a minor nature that relates to an existing building that is for special fire protection purpose.

**[33] Clause 47 Application for bush fire hazard reduction certificate**

Insert “before the repeal of that Act” after “*Native Vegetation Act 2003*” in clause 47(c)(ii).

**[34] Clause 47(c)(iii)**

Insert “before the repeal of that Act” after “*Nature Conservation Trust Act 2001*”.

**[35] Clause 47(c)(iv) and (v)**

Insert “before the repeal of that Act” after “*Threatened Species Conservation Act 1995*” wherever occurring.

**[36] Clause 47(c)(vi)**

Insert after clause 47(c)(v)—

- (vi) any biodiversity stewardship agreement, conservation agreement or wildlife refuge agreement entered into under Part 5 of the *Biodiversity Conservation Act 2016*,

**[37] Clause 47(d)**

Omit “, population or ecological community identified under the *Threatened Species Conservation Act 1995*”.

Insert instead “or threatened ecological community under the *Biodiversity Conservation Act 2016*”.

**[38] Clause 49 Savings provision**

Insert at the end of clause 49—

- (2) An amendment made to clause 3(2), 44(1)(h) or 45 by the *Rural Fires Amendment Regulation 2020* does not apply to an application for a bush fire safety authority made (but not finally determined) before the commencement of the amendment.