



Western Australia

Bush Fires Act 1954

## **Bush Fires Regulations 1954**



## **Bush Fires Regulations 1954**

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**Defined terms**





## Bush Fires Regulations 1954

### Part I — Preliminary

#### 1. Citation

These regulations may be cited as the *Bush Fires Regulations 1954*.

*[Regulation 1 amended: Gazette 12 Nov 1982 p. 4463.]*

*[2. Omitted under the Reprints Act 1984 s. 7(4)(f).]*

#### 3. Terms used

In these regulations, unless the context requires otherwise —

***fire extinguisher*** means a device which comprises —

- (a) a container filled with at least 7.5 L of water; and
- (b) a pump capable of discharging that water, and which is in a sound and efficient condition;

***notifiable authority*** in relation to land upon which, or upon a part of which, burning is intended to be carried out (in this interpretation called the ***subject land***) means any government department or instrumentality which has land under its care, control and management adjoining the subject land and which has requested the local government in whose district the subject land is situated to notify it of all variations made by the local government from time to time under section 17 or 18 of the Act.

*[Regulation 3 amended: Gazette 16 Oct 1963 p. 3075; 10 Mar 1978 p. 705; 22 Dec 1998 p. 6854, 6856, 6858.]*

*[Part II deleted: Gazette 22 Dec 1998 p. 6854.]*

**r. 3**

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*[Part III deleted: Gazette 10 Mar 1978 p. 705.]*

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## Part IV — Burning during restricted times and prohibited times

### 15. Permit to burn (Act s. 18), form of and applying for after refusal etc.

- (1) A local government or a bush fire control officer issuing a permit to burn under the provisions of section 18 of the Act shall do so in the Form 3 in the Appendix.
- (2) Where a person has applied to a bush fire control officer for a permit to burn and that officer has refused a permit or granted a permit which is subject to special conditions, the person shall not apply to another bush fire control officer for a permit to burn in relation to the same bush but he may apply to the local government or chief bush fire control officer in the district and the local government or chief bush fire control officer may grant a permit to burn or vary the special conditions of the permit.

*[Regulation 15 amended: Gazette 24 Nov 1958 p. 3101; 22 Dec 1998 p. 6855, 6858.]*

### 15A. Bush fire control officer issuing permits to burn to comply with directions of local government

Where a local government issues directions to a bush fire control officer as to the manner in which or the conditions under which permits to burn shall be issued by that officer, he shall comply with those directions.

*[Regulation 15A inserted: Gazette 21 Jan 1957 p. 88; amended: Gazette 22 Dec 1998 p. 6858.]*

### 15B. Permit to burn holder, duties of

- (1) Subject to the Act a person who has obtained a permit to burn the bush under section 18 of the Act (in this regulation called the *permit holder*) shall comply with the conditions set out in this regulation in relation to the burning of the bush.

**r. 15B**

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- (2) The permit holder shall give notice of his intention to burn the bush upon land, or upon a part of land, to —
  - (a) the chief executive officer or a bush fire control officer of the local government in whose district that land is situated; and
  - (b) the owner or occupier of all land adjoining that land; and
  - (c) a forest officer if the bush is situated within 3 km of forest land; and
  - (d) an officer or employee of each notifiable authority (if any), being an officer or employee who is apparently authorised to accept that notice.
- (3) The period of notice required under subregulation (2) shall not be —
  - (a) more than 28 days; or
  - (b) less than 4 days unless the notice is given verbally in which case the minimum period of notice may be determined by mutual agreement.
- (4) Notice required to be given to an owner, occupier or other person under subregulation (2) may be given by any of the following methods —
  - (a) by verbal communication or in writing as will ensure (except in the case mentioned in paragraph (c)) that every owner, occupier or other person is made aware of the intention to burn and the date and time thereof; or
  - (b) by delivering it at the premises on which the person to whom notice is to be given lives or carries on business or by leaving it with a person who is apparently over the age of 16 years who resides or is employed on the premises; or
  - (c) in the case of an owner or occupier of adjoining land who is not at the time residing on the adjoining land by posting, not less than 8 days prior to the first day on which it is intended to burn the bush, the notice by prepaid letter addressed to the last known place of abode or business of the owner or occupier.

- (5) A notice given under subregulation (2) shall contain full particulars of the locality where the bush proposed to be burnt is situated.
- (6) Before setting fire to the bush the permit holder shall arrange for and provide, in order to assist in keeping the fire under control and preventing it from spreading beyond the land on which the burning is to take place, at least 3 able-bodied persons who shall be constantly in attendance at the fire from the time it is lit until no burning or smouldering fuel is within 30 m of the perimeter of the firebreak surrounding the burnt area or, if there is no such firebreak, within 30 m of the perimeter of the burnt area.
- (7) Where for any day, or any period of a day, specified in a notice given under subregulation (2) the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality where the bush proposed to be burnt is situated is either “catastrophic”, “extreme”, “severe” or “very high” the permit holder shall not burn the bush in the locality on that day or during that period but may burn the bush in the locality on the first day next following that day or that period on which the fire danger forecast issued by the Bureau of Meteorology is below “very high”.
- (8) The permit holder shall not light a fire to burn the bush on a Sunday if the burning of bush on Sundays is for the time being prohibited in the district in which the bush is situated pursuant to regulation 15C(1).
- (9) The permit holder shall not light a fire to burn the bush on a day that is a public holiday in the district in which the bush is situated if the burning of the bush on that day is for the time being prohibited in that district pursuant to regulation 15C(2).

*[Regulation 15B inserted: Gazette 10 Mar 1978 p. 705-6; amended: Gazette 22 Dec 1998 p. 6856, 6858; 1 Dec 2009 p. 4831.]*

**r. 15C**

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**15C. Local government may prohibit burning on certain days**

- (1) A local government may by notice published in a newspaper circulating in its district prohibit the burning of the bush in that district on Sundays during the restricted burning times and may, by subsequent notice so published, revoke that notice.
- (2) A local government may by notice published in a newspaper circulating in its district specify days, being days that are public holidays in that district, on which the burning of the bush is prohibited in that district during the restricted burning times and may, by subsequent notice so published, revoke that notice either absolutely or for the purpose of substituting another notice in lieu thereof.
- (3) A notice published under subregulation (1) or (2) shall have effect during the restricted burning times in each year until it is revoked.

*[Regulation 15C inserted: Gazette 10 Mar 1978 p. 706; amended: Gazette 22 Dec 1998 p. 6858.]*

**16. Term used: authorised officer**

For the purposes of this Part, the term ***authorised officer*** means the chief executive officer of the local government or an officer duly appointed by the local government to grant a permit to burn clover.

*[Regulation 16 inserted: Gazette 10 Mar 1978 p. 706; amended: Gazette 22 Dec 1998 p. 6858.]*

*[17. Deleted: Gazette 10 Mar 1978 p. 706.]*

**18. Permit to burn clover, form of application for etc.**

- (1) An application for a permit to burn clover during prohibited burning times for the purpose of facilitating the collection of clover burr shall be made in accordance with the Form 4 in the Appendix and shall be lodged with the nearest authorised officer

who may require the applicant to make the statutory declaration contained in the form.

- (2) An application for a permit to burn clover may be accepted in the form of a letter provided that the full information contained in the Form 4 is supplied in the letter.

**19. Permit to burn clover, applying for and issue of**

- (1) Every application such as is mentioned in regulation 18 shall be sent or delivered so as to be received by the authorised officer at least 7 days prior to the day for which the permit is sought and shall be accompanied by such fee, not exceeding \$20.00, as the local government may, by local law, from time to time prescribe.
- (2) The authorised officer shall, after the receipt of an application to burn clover, enter upon and inspect the land in respect of which the permit is sought and, upon being satisfied that the burning can be conducted with safety, may, subject to the succeeding provisions of this regulation and the provisions of regulations 20 and 21, issue a permit in the form of Form 5 in the Appendix.
- (3) The authorised officer shall specify in a permit the day, not being a Sunday and not necessarily the day for which the permit was sought, on which burning is authorised and shall, subject to subregulation (4), specify such time between the hours of 4 p.m. and midnight, as he thinks fit or as the local government may, from time to time, direct, at which burning may be commenced.
- (4) The FES Commissioner may, by notice in the *Government Gazette* authorise the issue of permits for the burning of clover, in any district or part of a district, at a time prior to 4 p.m. and, in that event a permit may, subject to the directions of the local government for that district or that part of a district, specify a time prior to 4 p.m. for the commencement of burning.

*[Regulation 19 inserted: Gazette 26 Feb 1965 p. 707; amended: Gazette 10 Mar 1978 p. 706; 22 Dec 1998 p. 6854 and 6858; 10 Jan 2003 p. 32; 31 Oct 2012 p. 5251-2.]*

**r. 19A**

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**19A. Permit to burn clover holder, duties of**

- (1) A person to whom a permit is issued under the provisions of regulation 19 shall at least 4 days before commencing to burn, deliver or cause to be delivered a notice of his intention in that regard —
  - (a) to every occupier of land adjoining the area to be burnt; and
  - (b) to the bush fire control officer for the district, if he is not the authorised person who issued the permit; and
  - (c) to a forest officer who is employed in any State forest situated within 3 km of the area to be burnt; and
  - (d) to an officer or employee of each notifiable authority (if any), being an officer or employee who is apparently authorised to accept that notice.
- (2) A person to whom a permit to burn clover is issued shall not burn or permit or suffer the burning of any area other than that for which the permit was issued or burn or permit or suffer burning on any day other than, or at any time prior to that specified in the permit.
- (3) A person burning clover or causing it to be burnt shall, himself, provide at least 3 men to be present, and ensure their constant attendance, at the area of the fire, from the time it is lighted, until it is completely extinguished, to assist in keeping the fire under control and contained in the area to be burnt.

*[Regulation 19A inserted: Gazette 26 Feb 1965 p. 707-8; amended: Gazette 12 Jul 1974 p. 2612; 10 Mar 1978 p. 706.]*

**20. Local government may prohibit issue of permits to burn clover**

No permit shall be granted under regulation 19 for the burning of any subterranean clover growing upon any land situate in any locality within the district of a local government specified by the local government in a notice in writing given by it to the duly authorised officer for the district of the local government,



whereby the local government objects to the issue or grant of a permit for the purpose aforesaid on the ground that the burning of the clover in respect of which the permit is applied for may be a source of danger to lands adjoining the land on which the proposed burning is intended to take place.

*[Regulation 20 amended: Gazette 22 Dec 1998 p. 6858.]*

**21. Permit to burn clover, refusing, cancelling or issuing with conditions etc.**

- (a) The duly authorised officer may refuse to issue or grant a permit under regulation 19, or may, on refunding to the owner or occupier who paid the fee in respect thereof, cancel any permit already issued or granted thereunder, when in any case after inspection he is satisfied that, notwithstanding that all the precautions required to be taken under the regulation in connection with the proposed burning are taken, the proposed burning may nevertheless be or become a source of danger by escaping from the land on which it is intended to carry out the burning or he may issue a permit subject to such conditions or requisitions as he considers necessary and specifies in the permit.
- (b) Where a permit subject to specified conditions or requisitions is issued under this regulation, a person shall not carry out the burning authorised by the permit unless he complies with the conditions and requisitions so specified.

*[Regulation 21 amended: Gazette 21 Jan 1957 p. 88.]*

**21A. Permit to burn clover holder may be required to advertise burning**

A local government may cause to be incorporated as an additional requirement in a permit to burn clover, a requirement that the permit holder shall advertise particulars of the burning in a manner determined by that local government.

*[Regulation 21A inserted: Gazette 21 Jan 1957 p. 88; amended: Gazette 22 Dec 1998 p. 6858.]*

**r. 21B**

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**21B. Bush fire control officer may postpone clover burning**

- (1) Where it appears to a bush fire control officer for a district to be necessary or expedient to postpone the burning of clover on a day, or during any period of a day, for which the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality where the clover proposed to be burnt is situated is “catastrophic” or “extreme”, he may, by wireless broadcast from a radio station giving broadcast coverage to the district, by publication in a newspaper circulating in the district, or by written notice or oral direction given to any person or persons, subject to such direction as may be given by the local government, direct that, notwithstanding any permit to burn clover, clover shall not be burnt in the district on that day or during that period.
- (2) A person shall not burn or permit or suffer the burning of clover contrary to a direction given under subregulation (1).

*[Regulation 21B inserted: Gazette 4 Jun 1970 p. 1473; amended: Gazette 22 Dec 1998 p. 6856, 6858; 1 Dec 2009 p. 4832.]*

**22. Permit to burn holder to report escape of fire**

In the event of any fire escaping beyond the boundaries of the area in respect of which a permit to burn has been granted, the holder of the permit shall, if possible, immediately notify the nearest bush fire control or authorised officer and within 24 hours of the suppression of the fire shall report in full the circumstances causing the escape to the authorised officer by whom the permit was granted.

**22A. Areas of irrigation prescribed (Act s. 24A)**

- (1) The areas of irrigation to which the provisions of section 24A of the Act apply are the areas of the State represented by the districts of the local governments set out in the schedule to this regulation.

- (2) The provisions of regulations 18, 19, 20, 21, 21A and 22 apply to all permits issued pursuant to the provisions of section 24A of the Act.

**Schedule**

Shire of Dardanup.

Shire of Harvey.

Shire of Waroona.

*[Regulation 22A inserted: Gazette 24 Nov 1958 p. 3101; amended: Gazette 15 Nov 1960 p. 3508; 16 Oct 1963 p. 3070; 22 Dec 1998 p. 6858.]*

**22B. Bush not to be burned under Act s. 24A permit unless irrigation available**

- (1) A person shall not burn bush under a permit issued pursuant to the provisions of section 24A of the Act for the purpose of conducting to the early germination of subterranean clover on any land within the areas described in regulation 22A(1) unless the bush to be burnt is on land to which a method of irrigation is available.
- (2) Any requisition of a bush fire control officer shall be complied with by a person burning bush referred to in subregulation (1).

*[Regulation 22B inserted: Gazette 24 Nov 1958 p. 3101.]*

**23. Charcoal burning in restricted or prohibited burning times, notice to be given of**

- (1) Every person proposing to light a fire or fires for the conversion of any bush into charcoal at any time during the restricted burning times or prohibited burning times in every yearly period as provided for in section 25(1)(b) of the Act shall, at least 7 days before lighting the fire, give notice in writing of the intention to the local government in whose district the land on which the fire is to be lit is situate, and, in the event of the land on which the fire is to be lit being within 3 km of a State forest, to the local forest officer.

**r. 23**

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- (2) The notice shall specify the land on which the burning is to take place and the period during which the fire is to be kept burning.
- (3) The local government, through its bush fire control officer or the local forest officer as the case may be, may, within the period specified in subregulation (1), direct that such further measures or precautions be taken, as in the opinion of the bush fire control officer or forest officer, are considered necessary to prevent the fire from spreading or escaping, and when the bush fire control officer or forest officer has given the directions, the fire shall not be lit until the directions have been complied with.

*[Regulation 23 amended: Gazette 12 Jul 1974 p. 2612; 10 Mar 1978 p. 706; 22 Dec 1998 p. 6855 and 6858.]*

## **Part VA — Total fire ban**

[Heading inserted: Gazette 1 Dec 2009 p. 4832; amended:  
Gazette 5 Nov 2019 p. 3880.]

### **Division 1 — Preliminary**

[Heading inserted: Gazette 5 Nov 2019 p. 3880.]

#### **24AA. Terms used**

In this Part —

***approved fire extinguisher***, for an activity, means a device used to extinguish fires that —

- (a) is suitable to extinguish a fire likely to occur in relation to the activity; and
- (b) has a capacity of at least 9 kg or 9 L; and
- (c) complies with the Australian Standards that —
  - (i) relate to devices that are designed to extinguish a fire likely to occur in relation to the activity; and
  - (ii) are in force on the day on which the *Bush Fires Amendment Regulations 2021* regulation 4(2) comes into operation;

***approved fire hose*** means a fire hose that is —

- (a) at least 20 m in length; and
- (b) at least 19 mm in diameter; and
- (c) fitted with an adjustable nozzle having a full spray pattern capable of projecting a 6 m jet of water;

***approved pump*** means a pump that is capable of delivering a minimum of 120 L of water per minute at 700 kPa through an approved fire hose;

***bituminising equipment*** means a bitumen tanker, bitumen sprayer, bitumen storage unit, mobile asphalt plant, mobile asphalt paver, pavement recycling machine or other similar piece of equipment;

**blasting** means the use of explosives on land;

**CALM Act** means the *Conservation and Land Management Act 1984*;

**CALM Act land** means each of the following categories of land —

- (a) land, or land and waters, to which the CALM Act applies under the CALM Act section 5;
- (b) section 8A land as defined in the CALM Act section 3;
- (c) section 8C land as defined in the CALM Act section 3;
- (d) land owned by, vested in, or under the care, control and management of, the Executive Body as defined in the CALM Act section 3, whether solely or jointly with another body;
- (e) land to which the CALM Act section 131 applies;

**catering activity** —

- (a) means any of, or any combination of, the following undertaken for the purposes of cooking food —
  - (i) the use in the open air of an appliance that consumes solid fuel;
  - (ii) the use in the open air of an appliance comprising fire;
  - (iii) the use in the open air of a cooking process which produces fire (for example, flambéing);

but

- (b) does not include the use of a gas appliance as authorised under section 25(1aa) of the Act;

**catering site**, in relation to catering activity, means the place at which the catering activity is carried out;

**engine, vehicle, plant, equipment or machinery** means any engine, motor vehicle, plant, equipment or machinery that is, or that is activated by, an internal combustion engine;

**essential service** means any of the following —

- (a) water supply, sewerage or drainage services;
- (aa) rubbish collection or disposal services;
- (b) electricity or gas services;
- (c) telecommunications services;
- (d) public transport services;

**fire danger forecast**, in relation to a work site, road site, off-road site or catering site, means the fire danger forecast issued by the Bureau of Meteorology in Perth for the area in which the site is located;

**fire fighting vehicle** means a vehicle that —

- (a) has 1 or more water storage tanks mounted upon it; and
- (b) is equipped with an approved fire hose and an approved pump, both of which are in proper working order;

**gas flaring** means the controlled release, and burning, of gas from a well, gas processing plant or other industrial facility;

**grading equipment** means a grader, bulldozer, scraper or other similar piece of equipment;

**hot work** means the operation in the open air of —

- (a) welding apparatus of any kind; or
- (b) power operated abrasive cutting discs of any kind;

**off-road activity** —

- (a) means the use or operation of any engine, vehicle, plant, equipment or machinery on land on which there is bush or which is under crop or pasture or stubble; but
- (b) does not include —
  - (i) the use or operation of any engine, vehicle, plant, equipment or machinery in the circumstances referred to in regulation 24A(3), (4) or (5A); or
  - (ii) road work;

**off-road site**, in relation to off-road activity, means the place at which the off-road activity is carried out;

**private road** means —

- (a) a road or track that is not open to, or used by, the public;  
or
- (b) a driveway;

**public authority** means —

- (a) a Minister of the State; or
- (b) an agency or organisation as those terms are defined in the *Public Sector Management Act 1994* section 3(1); or
- (c) a local government or a regional local government; or
- (d) a body, whether incorporated or not, or the holder of an office, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State;

**rail grinding** means hot work involving the grinding of tracks for railways for the purpose of constructing, maintaining or repairing the tracks;

**road** —

- (a) means —
  - (i) a road as defined in the *Road Traffic (Administration) Act 2008* section 4; or
  - (ii) a private road;but
- (b) does not include any part of a reservation, median strip or traffic island on which there is bush;

**road site**, in relation to road work, means the place at which the road work is carried out;

**road work** means any of, or any combination of, the following undertaken for the purposes of the construction, maintenance or repair of a road —

- (a) the lighting, maintenance or use of a fire in the open air to heat bitumen in bituminising equipment;



- (b) the loading of heated bitumen onto or the unloading of heated bitumen from bituminising equipment;
- (c) the application of heated bitumen to the surface of the road using bituminising equipment;
- (d) the grading of the surface of the road using grading equipment;

***suitable spark arrester***, in relation to an exhaust system for an engine, equipment or other thing, means a device fitted to the engine, equipment or thing that —

- (a) prevents sparks from escaping from all or part of the engine, equipment or thing; and
- (b) complies with Australian Standard AS 1019-2000 *Internal Combustion Engines - Spark Emission Control Devices* as in force on the day on which the *Bush Fires Amendment Regulations 2021* regulation 4(2) comes into operation; and
- (c) is maintained in a clean, sound and efficient condition;

***urgent works***, in relation to the provision of an essential service, means repairs or maintenance necessary for the continued provision, or restoration, of the service;

***work site***, in relation to hot work, means the place at which the hot work is carried out.

*[Regulation 24AA inserted: Gazette 5 Nov 2019 p. 3880-3; amended: SL 2021/10 r. 4.]*

## **Division 2 — Prohibited activities in open air during total fire ban**

*[Heading inserted: Gazette 5 Nov 2019 p. 3883.]*

### **24A. Prohibited activities prescribed (Act s. 22B(3)(c))**

*[(1) deleted]*

- (2) The use or operation of any engine, vehicle, plant, equipment or machinery on land on which there is bush or which is under

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crop or pasture or stubble is prescribed for the purposes of section 22B(3)(c) of the Act.

- (3) Subregulation (2) does not apply to the use or operation of any engine, vehicle, plant, equipment or machinery —
  - (a) on a road that is not a private road; or
  - (b) on a lane, private road, yard or other area that provides access to, or a parking facility at, any residential, farming or business premises, if the area has been sufficiently cleared of inflammable material to prevent the escape of fire.
- (3A) Subregulation (3)(a) does not affect the application of Division 8 to the use or operation of any engine, vehicle, plant, equipment or machinery on a road to the extent that the use or operation is road work.
- (4) Subregulation (2) does not apply to the use or operation of any engine, vehicle, plant, equipment or machinery if —
  - (a) the purpose of that use or operation is the prevention of an immediate and serious risk to the health or safety of a person or livestock; and
  - (b) all reasonable precautions have been taken to prevent the use or operation from causing a bush fire; and
  - (c) without limiting paragraph (b), the condition applicable under subregulation (5) is complied with.
- (5A) Subregulation (2) does not apply to the use or operation of any engine, vehicle, plant, equipment or machinery if —
  - (a) the use or operation is or is part of an agricultural activity; and
  - (ba) the use or operation is not, and is not part of, a process or operation specified for the purposes of section 27A(1)(a)(ii) of the Act as being a process or operation likely to create a bush fire danger; and
  - (b) all reasonable precautions have been taken to prevent the use or operation from causing a bush fire; and

- (c) without limiting paragraph (b), the condition applicable under subregulation (5) is complied with,  
unless —
  - (d) the use or operation is inconsistent with a declaration under regulation 38C; or
  - (e) a ban under regulation 24C is in force in the area in which the use or operation is taking place or was to take place.
- (5) The condition is that the internal combustion engine that is, or that activates, the engine, vehicle, plant, equipment or machinery being used or operated is mechanically sound and has an exhaust system that —
  - (a) is clean and free from gas leaks; and
  - (b) except in the case of a motor vehicle, is fitted with a suitable spark arrester for the engine.

*[Regulation 24A inserted: Gazette 1 Dec 2009 p. 4832-4; amended: Gazette 5 Nov 2010 p. 5564-5; 2 Dec 2011 p. 5059-60; 8 Jan 2015 p. 109; 5 Nov 2019 p. 3883; SL 2021/10 r. 5.]*

*[24B. Deleted: Gazette 5 Nov 2019 p. 3883.]*

**24C. Bans for r. 24A(5A), imposing and duration of etc.**

- (1) A bush fire control officer may impose a ban, for the purposes of regulation 24A(5A), in an area if satisfied that the use or operation of any engine, vehicle, plant, equipment or machinery in the area during the period to be specified for the ban would be likely to cause a bush fire or contribute to the spread of a bush fire.
- (2) A bush fire control officer must impose a ban, for the purposes of regulation 24A(5A), in an area if satisfied that the bush fire danger index for the area is or exceeds 35.

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- (3) For the purposes of subregulation (2), the bush fire danger index must be worked out using the “Grassland Fire Danger Index CSIRO-modified McArthur Mk 4 meter”.
- (4) A ban —
  - (a) has effect for the period specified for the ban; and
  - (b) must be published by wireless broadcast and, if practicable, in writing; and
  - (c) may be varied or cancelled by a bush fire control officer by wireless broadcast and, if practicable, in writing.
- (5) The period specified for the ban must be included in the wireless broadcasts of the ban and in any written publication of the ban.

*[Regulation 24C inserted: Gazette 5 Nov 2010 p. 5565-6; amended: Gazette 2 Dec 2011 p. 5060.]*

**Division 3 — Activities to prevent risk to health or safety**

*[Heading inserted: Gazette 5 Nov 2019 p. 3884.]*

**24D. Certain activities to prevent risk to health or safety excepted from s. 22B(2) of Act**

- (1) For the purposes of section 22B(4) of the Act, an activity that is carried out for the purpose of preventing an immediate and serious risk to the health or safety of a person or livestock is prescribed.
- (2) Subregulation (1) applies to an activity only if all reasonable precautions have been taken to prevent the activity from creating a bush fire danger.

*[Regulation 24D inserted: Gazette 5 Nov 2019 p. 3884.]*

**24DA. Certain activities authorised by the *Fire and Emergency Services Act 1998* excepted from s. 22B(2) of Act**

- (1) In this regulation, each of the following terms has the meaning given in the *Fire and Emergency Services Act 1998* section 3 —

*assistance operation*

*incident*

*rescue operation*

*search and rescue operation*

- (2) An activity is an activity for the purposes of section 22B(4) of the Act if —
- (a) the activity is hot work (other than rail grinding) or off-road activity that in either case is carried out to —
    - (i) protect and save life and property endangered by incidents; or
    - (ii) render safe the sites of incidents; or
    - (iii) carry out rescue operations, search and rescue operations, or assistance operations;and
  - (b) the person carrying out the activity —
    - (i) is a police officer; or
    - (ii) is a bush fire liaison officer designated under section 12(2) of the Act; or
    - (iii) is an authorised person as defined in section 14B(1) of the Act; or
    - (iv) is an authorised officer or hazard management officer as defined in the *Emergency Management Act 2005* section 3; or
    - (v) carries it out because of a direction from a person mentioned in subparagraph (ii) to (iv); or
    - (vi) is operational staff engaged under the *Fire and Emergency Services Act 1998* section 20(2); or
    - (vii) is engaging in volunteer activities as defined in the *Fire and Emergency Services Act 1998* section 36ZM;and

- (c) the person carrying out the activity has taken all reasonable precautions to prevent the activity from creating a bush fire danger.

*[Regulation 24DA inserted: SL 2021/10 r. 6.]*

#### **Division 4 — Hot work**

*[Heading inserted: Gazette 5 Nov 2019 p. 3884.]*

#### **24E. Certain hot work excepted from s. 22B(2) of Act**

Hot work is an activity for the purposes of section 22B(4) of the Act if the hot work —

- (a) is not rail grinding; and
- (b) is carried out —
  - (i) in the course of trade or commerce; or
  - (ii) by, or on behalf of, a public authority;and
- (c) is carried out in accordance with the requirements set out in regulations 24F to 24J.

*[Regulation 24E inserted: SL 2021/10 r. 7.]*

#### **24F. Times when hot work not permitted**

- (1) Except as provided in subregulation (2), the hot work must not be carried out at a time when the fire danger forecast for the work site is “catastrophic”.
- (2) The hot work may be carried out at a time when the fire danger forecast for the work site is “catastrophic” if the hot work is carried out as part of urgent works in relation to the provision or restoration of an essential service.

*[Regulation 24F inserted: Gazette 5 Nov 2019 p. 3884; amended: SL 2021/10 r. 8.]*

**24G. Notice of hot work**

Notice of the hot work must be given under regulation 24ZS before the hot work is carried out.

*[Regulation 24G inserted: Gazette 5 Nov 2019 p. 3884.]*

**24H. Fire prevention measures for hot work**

- (1) Fire-resistant barriers of a height sufficient to prevent the escape of hot particles or sparks must be placed around the hot work.

*[(2) deleted]*

- (3) The ground within a 10 m radius of the hot work must be —

- (a) clear of inflammable material; and
- (b) damped down with water.

- (4) The work site must meet the requirements of any notice given under section 33(1) of the Act that applies in respect of the work site.

*[Regulation 24H inserted: Gazette 5 Nov 2019 p. 3885; amended: SL 2021/10 r. 9.]*

**24I. Fire fighting equipment for hot work**

- (1) At least 2 approved fire extinguishers for hot work in proper working order must be located in close proximity to the hot work.
- (2) If the hot work is carried out within 30 m of land on which there is bush or which is under crop or pasture or stubble, there must be available for fire fighting the volume of water set out in the Table according to the fire danger forecast for the work site at the time the hot work is carried out.

**Table**

| <b>Fire danger forecast for work site</b> | <b>Volume of fire fighting water required (L)</b> |
|---|---|
| Low-Moderate                              | 500 L   |
| High                                      | 1 000 L   |
| Very High                                 | 1 500 L   |
| Severe                                    | 2 000 L   |
| Extreme                                   | 2 500 L   |

- (3) The fire fighting water referred to in subregulation (2) must be contained in 1 or more fire fighting vehicles.
- (4) Each of the fire fighting vehicles must —
  - (a) be located in close proximity to the hot work; and
  - (b) be capable of traversing the work site.
- (5) Each of the fire fighting vehicles must —
  - (a) be on the work site at all times during which the hot work is being carried out; and
  - (b) remain on the work site for at least 30 minutes after the hot work is completed.
- (6) Subregulation (7) applies if there is no reticulated water supply within 1 km of the hot work.
- (7) A bulk water supply tanker that is carrying at least 5 000 L of water must —
  - (a) be on the work site at all times during which the hot work is being carried out; and
  - (b) remain on the work site for at least 30 minutes after the hot work is completed.



*[Regulation 24I inserted: Gazette 5 Nov 2019 p. 3885-6;  
amended: SL 2021/10 r. 10.]*

**24J. Personnel requirements for hot work**

- (1) At all times during which the hot work is being carried out, there must be in close proximity to the hot work at least 1 able-bodied person (the *fire detection officer*), other than the person carrying out the hot work, who is dedicated solely to detecting and suppressing any fire caused by the hot work.
- (2) The fire detection officer must be trained in —
  - (a) the operation of approved fire extinguishers for hot work; and
  - (b) if the hot work is carried out within 30 m of land on which there is bush or which is under crop or pasture or stubble —
    - (i) the operation of the fire fighting vehicles required under regulation 24I(3); and
    - (ii) the suppression and fighting of bush fire.
- (3) The fire detection officer and at least 1 other able-bodied person must remain on the work site for at least 30 minutes after the hot work is completed.
- (4) The persons referred to in subregulation (3) must not leave the work site until they are satisfied that there is no fire, or anything likely to cause a fire, on the work site.

*[Regulation 24J inserted: Gazette 5 Nov 2019 p. 3886;  
amended: SL 2021/10 r. 11.]*

### **Division 5 — Blasting**

*[Heading inserted: Gazette 5 Nov 2019 p. 3887.]*

#### **24K. Certain blasting excepted from s. 22B(2) of Act**

- (1) For the purposes of section 22B(4) of the Act, blasting carried out in the circumstances set out in subregulation (2) is prescribed.
- (2) The circumstances are that the blasting is carried out —
  - (a) in the course of trade or commerce or by, or on behalf of, a public authority; and
  - (b) in accordance with the requirements set out in regulations 24L to 24N.

*[Regulation 24K inserted: Gazette 5 Nov 2019 p. 3887.]*

#### **24L. Notice of blasting**

Notice of the blasting must be given under regulation 24ZS before the blasting is carried out.

*[Regulation 24L inserted: Gazette 5 Nov 2019 p. 3887.]*

#### **24M. Fire prevention measures for blasting**

- (1) This regulation sets out the fire prevention measures required for the blasting.
- (2) The ground within a 10 m radius of any lit fuse or lit explosive must be clear of inflammable material.
- (3) Any direction given under regulation 39D(2) in respect of the prevention of fire at the place at which the blasting is carried out must be complied with.

*[Regulation 24M inserted: Gazette 5 Nov 2019 p. 3887.]*

#### **24N. Fire fighting equipment for blasting**

- (1) This regulation sets out the fire fighting equipment required for the blasting.

- (2) At least 1 approved fire extinguisher for blasting in proper working order must be located in close proximity to the person carrying out the blasting.

*[Regulation 24N inserted: Gazette 5 Nov 2019 p. 3887; amended: SL 2021/10 r. 12.]*

*[Division 6 (r. 24O to 24U) deleted: SL 2021/10 r. 13.]*

### **Division 7 — Gas flaring**

*[Heading inserted: Gazette 5 Nov 2019 p. 3890.]*

#### **24V. Certain gas flaring excepted from s. 22B(2) of Act**

- (1) For the purposes of section 22B(4) of the Act, gas flaring carried out in the circumstances set out in subregulation (2) is prescribed.
- (2) The circumstances are that the gas flaring is carried out —
- (a) in the course of trade or commerce or by, or on behalf of, a public authority; and
  - (b) in accordance with the requirements set out in regulations 24W and 24X.

*[Regulation 24V inserted: Gazette 5 Nov 2019 p. 3890.]*

#### **24W. Notice of gas flaring**

- (1) Except as provided in subregulation (2), notice of the gas flaring must be given under regulation 24ZS before the gas flaring is carried out.
- (2) Notice of the gas flaring is not required to be given if the gas flaring is constant, unplanned or occurs as part of a safety mechanism.

*[Regulation 24W inserted: Gazette 5 Nov 2019 p. 3891.]*

**24X. Fire prevention measures for gas flaring**

- (1) The knock-out drum on any flare used for the gas flaring must be maintained to a standard that ensures the knock-out drum functions in the way it is designed to function.
- (2) Any elevated flare used for the gas flaring must be maintained to a standard that prevents the discharge of soot or any hot materials capable of igniting a fire.

*[Regulation 24X inserted: Gazette 5 Nov 2019 p. 3891.]*

**Division 8 — Road work**

*[Heading inserted: Gazette 5 Nov 2019 p. 3891.]*

**24Y. Certain road work excepted from s. 22B(2) of Act**

- (1) For the purposes of section 22B(4) of the Act, road work carried out in the circumstances set out in subregulation (2) is prescribed.
- (2) The circumstances are that the road work is carried out —
  - (a) in the course of trade or commerce or by, or on behalf of, a public authority; and
  - (b) in accordance with the requirements set out in regulations 24ZA to 24ZG.

*[Regulation 24Y inserted: Gazette 5 Nov 2019 p. 3891.]*

**24ZA. Times when road work not permitted**

- (1) Except as provided in subregulation (2), the road work must not be carried out at a time when the fire danger forecast for the road site is “catastrophic”.
- (2) The road work may be carried out at a time when the fire danger forecast for the road site is “catastrophic” if the road work is carried out as part of urgent works in relation to the provision or restoration of an essential service.

*[Regulation 24ZA inserted: Gazette 5 Nov 2019 p. 3891;  
amended: SL 2021/10 r. 14.]*

**24ZB. Notice of road work**

Notice of the road work must be given under regulation 24ZS before the road work is carried out.

*[Regulation 24ZB inserted: Gazette 5 Nov 2019 p. 3891.]*

**24ZC. Fire prevention measures for road work**

- (1) At any time when the bituminising equipment or grading equipment involved in the road work is being used, the ground within a 5 m radius of the equipment must be clear of inflammable material.
- (2) At any time when the bituminising equipment or grading equipment involved in the road work is not being used, it must be parked or located on an area that is clear of inflammable material.

*[Regulation 24ZC inserted: Gazette 5 Nov 2019 p. 3891-2.]*

**24ZD. Fire extinguishers for road work**

At any time when the bituminising equipment or grading equipment involved in the road work is being used, at least 2 approved fire extinguishers for the road work in proper working order must be located in close proximity to the equipment.

*[Regulation 24ZD inserted: Gazette 5 Nov 2019 p. 3892;  
amended: SL 2021/10 r. 15.]*

**24ZE. Fire fighting water and vehicles for road work**

- (1) This regulation applies if the road work is carried out within 30 m of land on which there is bush or which is under crop or pasture or stubble.

- (2) There must be available for fire fighting the volume of water set out in the Table according to the fire danger forecast for the road site at the time the road work is carried out.

**Table**

| <b>Fire danger forecast for road site</b> | <b>Volume of fire fighting water required (L)</b> |
|---|---|
| Low-Moderate                              | 500 L   |
| High                                      | 1 000 L   |
| Very High                                 | 1 500 L   |
| Severe                                    | 2 000 L   |
| Extreme                                   | 2 500 L   |

- (3) The fire fighting water referred to in subregulation (2) must be contained in 1 or more fire fighting vehicles (the ***road site fire fighting vehicles***) on the road site.
- (4) Each of the road site fire fighting vehicles must be capable of traversing the road site.
- (5) Except as provided in subregulation (8), a road site fire fighting vehicle is not required to be manned by a person.
- (6) Each of the road site fire fighting vehicles must —
- (a) be on the road site at all times during which the road work is being carried out; and
  - (b) remain on the road site for at least 30 minutes after the road work is completed.
- (7) At any time when the bituminising equipment or grading equipment involved in the road work is being used, a road site fire fighting vehicle must be located in close proximity to the equipment.

- (8) If the bituminising equipment or grading equipment involved in the road work is moving along a road (for example, in the course of road work of the kind referred to in paragraph (c) or (d) of the definition of **road work**), a road site fire fighting vehicle manned by a fire detection officer referred to in regulation 24ZG must —

- (a) travel in advance of, to the rear of, or beside, the equipment; and
- (b) remain within 30 m of the equipment while it is moving.

*[Regulation 24ZE inserted: Gazette 5 Nov 2019 p. 3892-3.]*

**24ZF. Bulk water supply tanker for road work**

- (1) This regulation applies if the bituminising equipment or grading equipment involved in the road work will, at any time when it is being used, be more than 1 km from a reticulated water supply.
- (2) A bulk water supply tanker that is carrying at least 5 000 L of water must —
- (a) be on the road site at all times during which the road work is being carried out; and
  - (b) remain on the road site for at least 30 minutes after the road work is completed.

*[Regulation 24ZF inserted: Gazette 5 Nov 2019 p. 3893.]*

**24ZG. Personnel requirements for road work**

- (1) At any time when the bituminising equipment or grading equipment involved in the road work is being used, there must be in close proximity to the equipment at least 1 able-bodied person (a **fire detection officer**), other than the person operating the equipment, who is dedicated solely to detecting and suppressing any fire caused by the road work.
- (2) A fire detection officer must be trained in —
- (a) the operation of approved fire extinguishers for the road work; and

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- (b) if the road work is carried out within 30 m of land on which there is bush or which is under crop or pasture or stubble —
  - (i) the operation of the road site fire fighting vehicles referred to in regulation 24ZE(3); and
  - (ii) the suppression and fighting of bush fire.
- (3) A fire detection officer and at least 1 other able-bodied person must remain on the road site for at least 30 minutes after the road work is completed.
- (4) The persons referred to in subregulation (3) must not leave the road site until they are satisfied that there is no fire, or anything likely to cause a fire, on the road site.

*[Regulation 24ZG inserted: Gazette 5 Nov 2019 p. 3893-4; amended: SL 2021/10 r. 16.]*

**Division 9 — Off-road activity**

*[Heading inserted: Gazette 5 Nov 2019 p. 3894.]*

**24ZH. Certain off-road activity excepted from s. 22B(2) of Act**

- (1) For the purposes of section 22B(4) of the Act, off-road activity carried out in the circumstances set out in subregulation (2) is prescribed.
- (2) The circumstances are that the off-road activity is carried out —
  - (a) in the course of trade or commerce or by, or on behalf of, a public authority; and
  - (b) subject to subregulation (3), in an area other than an area in respect of which a ban is in force under regulation 24C; and
  - (c) in accordance with the requirements set out in regulations 24ZI to 24ZL.
- (3) The off-road activity may be carried out in an area in respect of which a ban is in force under regulation 24C if the off-road



activity is carried out as part of urgent works in relation to the provision or restoration of an essential service.

*[Regulation 24ZH inserted: Gazette 5 Nov 2019 p. 3894; amended: SL 2021/10 r. 17.]*

**24ZI. Times when off-road activity not permitted**

- (1) Except as provided by subregulation (2), the off-road activity must not be carried out at a time when the fire danger forecast for the off-road site is “catastrophic”.
- (2) The off-road activity may be carried out at a time when the fire danger forecast for the off-road site is “catastrophic” if the off-road activity is carried out as part of urgent works in relation to the provision or restoration of an essential service.

*[Regulation 24ZI inserted: Gazette 5 Nov 2019 p. 3894; amended: SL 2021/10 r. 18.]*

**24ZJ. Notice of off-road activity**

Notice of the off-road activity must be given under regulation 24ZS before the off-road activity is carried out.

*[Regulation 24ZJ inserted: Gazette 5 Nov 2019 p. 3894.]*

**24ZK. Fire prevention measures for off-road activity**

- (1) This regulation sets out the fire prevention measures required for the off-road activity.
- (2) The internal combustion engine that is, or that activates, the engine, vehicle, plant, equipment or machinery involved in the off-road activity must —
  - (a) be mechanically sound; and
  - (b) have an exhaust system that —
    - (i) is clean and free from gas leaks; and

- (ii) except in the case of a motor vehicle, is fitted with a suitable spark arrester for the exhaust system.
- (3) At any time when the engine, vehicle, plant, equipment or machinery involved in the off-road activity is not being used or operated, it must be parked or located on an area that is clear of inflammable material.

*[Regulation 24ZK inserted: Gazette 5 Nov 2019 p. 3895; amended: SL 2021/10 r. 19.]*

**24ZL. Fire fighting equipment for off-road activity**

At least 1 approved fire extinguisher for the off-road activity in proper working order must be carried on, or be in close proximity to, the engine, vehicle, plant, equipment or machinery involved in the off-road activity while it is being operated or used.

*[Regulation 24ZL inserted: Gazette 5 Nov 2019 p. 3895; amended: SL 2021/10 r. 20.]*

**Division 10 — Catering activity**

*[Heading inserted: Gazette 5 Nov 2019 p. 3895.]*

**24ZM. Certain catering activity excepted from s. 22B(2) of Act**

- (1) For the purposes of section 22B(4) of the Act, catering activity carried out in the circumstances set out in subregulation (2) is prescribed.
- (2) The circumstances are that the catering activity is carried out —
  - (a) in the course of trade or commerce; and
  - (b) in accordance with the requirements set out in regulations 24ZN to 24ZR.

*[Regulation 24ZM inserted: Gazette 5 Nov 2019 p. 3895.]*

**24ZN. Times when catering activity not permitted**

The catering activity must not be carried out at a time when the fire danger forecast for the catering site is “catastrophic”.

*[Regulation 24ZN inserted: Gazette 5 Nov 2019 p. 3895.]*

**24ZO. Notice of catering activity**

Notice of the catering activity must be given under regulation 24ZS before the catering activity is carried out.

*[Regulation 24ZO inserted: Gazette 5 Nov 2019 p. 3896.]*

**24ZP. Fire prevention measures for catering activity**

- (1) The ground within a 10 m radius of the catering activity must be clear of inflammable material.
- (2) If an appliance involved in the catering activity has a chimney, the chimney must be designed and constructed to prevent sparks from escaping from the chimney.
- (3) If an appliance involved in the catering activity burns solid fuel, the burning solid fuel must be —
  - (a) if there is a secure and sealable door fitted to the appliance — sealed from the open air by the door; or
  - (b) in any other case — sufficiently contained to prevent the spread of sparks or a fire.
- (4) After the catering activity is completed, if any burning solid fuel (for example, coals, briquettes or wood) in an appliance involved in the catering activity is to be transported from the catering site, the fuel must be completely extinguished before it is transported.

*[Regulation 24ZP inserted: Gazette 5 Nov 2019 p. 3896; amended: SL 2021/10 r. 21.]*

**24ZQ. Fire fighting equipment for catering activity**

- (1) In this regulation —  
*approved storage tank* means a storage tank —
- (a) that is situated on land or mounted on a vehicle; and
  - (b) that contains at least 400 L of water; and
  - (c) to which an approved pump in proper working order is attached.
- (2) At least 2 approved fire extinguishers for the catering activity in proper working order must be provided in close proximity to the catering activity.
- (3) If there is no reticulated water supply available on a catering site, an approved fire hose must be provided at the catering site that is —
- (a) in proper working order; and
  - (b) connected to an approved storage tank; and
  - (c) in a location that ensures that water projected from the hose will reach —
    - (i) the catering activity; and
    - (ii) the ground within a 20 m radius of the catering activity.
- (4) If there is reticulated water supply available on a catering site, a hose must be provided at the catering site that —
- (a) is in proper working order; and
  - (b) is connected to an approved storage tank or the reticulated water supply; and
  - (c) is —
    - (i) if the hose is connected to an approved storage tank — an approved fire hose; or
    - (ii) if the hose is connected to the reticulated water supply — a hose that is able to securely connect to the water supply;

and

- (d) is in a location that ensures that water projected from the hose will reach —
  - (i) the catering activity; and
  - (ii) the ground within a 20 m radius of the catering activity.

*[Regulation 24ZQ inserted: SL 2021/10 r. 22.]*

**24ZR. Personnel requirements for catering activity**

- (1) There must be at least 1 able-bodied person on the catering site who is trained in the operation of approved fire extinguishers for the catering activity —
  - (a) at all times during which the catering activity is being carried out; and
  - (b) for at least 30 minutes after the catering activity is completed.
- (2) The person referred to in subregulation (1) must not leave the catering site until the person is satisfied that —
  - (a) any burning solid fuel in an appliance involved in the catering activity has been extinguished; and
  - (b) there is no fire, or anything likely to cause a fire, on the catering site.

*[Regulation 24ZR inserted: Gazette 5 Nov 2019 p. 3897; amended: SL 2021/10 r. 23.]*

**Division 11 — Notice requirements**

*[Heading inserted: Gazette 5 Nov 2019 p. 3897.]*

**24ZS. Notice requirements for excepted activities**

- (1) This regulation sets out the notice requirements for the purposes of regulations 24G, 24L, 24Q, 24W, 24ZB, 24ZJ and 24ZO.

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- (2) Each of the following persons must be notified at least 30 minutes, but not more than 24 hours, before the activity referred to in the regulation is carried out —
- (a) the FES Commissioner;
  - (b) the chief executive officer, or a bush fire control officer, of the local government of the district in which the activity is to be carried out;
  - (c) if the activity is to be carried out within 3 km of CALM Act land, the CALM Act CEO or an authorised CALM Act officer.
- (3) A notification under subregulation (2) must be given in the manner approved by the FES Commissioner.

*[Regulation 24ZS inserted: Gazette 5 Nov 2019 p. 3897.]*

## **Part V — Permit to burn proclaimed or declared plants during prohibited burning times**

*[Heading inserted: Gazette 27 Oct 1966 p. 2778; amended: Gazette 10 Mar 1978 p. 706.]*

### **Division 1 — General**

*[Heading inserted: Gazette 27 Oct 1966 p. 2778.]*

**24. Term used: authorised officer**

For the purposes of this Part the term *authorised officer* means the chief executive officer of a local government or an officer duly appointed by a local government to grant permits for the purposes of this Part.

*[Regulation 24 inserted: Gazette 10 Mar 1978 p. 706; amended: Gazette 22 Dec 1998 p. 6858.]*

*[25. Deleted: Gazette 10 Mar 1978 p. 706.]*

### **Division 2 — Permit to burn the refuse of proclaimed plants during prohibited burning times**

*[Heading inserted: Gazette 27 Oct 1966 p. 2778.]*

**26. Permit, form of application for**

- (1) Whenever the Governor by proclamation, pursuant to the provisions of section 26 of the Act, has authorised the burning of any specified plant or the refuse thereof during the prohibited burning times or any period thereof, any person desirous of burning the refuse of the plant within the area and within the times to which the proclamation relates shall lodge an application signed by him in Form 6 in the Appendix with an authorised officer within whose district the burning is to take place for a permit to burn the refuse of the plant.

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**Division 2** Permit to burn the refuse of proclaimed plants during prohibited burning times

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- (2) An application under subregulation (1) may be accepted in the form of a letter provided that the full information contained in the Form 6 in the Appendix is supplied in the letter.
- (3) The authorised officer with whom the application is lodged may require the applicant to make the statutory declaration contained in the form of application.

*[Regulation 26 amended: Gazette 16 Oct 1963 p. 3076; 27 Oct 1966 p. 2778.]*

**27. Permit, issue of**

- (1) Upon receipt of an application for a permit to burn the refuse of plants the authorised officer shall consider the application, and if satisfied that the application should be granted, shall issue a permit in the Form 7 in the Appendix.
- (2) The authorised officer issuing a permit to burn the refuse of plants under the provisions of this Division may incorporate in that permit any requirements and directions additional to those specified in this Division that he may consider necessary relative to the burning, and the holder of the permit shall observe and carry out those requirements and directions.
- (3) Where a local government issues directions to an authorised officer as to the manner in which or the conditions under which permits to burn the refuse of plants shall be issued in the district of the local government by that officer, he shall comply with those directions.

*[Regulation 27 inserted: Gazette 27 Oct 1966 p. 2778-9; amended: Gazette 22 Dec 1998 p. 6858.]*

**28. Ground to be cleared before burning plant refuse**

The area of ground on which the refuse of the plants is to be burnt shall be so cleared or prepared that the fire shall not in any circumstances be able to run along the ground.

*[Regulation 28 amended: Gazette 27 Oct 1966 p. 2779.]*



**29. Plant refuse to be burned in heaps**

The refuse of the plants to be burnt shall be placed in heaps and so that each heap shall not be more than one metre high measured from the ground, and shall not cover an area of ground exceeding that which would be contained within the circumference of a circle having a diameter of 2 m and so that there shall be a distance of at least 3 m between the base of any one heap and that of any other heap.

*[Regulation 29 amended: Gazette 27 Oct 1966 p. 2779;  
12 Jul 1974 p. 2612.]*

**30. Heaps not to be near brush fence or land boundary**

The heaps mentioned in regulation 29 shall be distant not less than 10 m from any brush fence in the vicinity thereof, and at least 20 m from the nearest external boundary of the land of the owner or occupier upon which the heaps proposed to be burnt are situated.

*[Regulation 30 inserted: Gazette 27 Oct 1966 p. 2612;  
amended: Gazette 12 Jul 1974 p. 2612.]*

**31. Permit holder, duties of**

The person proposing to burn the refuse of plants shall —

- (a) 4 days at least before commencing to burn, deliver or cause to be delivered notice in writing of his intention so to do personally to the following persons —
  - (i) each owner or occupier of all land adjoining the land upon which or upon a part of which it is proposed to burn the refuse of plants; and
  - (ii) the chief executive officer and a bush fire control officer of the local government in the district of which the land upon which it is proposed to burn the refuse of plants is situated; and

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**Division 2** Permit to burn the refuse of proclaimed plants during prohibited burning times

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- (iii) a forest officer, if the land upon which it is proposed to burn the refuse of plants is situated within 3 km of forest land; and
  - (iv) an officer or employee of each notifiable authority (if any), being an officer or employee who is apparently authorised to accept that notice;
- (b) before commencing burning operations, provide and have available at the place thereof at least 200 L of water in suitable containers which may be conveniently used for extinguishing fire together with a fire extinguisher ready for immediate operation and such other fire fighting equipment as may be specified by the authorised officer in the permit to burn the refuse of plants;
- (c) provide at least 3 men to be constantly in attendance at the burning operations from the time when the fire is lit until it is completely extinguished, and to assist in keeping the fire under control and prevent it from spreading beyond the land on which the burning operations are conducted;
- (d) carry out the burning operations only between the hours of 8 p.m. and midnight;
- (e) cause all ash resulting from the burning operations to be covered completely with earth or sand before 10 a.m. on the day next following the burning operations.

*[Regulation 31 amended: Gazette 16 Oct 1963 p. 3076; 27 Oct 1966 p. 2779; 12 Jul 1974 p. 2612; 10 Mar 1978 p. 707; 22 Dec 1998 p. 6858.]*

**32. Permit holder to report escape of fire**

In the event of any fire escaping beyond the boundaries of the area in respect of which a permit to burn the refuse of plants has been granted, the holder of such permit shall, if possible, immediately notify the nearest bush fire control officer or

authorised officer and shall within 24 hours of the suppression of the fire report in full the circumstances causing the escape to the authorised officer by whom the permit was granted.

*[Regulation 32 amended: Gazette 27 Oct 1966 p. 2779.]*

**Division 3 — Permit to burn proclaimed plants**

*[Heading inserted: Gazette 27 Oct 1966 p. 2780.]*

**33. Permit, application for and issue of; duties of permit holder**

- (1) Where the Governor by proclamation under section 26 authorises the burning of a plant during the whole or part of the prohibited burning times, a person shall not burn a plant under that proclamation unless he has obtained a permit under this Division.
- (2) An application under subregulation (1) shall be in the form of —
  - (a) Form 8 in the Appendix; or
  - (b) a letter containing all the particulars required to be given in that Form,  
and shall be submitted to the authorised officer for the district in which the burning is to occur —
    - (c) not later than 7 days before the day on which it is intended to commence burning; or
    - (d) within any shorter period fixed by agreement between the person and the authorised officer.
- (3) The authorised officer with whom the application is lodged may require the applicant to make the statutory declaration contained in the form of the application.
- (4) The authorised officer issuing a permit to burn plants under the provisions of this Division may incorporate in that permit any requirements and directions additional to those specified in this Division that he may consider necessary relative to the burning,

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and the holder of the permit shall observe and carry out those requirements and directions.

- (5) Where a local government issues directions to an authorised officer as to the manner in which or the conditions under which permits to burn plants shall be issued in the district of the local government by that officer, he shall comply with those directions.
- (6) Subject to regulations 34 and 35, a permit to burn proclaimed plants shall not be granted unless and until the applicant for the permit satisfies the authorised officer to whom the application is made that —
  - (a) the land to be burned at one time and under the permit applied for does not exceed the area as fixed by the authorised officer when granting the permit, and in any event does not exceed 40 ha;
  - (b) the area has been surrounded by a firebreak to a width of not less than 6 m;
  - (c) if the area to be burned is carrying any standing trees, that all grass and debris has been raked to a distance of not less than 2 m from the base of each standing tree.
- (7) A person who is granted a permit shall deliver or cause to be delivered written notice of the intended burning to —
  - (a) each owner or occupier of land adjoining the land on which burning is to occur; and
  - (b) the chief executive officer and a bush fire control officer of the local government for the district in which the land on which burning is to occur is situated; and
  - (c) if that land is within 3 km of forest land, a forest officer; and
  - (d) each government department or statutory body which has made it known to people in the district concerned that it requires to be notified of the granting of a permit under this Division,

and such notice shall be given —

- (e) not later than 4 days before the commencement of burning; or
  - (f) within any shorter period fixed by agreement between the holder of the permit and any person referred to in paragraph (a), (b), (c) or (d) in respect of notice to that person.
- (8) The authorised officer shall specify in a permit to burn proclaimed plants the day, not being a Sunday and not necessarily the day for which the permit was sought, on which burning is authorised, and subject to subregulation (12), shall specify such time between the hours of 2 p.m. and midnight of the same day as he thinks fit, or as the local government may from time to time direct at which burning may be commenced.
- (9) A permit to burn a proclaimed plant shall be in the Form 9 in the Appendix.
- [(10) *deleted*]
- (11) The authorised officer to whom the application for the permit is made may, before granting the permit enter upon the land of the applicant to inspect the area proposed to be burnt.
- (12) The FES Commissioner may, by notice in the *Government Gazette*, authorise the issue of permits for the burning of proclaimed plants in any district or part of a district at a time prior to 2 p.m., and in that event a permit may, subject to the directions of the local government for that district or that part of a district, specify a time prior to 2 p.m. for the commencement of such burning.
- (13) No fire shall be lit pursuant to the provisions of this regulation on a day, or during any period of a day, if for that day or that period the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality where it is proposed to burn the proclaimed plant is “catastrophic”, “extreme”, “severe” or “very high”, and the person who has

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received the permit under the provisions of this regulation shall not burn a proclaimed plant in the locality on that day or during that period, but may burn the plant in that locality on the first day next following the day or period of a day on which the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality is below “very high”.

- (14) The owner or occupier of the area to be burned shall himself arrange for and provide at least 3 persons to be constantly in attendance at the fire in the area from the time it is lit until it is completely extinguished and to assist in keeping the fire under control and preventing it from spreading beyond the area proposed to be burned.

*[Regulation 33 inserted: Gazette 27 Oct 1966 p. 2780-1; amended: Gazette 12 Jul 1974 p. 2612; 10 Mar 1978 p. 707; 27 Oct 1989 p. 3896-7; 22 Dec 1998 p. 6854, 6856-7, 6858; 1 Dec 2009 p. 4835; 31 Oct 2012 p. 5251-2.]*

**34. Permit not to be granted if local government objects**

No permit shall be granted for the burning of a proclaimed plant growing upon any land situate in any locality within the district of a local government specified by the local government in a notice in writing given by it to the duly authorised officer for the district of the local government, whereby the local government objects to the issue or grant of any such permit.

*[Regulation 34 amended: Gazette 27 Oct 1966 p. 2781; 22 Dec 1998 p. 6858.]*

**35. Permit may be refused if danger of escape**

The authorised officer may refuse to issue or grant a permit where he is satisfied that, notwithstanding that all the precautions required to be taken under these regulations in connection with the proposed burning are taken, the proposed burning may nevertheless be or become a source of danger by escaping from the land on which it is intended to carry out the burning.

*[Regulation 35 amended: Gazette 16 Oct 1963 p. 3076;  
27 Oct 1966 p. 2781.]*

**36. Permit holder to report escape of fire**

In the event of any fire escaping beyond the boundaries of the area in respect of which a permit to burn has been granted, the holder of the permit shall, if possible, immediately notify the nearest bush fire control officer or authorised officer and within 24 hours of the suppression of the fire shall report in full the circumstances causing the escape to the authorised officer by whom the permit was granted.

*[Regulation 36 amended: Gazette 27 Oct 1966 p. 2782.]*

**Division 4 — Permit to burn declared plants and refuse thereof**

*[Heading inserted: Gazette 10 Mar 1978 p. 707.]*

**36A. Permit, application for and issue of**

- (1) Any person desirous of burning plants that are declared pests as defined in the *Biosecurity and Agriculture Management Act 2007* section 6, or the refuse of such plants, during the prohibited burning times shall lodge an application signed by him in the form of Form 10 in the Appendix with the authorised officer within whose district the burning is to take place for a permit to burn the plants or refuse.
- (2) An application under subregulation (1) may be accepted in the form of a letter if the full information required by Form 10 is supplied in the letter.
- (3) A permit to burn plants or plant refuse under the provisions of this Division shall be in the form of Form 11 in the Appendix.
- (4) The authorised officer issuing a permit to burn plants or plant refuse under the provisions of this Division may incorporate in that permit any requirements and directions that he may consider necessary relative to the burning and the holder of the

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**Division 4** Permit to burn declared plants and refuse thereof

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permit shall observe and carry out those requirements and directions.

- (5) Where a local government issues directions to an authorised officer as to the manner in which or the conditions under which permits to burn plants or plant refuse under the provisions of this Division shall be issued in the district of the local government by that officer, he shall comply with those directions.

*[Regulation 36A inserted: Gazette 10 Mar 1978 p. 707; amended: Gazette 22 Dec 1998 p. 6858; 5 Feb 2013 p. 835.]*



## Part VII — Operations of tractors and engines

### 37. Spark arrester and fire extinguisher prescribed (Act s. 27(1)(a)(ii) and (5))

- (1) The spark arrester required to be fitted to the exhaust pipe of a tractor pursuant to section 27(1)(a)(ii) of the Act shall be an efficient spark arrester of suitable design for the type of tractor to which it is attached and shall be maintained in a clean, sound and efficient condition at all times when the tractor is in operation during the prohibited burning times or restricted burning times.
- (2) The fire extinguisher required to be carried pursuant to section 27(5) shall be a fire extinguisher as defined in regulation 3.

*[Regulation 37 inserted: Gazette 10 Mar 1978 p. 707-8.]*

### 37A. Bulldozers and graders, requirements for in restricted or prohibited burning times

A person shall not operate a bulldozer or road-grader during the prohibited burning times or restricted burning times unless —

- (a) a fire extinguisher is carried on the bulldozer or grader;
- (b) the exhaust pipe is vertical and the exhaust system, including pipes is maintained in a sound and efficient condition;
- (c) the exhaust pipe is fitted with an efficient spark arrester which is of suitable design for the type of bulldozer or road-grader to which it is attached and is maintained in a clean, sound and efficient condition at all times when the bulldozer or road-grader is in operation during the prohibited burning times or the restricted burning times.

**38. Harvesters to carry fire extinguisher in restricted and prohibited burning times**

A person shall not operate any harvesting machine or header in any crop during the prohibited burning times or the restricted burning times unless a fire extinguisher is carried on the machine.

*[Regulation 38 inserted: Gazette 10 Mar 1978 p. 708.]*

**38A. Vehicles etc., power to prohibit etc. use of in restricted or prohibited burning times**

- (1) Where a bush fire control officer is of the opinion that the use or operation of any engines, vehicles, plant or machinery during the prohibited burning times or restricted burning times, or both, is likely to cause a bush fire, or would be conducive to the spread of a bush fire, the bush fire control officer may by notice or direction prohibit or regulate the carrying out of any activity or operation in a specified area either absolutely or except in accordance with conditions specified in the notice or direction or without the consent of the local government or bush fire control officer.
- (2) A notice or direction under subregulation (1) —
  - (a) may be given by wireless broadcast or in writing;
  - (b) shall have effect for such period during the prohibited burning times or restricted burning times, or both, as is specified in the notice or direction;
  - (c) may be varied or cancelled by a bush fire control officer by a subsequent notice or direction in the manner set out in that subregulation.
- (3) During any period for which a notice or direction under subregulation (1) has effect a person shall not, in any area specified in the notice or direction, operate or use any engines, vehicles, plant or machinery contrary to the notice or direction.  
Penalty: \$5 000.

- (4) A person shall, when required by a local government, provide a plough or other specified machine, appliance or firefighting equipment in or in the vicinity of any land or paddock where harvesting operations are being carried on.

*[Regulation 38A inserted: Gazette 28 Dec 1979 p. 4047; amended: Gazette 22 Dec 1998 p. 6858; 10 Jan 2003 p. 32.]*

**38B. Equipment powered by internal combustion engine, power to prohibit operation of**

- (1) Where, in the opinion of the bush fire control officer, the operation of any power saw, bag loader or other plant or equipment activated by internal combustion engine on any land in the district may constitute a fire hazard, he may, by wireless broadcast from a radio station giving broadcast coverage to the district, by publication in a newspaper circulating in the district or by written notice or oral direction given to any person or persons, subject to such direction as may be given by the local government, prohibit the operation of any such power saw, bag loader or other plant or equipment, until further notice, unless the operator has first —
- (a) provided, at the site of operation, such firefighting equipment, supply of water and other means of extinguishing fire as the bush fire control officer may, by the same means, direct; or
  - (b) fitted to the engine by which the power saw, bag loader or other plant or equipment is activated a spark arrester of a suitable design, maintained in a clean, sound and efficient condition.
- (2) Every person shall, before operating any power saw, bag loader or other plant or equipment activated by internal combustion engine on land of which any part is under crop, pasture or stubble or that is forest land, fit to the engine by which the power saw, bag loader or other plant or equipment is activated a spark arrester of suitable design, maintained in a clean, sound and efficient condition.

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- (3) Every person who operates any power saw, bag loader or other plant or equipment activated by an internal combustion engine —
- (a) contrary to a prohibition given under subregulation (1); or
  - (b) in contravention of subregulation (2),

commits an offence.

Penalty: \$5 000.

*[Regulation 38B inserted: Gazette 26 Feb 1965 p. 708; amended: Gazette 22 Dec 1998 p. 6858; 10 Jan 2003 p. 32-3.]*

**38C. Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times**

- (1) A local government may declare that the use by a person of any harvesting machinery on any land under crop during the whole or part of any —
- (a) Sunday; or
  - (b) public holiday,

in the whole or a specified part of the district of that local government during the prohibited burning times or the restricted burning times is prohibited unless the person has obtained the written consent of a bush fire control officer of that local government.

- (2) A declaration under subregulation (1) —
- (a) shall be made by notice in a newspaper circulating in the area affected by the prohibition; and
  - (b) may be revoked or varied in the manner in which it was made,

and the local government shall forward a copy of a declaration or of a revocation or variation of a declaration to the FES Commissioner.

- (3) A person who contravenes a declaration made under subregulation (1) commits an offence.

Penalty: \$5 000.

*[Regulation 38C inserted: Gazette 27 Oct 1989 p. 3898; amended: Gazette 22 Dec 1998 p. 6854 and 6858; 10 Jan 2003 p. 33; 31 Oct 2012 p. 5251-2.]*

**38D. Notices etc. under r. 38A, 38B and 38C, effect of in areas under total fire ban etc.**

- (1) A notice, direction, broadcast or publication under regulation 38A or 38B does not have effect in relation to an area to the extent to which a total fire ban (as defined in section 21 of the Act) has effect in relation to the area.
- (2) A notice, direction, broadcast, publication or declaration under regulation 38A, 38B or 38C does not have effect in relation to a person to the extent to which it is inconsistent with an exemption, under section 22C of the Act, covering the person.

*[Regulation 38D inserted: Gazette 5 Nov 2010 p. 5566.]*

**39. Chaff cutters, use of in restricted or prohibited burning times**

- (1) A person shall not operate any plant or machinery for cutting chaff during the prohibited burning times or the restricted burning times unless at least one fire extinguisher is provided at the site of the plant together with not less than 150 L of water in a suitable container.
- (2) Any requisition of a bush fire control or forest officer shall be complied with by any person operating the plant.

*[Regulation 39 amended: Gazette 12 Jul 1974 p. 2612; 10 Mar 1978 p. 708; 22 Dec 1998 p. 6855.]*

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**39A. Motor vehicles, use of in crops etc.**

- (1) A person shall not operate any motor vehicle on land, the whole or any part of which is under crop or pasture or stubble, if —
  - (a) the exhaust pipes of the vehicle are not clean, sound and free from gas leaks;
  - (b) there is emitted from the vehicle any smoke, carbon, sparks or oily substance the emission of which could be prevented by the fitting of any available appliance designed to prevent that emission.
- (2) A person operating a motor vehicle within the district of a local government shall comply with any requisition of the local government or a bush fire control officer which is made under the Act and communicated to him by an officer of the local government or the bush fire control officer.

*[Regulation 39A inserted: Gazette 21 Jan 1957 p. 88; amended: Gazette 22 Dec 1998 p. 6858.]*

*[39AA. Inserted: Gazette 26 Oct 1962 p. 3482; disallowed: Gazette 30 Nov 1962 p. 3838.]*

**39B. Crop dusters etc., use of in restricted or prohibited burning times**

- (1) During the prohibited burning times or the restricted burning times a person shall not operate on any land an aeroplane that is being used for the purpose of or in connection with crop dusting, spraying, spreading of fertiliser or other agricultural purposes unless there is available at the site of landing a fire extinguisher together with not less than 150 L of water in a suitable container.
- (2) Before the owner or occupier of land uses or permits the use of any part of the land as a landing ground for an aeroplane referred to in subregulation (1), he shall prepare to the satisfaction of the local government a firebreak around the area of the landing ground.

- (3) A bush fire control officer may, subject to the directions, if any, of the local government by which he was appointed, issue to a person operating an aeroplane referred to in subregulation (1), or to the owner or occupier of land used for the landing or taking off of the aeroplane, such directions as he considers necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be, shall comply with these directions.

*[Regulation 39B inserted: Gazette 21 Jan 1957 p. 88; amended: Gazette 12 Jul 1974 p. 2612; 10 Mar 1978 p. 708; 22 Dec 1998 p. 6858.]*

**Part VIIA — Control of operations likely to create bush fire danger**

*[Heading inserted: Gazette 22 Dec 1998 p. 6857.]*

**39BA. Operations likely to cause bush fires (Act s. 27A(1)(a)(ii))**

Pursuant to section 27A(1)(a)(ii) of the Act the operation of —

- (a) welding apparatus;
- (b) power operated abrasive cutting discs,

in the open air, are hereby specified as operations likely to create a bush fire danger, generally and at all times.

*[Regulation 39BA inserted: Gazette 12 Nov 1982 p. 4463.]*

**39C. Welding and cutting apparatus, use of in open air**

(1) A person shall not operate —

- (a) welding apparatus of any kind; or
- (b) power operated abrasive cutting discs of any kind,

in the open air, unless —

- (c) at least one fire extinguisher is provided at the place where the welding or cutting operation is carried out; and
- (d) the place referred to in paragraph (c) is surrounded by a firebreak which is at least 5 m wide.

*[(2) deleted]*

(3) A bush fire control officer may, subject to the directions, if any, of the local government by which he was appointed, issue to a person operating —

- (a) welding apparatus referred to in subregulation (1)(a); or
- (b) a power operated abrasive cutting disc referred to in subregulation (1)(b),

or to the owner or occupier of the land upon which those operations are carried on, such directions as he considers



necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be, shall comply with those directions.

- (4) This regulation does not apply to hot work (as defined in regulation 24AA) that is prescribed under regulation 24E.

*[Regulation 39C inserted: Gazette 12 Nov 1982 p. 4463; amended: Gazette 22 Dec 1998 p. 6857 and 6858; 5 Nov 2019 p. 3897.]*

**39CA. Bee smoker devices, use of in restricted or prohibited burning times etc.**

- (1) In this regulation —

*bee smoker device* means a device used to generate smoke for the purposes of beekeeping;

*prescribed period* means —

- (a) the prohibited burning times; or
  - (b) the restricted burning times; or
  - (c) a day or any period of a day for which the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality where it is proposed to operate the bee smoker device is “catastrophic”, “extreme”, “severe” or “very high”.
- (2) For the purposes of section 27A(1)(a)(ii) of the Act, the operation of a bee smoker device in the open air is an operation likely to create a bush fire danger.
- (3) A person shall not operate a bee smoker device in the open air during a prescribed period unless —
- (a) at least one fire extinguisher is provided at the place where the device is operated; and
  - (b) the ground within a distance of 3 m from the place referred to in paragraph (a) has been —
    - (i) sufficiently cleared of inflammable material; or

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- (ii) sufficiently damped down with water,  
to prevent the escape of fire.
- (4) A person who operates a bee smoker device in the open air during a prescribed period shall —
  - (a) ensure that neither the lighting nor the operation of the device results in the ignition of inflammable material outside the device; and
  - (b) place the device in a fire resistant container when it is alight but not being held by the person; and
  - (c) extinguish the fire in the device on completion of its operation.
- (5) A bush fire control officer may, subject to the directions, if any, of the local government by which the officer was appointed, issue —
  - (a) to a person operating a bee smoker device during a prescribed period; or
  - (b) to the owner or occupier of the land on which that operation is carried out,

such directions as the officer considers necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be shall comply with those directions.

*[Regulation 39CA inserted: Gazette 22 Dec 1998 p. 6857-8; amended: Gazette 1 Dec 2009 p. 4835.]*

**39D. Explosives, use of**

- (1) A person shall not use explosives on land unless —
  - (a) all inflammable material on the ground within a radius of 3 m of a lighted fuse or explosive has been removed; and
  - (b) at least one fire extinguisher is provided at the place where the explosives are being used; and

- (c) if the explosives are being used during prohibited burning times or restricted burning times, he has given not less than 24 hours' prior notice of his intention to do so —
- (i) to the bush fire control officer for the district in which the place where the explosives are being used is situated; and
  - (ii) where the place where the explosives are being used is within 3 km of forest land, to the forest officer in charge of that forest land.
- (2) A bush fire control officer may, subject to the directions, if any, of the local government by which he was appointed, issue to a person using explosives upon land referred to in subregulation (1), or the owner or occupier of that land, such directions as he considers necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be, shall comply with those directions.
- (3) For blasting (as defined in regulation 24AA) that is prescribed under regulation 24K, the requirements set out in Part VA Division 5 prevail to the extent that there is an inconsistency between that Division and this regulation.

*[Regulation 39D amended: Gazette 4 Jun 1970 p. 1474; 12 Jul 1974 p. 2612; 10 Mar 1978 p. 708; 22 Dec 1998 p. 6858; 5 Nov 2019 p. 3898.]*

**39E. Use of fireworks**

- (1) For the purposes of section 27A(1)(a)(ii) of the Act, the use of fireworks on land and in the open air is a process likely to create a bush fire danger.
- (2) A person shall not use fireworks on land and in the open air unless —
- (a) all inflammable material on the ground within a radius of 3 m of any lit fuse or lit firework has been removed; and

**r. 39E**

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- (b) at least one fire extinguisher is provided at the place where the fireworks are being used; and
  - (c) if the fireworks are being used during prohibited burning times or restricted burning times, that person has given not less than 24 hours' prior notice of the intention to do so —
    - (i) to the bush fire control officer for the district in which the place where the fireworks are being used is situated; and
    - (ii) where the place where the fireworks are being used is within 3 km of forest land, to the forest officer in charge of that forest land.
- (3) A bush fire control officer may, subject to the directions, if any, of the local government by which he was appointed, issue to a person using fireworks upon land referred to in subregulation (2), or the owner or occupier of that land, such directions as the officer considers necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be, shall comply with those directions.

*[(4) deleted]*

*[Regulation 39E inserted: Gazette 18 Jul 2000 p. 3862-3; amended: 5 Nov 2019 p. 3898; SL 2021/10 r. 24.]*

## **Part VIII — Miscellaneous**

### **40. Apportionment of amounts (Act s. 37(8a))**

- (1) In this regulation —  
*volunteer fire fighter* has the same meaning as in section 35A of the Act.
- (2) The amounts referred to in section 37(8a) of the Act are to be apportioned between the persons entitled to those amounts as follows —
  - (a) if, immediately before the death of the volunteer fire fighter, each of those persons were dependant on the fire fighter, the amounts are to be apportioned in accordance with Schedule 1 to the *Workers' Compensation and Injury Management Act 1981*<sup>1</sup>; or
  - (b) if, immediately before the death of the volunteer fire fighter, none of those persons were dependant on the volunteer fire fighter, the amounts are to be apportioned in equal shares or if there is only one such person, that person is to receive all of the amounts; or
  - (c) if, immediately before the death of the volunteer fire fighter, at least one of those persons was dependant on the volunteer fire fighter and at least one of those persons was not, then —
    - (i) a person who was not so dependant is entitled to 10% of the amounts and if there is more than one such person, those persons are entitled to 10% of the amounts apportioned between them in equal shares; and
    - (ii) the person, or persons, who were so dependant are entitled to the rest of the amounts apportioned between them, if there is more than one person, in accordance with Schedule 1 to the *Workers' Compensation and Injury Management Act 1981*<sup>1</sup>.

*[Regulation 40 inserted: Gazette 31 Dec 2004 p. 7140-1.]*

**41. Bush fire brigades, local government to keep register of**

A local government shall keep a register of bush fire brigades established by it in the form of Form 12 in the Appendix.

*[Regulation 41 inserted: Gazette 10 Mar 1978 p. 708;  
amended: Gazette 22 Dec 1998 p. 6858.]*

*[42. Deleted: Gazette 10 Mar 1978 p. 708.]*

**43. Bush fires and losses caused, notification of**

- (1) The owner or occupier of land shall within 7 days of the occurrence of a bush fire on the land, send to the local government in whose district the land is situated written notice in duplicate notifying the local government of the occurrence of the fire and setting out —
  - (a) the date on which the fire occurred;
  - (b) the cause or origin of the fire;
  - (c) the approximate area burned by the fire;
  - (d) an estimate of the total loss caused by the fire;
  - (e) the time when the fire was first noticed;
  - (f) the time when the fire was extinguished;
  - (g) details of persons and equipment used to suppress the fire.
- (2) A local government shall send to the FES Commissioner in the month of June in each year particulars of losses caused by bush fires in its district during the preceding 12 months.
- (3) A local government may comply with subregulation (2) by forwarding to the FES Commissioner one copy of each notice received by the local government pursuant to subregulation (1).

*[Regulation 43 inserted: Gazette 10 Mar 1978 p. 708;  
amended: Gazette 22 Dec 1998 p. 6854 and 6858; 31 Oct 2012  
p. 5251-2.]*

**44. Crown land, notice to be given of proposed entry of under Act s. 34**

Where —

- (a) an owner or occupier of land proposes to enter Crown land or a reserve or other land pursuant to section 34(1) of the Act; or
- (b) a bush fire control officer proposes to enter Crown land or a reserve pursuant to section 34(1AC) of the Act,

the owner or occupier or the bush fire control officer, as the case may be, shall give to the person, body or Government department responsible for the care, control and management of the land upon which entry is proposed to be made at least 4 days notice of his intention to enter the land and shall give details in the notice of the area in which he intends to carry out burning.

*[Regulation 44 inserted: Gazette 10 Mar 1978 p. 709;  
amended: Act No. 19 of 2010 s. 53.]*

**45A. Information to be given by authorised CALM Act officer taking control under Act s. 45A(2)(a)**

- (1) In this regulation —  
*bush fire officer* has the meaning given in section 45A(1) of the Act;  
*take control* means take control of all operations in relation to a bush fire.
- (2) When informing the FES Commissioner under section 45A(2)(a) of the Act, the authorised CALM Act officer must provide the following details —
  - (a) the local government district or districts within which the bush fire is burning;
  - (b) the location of the bush fire within that district or those districts, the size of the bush fire and any manner in which the bush fire may be spreading or extending;

**r. 45B**

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- (c) the people or property that may be threatened by the bush fire;
  - (d) the people and fire fighting equipment present at, on route to or available to be used at the bush fire and under the authority of the authorised CALM Act officer;
  - (e) the control objective sought to be achieved and strategies being used or proposed to be used to control and extinguish the bush fire;
  - (f) the authorised CALM Act officer's name, official title and contact details;
  - (g) the name, official title and contact details of the bush fire officer who requested the authorised CALM Act officer to take control, and details of which bush fire brigade or local government the bush fire officer belongs to;
  - (h) the time and date when the authorised CALM Act officer took control;
  - (i) any other details reasonably required by the FES Commissioner.
- (3) Information given in accordance with this regulation —
- (a) must be given by telephone or radio as soon as is reasonably practicable; and
  - (b) must, as soon as is reasonably practicable after being given by telephone or radio, be confirmed in writing by email, facsimile or post.

*[Regulation 45A inserted: Gazette 17 Dec 2010 p. 6352-3;  
amended: Gazette 31 Oct 2012 p. 5251-2.]*

**45B. Information to be given by bush fire officer taking control under Act s. 45**

- (1) In this regulation —
- bush fire officer* has the meaning given in section 45(1) of the Act;



**take control** means to take control of all operations in relation to a bush fire.

- (2) When informing the FES Commissioner under section 45(7) of the Act, the bush fire officer must provide the following details —
- (a) the local government district or districts within which the bush fire is burning;
  - (b) the location of the bush fire within that district or those districts, the size of the bush fire and any manner in which the bush fire may be spreading or extending;
  - (c) the people or property that may be threatened by the bush fire;
  - (d) the people and fire fighting equipment present at, on route to or available to be used at the bush fire and under the authority of the bush fire officer;
  - (e) the control objective sought to be achieved and strategies being used or proposed to be used to control and extinguish the bush fire;
  - (f) the bush fire officer's name, official title and contact details, and details of which bush fire brigade or local government the bush fire officer belongs to;
  - (g) if section 45(4) of the Act applies — the name, official title and contact details of the authorised CALM Act officer who requested the bush fire officer to take control;
  - (h) if section 45(5) of the Act applies — the name, official title and contact details of the authorised CALM Act officer who had supreme control and charge of all operations in relation to the bush fire before the bush fire officer took control;
  - (i) the time and date when the bush fire officer took control;
  - (j) any other details reasonably required by the FES Commissioner.

- (3) Information given in accordance with this regulation —
- (a) must first be given by telephone or radio as soon as is reasonably practicable; and
  - (b) must, as soon as is reasonably practicable after being given by telephone or radio, be confirmed in writing by email, facsimile or post.

*[Regulation 45B inserted: Gazette 17 Dec 2010 p. 6353-4; amended: Gazette 31 Oct 2012 p. 5251-2.]*

**45. Land prescribed (Act s. 45(1) conservation land)**

- (1) In this regulation —
- Executive Body*** means the Conservation and Land Management Executive Body established by the *Conservation and Land Management Act 1984* section 36;
- unallocated Crown land*** has the meaning given in the *Land Administration Act 1997* section 3(1).
- (2) Land to which subregulation (3), (5) or (6) applies is prescribed for the purposes of the definition of ***conservation land*** in section 45(1) of the Act.
- (3) This subregulation applies to land reserved under the *Land Administration Act 1997* Part 4 the care, control and management of which are placed under that Act with the Executive Body.
- (4) Subregulation (3) applies to Crown Reserve 32601 but does not otherwise apply to land reserved under the *Land Administration Act 1997* Part 4 the care, control and management of which are placed jointly under that Act with the Executive Body and one or more other persons.
- (5) This subregulation applies to —
- (a) land that is vested as described in the *Conservation and Land Management Act 1984* section 131(1); and

- (b) land of which the Executive Body is the registered proprietor under the *Transfer of Land Act 1893*.
- (6) This subregulation applies to the areas of unallocated Crown land that are the subject of the descriptions in column 1 of the Table.
- (7) The land referred to in subregulation (6) comprises the whole or parts of former pastoral leases and, for information purposes, column 2 of the Table refers to the names of those former pastoral leases.

**Table**

| <b>Unallocated Crown land</b>                                    | <b>Former pastoral lease</b> |
|--|------------------------------|
| Wells Location 3 and Hann Location 4                             | Earaheedy                    |
| Jaurdi Location 65, Marmion Location 42 and Ularring Location 14 | Goongarrie                   |
| Jaurdi Locations 131 and 135                                     | Jaurdi                       |
| Ularring Location 43 on Miscellaneous Plan 19730                 | Mt Elvire                    |
| Hann Location 8 and Nabberu Location 27                          | Lorna Glen                   |
| Bulga Locations 32 and 28  | Part Bulga Downs             |
| Bulga Location 29  | Part Cashmere Downs          |
| Ularring Location 12 and Jaurdi Location 61                      | Credo                        |
| Lot 345 on Deposited Plan 52029                                  | Part Mt Jackson              |
| Easton Location 7  | Charnley River               |
| Lot 128 on Deposited Plan 39947                                  | Part Texas Downs             |

| <b>Unallocated Crown land</b>                                      | <b>Former pastoral lease</b> |
|--|------------------------------|
| Lots 129 and 130 on Deposited Plan 39947                           | Part Mabel Downs             |
| Erivilla Location 36, Thadoona Location 11 and Kyarra Location 143 | Mooloogool                   |
| Murchison Location 214   | Muggon                       |
| Gascoyne Location 439 and Murchison Location 245                   | Pimbee                       |
| Warrambo Location 118 and Ninghan Location 4257                    | Burnerbinmah                 |
| Lyons Location 40 and Teano Location 25                            | Waldburg                     |
| Kaluwiri Location 74   | Lake Mason                   |
| Kaluwiri Location 71   | Black Range                  |
| Ninghan Location 4266 and Victoria Locations 11819 and 11821       | Lochada                      |
| Victoria Location 12347  | Part Barnong                 |
| Lyons Location 60  | Part Mt Phillip              |
| Lyons Location 58  | Part Dalgety Downs           |
| Gascoyne Location 510  | Part Mardathuna              |
| Gascoyne Location 507  | Part Middalya                |
| Gascoyne Location 509  | Part Lyons River             |
| Gascoyne Location 511  | Part Bidgemia                |
| Gascoyne Location 508  | Part Williambury             |
| Gascoyne Location 512  | Part Jimba Jimba             |
| Lyons Location 38  | Cobra                        |

| <b>Unallocated Crown land</b>   | <b>Former pastoral lease</b> |
|---|------------------------------|
| Gascoyne Location 427   | Mooka                        |
| Edel Location 73  | Nanga                        |
| Murchison Location 325  | Part Yaringa                 |
| Gascoyne Location 572 on Deposited Plan 26040   | Part Minnie Creek            |
| Erivilla Location 40 and Thadoona Location 9  | Doolgunna                    |
| Gascoyne Location 575 on Deposited Plan 28548   | Part Boologoroo              |
| Victoria Locations 12627 and 12628 on Deposited Plan 28860  | Part Yuin                    |
| Victoria Locations 12629 and 12630 on Deposited Plan 28859  | Part Twin Peaks              |
| Victoria Location 11806   | Narloo                       |
| Ninghan Locations 4278, 4290, 4291, 3539, 3521-3534 and 3615-3617 and portion of each of Ninghan Locations 3618, 3619, 3535-3538 and 3540 | Karara                       |
| Murchison Location 334 on Deposited Plan 30446  | Part Woolleen                |
| Victoria Location 11825   | Kadji Kadji                  |
| Lot 37 on Deposited Plan 36256  | Part Wanna                   |
| Kaluwiri Location 60 on Deposited Plan 238007   | Part Kaluwiri                |
| Ninghan Location 4261   | Warriedar                    |
| Lots 3035 and 3037 on Deposited Plan 45068  | Part Murchison House         |

| <b>Unallocated Crown land</b>  | <b>Former pastoral lease</b> |
|--|------------------------------|
| Lots 3031 and 3033 on Deposited Plan 45067   | Part Murchison House         |
| Lot 366 on Deposited Plan 48624  | Part Tamala                  |
| Murchison Location 232 and Victoria Location 11810   | Woolgorong                   |
| Lot 368 on Deposited Plan 52033  | Part Nerren Nerren           |
| Ningham Location 4262  | Thundelarra                  |
| Lot 11816 on Deposited Plan 220201, Lot 1385 on Deposited Plan 253009, Lot 836 on Deposited Plan 246558, Lot 1098 on Deposited Plan 246609 and Lot 1097 on Deposited Plan 246608 | Barnong                      |
| Lot 3070 on Deposited Plan 51351 and Lot 3080 on Deposited Plan 51350  | Part Carrarang               |
| Lots 123 and 135 on Deposited Plan 221127  | Lakeside                     |
| Ashburton Location 150   | Mount Minnie                 |
| De Grey Location 30  | Meentheena                   |
| Ashburton Location 217   | Part Nanutarra               |
| Wyndell Location 207 and Gregory Location 118  | Part Mt Florence             |
| Lyndon Location 167  | Giralia                      |

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| <b>Unallocated Crown land</b>  | <b>Former pastoral lease</b> |
|--|------------------------------|
| Lots 388 and 389 on Deposited Plan 61845 and Lot 390 on Deposited Plan 40454 | Part Mardie                  |

*[Regulation 45 inserted: Gazette 1 Dec 2009 p. 4835-42.]*

**46. General offence**

A person who —

- (a) commits a breach of any regulation for which a penalty is not expressly provided; or
- (b) fails to comply with any condition on which a permit to burn is granted,

is guilty of an offence.

Penalty: \$1 000.

*[Regulation 46 inserted: Gazette 10 Jan 2003 p. 33.]*

**Form 3**

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**Appendix**

*[Forms 1 and 2 deleted: Gazette 10 Mar 1978 p. 709.]*

**Form 3**

Western Australia

*Bush Fires Act 1954*

Regulation 15

**PERMIT TO SET FIRE TO THE BUSH**

Subject to the provisions of the *Bush Fires Act 1954*, and the regulations made thereunder and to the due observance and performance of the conditions endorsed on this permit including the provisions of section 18 of the said Act permission is hereby granted to Mr....., of....., to set fire to the bush on locations..... on the..... day of..... 20.....

Dated this..... day of..... 20.....

Note. — This permit is not valid during a declared prohibited burning time and is issued subject to the provisions of section 46 of the Bush Fires Act and may be revoked or suspended by a bush fire control officer if, in his opinion, the fire, if lit, would become a source of danger.

A bush fire control officer is not compelled to inspect an area to be burnt before issuing a permit to burn. The onus lies on the person not only to comply with the provisions of the Bush Fires Act but also to ensure there is no danger of the fire escaping. The issue of this permit in no way affects that responsibility.

Plan and any special conditions to be observed: —

Signed.....,  
Bush Fire Control Officer.

*[Form 3 inserted: Gazette 10 Mar 1978 p. 709.]*



**Form 4**  
Western Australia

*Bush Fires Act 1954*  
Regulation 18

**APPLICATION FOR PERMIT TO BURN CLOVER DURING A  
PROHIBITED BURNING TIME**

I (a)..... of (b).....  
the owner (or occupier) of (c)..... location No.....,  
upon which subterranean clover is growing, hereby apply pursuant to section 24  
of the *Bush Fires Act 1954*, for a permit to burn upon the said location a total  
area of..... hectares (not to exceed 30 hectares), shown on the  
annexed sketch upon the following day, namely: —

....., 20..... hectares  
....., 20..... hectares  
....., 20..... hectares

such days being within a time of the year during which it has been declared, by  
notice published in the *Government Gazette* pursuant to section 17 of the said  
Act, to be unlawful to set fire to the bush within the district or part of the State  
named in the said notice within which the location aforesaid is situated.

.....  
Applicant.

To .....

Note. — This application must be lodged with the nearest authorised officer at  
least 7 days before the day upon which it is intended to commence burning.

(Sketch.)

(a) Name in full of applicant.    (b) Address.    (c) Name of location.

**Form 4**

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(To be endorsed on Form 4.)

STATUTORY DECLARATION

I.....  
[given name, address and occupation of person making the declaration]  
sincerely declare as follows —

- (1A) I am the applicant in this application.
- (1) That the land to be burned does not exceed in extent and is identical with the area described in the above application and shown on the annexed sketch.
- (2) That such area has been surrounded by a firebreak to a width of not less than 3 m.
- (3) That the area to be burned is/is not carrying standing trees (whether green or ringbarked).
- (4) That such area if carrying standing timber has been grazed during the growing period of the clover crop to reduce the amount of dead litter to a minimum, and that all grass and debris has been raked to a distance of not less than 2 m from the base of each standing tree.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* at [place] on [date] by —

[Signature of person making the declaration]

in the presence of —

[Signature of authorised witness]

[Name of authorised witness and qualification as such a witness]

For a list of people who are authorised to witness statutory declarations, see *Oaths, Affidavits and Statutory Declarations Act 2005* Schedule 2.

[Form 4 amended: Gazette 16 Oct 1963 p. 3076; 12 Jul 1974  
p. 2612-13; 22 Dec 1998 p. 6855 and 6859; 10 Sep 2010 p. 4342-3;  
31 Oct 2012 p. 5252.]

**Form 5**  
Western Australia

*Bush Fires Act 1954*  
Regulation 19

Permit No.....

**PERMIT TO BURN CLOVER DURING PROHIBITED BURNING TIME**

I, (a)..... of (b)..... a duly authorised officer within the meaning of the regulations made under and for the purposes of the *Bush Fires Act 1954*, having been satisfied that the provisions of section 24(b) of the said Act have been complied with hereby grant authority to (c)..... of (d)..... the owner (or occupier) of (e)..... location No..... to burn upon the said location a total area shown on the annexed sketch of..... hectares of subterranean clover upon the following days, namely: —

....., 20..... hectares  
....., 20..... hectares  
....., 20..... hectares

subject however, to the provisions of the said Act and the regulations made thereunder and to the due observance and performance of the conditions endorsed on this permit.

Given under my hand at..... this..... day of....., 20.....

.....  
Authorised Officer.

(a) Name of authorised officer in full and occupation; (b) address; (c) name of permit holder; (d) address; (e) name of location.

*[Form 5 amended: Gazette 12 Jul 1974 p. 2613; 22 Dec 1998 p. 6855 and 6859; 31 Oct 2012 p. 5252.]*

**Form 6**  
Western Australia

*Bush Fires Act 1954*  
Regulation 26

**APPLICATION FOR A PERMIT TO BURN THE REFUSE OF PLANTS  
DURING A PROHIBITED BURNING TIME**

I, (a)..... of (b).....  
the owner (or occupier) of (c)..... location No.....  
hereby apply pursuant to the regulations made under the provisions of  
section 26 of the *Bush Fires Act 1954*, for a permit to burn upon the said  
location (d)..... upon the following days, viz.: —

....., 20..... heaps

....., 20..... heaps

....., 20..... heaps

such days being within a prohibited burning time declared for the district or part  
of the State within which the location is situated.

.....  
Applicant.

To .....  
.....

Note. — This application must be lodged with the chief executive officer of the  
local government within whose district the proposed burning is to take place, or  
the nearest authorised officer at least 7 days before the day upon which it is  
intended to commence burning.

---

(a) Name of applicant in full. (b) Address. (c) Name of location. (d) Description  
of the plants the refuse of which is to be burned.

(To be endorsed on Form 6.)

STATUTORY DECLARATION

I.....  
[given name, address and occupation of person making the declaration]  
sincerely declare as follows —

- (1A) I am the applicant in this application.
- (1) That the land on which burning is to be carried out does not exceed in extent and is identical with that described in the above application.
  - (2) That the provisions of the regulations respecting firebreaks have been carried out.
  - (3) That the area to be burned is/is not carrying standing trees.
  - (4) That if such area is carrying standing timber, all grass and debris has been raked to a distance of not less than 2 m from the base of each standing tree.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* at [place] on [date] by —

[Signature of person making the declaration]

in the presence of —

[Signature of authorised witness]

[Name of authorised witness and qualification as such a witness]

For a list of people who are authorised to witness statutory declarations, see *Oaths, Affidavits and Statutory Declarations Act 2005* Schedule 2.

*[Form 6 inserted: Gazette 27 Oct 1966 p. 2782; amended: Gazette 12 Jul 1974 p. 2613; 22 Dec 1998 p. 6855 and 6859; 10 Sep 2010 p. 4343; 31 Oct 2012 p. 5252.]*

**Form 7**

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**Form 7**  
Western Australia

*Bush Fires Act 1954*  
Regulation 27

Permit No.....

**PERMIT TO BURN THE REFUSE OF PLANTS DURING A  
PROHIBITED BURNING TIME**

I, (a)..... of (b).....  
The chief executive officer of the..... or a duly authorised  
officer within the meaning of the regulations made under and for the purpose of  
the *Bush Fires Act 1954*, having been satisfied that the regulations made in this  
behalf have been complied with, hereby grant authority to (c).....  
of (d)..... the owner (or occupier) of (e).....  
location No..... to burn upon the said location (f).....  
upon the following days, viz.: —

....., 20..... heaps  
....., 20..... heaps  
....., 20..... heaps

subject however, to the provisions of the said Act and the regulations made  
thereunder and to the due observance and performance of the conditions  
endorsed on this permit.

Given under my hand at..... this..... day  
of....., 20.....

Chief executive officer of the.....  
or Authorised Officer.

- 
- (a) Name of chief executive officer or authorised officer, in full and occupation,  
(b) Address. (c) Name of permit holder. (d) Address. (e) Name of location.  
(f) Description of the plants the refuse of which is to be burned.

(To be endorsed on back of Form 7.)

Extracts from Regulations dealing with the burning of the refuse of plants read as follows: —

- 27.(2) The authorised officer issuing a permit to burn the refuse of plants under the provisions of this Division may incorporate in that permit any requirements and directions additional to those specified in this Division that he may consider necessary relative to the burning, and the holder of the permit shall observe and carry out those requirements and directions.
28. The area of ground on which the refuse of the plants is to be burnt shall be so cleared or prepared that the fire shall not in any circumstances be able to run along the ground.
29. The refuse of the plants to be burnt shall be placed in heaps so that each heap shall not be more than one metre high measured from the ground, and shall not cover an area of ground exceeding that which would be contained within the circumference of a circle having a diameter of 2 m, and so that there shall be a distance of at least 3 m between the base of any one heap and that of any other heap.
30. The heaps mentioned in regulation 29 shall be distant not less than 10 m from any brush fence in the vicinity thereof, and at least 20 m from the nearest external boundary of the land of the owner or occupier upon which the heaps proposed to be burnt are situated.
31. The person proposing to burn the refuse of plants shall —
  - (a) 4 days at least before commencing to burn, deliver or cause to be delivered notice in writing of his intention so to do personally to the following persons —
    - (i) each owner or occupier of all land adjoining the land upon which or upon a part of which it is proposed to burn the refuse of the plants;
    - (ii) the chief executive officer and a bush fire control officer of the local government in the district of which the land upon which it is proposed to burn the refuse of plants is situated;

**Form 7**

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- (iii) a forest officer, if the land upon which it is proposed to burn the refuse of plants is situated within 3 km of forest land;
  - (b) before commencing burning operations, provide and have available at the place thereof at least 200 L of water in suitable containers which may be conveniently used for extinguishing fire, together with a knapsack spray and pump unit ready for immediate operation and such other fire fighting equipment as may be specified by the authorised officer in the permit to burn the refuse of the plants;
  - (c) provide at least 3 men to be constantly in attendance at the burning operations from the time when the fire is lit until it is completely extinguished and to assist in keeping the fire under control and prevent it from spreading beyond the land on which the burning operations are conducted;
  - (d) carry out the burning operations only between the hours of 8 p.m. and midnight;
  - (e) cause all ash resulting from the burning operations to be covered completely with earth or sand before 10 a.m. on the next day following the burning operations.
32. In the event of any fire escaping beyond the boundaries of the area in respect of which a permit to burn the refuse of plants has been granted, the holder of such permit shall, if possible, immediately notify the nearest bush fire control officer or authorised officer and shall within 24 hours of the suppression of the fire report in full the circumstances causing the escape to the authorised officer by whom the permit was granted.

*[Form 7 inserted: Gazette 27 Oct 1966 p. 2783-4; amended: Gazette 12 Jul 1974 p. 2613; 22 Dec 1998 p. 6855 and 6859; 31 Oct 2012 p. 5252.]*



**Form 8**  
Western Australia

*Bush Fires Act 1954*  
Regulation 33

**APPLICATION FOR A PERMIT TO BURN PROCLAIMED PLANTS  
DURING A PROHIBITED BURNING TIME**

I, (a)..... of (b).....  
the owner (or occupier of) (c)..... location No.....  
upon which (d)..... is growing, hereby apply pursuant  
to section 26 of the *Bush Fires Act 1954*, for a permit to burn upon the said  
location a total area of..... hectares shown on the annexed sketch upon  
the following days, viz.: —

....., 20..... hectares  
....., 20..... hectares  
....., 20..... hectares

such days being within a prohibited burning time declared for the district or part  
of the State named in the said notice within which the location is situated.

.....  
Applicant.

To.....

Note —

- (1) The statutory declaration endorsed on this form need only be completed if this is required by the authorised officer.
- (2) This application must be submitted to the authorised officer at least 7 days before the day burning is intended to be commenced, unless a shorter period is agreed with that officer.

.....  
(a) Name in full of applicant. (b) Address. (c) Name of location. (d) Description of the proclaimed plant to be burned.

**Form 8**

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(To be endorsed on Form 8.)

STATUTORY DECLARATION

I.....  
[given name, address and occupation of person making the declaration]  
sincerely declare as follows —

- (1A) I am the applicant in this application.
- (1) That the land on which burning is to be carried out does not exceed in extent and is identical with the area described in the above application and shown on the annexed sketch.
  - (2) That such area has been surrounded by a firebreak to a width of not less than 6 m.
  - (3) That the area to be burned is/is not carrying standing trees.
  - (4) That such area is carrying standing timber and that all grass and debris has been raked to a distance of not less than 2 m from the base of each standing tree.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* at [place] on [date] by —

[Signature of person making the declaration]

in the presence of —

[Signature of authorised witness]

[Name of authorised witness and qualification as such a witness]

For a list of people who are authorised to witness statutory declarations, see *Oaths, Affidavits and Statutory Declarations Act 2005* Schedule 2.

[Form 8 inserted: Gazette 27 Oct 1966 p. 2784-5; amended: Gazette 12 Jul 1974 p. 2613-14; 27 Oct 1989 p. 3898; 22 Dec 1998 p. 6855 and 6859; 10 Sep 2010 p. 4343-4; 31 Oct 2012 p. 5252.]

**Form 9**  
Western Australia

*Bush Fires Act 1954*  
Regulation 33

Permit No.....

**PERMIT TO BURN PROCLAIMED PLANTS DURING A  
PROHIBITED BURNING TIME**

I, (a)..... of (b)..... chief executive officer of the..... or a duly authorised officer within the meaning of the regulations made under and for the purposes of the *Bush Fires Act 1954*, having been satisfied that the provisions of section 26 of the said Act have been complied with hereby grant authority to (c)..... of (d)....., the owner (or occupier) of (e)..... location No..... to burn upon the said location a total area shown on the annexed sketch of..... hectares of (f)..... upon the following days, viz.: —

....., 20..... hectares  
....., 20..... hectares  
....., 20..... hectares

subject, however, to the provisions of the said Act and the regulations made thereunder and to the due observance and performance of the conditions endorsed on this permit.

Given under my hand at..... this..... day  
of....., 20.....

Chief executive officer of the..... or  
another authorised officer.

- 
- (a) Name of chief executive officer or authorised officer in full and occupation.  
(b) Address. (c) Name of permit holder. (d) Address. (e) Name of location.  
(f) Description of proclaimed plant.

(To be endorsed on Form 9.)

EXTRACTS FROM REGULATIONS

- 33.(4) The authorised officer issuing a permit to burn plants under the provisions of this Division may incorporate in that permit any requirements and directions additional to those specified in this Division that he may consider necessary relative to the burning and the holder of the permit shall observe and carry out those requirements and directions.
- (6) Subject to regulations 34 and 35, a permit to burn proclaimed plants shall not be granted unless and until the applicant for the permit satisfies the authorised officer to whom the application is made that —
- (a) the land to be burned at one time and under the permit applied for does not exceed the area as fixed by the authorised officer when granting the permit, and in any event does not exceed 40 ha;
  - (b) the area has been surrounded by a firebreak to a width of not less than 6 m;
  - (c) if the area to be burned is carrying any standing trees, that all grass and debris has been raked to a distance of not less than 2 m from the base of each standing tree.
- (7) A person who is granted a permit shall deliver or cause to be delivered written notice of the intended burning to —
- (a) each owner or occupier of land adjoining the land on which burning is to occur; and
  - (b) the chief executive officer and a bush fire control officer of the local government for the district in which the land on which burning is to occur is situated; and
  - (c) if that land is within 3 km of forest land, a forest officer; and
  - (d) each government department or statutory body which has made it known to people in the district concerned that it requires to be notified of the granting of a permit under this Division,
- and such notice shall be given —
- (e) not later than 4 days before the commencement of burning;
- or

- (f) within any shorter period fixed by agreement between the holder of the permit and any person referred to in paragraph (a), (b), (c) or (d) in respect of notice to that person.
- (8) The authorised officer shall specify in a permit to burn proclaimed plants the day, not being a Sunday and not necessarily the day for which the permit was sought, on which burning is authorised and subject to subregulation (12), shall specify such time between the hours of 2 p.m. and midnight of the same day as he thinks fit, or as the local government may from time to time direct at which burning may be commenced.
- (13) No fire shall be lit pursuant to the provisions of this regulation on a day, or during any period of a day, if for that day or that period the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality where it is proposed to burn the proclaimed plant is “catastrophic”, “extreme”, “severe” or “very high”, and the person who has received the permit under the provisions of this regulation shall not burn a proclaimed plant in the locality on that day or during that period, but may burn the plant in that locality on the first day, next following the day or period of a day on which the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality is below “very high”.
- (14) The owner or occupier of the area to be burned shall himself arrange for and provide at least 3 persons to be constantly in attendance at the fire in the area from the time it is lit until it is completely extinguished and to assist in keeping the fire under control and preventing it from spreading beyond the area proposed to be burned.
- 36. In the event of any fire escaping beyond the boundaries of the area in respect of which a permit to burn has been granted, the holder of the permit shall, if possible, immediately notify the nearest bush fire control officer or authorised officer and within 24 hours of the suppression of the fire shall report in full the circumstances causing the escape to the authorised officer by whom the permit was granted.

*[Form 9 inserted: Gazette 27 Oct 1966 p. 2785-7; amended: Gazette 12 Jul 1974 p. 2614; 27 Oct 1989 p. 3898; 22 Dec 1998 p. 6855, 6858, 6859; 1 Dec 2009 p. 4842; 31 Oct 2012 p. 5252.]*

**Form 10**

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**Form 10**  
Western Australia

Regulation 36A

**APPLICATION FOR A PERMIT TO BURN DECLARED PLANTS/THE  
REFUSE OF DECLARED PLANTS DURING A PROHIBITED  
BURNING TIME**

I, (a)..... of (b).....  
the owner (or occupier) of (c)..... location No.....  
hereby apply for a permit to burn (d)...../the refuse of  
(d)..... to the extent specified hereunder on the days  
specified hereunder —

| Day            | Extent of Burning Proposed |
|----------------|----------------------------|
| ....., 20..... | .....                      |
| ....., 20..... | .....                      |
| ....., 20..... | .....                      |

such days being within the prohibited burning times declared for the district or  
part of the State within which the location is situated.

.....  
Applicant.

To .....

Note. — This application must be lodged with the chief executive officer of the  
local government within whose district the proposed burning is to take place, or  
the nearest authorised officer, within 7 days before the day upon which it is  
intended to commence burning.

---

(a) Name of applicant in full. (b) Address. (c) Name of location. (d) Description  
of declared plants.

*[Form 10 inserted: Gazette 10 Mar 1978 p. 709-10; amended:  
Gazette 22 Dec 1998 p. 6855 and 6859; 31 Oct 2012 p. 5252.]*

**Form 11**  
Western Australia

*Bush Fires Act 1954*  
Regulation 36A

Permit No.....

**PERMIT TO BURN DECLARED PLANTS/THE REFUSE OF  
DECLARED PLANTS DURING A PROHIBITED BURNING TIME**

I, (a)..... of (b).....  
the chief executive officer of the..... or a duly authorised  
officer within the meaning of the regulations made under and for the purposes  
of the *Bush Fires Act 1954*, hereby grant authority to (c).....  
of (d)..... the owner (or occupier) of (e).....  
location No..... to burn (f)..... / the refuse of  
(f)..... on the said location to the extent specified hereunder  
on the days specified hereunder —

| Day            | Extent of Burning Proposed |
|----------------|----------------------------|
| ....., 20..... | .....                      |
| ....., 20..... | .....                      |
| ....., 20..... | .....                      |

subject however to the provisions of that Act and those regulations and to the  
due observance and performance of the requirements and directions endorsed on  
this permit.

Given under my hand at..... this..... day of....., 20.....

.....  
Chief executive officer of the  
.....  
or Authorised Officer.

**Requirements and Directions**

- (a) Name of chief executive officer or authorised officer in full and occupation.
- (b) Address. (c) Name of permit holder. (d) Address. (e) Name of location.
- (f) Description of declared plants.

*[Form 11 inserted: Gazette 10 Mar 1978 p. 710; amended: Gazette  
22 Dec 1998 p. 6855 and 6859; 31 Oct 2012 p. 5252.]*

**Form 12**

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**Form 12**  
Western Australia  
*Bush Fires Act 1954*  
Regulation 41

**REGISTER OF BUSH FIRE BRIGADES**

Registration Date.....

Shire/Town/City of.....

.....Bush Fire Brigade.

Captain.....

Lieutenants    1. ....  
                     2. ....  
                     3. ....  
                     4. ....  
                     5. ....

Secretary.....

Signature.....

Chief executive officer.

*[Form 12 inserted: Gazette 10 Mar 1978 p. 711; amended: Gazette  
22 Dec 1998 p. 6859.]*





## Notes

This is a compilation of the *Bush Fires Regulations 1954* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

| Citation   | Published                 | Commencement |
|--|---------------------------|--------------|
| <i>Bush Fires Act 1954 Regulations</i> <sup>3</sup>  | 14 Oct 1955<br>p. 2575-97 | 14 Oct 1955  |
| Untitled regulations   | 21 Jan 1957<br>p. 88      | 21 Jan 1957  |
| <b>Reprint of the <i>Bush Fires Act 1954 Regulations</i> dated 29 Oct 1957 in <i>Gazette</i> 8 Nov 1957 p. 3323-48</b> (includes amendments listed above)  |                           |              |
| Untitled regulations   | 24 Nov 1958<br>p. 3101-2  | 24 Nov 1958  |
| Untitled regulations   | 25 Mar 1960<br>p. 865     | 25 Mar 1960  |
| Untitled regulations   | 15 Nov 1960<br>p. 3508    | 15 Nov 1960  |
| Untitled regulations   | 16 Oct 1963<br>p. 3075-9  | 16 Oct 1963  |
| <b>Reprint of the <i>Bush Fires Act 1954 Regulations</i> dated 26 Feb 1964 in <i>Gazette</i> 3 Mar 1964 p. 965-91</b> (includes amendments listed above)   |                           |              |
| Untitled regulations   | 27 May 1964<br>p. 2270    | 27 May 1964  |
| Untitled regulations   | 26 Feb 1965<br>p. 707-8   | 26 Feb 1965  |
| Untitled regulations   | 27 Oct 1966<br>p. 2778-87 | 27 Oct 1966  |
| Untitled regulations   | 4 Jun 1970<br>p. 1473-4   | 4 Jun 1970   |
| Untitled regulations   | 12 Jul 1974<br>p. 2612-14 | 12 Jul 1974  |
| Untitled regulations   | 10 Mar 1978<br>p. 705-11  | 10 Mar 1978  |
| <b>Reprint of the <i>Bush Fires Act 1954 Regulations</i> dated 23 Aug 1978 in <i>Gazette</i> 11 Sep 1978 p. 3373-99</b> (includes amendments listed above) |                           |              |
| Untitled regulations   | 28 Dec 1979<br>p. 4047    | 28 Dec 1979  |

**Bush Fires Regulations 1954**  
**Notes**                      Compilation table

| <b>Citation</b>  | <b>Published</b>         | <b>Commencement</b>   |
|--|--------------------------|---|
| <i>Bush Fires Amendment Regulations 1982</i>   | 12 Nov 1982<br>p. 4463   | 12 Nov 1982   |
| <i>Bush Fires Amendment Regulations 1989</i>   | 27 Oct 1989<br>p. 3897-8 | 27 Oct 1989   |
| <i>Bush Fires (Fire and Emergency Services Authority) Amendment Regulations 1998 Pt. 2</i>             | 22 Dec 1998<br>p. 6854-6 | 1 Jan 1999 (see r. 2 and <i>Gazette</i> 22 Dec 1998 p. 6833)  |
| <i>Bush Fires Amendment Regulations 1998</i>   | 22 Dec 1998<br>p. 6856-9 | 22 Dec 1998   |
| <i>Bush Fires Amendment Regulations 2000</i>   | 18 Jul 2000<br>p. 3862-3 | 18 Jul 2000   |
| <i>Bush Fires Amendment Regulations (No. 2) 2000</i> <sup>2</sup>                                      | 29 Dec 2000<br>p. 7904-5 | 29 Dec 2000   |
| <b>Reprint of the Bush Fires Regulations 1954 as at 9 Feb 2001</b> (includes amendments listed above)  |                          |   |
| <i>Bush Fires Amendment Regulations 2003</i>   | 10 Jan 2003<br>p. 32-3   | 10 Jan 2003   |
| <i>Bush Fires Amendment Regulations 2004</i>   | 31 Dec 2004<br>p. 7140-1 | 31 Dec 2004   |
| <i>Bush Fires Amendment Regulations 2009</i>   | 1 Dec 2009<br>p. 4831-42 | r. 1 and 2: 1 Dec 2009<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>1 Dec 2009 (see r. 2(b) and<br><i>Gazette</i> 1 Dec 2009 p. 4829) |
| <b>Reprint 5: The Bush Fires Regulations 1954 as at 19 Mar 2010</b> (includes amendments listed above) |                          |   |
| <i>Standardisation of Formatting Act 2010</i> s. 53 assented to 28 Jun 2010                            |                          | 11 Sep 2010 (see s. 2(b) and<br><i>Gazette</i> 10 Sep 2010 p. 4341)   |
| <i>Bush Fires Amendment Regulations (No. 2) 2010</i>   | 10 Sep 2010<br>p. 4342-4 | r. 1 and 2: 10 Sep 2010<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>11 Sep 2010 (see r. 2(b))  |
| <i>Bush Fires Amendment Regulations (No. 3) 2010</i>   | 5 Nov 2010<br>p. 5564-6  | r. 1 and 2: 5 Nov 2010<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>6 Nov 2010 (see r. 2(b))  |
| <i>Bush Fires Amendment Regulations 2010</i>   | 17 Dec 2010<br>p. 6351-4 | r. 1 and 2: 17 Dec 2010<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>18 Dec 2010 (see r. 2(b))  |

| Citation  | Published                 | Commencement  |
|---|---------------------------|---|
| <i>Bush Fires Amendment Regulations 2011</i>  | 2 Dec 2011<br>p. 5059-60  | r. 1 and 2: 2 Dec 2011<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>3 Dec 2011 (see r. 2(b))  |
| <b>Reprint 6: The Bush Fires Regulations 1954 as at 6 Jul 2012</b> (includes amendments listed above) |                           |   |
| <i>Bush Fires Amendment Regulations 2012</i>  | 31 Oct 2012<br>p. 5251-2  | r. 1 and 2: 31 Oct 2012<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>1 Nov 2012 (see r. 2(b) and<br><i>Gazette</i> 31 Oct 2012 p. 5255) |
| <i>Bush Fires Amendment Regulations 2013</i>  | 5 Feb 2013<br>p. 834-5    | r. 1 and 2: 5 Feb 2013 (see r. 2(a));<br>Regulations other than r. 1 and 2:<br>1 May 2013 (see r. 2(b)(i) and<br><i>Gazette</i> 5 Feb 2013 p. 823)    |
| <i>Bush Fires Amendment Regulations 2014</i>  | 8 Jan 2015<br>p. 109      | r. 1 and 2: 8 Jan 2015 (see r. 2(a));<br>Regulations other than r. 1 and 2:<br>27 Apr 2015 (see r. 2(b) and<br><i>Gazette</i> 17 Apr 2015 p. 1371)    |
| <i>Bush Fires Amendment Regulations 2019</i>  | 5 Nov 2019<br>p. 3879-98  | r. 1 and 2: 5 Nov 2019<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>6 Nov 2019 (see r. 2(b))  |
| <i>Bush Fires Amendment Regulations 2021</i>  | SL 2021/10<br>29 Jan 2021 | r. 1 and 2: 29 Jan 2021<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>30 Jan 2021 (see r. 2(b))  |

### Other notes

- <sup>1</sup> Formerly referred to the *Workers' Compensation and Rehabilitation Act 1981* the short title of which was changed to the *Workers' Compensation and Injury Management Act 1981* by the *Workers' Compensation Reform Act 2004* s. 5. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).
- <sup>2</sup> The *Bush Fires Amendment Regulations (No. 2) 2000* deleted headings to r. 1-3, 15, 18, 23, 37, 37A, 38, 39, 39A, 39B, 39BA, 39D, 41, 43 and 44 that formed part of the written law. The deletions are not noted in footnotes to the regulations. The headings to the regulations in this compilation do not form part of the written law (see *Interpretation Act 1984* s. 32).
- <sup>3</sup> Now known as the *Bush Fires Regulations 1954*; citation changed (see note under r. 1).

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

| <b>Defined term</b>                                  | <b>Provision(s)</b> |
|--|---------------------|
| approved fire extinguisher .....                     | 24AA                |
| approved fire hose .....                             | 24AA                |
| approved pump .....                                  | 24AA                |
| approved storage tank .....                          | 24ZQ(1)             |
| assistance operation .....                           | 24DA(1)             |
| authorised officer .....                             | 16, 24              |
| bee smoker device .....                              | 39CA(1)             |
| bituminising equipment .....                         | 24AA                |
| blasting .....                                       | 24AA                |
| bush fire officer .....                              | 45A(1), 45B(1)      |
| CALM Act .....                                       | 24AA                |
| CALM Act land .....                                  | 24AA                |
| catering activity .....                              | 24AA                |
| catering site .....                                  | 24AA                |
| engine, vehicle, plant, equipment or machinery ..... | 24AA                |
| essential service .....                              | 24AA                |
| Executive Body .....                                 | 45(1)               |
| fire danger forecast .....                           | 24AA                |
| fire detection officer .....                         | 24J(1), 24ZG(1)     |
| fire extinguisher .....                              | 3                   |
| fire fighting vehicle .....                          | 24AA                |
| gas flaring .....                                    | 24AA                |
| grading equipment .....                              | 24AA                |
| hot work .....                                       | 24AA                |
| incident .....                                       | 24DA(1)             |
| notifiable authority .....                           | 3                   |
| off-road activity .....                              | 24AA                |
| off-road site .....                                  | 24AA                |
| permit holder .....                                  | 15B(1)              |
| prescribed period .....                              | 39CA(1)             |
| private road .....                                   | 24AA                |
| public authority .....                               | 24AA                |
| rail grinding .....                                  | 24AA                |
| rescue operation .....                               | 24DA(1)             |
| road .....   | 24AA                |
| road site .....                                      | 24AA                |
| road site fire fighting vehicles .....               | 24ZE(3)             |
| road work .....                                      | 24AA                |
| search and rescue operation .....                    | 24DA(1)             |
| subject land .....                                   | 3                   |

Defined terms

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|                               |                |
|-------------------------------|----------------|
| suitable spark arrester ..... | 24AA           |
| take control .....            | 45A(1), 45B(1) |
| unallocated Crown land .....  | 45(1)          |
| urgent works .....            | 24AA           |
| volunteer fire fighter .....  | 40(1)          |
| work site.....                | 24AA           |