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Bush Fires Act 1954

Bush Fires Amendment Regulations 2009

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Bush Fires Amendment Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Bush Fires Amendment Act 2009* section 7 comes into operation.

3. Regulations amended

These regulations amend the *Bush Fires Regulations 1954*.

4. Regulation 15B amended

In regulation 15B(7) delete “ “very high” or “extreme” ” and insert:

“catastrophic”, “extreme”, “severe” or “very high”

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5. Regulation 21B amended

In regulation 21B(1) delete “ “extreme”,” and insert:

“catastrophic” or “extreme”,

6. Part VA inserted

After Part IV insert:

Part VA — Prohibited activities in the open air during total fire ban**24A. Prohibited activities in the open air during total fire ban**

(1) In this regulation —

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;

fire fighting vehicle means a motor vehicle that —

- (a) is capable of carrying at least 400 litres of water; and
- (b) is fitted with a pump and at least 15 m of hose with a minimum diameter of 19 mm and capable of delivering water through an adjustable nozzle;

road has the meaning given in the *Road Traffic Act 1974* section 5(1).

(2) Subject to subregulations (3) and (4), the use or operation of any engine, vehicle, plant, equipment or machinery on land on which there is bush or which is

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under 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; or
 - (b) on a lane, driveway, 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.
- (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) regulation 24B(2) is complied with in relation to that use or operation; and
 - (c) without limiting paragraph (b), the conditions to which subregulation (5) applies are complied with.
- (5) This subregulation applies to the conditions that —
 - (a) 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 —
 - (i) is clean, sound and free from gas leaks; and

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- (ii) except in the case of a motor vehicle, is fitted with a suitable spark arrester that is maintained in a clean, sound and efficient condition;
 - and
 - (b) if the engine, vehicle, plant, equipment or machinery is capable of being driven, it is accompanied by a fire fighting vehicle when it is driven.
- (6) Subregulation (5)(b) does not apply if —
- (a) because of the nature of the immediate and serious risk to the health or safety of a person or livestock, as mentioned in subregulation (4)(a), it is not practicable to delay the use or operation of the engine, vehicle, plant, equipment or machinery until the arrival of a fire fighting vehicle; or
 - (b) the engine, vehicle, plant, equipment or machinery is itself a fire fighting vehicle.

24B. Prescribed activity to which section 22B(2) of Act does not apply

- (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.

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In regulation 33(13) delete “ “very high” or “extreme”,” and insert:

“catastrophic”, “extreme”, “severe” or “very high”,

8. Regulation 39CA amended

In regulation 39CA(1) in paragraph (c) of the definition of *prescribed period* delete “ “extreme” or “very high”.” and insert:

“catastrophic”, “extreme”, “severe” or “very high”.

9. Regulation 45 inserted

After regulation 44 insert:

45. Extended meaning of conservation land in section 45(1)

(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.

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- (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

Unallocated Crown land	Former pastoral lease
Wells Location 3 and Hann Location 4	Earaheedy

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Unallocated Crown land	Former pastoral lease
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
Lots 129 and 130 on Deposited Plan 39947	Part Mabel Downs
Erivilla Location 36, Thadoona Location 11 and Kyarra Location 143	Mooloogool

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Unallocated Crown land	Former pastoral lease
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

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Unallocated Crown land	Former pastoral lease
Gascoyne Location 508	Part Williambury
Gascoyne Location 512	Part Jimba Jimba
Lyons Location 38	Cobra
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

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Unallocated Crown land	Former pastoral lease
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
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

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Unallocated Crown land	Former pastoral lease
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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Unallocated Crown land	Former pastoral lease
Lots 388 and 389 on Deposited Plan 61845 and Lot 390 on Deposited Plan 40454	Part Mardie

10. Appendix amended

In the Appendix Form 9 under the heading “EXTRACTS FROM REGULATIONS” in extracted regulation 33(13) delete “ “very high” or “extreme”,” and insert:

“catastrophic”, “extreme”, “severe” or “very high”,

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.