

Rural Fires Regulation 1997

[1997-467]



New South Wales

Status Information

Currency of version

Repealed version for 1 August 2002 to 31 August 2002 (accessed 29 December 2024 at 16:46)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Regulation was repealed by the [Subordinate Legislation Act 1989 No 146](#), sec 10 (2) with effect from 1.9.2002.

Authorisation

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File last modified 6 September 2002

Rural Fires Regulation 1997



New South Wales

Contents

Part 1 Preliminary	5
1 Name of Regulation	5
2 Commencement	5
3 Definitions	5
4 Notes	6
Part 2 Rural fire brigades and groups of rural fire brigades	6
5 Constitution for rural fire brigade	6
6 Membership of rural fire brigades.....	7
7 Probationary membership	7
8 Removal from membership	7
9 Appeals relating to membership.....	8
10 Disciplinary action	8
11 Appeals concerning disciplinary action.....	9
12 Incident reports	9
13 Period for compliance with notice to form rural fire brigades	10
Part 3 Bush Fire Management Committees	10
14 Constitution of Bush Fire Management Committees.....	10
15 Eligibility for membership of Bush Fire Management Committees	10
16 Functions of Bush Fire Management Committees.....	11
17 Procedure for meetings of Bush Fire Management Committees	12
18 Chairperson	12

Part 4 Fire prevention	12
Division 1 General	12
19 Burning to demolish buildings etc inside rural fire districts	12
20 Burning to destroy sawmill waste material	13
21 Use of spark arresters	13
22 Other safety requirements	14
23 Roadside fire protection	14
Division 2 Bush fire danger periods	15
24 Application of Division	15
25 Lighting fires for cooking etc	15
26 Burning at garbage depots	15
27 Lighting fires to produce charcoal etc	15
28 Offence to light, use or carry tobacco product	16
Part 5 Notices	16
29 Giving of notices	16
30 Notice of intention to burn off or burn firebreak	17
31 Notice to public authority not to light fires during a bush fire danger period	18
32 Notices of fire prohibition in specified zones	18
33 Notice of issue of fire permit	18
34 Public notice of draft bush fire risk management plans	18
35 Destruction of notices	19
36 Bush fire hazard reduction work required by local authorities	19
37 Bush fire hazard reduction work in default of compliance with notice	19
Part 6 Miscellaneous	19
38 Reduction of fire hazards on managed land	19
39 Voluntary work by rural fire brigades	20
39A Application for bush fire safety authority	20
40 Penalty notices	21
41 Short descriptions	22
42 Conditions of fire permit	22
43 Use of apparel, emblems and insignia	22

44 Bravery and other awards	23
45 Repeal	23
46 Savings and transitional provisions	23
Schedule 1 Fire prohibition zones	23
Schedule 2 Penalty notice offences	25

Rural Fires Regulation 1997



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Rural Fires Regulation 1997*.

2 Commencement

This Regulation commences on 1 September 1997.

3 Definitions

In this Regulation:

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.

appropriate disciplinary authority means:

- (a) in the case of a disciplinary action against an officer of a rural fire brigade or group of rural fire brigades for a rural fire district—the fire control officer for the district, or
- (b) in the case of a member (other than an officer) of a rural fire brigade or group of rural fire brigades—the officer in charge of the rural fire brigade or group of rural fire brigades, or
- (c) if the constitution of a rural fire brigade provides for disciplinary action to be taken against an officer or member by a panel of persons constituted in accordance with the constitution—a panel so constituted.

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

combustible matter—see the Dictionary at the end of the Act.

forestry land means land dedicated or reserved, or acquired for the purpose of

dedication or reservation, under the [Forestry Act 1916](#), or in respect of which the Forestry Commission has obtained the benefit of a forestry right as referred to in section 11 (1) (m) (iia) of that Act.

light a fire includes:

- (a) maintain or use a fire, and
- (b) cause a fire to be lit, maintained or used.

motorised machine includes any vehicle or machine (including a steam-powered machine) that is operated by means of an internal combustion engine or other fuel burning engine.

NPWS land means land dedicated or reserved, or acquired for the purpose of dedication or reservation, under the [National Parks and Wildlife Act 1974](#).

responsible authority, in relation to a rural fire brigade for a rural fire district, means:

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

Service Standards—see the Dictionary at the end of the Act.

steam-powered machine means any machine that is operated by means of an engine that burns wood, coal or coke.

the Act means the [Rural Fires Act 1997](#).

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Part 2 Rural fire brigades and groups of rural fire brigades

5 Constitution for rural fire brigade

- (1) The constitution for a rural fire brigade is to be in a form approved by the responsible authority and is to make provision for the following matters:
 - (a) the council or other governing body (however described) of the brigade and its office bearers,

- (b) the name of the brigade,
 - (c) the classification of members of the brigade other than officers,
 - (d) arrangements for meetings of the brigade,
 - (e) the voting rights of members of the brigade,
 - (f) the conduct of fundraising appeals by the brigade and the application of any money or benefit received in the course of such an appeal.
- (2) The members of a rural fire brigade are to review the constitution for the brigade annually to determine whether it should be amended. In determining whether the constitution should be amended, the members are to take into consideration any relevant Service Standards.

6 Membership of rural fire brigades

A person is eligible to be listed on the brigade register if the person:

- (a) complies with the procedures (if any) for attaining membership set out in the constitution for the rural fire brigade, and
- (b) satisfies the requirements (if any) for attaining membership of a rural fire brigade determined by the responsible authority.

Note—

Under section 20 of the Act, the persons listed on the register for a rural fire brigade required to be kept under that section are the members of the brigade.

7 Probationary membership

- (1) Unless the responsible authority otherwise determines, membership of a rural fire brigade is initially to be for a probationary period of 6 months.
- (2) The responsible authority may remove a person's name from the brigade register if, at the end of the period the person:
 - (a) has not achieved a satisfactory level of competency set out in the Service Standards, or
 - (b) does not satisfy any requirements for the confirmation of membership set out in the constitution of the brigade.

8 Removal from membership

- (1) The responsible authority must remove the name of a person from the brigade register if the person:
 - (a) has died, or

- (b) applies in writing to have his or her name removed from the brigade register.
- (2) The responsible authority may remove the name of a person from the brigade register if the person:
 - (a) is found guilty of a breach of discipline under clause 10, or
 - (b) becomes a mentally incapacitated person, or
 - (c) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (d) in the opinion of the responsible authority, is no longer a fit and proper person to be a member of the rural fire brigade.
- (3) The responsible authority is to give notice to a person before removing the person's name from the brigade register under subclause (2) (b)-(d).
- (4) The removal takes effect 21 days after the notice is given.

9 Appeals relating to membership

- (1) If the responsible authority refuses to list a person's name on the brigade register or removes the person's name from the register under clause 8 (2) (b)-(d) the person may, within 21 days of being notified of the decision, appeal in writing to the appropriate appeal authority.
- (2) After hearing the appeal, the appropriate appeal authority may:
 - (a) confirm the decision to refuse to list the person's name on the brigade register or remove it from the register, or
 - (b) order the responsible authority to list the person's name on the brigade register.
- (3) The removal of a person's name that is the subject of an appeal does not take effect until the appeal is either withdrawn or finally determined by the appropriate appeal authority.

10 Disciplinary action

- (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 his or her duties.

- (2) An 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 notice has been given in accordance with clause 11 (1), and
 - (b) the officer or member concerned 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:
 - (i) demote the officer or member, or
 - (ii) disqualify the officer or member from holding rank in the brigade or group, or
 - (iii) remove the officer's or member's name from the brigade register.

11 Appeals concerning disciplinary action

- (1) Before taking or recommending disciplinary action under clause 10, the appropriate disciplinary authority must investigate the alleged breach of discipline and give the officer or member at least 14 days notice in writing of the findings of the investigation and of the disciplinary action that the appropriate disciplinary authority proposes to take or recommends the responsible authority to take in respect of the officer or member.
- (2) The officer or member may, within 14 days of receiving the notice, appeal to the responsible authority against the findings of the appropriate disciplinary authority, or against any disciplinary action that the appropriate disciplinary authority proposes to take or recommends the responsible authority to take.
- (3) On an appeal, the responsible authority may confirm the decision of the appropriate disciplinary authority or may recommend that no action, or that other disciplinary action, be taken against the officer or member.

12 Incident reports

- (1) When a rural fire brigade attends a fire or other incident or emergency, the officer in charge of that brigade must ensure that the fire control officer is furnished with a report given on the incident.
- (2) A report must:

- (a) be furnished to the fire control officer as soon as practicable, but no later than 14 days, after the fire or other incident or emergency, and
- (b) include any matters required to be covered in such a report by the Service Standards.

13 Period for compliance with notice to form rural fire brigades

For the purposes of section 15 (4) of the Act, 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

A Bush Fire Management Committee is not to be incorporated and is not to become a committee of a council under the [Local Government Act 1993](#).

15 Eligibility for membership of Bush Fire Management Committees

- (1) Unless the Bush Fire Co-ordinating Committee determines otherwise, the following persons are to be invited to become members of a Bush Fire Management Committee:
 - (a) in the case of a local authority that is a council—the Mayor, or a councillor, of the council (or of each of the councils) for the Bush Fire Management Committee’s area, being a person or persons nominated by the council or councils concerned,
 - (b) in the case of a local authority other than a council—a person nominated by the local authority,
 - (c) a person specified by each of the following organisations as being in charge of its affairs in the Bush Fire Management Committee’s area:
 - the Roads and Traffic Authority
 - the Department of Land and Water Conservation
 - the New South Wales Fire Brigades
 - the Police Service
 - an electricity distributor listed in Schedule 3 to the [Electricity Supply Act 1995](#) having a distribution district comprising land in the Bush Fire Management Committee’s area
 - TransGrid
 - the rural lands protection board established for any rural lands protection district comprising land within the area

- the State Rail Authority
 - Rail Access Corporation,
- (d) a person or persons specified by the National Parks and Wildlife Service as being in charge of its affairs in the Bush Fire Management Committee's area,
- (e) a person or persons nominated by the Forestry Commission of New South Wales as being in charge of its affairs in the Bush Fire Management Committee's area,
- (f) the fire control officer or officers for the area,
- (g) a person specified by the local authority (or by each of the local authorities) for the area as having responsibilities for the performance of the local authority's functions respecting the environment,
- (h) a person nominated by the Nature Conservation Council of New South Wales,
- (i) not more than 2 persons chosen by rural fire brigades operating in the area,
- (j) a rural land holder nominated by the NSW Farmers Association or, if the Association does not nominate a rural land holder, by the local authority for the area,
- (k) a person nominated by the Local Aboriginal Land Council for any Local Aboriginal Land Council area comprising land located in the Bush Fire Management Committee's area,
- (l) any other person or persons approved by the Bush Fire Co-ordinating Committee.

(2) (Repealed)

16 Functions of Bush Fire Management Committees

- (1) A Bush Fire Management Committee must, at the request of the Bush Fire Co-ordinating Committee:
- (a) assist the Bush Fire Co-ordinating Committee in the performance of its functions under section 60 of the Act, and
 - (b) assist the Bush Fire Co-ordinating Committee in the performance of its functions under sections 48 and 63 of the Act.
- (2) A Bush Fire Management Committee may draw to the attention of:
- (a) the Bush Fire Co-ordinating Committee, or
 - (b) a public authority exercising its functions in the Bush Fire Management Committee's area,

any matter it considers relevant to the protection of land, life, property or the environment in that area from the impact of bush fires.

- (3) A Bush Fire Management Committee has no power to conduct or take part in fire fighting or fire prevention operations authorised by the Act, this Regulation or any other Act or statutory instrument.

17 Procedure for meetings of Bush Fire Management Committees

- (1) A Bush Fire Management Committee is to meet in such manner and at such times as the Bush Fire Co-ordinating Committee may determine.
- (2) The procedure for calling meetings and conduct of business of a Bush Fire Management Committee is, subject to any rules made by the Bush Fire Co-ordinating Committee, to be as determined by the Bush Fire Management Committee.

18 Chairperson

- (1) At its first meeting, a Bush Fire Management Committee is to elect one of its members (not being a member referred to in clause 15 (1) (c), (d), (e) or (f)) to be Chairperson of the Committee.
- (2) The Chairperson (or in the absence of the Chairperson, another member elected to chair the meeting by the members present) is to preside at a meeting of the Bush Fire Management Committee.
- (3) On the expiration of the term of office of the Chairperson or if the Chairperson ceases to be a member of the Bush Fire Management Committee or resigns office as Chairperson, the Bush Fire Management Committee is to elect one of its other members (not being a member referred to in clause 15 (1) (c), (d), (e) or (f)) to be Chairperson of the Committee.
- (4) A Chairperson elected under this clause holds office as Chairperson, subject to any rules made by the Bush Fire Co-ordinating Committee, for a period of 12 months but is eligible (if otherwise qualified) for re-election.

Part 4 Fire prevention

Division 1 General

19 Burning to demolish buildings etc inside rural fire districts

A person must not light a fire on land inside a rural fire district for or in connection with:

- (a) the demolition of a building, or
- (b) the destruction of old building materials, or
- (c) any like purpose,

except in accordance with the conditions set out in a permit obtained from the local authority for the area.

Maximum penalty: 20 penalty units.

20 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 resisting 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) if the local authority for the area is of the opinion that it is impracticable for the sawmill waste material to be so destroyed, in accordance with the conditions set out in a permit issued by the local authority.
- (2) A person who lights a fire in accordance with the conditions set out in subclause (1) (b) or (c) must ensure that the ground within 9 metres of any part of the fence or edge of the pit is cleared of combustible matter and that at least 2 knapsack spray pumps each of 16 litre minimum capacity and a supply of not less than 450 litres of water is readily available for use on the fire.

Maximum penalty (subclauses (1) and (2)): 20 penalty units.

21 Use of spark arresters

- (1) A person must not (in connection with any agricultural, pastoral, railway or other land use) drive or use any 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 such a manner as to prevent the escape from the fire box of any sparks or burning material, and
 - (c) the spark arrester and tray are maintained in a good and serviceable condition and comply with AS 1019-1985.

Maximum penalty: 20 penalty units.

- (2) In this clause:

AS 1019-1985 means the Australian Standard entitled "AS 1019-1985Internal

Combustion Engines—spark emission control devices” published by Standards Australia on 10 May 1985.

22 Other safety requirements

- (1) A person must not (in connection with any agricultural, pastoral or other land use) drive or use in any grass, crop or stubble land any motorised machine unless:
 - (a) the machine is constructed so that any heated areas will not come into contact with combustible matter, and
 - (b) the machine is maintained in a good and serviceable condition so as to prevent the outbreak of fire.
- (2) A person must not (in connection with any agricultural, pastoral or other land use):
 - (a) drive or use in any grass, crop or stubble land a motorised machine on which it is practicable to carry prescribed fire safety equipment, or
 - (b) carry out welding operations or use explosives or an angle grinder or any other implement that is likely to generate sparks,

unless the person carries on the machine, or has in the vicinity, prescribed fire safety equipment and that equipment is maintained in a serviceable condition.

Maximum penalty (subclauses (1) and (2)): 20 penalty units.

- (3) In this clause:

prescribed fire safety equipment means:

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

23 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, and
 - (b) while the fire is burning, prohibit, direct or regulate the movement of persons, vehicles or animals along a road.
- (2) Subclause (1) authorises a prescribed authority to light a fire on land comprising a road or the verge of a road only if to do so is consistent with any bush fire management plan applying to the land.
- (3) In this clause:

prescribed authority means a public authority that has the care, control or management of a road, or roadside vegetation.

Division 2 Bush fire danger periods

24 Application of Division

This Division applies during bush fire danger periods.

25 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 any like purpose unless the fire is lit:

- (a) in a permanently constructed fireplace surrounded by ground that is clear of all combustible matter for a distance of at least 2 metres, or
- (b) 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.

26 Burning at garbage depots

A person must not light a fire to destroy garbage or refuse at a garbage depot except at a site that is surrounded by ground that is clear of all combustible matter for a distance of at least 30 metres.

Maximum penalty: 20 penalty units.

27 Lighting fires to produce charcoal etc

(1) A person must not light a fire for or in connection with:

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

except at a site that is surrounded by ground that is clear of all combustible matter for a distance of at least 30 metres.

(2) A person must not light a fire to burn waste products resulting from the activities referred to in subclause (1) unless:

- (a) all conditions set out in a permit obtained from the local authority for the area are complied with, and
- (b) the fire is lit at least 30 metres from the site of any other fire lit in connection with the distillation of eucalyptus or other oils.

Maximum penalty (subclauses (1) and (2)): 20 penalty units.

- (3) In this clause, a reference to **combustible matter** does not include a reference to any timber to be reduced to charcoal, any charcoal so produced, any material used for the distillation of eucalyptus or other oils or any building or fence.

28 Offence to light, use or carry tobacco product

- (1) A person must not, without lawful authority:

- (a) light any tobacco product, match or other material, or
- (b) use or carry any lighted tobacco product, match or other material,

within 15 metres of any stacks of grain, hay, corn or straw or any standing crops, dry grass or stubble field.

- (2) A person must not, without lawful authority, leave or deposit a lighted tobacco product, match or any incandescent material on any land, or on any bridge, wharf, pontoon or similar structure.

Maximum penalty (subclauses (1) and (2)): 50 penalty units.

Part 5 Notices

29 Giving of notices

- (1) For the purposes of section 130 of the Act, service of a notice or direction required by or under the Act to be served on a person may be as follows:

- (a) personal,
- (b) by delivering the notice at or on the premises at which the person to be served lives or carries on business, and leaving it with any person apparently above 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 (on correspondence or otherwise) as a number to which facsimile transmissions to that person may be sent,
- (e) by fixing the notice on any conspicuous part of the land, building or premises owned or occupied by the person,
- (f) in the case of an offence involving a vehicle, by attaching the notice to the vehicle,
- (g) if the person to be served maintains a box at a document exchange established in New South Wales, by depositing the notice in that box or leaving it at another such exchange for transmission to the firstmentioned exchange for deposit in that box.

- (2) If a notice is deposited in a box, or left at a document exchange, service of the notice is, until the contrary is proved, taken to be effected 2 days after the day on which the notice is so deposited or left.
- (3) In addition to the means of service prescribed by subclause (1):
 - (a) in any case where the person to be served is, or after inquiry appears to be, absent from New South Wales, the service may be on the agent of the person by any of the means prescribed by subclause (1) (a), (b), (d) or (e), and
 - (b) in any case where 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 it, the service may be by advertisement in the approved form published in a newspaper circulating in the district in which the land, building or premises are situated.
- (4) The notice may be addressed by the description of **occupier** or **owner** of the land, building or premises (naming or otherwise sufficiently indicating the same) in respect of which the notice is served, and without further name or description.
- (5) The notice may be wholly printed, wholly written or partly printed and partly written.
- (6) If a notice has been served by any of the means prescribed by this clause, all inquiries required under this clause are taken to have been made, and the service is conclusive evidence of them.
- (7) Proof by affidavit or orally that a notice has been posted in accordance with this clause is conclusive evidence of service.
- (8) For the purposes of this clause, a justice of the peace is authorised to take and receive an affidavit, whether any matter to which the affidavit relates is or is not pending in any court.

30 Notice of intention to burn off or burn firebreak

- (1) For the purposes of section 86 of the Act, the prescribed notice is a written or oral notice that includes particulars of the location, purpose, period and time of the fire proposed to be lit.
- (2) The notice must be given to each of the persons referred to in subclause (3) at least 24 hours before the fire is lit.
- (3) For the purposes of section 86 of the Act, the prescribed persons are:
 - (a) the occupiers (or, if there are no occupiers, the owners) of all land contiguous to, or that is separated merely by a lane, road or waterway (whether fenced or unfenced) from, the land on which the fire is to be lit, and

(b) the relevant local authority.

31 Notice to public authority not to light fires during a bush fire danger period

- (1) For the purposes of section 95 (2) of the Act, a notice in writing to a public authority that contains or has attached to it a copy of the relevant determination must be given at least 24 hours before the period specified in the notice begins.
- (2) The notice is to be given:
 - (a) by serving a copy of the notice on 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, lettergram, telex, facsimile transmission or document exchange facility.

32 Notices of fire prohibition in specified zones

- (1) Each weather forecast district referred to in Schedule 1 (comprising the administrative areas and divisions listed in relation to each such district) is a zone for the purposes of any notification or direction under section 99 of the Act.
- (2) For the purposes of any such notification or direction, the boundaries of any such area or division are those current when the notification is published or the direction is given.

33 Notice of issue of fire permit

For the purposes of section 94 of the Act, an appropriate authority who issues a fire permit to light a fire on land within 8 kilometres (or such other distance as may be specified in a bush fire management plan applying to the land) of NPWS land or forestry land must, within 24 hours of issuing the fire permit, give notice to an officer of the National Parks and Wildlife Service or Forestry Commission responsible for the NPWS land or forestry land.

34 Public notice of draft bush fire risk management plans

- (1) The period of public exhibition of a draft bush fire risk management plan must not be less than 42 days, during which submissions may be made to the Bush Fire Management Committee or Commissioner, as the case requires.
- (2) The Bush Fire Management Committee or Commissioner must in accordance with the public notice of a draft bush fire risk management plan, exhibit that draft plan together with any other matter that the Committee or Commissioner considers appropriate or necessary to better enable the draft plan and its implications to be understood.

35 Destruction of notices

A person who, without lawful authority, destroys, defaces or removes any notice displayed under the Act or this Regulation or under the authority of the Minister, the Commissioner, the Bush Fire Co-ordinating Committee or any public authority in pursuance of the Act is guilty of an offence.

Maximum penalty: 5 penalty units.

36 Bush fire hazard reduction work required by local authorities

For the purposes of section 69 (2) of the Act, a local authority that by a bush fire hazard reduction notice requires the occupier or owner of any land to burn fire breaks or combustible matter or other material on land that is within 8 kilometres (or such other distance as may be specified in a bush fire management plan applying to the land) of NPWS land or forestry land, must, within 24 hours after the notice has been given, send a copy of the bush fire hazard reduction notice to an officer of the National Parks and Wildlife Service or Forestry Commission responsible for the NPWS land or forestry land.

37 Bush fire hazard reduction work in default of compliance with notice

If any employees or agents of a local authority or any officers or members of a fire brigade or rural fire brigade are authorised under section 70 of the Act to enter any land and light any fire on land that is within 8 kilometres (or such other distance as may be specified in a bush fire management plan applying to the land) of NPWS land or forestry land, a notification in writing stating the time at which or the period within which such fire is to be lit must, at least 24 hours before the land is to be entered, be sent by the local authority, officer or member to an officer of the National Parks and Wildlife Service or Forestry Commission responsible for the NPWS land or forestry land.

Part 6 Miscellaneous

38 Reduction of fire hazards on managed land

The following is prescribed as managed land for the purposes of paragraph (e) of the definition of **managed land** in the Dictionary at the end of the Act in the application of the definition to section 65 of the Act:

- (a) land dedicated for a public purpose and vested in trustees,
- (b) a road vested in a local authority,
- (c) Crown land vested in, or under the control of, trustees,
- (d) a freeway.
- (e) (Repealed)

39 Voluntary work by rural fire brigades

- (1) For the purposes of section 33 of the Act, a function of a public authority is a prescribed function if:
 - (a) it is a function described in subclause (2), and
 - (b) in the case of a function described in subclause (2) (c)—it is exercised in accordance with an agreement between the fire control officer for the rural fire district in which the rural fire brigade concerned operates and the Commissioner of NSW Fire Brigades or between the Commissioner of the NSW Rural Fire Service and the Commissioner of NSW Fire Brigades.
- (2) The functions referred to in subclause (1) (a) are:
 - (a) in the case of any public authority—a function that may be exercised by the public authority under the *State Emergency and Rescue Management Act 1989*,
 - (b) in the case of a public authority—a function that may be exercised by the public authority in relation to the prevention and suppression of bush fires and other fires,
 - (c) in the case of the Commissioner of NSW Fire Brigades—a function of the Commissioner in relation to hazardous materials and like matters,
 - (d) in the case of the Police Service—traffic control by a police officer.

39A Application for bush fire safety authority

- (1) For the purposes of section 100B (4) of the Act, an application for a bush fire safety authority must be in writing and include the following:
 - (a) a description (including the address) of the property on which the development the subject of the application is 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 Bushfire Protection*,
 - (c) an assessment of the slope of the land on and surrounding the property (out to a distance of 140 metres from the boundaries of the property),
 - (d) identification of any significant environmental features on the property,
 - (e) the details of any threatened species, population or ecological community identified under the *Threatened Species Conservation Act 1995* that is known to the applicant to exist on the property,

- (f) the details and location of any Aboriginal relic (being a relic within the meaning of the *National Parks and Wildlife Act 1974*) or Aboriginal place (within the meaning of that Act) that is known to the applicant to be 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 public roads in the vicinity to handle increased volumes of traffic in the event of a bush fire emergency,
 - (iv) whether or not public roads in the vicinity 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,
 - (h) an assessment of the extent to which the proposed development conforms with or deviates from the specifications set out in Chapter 4 (Bushfire provisions-development stage) of *Planning for Bushfire Protection*.
- (2) In this clause, a reference to *Planning for Bushfire Protection* is a reference to the document so entitled, ISBN 0 9585987 89, prepared by Planning & Environment Services, NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2001.

40 Penalty notices

- (1) For the purposes of section 131 of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 2 is declared to be a penalty notice offence, and
 - (b) the prescribed penalty for such an offence is the amount specified in Column 3 of Schedule 2.

- (2) For the purposes of section 131 of the Act the following are authorised officers:
- (a) a police officer,
 - (b) a person authorised by a local authority for the purposes of this paragraph.

41 Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 is:
- (a) the expression specified in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

42 Conditions of fire permit

For the purposes of section 92 of the Act, the following conditions are prescribed as conditions of a fire permit:

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

43 Use of apparel, emblems and insignia

- (1) A person who is not a member of the Service must not, without the approval of the Commissioner (which approval may be given unconditionally or subject to conditions determined by the Commissioner), wear a uniform or other apparel in circumstances

where to do so could lead to reasonable belief that he or she is a member of the Service.

- (2) A person must not, without the approval of the Commissioner (which approval may be given unconditionally or subject to conditions determined by the Commissioner):
- (a) use or display an official emblem of the Service, or
 - (b) sell, hire, lend or otherwise surrender possession of an insignia of the Service to a person who is not a member of the Service.

Maximum penalty (subclauses (1) and (2)): 20 penalty units.

44 Bravery and other awards

The Commissioner is to 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 and details of the commendation or award.

45 Repeal

The *Bush Fires Regulation 1992* is repealed.

46 Savings and transitional provisions

- (1) In this clause:

repealed Regulation means the *Bush Fires Regulation 1992*.

- (2) Any act, matter or thing that, immediately before the repeal of the repealed Regulation had effect under that Regulation, is taken to have effect under this Regulation.
- (3) Without limiting the generality of subclause (2), any notice duly given under the repealed Regulation is taken to be a corresponding notice given under Part 5.

Schedule 1 Fire prohibition zones

(Clause 32)

Upper Western Weather Forecast District

City of Broken Hill,
Local government areas of Bourke, Brewarrina, Central Darling, Cobar, Walgett,
That part of the Western Division north of the Barrier Highway.

Lower Western Weather Forecast District

City of Broken Hill,
Local government areas of Balranald, Carrathool, Central Darling, Cobar, Wentworth,
That part of the Western Division south of the Barrier Highway.

Riverina Weather Forecast District

Cities of Albury, Wagga Wagga,
Local government areas of Berrigan, Bland, Carrathool, Conargo, Coolamon, Corowa, Culcairn, Deniliquin, Griffith, Hay, Hume, Jerilderie, Lachlan, Leeton, Lockhart, Murray, Murrumbidgee, Narrandera, Temora, Urana, Wakool, Windouran.

South West Slopes Weather Forecast District

Cities of Albury, Wagga Wagga,
Local government areas of Bland, Boorowa, Cootamundra, Gundagai, Harden, Holbrook, Hume, Junee, Temora, Tumbarumba, Tumut, Weddin, Yass, Young.

Southern Tablelands Weather Forecast District

Cities of Goulburn, Queanbeyan,
Local government areas of Bombala, Boorowa, Cooma-Monaro, Crookwell, Gunning, Mulwaree, Snowy River, Tallaganda, Yarrowlumla, Yass.

South Coast Weather Forecast District

City of Shoalhaven,
Local government areas of Bega Valley, Eurobodalla, Tallaganda.

Illawarra Weather Forecast District

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

Central West Plains Weather Forecast District

Local government areas of Bland, Bogan, Coonamble, Forbes, Gilgandra, Lachlan, Narromine, Parkes, Walgett, Warren, Weddin.

Central West Slopes Weather Forecast District

City of Dubbo,
Local government areas of Cabonne, Coolah, Coonabarabran, Cowra, Forbes, Gilgandra, Parkes, Weddin, Wellington.

Central Tablelands Weather Forecast District

Cities of Bathurst, Blue Mountains, Goulburn, Greater Lithgow, Hawkesbury, Orange,
Local government areas of Blayney, Cowra, Crookwell, Evans, Merriwa, Mudgee, Mulwaree, Oberon, Rylstone, Wellington, Wollondilly.

North West Plains Weather Forecast District

Local government areas of Coonabarabran, Moree Plains, Narrabri, Walgett, Yallaroi.

North West Slopes Weather Forecast District

City of Tamworth,
Local government areas of Barraba, Bingara, Coonabarabran, Gunnedah, Inverell, Manilla, Murrurundi,

Narrabri, Nundle, Parry, Quirindi, Yallaroi.

Northern Tablelands Weather Forecast District

City of Armidale,

Local government areas of Copmanhurst, Dumaresq, Glen Innes, Guyra, Inverell, Kyogle, Nymboida, Severn, Tenterfield, Uralla, Walcha.

Northern Rivers Weather Forecast District

Cities of Grafton, Lismore,

Local government areas of Ballina, Byron, Casino, Copmanhurst, Kyogle, Maclean, Nymboida, Richmond River, Tweed, Ulmarra.

Mid North Coast Weather Forecast District

City of Greater Taree,

Local government areas of Bellingen, Coffs Harbour, Gloucester, Great Lakes, Hastings, Kempsey, Nambucca, Nymboida, Ulmarra.

Hunter Weather Forecast District

Cities of Gosford, Cessnock, Hawkesbury, Lake Macquarie, Maitland, Newcastle,

Local government areas of Dungog, Great Lakes, Merriwa, Murrurundi, Muswellbrook, Port Stephens, Scone, Singleton, Wyong.

Metropolitan Weather Forecast District

Cities of Bankstown, Blacktown, Botany Bay, Campbelltown, Canterbury, Fairfield, Hawkesbury, Holroyd, Hurstville, Liverpool, Parramatta, Penrith, Randwick, Rockdale, Ryde, South Sydney, Sydney, Willoughby,

Local government areas of Ashfield, Auburn, Baulkham Hills, Burwood, Camden, Concord, Drummoyne, Hornsby, Hunters Hill, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Pittwater, Strathfield, Sutherland, Warringah, Waverley, Woollahra.

Schedule 2 Penalty notice offences

(Clauses 40 and 41)

Part 1 Offences under the Rural Fires Act 1997

Column 1	Column 2	Column 3
Provision	Short description	Penalty
Section 64	Occupier of land fail to take steps to extinguish fire/notify fire	2 penalty units
Section 66 (7)	Occupier/owner fail to comply with bush fire hazard reduction notice	2 penalty units
Section 86 (a)	Light fire for clearance/fire break without giving required notice	5 penalty units

Section 86 (b)	Light fire in dangerous circumstances without giving required notice	5 penalty units
Section 87	Light fire for land clearance/fire break in bush fire danger period without/contrary to permit/without giving required notice	5 penalty units
Section 88	Light fire dangerous to building in fire district without/contrary to permit/without giving notice	5 penalty units
Section 92 (2)	Holder of fire permit contravene permit condition	5 penalty units
Section 99 (6)	Fail comply with Minister's total fire ban period direction	5 penalty units
Section 100 (2)	Leave fire lit/used without extinguishing	5 penalty units
Section 132	Fail comply police direction to state name and address/ produce document authorising fire/extinguish fire/extinguish fire before leaving	2 penalty units

Part 2 Offences under the Rural Fires Regulation 1997

Column 1	Column 2	Column 3
Provision	Short description	Penalty
Clause 19	Light fire to demolish building/destroy materials	3 penalty units
Clause 20 (1)	Light fire to destroy sawmill waste	3 penalty units
Clause 20 (2)	Light fire destroy sawmill waste on unclear ground insufficient pumps/water	3 penalty units
Clause 21	Drive/use steam-powered machine for land use contrary to safety requirements	3 penalty units
Clause 22 (1)	Drive/use in grass/crop/stubble improperly constructed/maintained motorised machine	3 penalty units
Clause 22 (2) (a)	Drive/use in grass/crop/stubble motorised machine contrary to safety requirements	3 penalty units
Clause 22 (2) (b)	Weld/use explosives/angle grinder/implement contrary to safety requirements	3 penalty units
Clause 25 (a)	Light fire in open to cook/heat/prepare meals/boil water/outside fireplace	3 penalty units
Clause 25 (b)	Light fire at site where ground not clear of combustible matter	3 penalty units
Clause 26	Light garbage/refuse fire at garbage depot when combustible matter on ground	3 penalty units
Clause 27 (1) (a)	Light fire for charcoal production when combustible matter on ground	3 penalty units

Clause 27 (1) (b)	Light fire for eucalyptus/oils distillation when combustible matter on ground	3 penalty units
Clause 27 (2)	Light fire for waste of charcoal production/distillation eucalyptus/oil contrary requirements	3 penalty units
Clause 28 (1) (a)	Light tobacco product/match/material within 15 metre stacks grain/hay/corn/straw/standing crop/dry grass/stubble field	3 penalty units
Clause 28 (1) (b)	Use/carry lighted tobacco product/match/material within 15 metre stacks grain/hay/corn/straw/standing crop/dry grass/stubble field	3 penalty units
Clause 28 (2)	Leave/deposit lighted tobacco product/match/incandescent material on land/bridge/wharf/pontoon/ structure	3 penalty units