



New South Wales

# Rural Fires Regulation 2022

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*.

STEPHANIE COOKE, MP  
Minister for Emergency Services and Resilience

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the *Rural Fires Regulation 2013*, which would otherwise be repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation makes provision for the following—

- (a) membership of rural fire brigades and the constitutions of the brigades,
- (b) disciplinary action against officers and members of rural fire brigades and groups of rural fire brigades,
- (c) the constitution, membership and procedure of Bush Fire Management Committees,
- (d) fire prevention,
- (e) the giving of notices required under the *Rural Fires Act 1997*,
- (f) other matters relating to bravery and service awards, voluntary work, managed land, fire permit conditions, bush fire prone land, bush fire hazard reduction, bush fire safety authorities, bush fire hazard reduction certificates and penalty notices.

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## Rural Fires Regulation 2022

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Rural Fires Act 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Rural Fires Regulation 2022*.

#### 2 Commencement

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

**Note**— This Regulation repeals and replaces the *Rural Fires Regulation 2013*, which would otherwise be repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

In this Regulation—

**appropriate authority**—see the Act, section 85.

**appropriate disciplinary authority**, in relation to disciplinary action under section 10, means—

- (a) a member of the Service appointed by the Commissioner in relation to the disciplinary action, or
- (b) if a member has not been appointed—a disciplinary panel constituted in accordance with the procedure set out in the Service Standards.

**brigade register**, for a rural fire brigade, means the register for a rural fire brigade required to be kept under the Act, section 20.

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

**forestry land** means—

- (a) land that is—
  - (i) a State forest, flora reserve or timber reserve within the meaning of the *Forestry Act 2012*, or
  - (ii) acquired for the purposes of dedication or reservation as a State forest, flora reserve or timber reserve under that Act, or
- (b) land on which the Forestry Corporation has obtained the benefit of a forestry right within the meaning of the *Conveyancing Act 1919*, Part 6, Division 4.

**light** a fire—see the Act, section 85.

**NPWS land** means land reserved, or acquired for the purpose of reservation, under the *National Parks and Wildlife Act 1974*.

**Planning for Bush Fire Protection** means the document of that name, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in cooperation with the Department, dated November 2019.

**relevant land** means land that is within 8 kilometres, or another distance as may be specified in a bush fire management plan applying to the land, of NPWS land or forestry land.

**responsible authority**, in relation to a rural fire brigade, means—

- (a) if the brigade is formed by a local authority under the Act, section 15(1)—the local authority, or
- (b) if the brigade is jointly formed by two or more local authorities under the Act, section 15(2)—the local authority nominated as the responsible authority by a written agreement between the local authorities forming the brigade, or
- (c) if the brigade is formed by the Commissioner—the Commissioner.

**Service Standard** means a policy statement issued by the Commissioner under the Act, section 13.

**steam-powered machine** means a machine operated by an engine that burns wood, coal or coke.

**the Act** means the *Rural Fires Act 1997*.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

## Part 2 Rural fire brigades and groups of rural fire brigades

### 4 Constitutions of rural fire brigades—the Act, s 135

- (1) A rural fire brigade must have a constitution.
- (2) The constitution must—
  - (a) be in a form approved by the responsible authority for the brigade, and
  - (b) provide for the following matters—
    - (i) the council or other governing body of the brigade and its office bearers,
    - (ii) the name of the brigade,
    - (iii) the classification of members of the brigade other than officers,
    - (iv) arrangements for meetings of the brigade,
    - (v) the voting rights of members of the brigade,
    - (vi) the conduct of fundraising appeals by the brigade and the application of money or a benefit received in the course of an appeal.
- (3) The Commissioner may direct the responsible authority for a brigade to approve the form of the constitution of the brigade.
- (4) If the responsible authority fails to comply with the direction within 21 days—
  - (a) the Commissioner may approve the form of the constitution, making provision for the matters referred to in subsection (2), and
  - (b) the responsible authority may not amend, revoke or replace the constitution.
- (5) The Commissioner must review the constitution of the brigade annually to decide whether to amend the constitution.
- (6) In deciding whether to amend the constitution, the Commissioner must consider any relevant Service Standards.

### 5 Time for appointing officers of rural fire brigades—the Act, s 18

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

### 6 Membership of rural fire brigades—the Act, s 135

- (1) A person is eligible to be listed on the brigade register for a rural fire brigade if the person—
  - (a) complies with the procedures for attaining membership set out in the constitution of the rural fire brigade, and
  - (b) satisfies the requirements for membership of a rural fire brigade decided by the responsible authority for the brigade.

**Note—** Under the Act, section 20, the persons listed on the register for a rural fire brigade required to be kept under that section are the members of the brigade.
- (2) However, the responsible authority may refuse to list a person's name on the brigade register if, in the opinion of the responsible authority, the person is not a fit and proper person to be a member of the brigade.
- (3) The responsible authority must give notice of a refusal to the person concerned.
- (4) A person's listing on the brigade register is subject to conditions imposed by the responsible authority.

#### **7 Probationary membership—the Act, s 135**

- (1) A person's membership of a rural fire brigade is initially for a probationary period of 6 months unless the responsible authority for the brigade decides otherwise.
- (2) The responsible authority may remove the person's name from the brigade register for the brigade if, at the end of the probationary period, the person—
  - (a) has not achieved a satisfactory level of competency required by the Service Standards, or
  - (b) does not satisfy the requirements for the confirmation of membership set out in the constitution for the brigade, or
  - (c) has not complied with the conditions of membership imposed by the responsible authority under section 6(4).

#### **8 Removal from membership—the Act, s 135**

- (1) The responsible authority for a rural fire brigade must remove the name of a person from the brigade register for the brigade if the person—
  - (a) dies, or
  - (b) applies in writing to have the person's name removed from the brigade register.
- (2) The responsible authority for a rural fire brigade may remove the name of a person from the brigade register for the brigade if the person—
  - (a) is found to have committed a breach of discipline under section 10, or
  - (b) becomes a mentally incapacitated person, or
  - (c) is convicted—
    - (i) in New South Wales of an offence punishable by imprisonment of 12 months or more, or
    - (ii) elsewhere than New South Wales of an offence that, if committed in New South Wales, would be punishable by imprisonment for 12 months or more, or
  - (d) in the opinion of the responsible authority, is no longer a fit and proper person to be a member of the brigade.
- (3) Without limiting the generality of subsection (2)(d), the responsible authority may form an opinion that a person is no longer a fit and proper person to be a member of the rural fire brigade if—
  - (a) the person is listed on the brigade register for the brigade but has ceased to be an active member of the brigade for a period of 12 months or more, or
  - (b) the person has not paid the person's annual subscription fee in accordance with the constitution of the brigade.
- (4) The responsible authority must give notice to the person before removing the person's name from the brigade register under subsection (2)(b), (c) or (d).
- (5) Subject to section 9(4), the person's name may only be removed 21 days after the notice is given.

#### **9 Appeals relating to membership—the Act, s 135**

- (1) A person may appeal the following decisions of the responsible authority for a rural fire brigade—
  - (a) a decision under section 6(2) to refuse to list the person's name on the brigade register for the brigade, or

- (b) a decision under section 8(2)(b), (c) or (d) to remove the person's name from the brigade register for the brigade.
- (2) The appeal must be made to the appropriate appeal authority—
  - (a) in writing, and
  - (b) within 21 days of the person being notified of the decision.
- (3) After hearing the appeal, the appropriate appeal authority may—
  - (a) confirm the decision, or
  - (b) order the responsible authority to list, or to retain, the person's name on the brigade register.
- (4) A person's name must not be removed from a brigade register if the decision to remove the name is the subject of an appeal until the appeal is either—
  - (a) withdrawn, or
  - (b) finally determined by the appropriate appeal authority.
- (5) In this section—  
***appropriate appeal authority*** means—
  - (a) if the responsible authority concerned is a local authority—the Commissioner, or
  - (b) if the responsible authority concerned is the Commissioner—the Minister.

#### **10 Disciplinary action—the Act, s 135**

- (1) An officer or member of a rural fire brigade or group of rural fire brigades is guilty of a breach of discipline if the officer or member—
  - (a) contravenes the Act or a provision of this Regulation, or
  - (b) is negligent, careless, inefficient or incompetent in the discharge of the officer's or member's duties, or
  - (c) fails to comply with the Service Standards.
- (2) The appropriate disciplinary authority may take disciplinary action against an officer or member of a rural fire brigade or group of rural fire brigades if—
  - (a) an alleged breach of discipline is dealt with in accordance with the procedure set out in the Service Standards, and
  - (b) notice has been given in accordance with section 11(1), and
  - (c) the officer or member is found to have committed the breach.
- (3) The appropriate disciplinary authority may take the following disciplinary action—
  - (a) reprimand the officer or member,
  - (b) suspend the officer or member from service with the rural fire brigade or group of rural fire brigades for a specified period,
  - (c) recommend to the responsible authority that the responsible authority do one or more of the following—
    - (i) demote the officer or member,
    - (ii) disqualify the officer or member from holding rank in the rural fire brigade or group of rural fire brigades,
    - (iii) remove the officer's or member's name from the brigade register for the brigade or brigades,
    - (iv) impose conditions on the officer's or member's membership of a rural fire brigade or group of rural fire brigades.



**11 Appeals about disciplinary action—the Act, s 135**

- (1) Before taking disciplinary action under section 10, the appropriate disciplinary authority must—
  - (a) investigate the alleged breach of discipline, and
  - (b) give the officer or member at least 14 days' written notice of the following—
    - (i) the findings of the investigation,
    - (ii) the disciplinary action that the appropriate disciplinary authority proposes to take against the officer or member.
- (2) The officer or member may, within 14 days after receiving the notice, appeal to the responsible authority against—
  - (a) the findings of the appropriate disciplinary authority, or
  - (b) disciplinary action the appropriate disciplinary authority proposes to take.
- (3) On appeal, the responsible authority may—
  - (a) confirm the decision of the appropriate disciplinary authority, or
  - (b) recommend that no action be taken against the officer or member, or
  - (c) recommend that other disciplinary action be taken against the officer or member.

**12 Incident reports—the Act, s 135**

- (1) When a rural fire brigade attends a fire or other incident or emergency, the officer in charge of the brigade must ensure the fire control officer and the Commissioner are provided with a report on the incident.
- (2) The report must—
  - (a) be provided to the fire control officer and the Commissioner within the time required by the Service Standards, and
  - (b) include matters required to be covered in the report by the Service Standards.

**13 Period for compliance with request to form rural fire brigade—the Act, s 15**

For the purposes of the Act, section 15(4), the prescribed period is 3 months after the request to form a rural fire brigade is made.

## Part 3 Bush Fire Management Committees

### 14 Constitution of Bush Fire Management Committees—the Act, s 50(4)

A Bush Fire Management Committee must not—

- (a) be incorporated, or
- (b) be a committee of a council under the *Local Government Act 1993*.

### 15 Membership of Bush Fire Management Committees—the Act, s 50(4)

- (1) A person becomes a member of a Bush Fire Management Committee—
  - (a) by invitation from the Bush Fire Co-ordinating Committee, or
  - (b) by nomination or inclusion under section 19(3).
- (2) Unless the Bush Fire Co-ordinating Committee decides otherwise, the Bush Fire Co-ordinating Committee must invite the following persons to become members of a Bush Fire Management Committee—
  - (a) 2 persons nominated by each local authority whose area comprises land in the Bush Fire Management Committee's area (the *area*), being—
    - (i) 1 senior representative of the local authority, for example, the Mayor or a councillor of a local authority that is a council, and
    - (ii) 1 person with responsibilities for the performance of the local authority's functions in relation to the environment or bush fire management,
  - (b) a person nominated by each of the following organisations and groups as being in charge of the organisation's or group's affairs in the area—
    - (i) the Forestry Corporation of New South Wales,
    - (ii) Fire and Rescue NSW,
    - (iii) the NSW Police Force,
    - (iv) each distribution network service provider listed in the *Electricity Supply Act 1995*, Schedule 3 that has a distribution district comprising land in the area,
    - (v) each local board for a Local Land Services region, within the meaning of the *Local Land Services Act 2013*, comprising land in the Bush Fire Management Committee's area,
    - (vi) persons employed in the Department who are principally involved in the administration of the *National Parks and Wildlife Act 1974*,
    - (vii) persons employed in the Department who are principally involved in the administration of the *Crown Land Management Act 2016*,
  - (c) at least 1 person nominated by Transport for NSW as being in charge or, if more than 1 person is nominated, together jointly in charge of Transport for NSW's affairs in the area,
  - (d) a person nominated by the Nature Conservation Council of New South Wales,
  - (e) not more than 2 persons chosen by rural fire brigades operating in the area,
  - (f) a rural landholder, who holds land in the area, nominated by—
    - (i) the NSW Farmers' Association, or
    - (ii) if the Association does not nominate a rural landholder within a reasonable time as decided by the Bush Fire Co-ordinating Committee—the local authority for the area,
  - (g) a person nominated by each Local Aboriginal Land Council for a Local Aboriginal Land Council area comprising land located in the area,

- (h) any other person or persons approved by the Bush Fire Co-ordinating Committee.

**16 Functions of Bush Fire Management Committees—the Act, s 51(1)**

- (1) A Bush Fire Management Committee must, at the request of the Bush Fire Co-ordinating Committee, assist the Bush Fire Co-ordinating Committee in the performance of the Bush Fire Co-ordinating Committee's functions under the Act, sections 48, 60(2) and 63(4).
- (2) A Bush Fire Management Committee may bring to the attention of any of the following a matter the Bush Fire Management Committee considers relevant to the protection of land, life, property or the environment in that area from the impact of bush fires—
  - (a) the Bush Fire Co-ordinating Committee,
  - (b) the Commissioner,
  - (c) a public authority exercising its functions in the Bush Fire Management Committee's area.
- (3) A Bush Fire Management Committee must not conduct or take part in fire fighting or fire prevention operations authorised by the Act, this Regulation or another law.

**17 Procedure for meetings of Bush Fire Management Committees—the Act, s 135**

- (1) A Bush Fire Management Committee may meet in a way and at times that the Bush Fire Co-ordinating Committee may decide.
- (2) Subject to rules made by the Bush Fire Co-ordinating Committee, a Bush Fire Management Committee may decide the procedure for calling meetings and conducting business of the Bush Fire Management Committee.

**18 Chairperson—the Act, s 50(4)**

- (1) A Bush Fire Management Committee must elect 1 of the eligible members to be Chairperson of the Committee.
- (2) The Chairperson must preside at a meeting of the Bush Fire Management Committee at which the Chairperson is present.
- (3) If the Chairperson is absent from a meeting, a member elected by the members present must preside at a meeting of the Bush Fire Management Committee.
- (4) On the Chairperson leaving office, the Bush Fire Management Committee must elect an eligible member, not including the Executive Officer or a member referred to in section 15(2)(a)(ii), (b) or (c), to be Chairperson.
- (5) For the purposes of subsection (4), a Chairperson leaves office if—
  - (a) the Chairperson's term of office expires, or
  - (b) the Chairperson ceases to be a member of the Bush Fire Management Committee, or
  - (c) the Chairperson resigns office as Chairperson.
- (6) Subject to rules made by the Bush Fire Co-ordinating Committee, the Chairperson—
  - (a) holds office for a period of 12 months, and
  - (b) is eligible for re-election.

**19 Executive Officer—the Act, s 50(4)**

- (1) Each Bush Fire Management Committee must have an Executive Officer.

- (2) The Executive Officer is a member of the Committee.
- (3) The Executive Officer must be—
  - (a) if the Committee is constituted under the Act, section 50(1)—the fire control officer for the area, or
  - (b) if the Committee is constituted under the Act, section 50(1A)—a member of Fire and Rescue NSW nominated by the Commissioner of Fire and Rescue NSW, or
  - (c) if the Committee is constituted under the Act, section 50(2)—a member of the Service nominated by the Commissioner, or
  - (d) if the Committee is constituted under the Act, section 50(3)—
    - (i) for a group of rural fire districts—a fire control officer for the area nominated by the Commissioner, or
    - (ii) for a group of fire districts—a member of Fire and Rescue NSW nominated by the Commissioner of Fire and Rescue NSW.
- (4) The Commissioner and the Commissioner of Fire and Rescue NSW may revoke a nomination made under subsection (3).

## Part 4 Fire prevention—the Act, s 135

### Division 1 General

#### 20 Burning to demolish buildings

- (1) A person must not light a fire on land in connection with—
  - (a) the demolition of a building, or
  - (b) the destruction of old building materials, or
  - (c) a purpose similar to the purposes described in paragraphs (a) and (b).Maximum penalty—20 penalty units.
- (2) Subsection (1) does not apply if the fire is lit in accordance with the conditions set out in a fire permit obtained from the appropriate authority.

#### 21 Burning to destroy sawmill waste material

- (1) A person must not light a fire to destroy sawmill waste material unless the fire is lit—
  - (a) in an incinerator designed to prevent the escape of sparks and burning material, or
  - (b) on ground enclosed by a fence of galvanised iron or other fire resistant material not less than 1.8 metres high so that the top of the waste to be burned is not less than 600 millimetres below the level of the top of the fence, or
  - (c) in a pit dug for the purpose so that the top of the waste to be burned is not less than 600 millimetres below the top of the edge of the pit, or
  - (d) in accordance with the conditions set out in a fire permit issued by the appropriate authority.Maximum penalty—20 penalty units.
- (2) A person who lights a fire in accordance with subsection (1) (b) or (c) must ensure that—
  - (a) the ground within 9 metres of a part of the fence or edge of the pit is cleared of combustible matter, and
  - (b) at least 2 knapsack spray pumps, each of 16 litre minimum capacity, and a supply of not less than 450 litres of water are readily available for use on the fire.Maximum penalty—20 penalty units.

#### 22 Use of steam-powered machines

- (1) A person must not, in connection with a relevant land use, drive or use a steam-powered machine unless—
  - (a) the smoke box is fitted with a spark arrester constructed of a mesh not exceeding 3.2 millimetres, and
  - (b) the fire box is fitted with a tray constructed in a way that prevents the escape of sparks or burning material from the fire box, and
  - (c) the spark arrester and tray are maintained in a good and serviceable condition and comply with AS 1019–2000.Maximum penalty—20 penalty units.
- (2) In this section—

*AS 1019–2000* means the Australian Standard entitled AS 1019–2000, *Internal combustion engines—Spark emission control devices*.

**relevant land use** means the following—

- (a) an agricultural or similar land use,
- (b) a pastoral or similar land use,
- (c) a railway or similar land use.

### 23 Use of motorised machines and implements likely to generate spark

- (1) A person must not, in connection with an agricultural, pastoral or similar land use, drive or use a motorised machine in grass, crop or stubble land unless—
- (a) the machine is constructed so that heated areas will not come into contact with combustible matter, and
  - (b) the machine is maintained in a good and serviceable condition to prevent the outbreak of fire, and
  - (c) the person carries on the machine, or has nearby, prescribed fire safety equipment.

Maximum penalty—20 penalty units.

- (2) A person must not, in connection with an agricultural, pastoral or similar land use, do the following unless the person carries, or has nearby, prescribed fire safety equipment—
- (a) carry out welding operations,
  - (b) use explosives,
  - (c) use an angle grinder,
  - (d) use another implement that is likely to generate spark.

Maximum penalty—20 penalty units.

- (3) In this section—

**motorised machine** includes a vehicle or machine, including a steam-powered machine, that is operated by an internal combustion engine or other fuel burning engine.

**prescribed fire safety equipment** means any of the following maintained in a serviceable condition—

- (a) a knapsack spray pump of 16 litre minimum capacity filled with water,
- (b) a liquid type fire extinguisher of 9 litre minimum capacity,
- (c) a dry powder type extinguisher of 0.9 kilogram minimum capacity.

### 24 Roadside fire protection

- (1) A prescribed authority may, for the purposes of bush fire hazard reduction work—
- (a) light a fire on a road, or on the verge of a road, if to do so is consistent with a bush fire management plan applying to the land, and
  - (b) while the fire is burning, prohibit, direct or regulate the movement of persons, vehicles or animals along a road.

- (2) In this section—

**prescribed authority** means a public authority that has the care, control or management of 1 or more of the following—

- (a) a road,
- (b) roadside vegetation.

## Division 2 Bush fire danger periods

### 25 Application of Division

This Division applies during bush fire danger periods.

### 26 Lighting fires for cooking etc

A person must not light a fire in the open to cook, heat or prepare meals or to boil water or for a similar purpose unless the fire is lit at a site surrounded by ground that is clear of all combustible matter for a distance of at least 2 metres.

Maximum penalty—20 penalty units.

### 27 Burning garbage and refuse

- (1) A person must not light a fire to destroy garbage or refuse at a waste depot unless the fire is lit at a site surrounded by ground that is clear of all combustible matter for a distance of at least 30 metres.

Maximum penalty—20 penalty units.

- (2) A person must not light a fire to destroy household garbage or refuse or to destroy an animal carcass, otherwise than at a waste depot, unless the fire is lit—

- (a) in an incinerator designed to prevent the escape of sparks and burning material, or
- (b) in accordance with the conditions set out in a fire permit issued by the appropriate authority, or
- (c) at a site surrounded by ground that is clear of all combustible matter for a distance of at least 5 metres.

Maximum penalty—20 penalty units.

- (3) This section does not affect the operation of a law that prohibits or regulates the lighting of fires.

### 28 Lighting fires to produce charcoal or distill oils

- (1) A person must not light a fire in connection with—

- (a) charcoal production, or
- (b) the distillation of eucalyptus or other oils.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply if the fire is lit at a site surrounded by ground that is clear of all combustible matter for a distance of at least 30 metres.

- (3) A person must not light a fire to burn waste products resulting from the activities referred to in subsection (1) unless—

- (a) the fire is lit in accordance with the conditions set out in a fire permit issued by the appropriate authority, and
- (b) the fire is lit at least 30 metres from the site of another other fire lit in connection with the distillation of eucalyptus or other oils.

Maximum penalty—20 penalty units.

- (4) In this section—

**combustible matter** does not include a reference to the following—

- (a) timber to be reduced to charcoal,
- (b) charcoal,
- (c) material used for the distillation of eucalyptus or other oils,

- (d) a building or fence.

**29 Offence to light, use or carry tobacco product**

- (1) A person must not do the following within 15 metres of a combustible agricultural product—
  - (a) light a tobacco product,
  - (b) use or carry a lighted tobacco product.Maximum penalty—50 penalty units.

- (2) In this section—

***combustible agricultural product*** includes the following—

  - (a) a stack of grain, hay, corn or straw,
  - (b) a standing crop,
  - (c) an area of dry grass,
  - (d) a stubble field.

***tobacco product*** includes a match or other material commonly used for the purposes of smoking tobacco.



## Part 5 Notices

### 30 Public notice of draft bush fire risk management plans—the Act, s 57

- (1) For the purposes of the Act, section 57(1)(a), the Bush Fire Management Committee or Commissioner must exhibit a draft bush fire risk management plan—
  - (a) together with any other matter the Committee or Commissioner considers appropriate or necessary to better enable the draft plan to be understood, and
  - (b) in accordance with the public notice of the plan.
- (2) The notice must require the draft bush fire risk management plan to be publicly exhibited for at least 42 days.
- (3) A person may, during the public exhibition of the draft plan, make submissions about the draft plan to—
  - (a) for a draft plan prepared by a Bush Fire Management Committee—the Committee, or
  - (b) for a draft plan prepared by the Commissioner—the Commissioner.

### 31 Destruction of notices or signs—the Act, s 135

A person must not, without lawful authority, destroy, deface or remove a notice or sign displayed under—

- (a) the Act, or
- (b) this Regulation, or
- (c) the authority of any of the following in the exercise of a function under the Act—
  - (i) the Minister,
  - (ii) the Commissioner,
  - (iii) the Bush Fire Co-ordinating Committee,
  - (iv) a public authority.

Maximum penalty—5 penalty units.

### 32 Bush fire hazard reduction work required by hazard management officers—the Act, s 69

- (1) For the purposes of the Act, section 69(2), a hazard management officer must send a copy of the bush fire hazard reduction notice to the office of the NSW Rural Fire Service nearest to the land.
- (2) The hazard management officer must send the copy as soon as is reasonably practicable but not later than 72 hours after the notice has been served under the Act, section 66.

### 33 Bush fire hazard reduction work in default of compliance with notice—the Act, s 135

- (1) If the Commissioner intends to enter relevant land under the Act, section 70 and light a fire on the land, the Commissioner must notify an office of the Department or an office of the Forestry Corporation, whichever is nearest to the relevant land.
- (2) The notification must—
  - (a) be written, and
  - (b) state the time at which or the period within which the fire is to be lit, and
  - (c) be sent at least 24 hours before the land is to be entered.

**34 Notice of intention to burn off or burn fire break—the Act, s 86**

- (1) The notice required to be given under the Act, section 86(1) must be given to the following persons—
  - (a) the occupiers of all land contiguous to or separated by a lane, road or waterway, whether fenced or unfenced, from the land on which the fire is to be lit,
  - (b) if there is no occupier for particular land under paragraph (a)—the owner of the land,
  - (c) if the land on which the fire is to be lit is in a rural fire district—the fire control officer for the rural fire district,
  - (d) if the land on which the fire is to be lit is in a fire district—the officer in charge of the fire station that is nearest to the land.
- (2) The notice must be written or given orally.
- (3) The notice must include particulars of—
  - (a) the name of the person proposing to light the fire, and
  - (b) the location, purpose, period and time of the fire proposed to be lit.
- (4) The notice must be given to each of the persons referred to in subsection (1)—
  - (a) within the time period specified in the fire permit, or
  - (b) if no time period is specified—at least 24 hours before the fire is lit.
- (5) The fire control officer for the district is taken to be notified under subsection (1)(c) if notice is given to the fire control centre for that district.

**35 Notice of issue of fire permit—the Act, s 94**

- (1) For the purposes of the Act, section 94(2), an appropriate authority who issues a fire permit to light a fire on relevant land must give notice to the Department or the Forestry Corporation.
- (2) The appropriate authority must give the notice—
  - (a) to an office of the Department or an office of the Forestry Corporation, whichever is nearest to the relevant land, and
  - (b) as soon as is reasonably practicable, but not later than 72 hours after issuing the fire permit.

**36 Notice to public authority not to light fires during a bush fire danger period—the Act, s 135**

- (1) A notification referred to in the Act, section 95(2)(a) must—
  - (a) be written, and
  - (b) contain or have attached to it a copy of the relevant determination, and
  - (c) be given at least 24 hours before the period specified in the notice begins.
- (2) The notice must be given—
  - (a) by giving the notice to an officer or employee of the public authority whom the public authority has notified to the local authority as being authorised to receive the notice, or
  - (b) by sending a copy of the notice to the head office of the public authority by post, email, facsimile transmission or document exchange facility.

**37 Notices of fire prohibition in specified zones—the Act, s 99**

For the purposes of a notification or direction under the Act, section 99(2)—

- (a) each area referred to in Schedule 1, comprising the local government areas listed in relation to each area, is a zone, and  
**Note—** See also the Act, section 99(2) in relation to the identification of the part or parts of the State to which a total fire ban order applies.
- (b) the boundaries of an area are those current when the notification is published or the direction is given.

**38 Persons to whom notice of bush fire hazard reduction work must be given—the Act, s 100F and 100G**

For the purposes of the Act, sections 100F(6)(c) and 100G(1)(c), the officer in charge of the fire station that is nearest to the land on which bush fire hazard reduction work is to be carried out is prescribed as a person to whom notice of bush fire hazard reduction work must be given but only in relation to work carried out on land in a fire district.

**39 Giving of notices—the Act, s 130**

- (1) For the purposes of the Act, section 130, a notice or direction required by or under the Act to be served on a person may be served as follows, unless otherwise provided by the Act or this Regulation—
  - (a) by delivering the notice to the person personally,
  - (b) by delivering the notice at or on the premises at which the person to be served lives or carries on business and leaving the notice with a person apparently over the age of 14 years resident or employed at the premises,
  - (c) by posting the notice by prepaid letter addressed to the last known place of residence or business or post office box of the person to be served,
  - (d) by facsimile transmission to a number specified by the person as a number to which facsimile transmissions to that person may be sent,
  - (e) by email to an email address specified by the person as an address to which emails to that person may be sent,
  - (f) by fixing the notice on a conspicuous part of the land, building or premises owned or occupied by the person,
  - (g) for an offence involving a vehicle—by attaching the notice to the vehicle,
  - (h) if the person to be served maintains a box at a document exchange established in New South Wales—by depositing the notice in the box or leaving the notice at another exchange for transmission to the first mentioned exchange for deposit in the box,
  - (i) where the person to be served is, or after inquiry appears to be, absent from New South Wales—by serving the notice or direction on the agent of the person by the means prescribed by subsection (1)(a), (b), (d) or (e),
  - (j) if the land, building or premises are unoccupied and the owner or the owner's address or place of residence is not known to the person seeking to serve the notice—by publishing the notice in a way, for example, on a publicly accessible website, that is appropriate to cause the notice to come to the attention of persons in the area in which the land, building or premises is located.
- (2) If a notice is served under subsection (1)(h), service of the notice is, unless proven otherwise, taken to be effected 2 days after the day on which the notice is deposited in the box or left at the exchange.

- (3) The notice may be addressed to the “occupier” or “owner” of the land, building or premises to which the notice relates without naming or otherwise identifying the occupier or owner, provided the land, building or premises is sufficiently described or identified.
- (4) If a notice has been served by a means prescribed by this section, all inquiries required under this section are taken to have been made and the service is conclusive evidence of the inquiries having been made.

## Part 6 Miscellaneous

### 40 Bravery and other awards—the Act, s 135

The Commissioner must keep a register of the names of each member of the Service who is given a commendation or award for long service, bravery or other forms of meritorious service, together with details of the commendation or award.

### 41 Voluntary work by rural fire brigades—the Act, s 33

- (1) For the purposes of the Act, Dictionary, definition of *public authority*, paragraph (e), the following are prescribed, but only for the purposes of the Act, section 33—
  - (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.
- (2) For the purposes of the Act, section 33(1), the following functions of a public authority are prescribed—
  - (a) a function of a public authority under the *State Emergency and Rescue Management Act 1989*,
  - (b) a function of a public authority in relation to the prevention and suppression of bush fires and other fires,
  - (c) a 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 an incident or emergency,
  - (d) a function of the Commissioner of the NSW State Emergency Service that relates to assisting members of the NSW Rural Fire Service in dealing with an incident or emergency,
  - (e) a 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 an incident or emergency,
  - (f) a 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) a 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 an incident or emergency involving local land services.
- (3) A fire control officer for a rural fire district must consult with the Commissioner before giving the officer's consent under the Act, section 33(1) to a rural fire brigade voluntarily cooperating with a public authority.

**Note**— The Act, section 33(1) requires the consent of the fire control officer for a rural fire district or the Commissioner before a rural fire brigade may voluntarily cooperate with a public authority in the exercise of the functions of the public authority that are prescribed by the regulations.

### 42 Reduction of fire hazards on managed land—the Act, Dictionary, definition of “managed land”

- (1) The following is prescribed as managed land for the purposes of the Act, Dictionary, definition of *managed land*, paragraph (e) in the application of that definition to the Act, sections 65, 74 and 74C—
  - (a) land dedicated for a public purpose and owned by a local authority or vested in, or under the control of, a local authority as trustee,

- (b) community land under the *Local Government Act 1993*,
- (c) a road vested in a local authority,
- (d) a freeway or motorway,
- (e) land that is under the care, control and management of—
  - (i) the Minister for Agriculture and Western New South Wales, or
  - (ii) the Lands Administration Ministerial Corporation constituted by the *Crown Land Management Act 2016*, or
  - (iii) a person employed in Property NSW who is the administrator of a statutory land manager appointed under the *Crown Land Management Act 2016*, Schedule 5, other than excluded land.

(2) In this section—

***excluded land*** means land subject to a holding or enclosure permit within the meaning of the *Crown Land Management Act 2016*.

#### **43 Conditions of fire permit—the Act, s 92**

For the purposes of the Act, section 92(1)(b), the following conditions are prescribed as conditions of a fire permit—

- (a) unless the fire permit provides otherwise—at least one person must be present at the site of the fire from the time the fire is lit until the time the fire is extinguished,
- (b) a fire may be lit on land only if to do so is consistent with a bush fire risk management plan applying to the land,
- (c) a fire may be lit on land only in accordance with a direction given to the holder of the permit by the appropriate authority.

#### **44 The Act, s 100A, definition of “excluded land”**

The following is prescribed as excluded land for the purposes of the Act, section 100A(1), definition of ***excluded land***, paragraph (b)—

- (a) land that was, immediately before the commencement of the *Biodiversity Conservation Act 2016*, land declared under the *Threatened Species Conservation Act 1995*, section 47 to be the critical habitat of an endangered species, population or ecological community,
- (b) land within Lord Howe Island.

#### **45 Application for bush fire safety authority—the Act, s 100B**

- (1) For the purposes of the Act, section 100B(4), an application for a bush fire safety authority must be made in writing.
- (2) An application for a bush fire safety authority must include the following—
  - (a) a description, including the address, of the property on which the development the subject of the application is proposed to be carried out,
  - (b) a classification of the vegetation on and surrounding the property, out to a distance of 140 metres from the boundaries of the property, in accordance with the system for classification of vegetation contained in *Planning for Bush Fire Protection*,
  - (c) an assessment of the slope of the land on and surrounding the property, out to a distance of 100 metres from the boundaries of the property,
  - (d) identification of significant environmental features on the property,

- (e) the details of a threatened species or threatened ecological community under the *Biodiversity Conservation Act 2016* that the applicant knows to exist on the property,
  - (f) the details and location of an Aboriginal object or place, within the meaning of the *National Parks and Wildlife Act 1974*, that the applicant knows to be situated on the property,
  - (g) a bush fire assessment for the proposed development, including the methodology used in the assessment, that addresses the following matters—
    - (i) the extent to which the development is to provide for setbacks, including asset protection zones,
    - (ii) the siting and adequacy of water supplies for fire fighting,
    - (iii) the capacity of nearby public roads to handle increased volumes of traffic when a bush fire emergency occurs,
    - (iv) whether or not nearby public roads that link with the fire trail network have two-way access,
    - (v) the adequacy of arrangements for access to and egress from the development site for the purposes of an emergency response,
    - (vi) the adequacy of bush fire maintenance plans and fire emergency procedures for the development site,
    - (vii) the construction standards to be used for building elements in the development,
    - (viii) the adequacy of sprinkler systems and other fire protection measures to be incorporated into the development,
    - (ix) registered fire trails on the property,
  - (h) an assessment of the extent to which the proposed development conforms with or deviates from *Planning for Bush Fire Protection*.
- (3) An application for a bush fire safety authority must also be accompanied by the prescribed information if—
- (a) the proposed development is subdivision for the purposes of dwelling houses, dual occupancies or secondary dwellings on property in an urban release area, and
  - (b) the application includes a request by the applicant that the Commissioner, when deciding the application, considers whether it would be appropriate for the erection of the dwelling houses, dual occupancies or secondary dwellings concerned to be excluded from the application of the *Environmental Planning and Assessment Act 1979*, section 4.14.
- (4) In this section—
- prescribed information** means the following—
- (a) a plan of subdivision that shows—
    - (i) the bush fire attack levels that will apply to the property on completion of clearing of vegetation proposed to be carried out as part of subdivision work, within the meaning of the *Environmental Planning and Assessment Act 1979*, and
    - (ii) proposed setbacks of buildings that may in future be erected on the property, including asset protection zones, and
  - (b) other information about the proposed development that the Commissioner may require.

**Note—** More information about bush fire attack levels, including the flame zone, can be found in *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, Table A1.7, published by the NSW Rural Fire Service in November 2019.

*urban release area* has the same meaning as in the *Environmental Planning and Assessment Regulation 2021*, section 270.

*dual occupancy*, *dwelling house* and *secondary dwelling* have the same meanings as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**46 Development excluded from requirements for bush fire safety authority—the Act, s 100B**

- (1) For the purposes of the Act, section 100B(5)(a1), the following development is excluded from the operation of the Act, section 100B—
- (a) development for the purposes of licensed premises that do not provide overnight accommodation, other than for the owner or manager of the premises and the owner's or manager's family,
  - (b) strata subdivision of a building, but only if development consent for the erection of the building was granted in accordance with the *Environmental Planning and Assessment Act 1979*, section 4.14,
  - (c) strata subdivision of a class 2 building erected before 1 August 2002, but only if the building complies with the requirements of Level 1 construction under AS 3959–1999, *Construction of buildings in bushfire-prone areas*,
  - (d) subdivision of land for the purpose of converting an existing dwelling to a dual occupancy, but only if development consent for the dwelling was granted in accordance with the *Environmental Planning and Assessment Act 1979*, section 4.14,
  - (e) subdivision of, or a boundary adjustment in relation to, land that is leased under a Western lands lease, within the meaning of the *Crown Land Management Act 2016*, Schedule 3,
  - (f) subdivision for the purposes of consolidations of lots, or boundary adjustments on land where the number of lots is reduced, but only if an existing dwelling on the land complies with the requirements of *Planning for Bush Fire Protection*,
  - (g) development for the purposes of bed and breakfast accommodation using an existing building, but only if the building is more than 30 metres from land that is not managed land within the meaning of *Planning for Bush Fire Protection*,
  - (h) subdivision of land used or proposed to be used for industrial purposes on which the erection of a dwelling related to the industrial use of the land, for example, a manager's residence, is permitted,
  - (i) subdivision of land for a residential purpose in a Western New South Wales district, but only if—
    - (i) each lot created by the subdivision is greater than 10 hectares, and
    - (ii) the bush fire prone land that is Category 1 or 2 vegetation is less than 10% of the lot, and
    - (iii) each lot has direct access to an existing public road,
  - (j) construction or installation of a flagpole, aerial, antenna or satellite dish,
  - (k) 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 a special fire protection purpose.
- (2) In this section—
  - Building Code of Australia*** has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.
  - class***, in relation to a building, means a building of the specified class under the *Building Code of Australia*.
  - Western New South Wales district*** means any of the following areas as referred to in Schedule 1—
    - (a) Central Ranges,
    - (b) North Western,
    - (c) Upper Central West Plains,
    - (d) Lower Central West Plains,
    - (e) Southern Slopes,
    - (f) Eastern Riverina,
    - (g) Southern Riverina,
    - (h) Northern Riverina,
    - (i) South Western,
    - (j) Far Western.

**47 Additional special fire protection purposes for which bush fire safety authority required—the Act, s 100B, definition of “special fire protection purpose”**

For the purposes of the Act, section 100B(6), definition of ***special fire protection purpose***, paragraph (i), the following purposes are prescribed—

- (a) a manufactured home estate, within the meaning of *State Environmental Planning Policy (Housing) 2021*, Schedule 7, comprising two or more caravans or manufactured homes, used for the purposes of casual or permanent accommodation, but not tourist accommodation,
- (b) a sheltered workshop, or other workplace, established solely for the purpose of employing persons with disabilities,
- (c) a respite care centre, or similar centre, that accommodates persons with a physical or mental disability or provides respite for carers of the persons,
- (d) student or staff accommodation associated with a school, university or other educational establishment,
- (e) a community bush fire refuge approved by the Commissioner.

**48 Application for bush fire hazard reduction certificate—the Act, s 100F**

For the purposes of the Act, section 100F(1), an application for a bush fire hazard reduction certificate must include the following—

- (a) a description, including the address, of the property on which the proposed bush fire hazard reduction work the subject of the application is to be carried out,
- (b) details of the means by which, the time within which and the places where the proposed bush fire hazard reduction work the subject of the application is to be carried out,
- (c) details of a provision of the following that applies to the property and that relates to bush fire hazard reduction work—

- (i) a conservation agreement entered into under the *National Parks and Wildlife Act 1974*, Part 4, Division 12,
  - (ii) a property vegetation plan approved under the *Native Vegetation Act 2003*, Part 4 before the repeal of that Act,
  - (iii) a Trust agreement entered into under the *Nature Conservation Trust Act 2001*, Part 3 before the repeal of that Act,
  - (iv) a property management plan approved by the Director-General of the Department of Premier and Cabinet under the *Threatened Species Conservation Act 1995*, section 113B before the repeal of that Act,
  - (v) a biobanking agreement entered into under the *Threatened Species Conservation Act 1995*, Part 7A before the repeal of that Act,
  - (vi) a biodiversity stewardship agreement, conservation agreement or wildlife refuge agreement entered into under the *Biodiversity Conservation Act 2016*, Part 5,
- (d) details of a threatened species or threatened ecological community under the *Biodiversity Conservation Act 2016* that the applicant knows to exist on the property,
  - (e) details and the location of an Aboriginal object or place, within the meaning of the *National Parks and Wildlife Act 1974*, that the applicant knows to be situated on the property,
  - (f) if the proposed bush fire hazard reduction work is to be carried out by a person other than the owner or occupier of the land concerned—the written consent of that owner or occupier to the proposed work.

#### **49 Repeal and savings**

- (1) The *Rural Fires Regulation 2013* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Rural Fires Regulation 2013*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Fire prohibition zones

section 37

### **Far North Coast**

Local government areas of Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley and Tweed.

### **North Coast**

Local government areas of Bellingen, Coffs Harbour, Kempsey, Mid-Coast, Nambucca and Port Macquarie-Hastings.

### **Greater Hunter**

Local government areas of Cessnock, Dungog, Lake Macquarie, Maitland, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter.

### **Greater Sydney Region**

Local government areas of Bayside, Blacktown, Blue Mountains, Burwood, Camden, Campbelltown, Canterbury-Bankstown, Central Coast, City of Canada Bay, City of Parramatta, City of Ryde, City of Sydney, Cumberland, Fairfield, Georges River, Hawkesbury, Hornsby, Ku-ring-gai, Lane Cove, Liverpool, Mosman, Municipality of Hunter's Hill, North Sydney, Northern Beaches, Randwick, Strathfield, Sutherland, The Hills, Waverley and Willoughby.

### **Illawarra/Shoalhaven**

Local government areas of Municipality of Kiama, Shellharbour, Shoalhaven, Wingecarribee, Wollondilly and Wollongong.

### **Monaro Alpine**

Local government area of Snowy Monaro Regional.

### **Southern Ranges**

Local government areas of Goulburn Mulwaree, Queanbeyan-Palerang Regional, Upper Lachlan and Yass Valley.

### **Central Ranges**

Local government areas of Bathurst Regional, Blayney, Cabonne, City of Lithgow, Cowra, Mid-Western Regional, Oberon and Orange.

### **New England**

Local government areas of Armidale Regional, Glen Innes Severn Shire, Tenterfield, Uralla and Walcha.

### **Northern Slopes**

Local government areas of Gunnedah, Gwydir, Inverell, Liverpool Plains and Tamworth Regional.

### **North Western**

Local government areas of Moree Plains, Narrabri, Walgett and Warrumbungle.

### **Upper Central West Plains**

Local government areas of Bogan, Coonamble, Gilgandra and Warren.

### **Lower Central West Plains**

Local government areas of Local government areas of Bland, Dubbo, Forbes, Lachlan, Narromine, Parkes, Temora and Weddin.

### **Southern Slopes**

Local government areas of Cootamundra-Gundagai Regional, Hilltops and Snowy Valleys.

### **Eastern Riverina**

Local government areas of Albury, Coolamon, Greater Hume, Junee, Lockhart and Wagga Wagga.

### **Southern Riverina**

Local government areas of Berrigan, Edward River, Federation, Murray River and Murrumbidgee.

### **Northern Riverina**

Local government areas of Carrathool, Griffith, Hay, Leeton and Narrandera.

### **South Western**

Local government areas of Balranald and Wentworth.

### **Far Western**

Local government areas of Bourke, Brewarrina, Broken Hill, Central Darling, Cobar and the Unincorporated Area.

## Schedule 2 Penalty notice offences

### 1 Application of Schedule—the Act, s 131

- (1) For the purposes of the Act, section 131—
  - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
  - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision creating the offence is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
  - (a) that limited kind of offence, or
  - (b) an offence committed in the limited circumstances.
- (3) For the purposes of the definition of *authorised officer* in the Act, section 131(6), the following classes of persons are specified in relation to all penalty notice offences—
  - (a) police officers,
  - (b) persons authorised by a local authority for the purposes of this paragraph,
  - (c) persons authorised by the Commissioner for the purposes of this paragraph.

Column 1	Column 2
Provision	Penalty
<b>Offences under the Act</b>	
Section 42	\$550
Section 62G(2)	\$110
Section 64	\$440
Section 66(8)—	
(a) for a corporation or public authority	\$4,400
(b) for an individual	\$2,200
Section 86(1) or (1A)	\$1,100
Section 87(1)	\$1,100
Section 88(1)	\$1,100
Section 92(2)	\$1,100
Section 99(11)	\$2,200
Section 99A(1)—	
(a) for an offence committed during a total fire ban under the Act, Part 4, Division 6 in the part of the State concerned	\$1,320
(b) for another offence	\$660
Section 100(1) or (2)	\$2,200
Section 108(3)	\$550
Section 116(5)	\$220
Section 117C(4)	\$110

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Section 117D(1)	\$220
Section 117E(4)	\$550
Section 132(3)	\$440
<b>Offences under this Regulation</b>	
Section 20	\$660
Section 21(1) or (2)	\$660
Section 22(1)	\$660
Section 23(1) or (2)	\$660
Section 26	\$660
Section 27(1) or (2)	\$660
Section 28(1) or (3)	\$660
Section 29	\$660

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