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**FIRE AND EMERGENCY SERVICES**

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Fire and Emergency Services Authority of Western Australia Act 1998

**Fire and Emergency Services Authority of  
Western Australia Amendment  
Regulations (No. 2) 2003**

Made by the Governor in Executive Council.

**1. Citation**

These regulations may be cited as the *Fire and Emergency Services Authority of Western Australia Amendment Regulations (No. 2) 2003*.

**2. The regulations amended**

The amendments in these regulations are to the *Fire and Emergency Services Authority of Western Australia Regulations 1998\**.

[\* *Published in Gazette 22 December 1998, p. 6843-4.*]

**3. Regulations 5 to 11 inserted**

After regulation 4 the following regulations are inserted —

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**5. Land exempt from emergency services levy  
(section 36D(a))**

For the purposes of section 36D(a) of the Act, land is exempt from the levy if it is —

- (a) land owned by a local government that is determined by the Minister, having regard to the advice of the Valuer-General, not to be improved land;
- (b) land in respect of which a mining tenement, other than a mining lease, is granted or acquired under the *Mining Act 1978* or by virtue of the *Mining Act 1904*; or

- (c) land in respect of which an exploration permit for petroleum is granted under the *Petroleum Act 1967*.

**6. Emergency services categories (section 36F(1))**

- (1) For the purposes of section 36F(1) of the Act, the prescribed emergency services categories are —
  - (a) ESL category 1;
  - (b) ESL category 2;
  - (c) ESL category 3;
  - (d) ESL category 4; and
  - (e) ESL category 5.
- (2) ESL category 1 applies to an area of Western Australia in which are provided the services of permanent fire brigades and SES Units.
- (3) ESL category 2 applies to an area of Western Australia in which are provided the services of a permanent fire brigade, a volunteer fire brigade and SES Units.
- (4) ESL category 3 applies to an area of Western Australia in which are provided —
  - (a) the services of —
    - (i) a volunteer fire brigade, or a bush fire brigade, supported by permanent fire brigades; or
    - (ii) a volunteer fire brigade supported by members of staff of the Authority;
  - and
  - (b) the services of SES Units.
- (5) ESL category 4 applies to an area of Western Australia in which are provided —
  - (a) the services of —
    - (i) a volunteer fire brigade;
    - (ii) a bush fire brigade equipped with breathing apparatus; or
    - (iii) a FESA Unit equipped with breathing apparatus;
  - and
  - (b) the services of SES Units.
- (6) ESL category 5 applies to an area of Western Australia in which are provided the services of —
  - (a) a bush fire brigade, a FESA unit or members of staff of the Authority; and
  - (b) SES Units.

- (7) In this regulation —
- “**bush fire brigade**” has the same meaning as it has in the *Bush Fires Act 1954*;
- “**permanent fire brigade**” and “**volunteer fire brigade**” have the same meanings as they have in the *Fire Brigades Act 1942*.

**7. Minister to have regard to advice of Authority (section 36G(5))**

For the purposes of section 36G(5) of the Act, the advice of the Authority is a matter that the Minister is to have regard to in determining the purpose for which any land is used.

**8. Matters assessment notice is to include or be accompanied by (section 36J(2)(b))**

- (1) For the purposes of section 36J(2)(b) of the Act, the matters that an assessment notice is to include are —
- (a) a description of the leviable land;
  - (b) if the levy has been determined by reference to the gross rental value of the leviable land, the gross rental value of that land;
  - (c) the emergency services category that applies to the leviable land;
  - (d) if applicable, the rate in the dollar by reference to which the levy on leviable land in that emergency services category is determined;
  - (e) if applicable, details of how the rate referred to in paragraph (d) varies according to the purpose for which the leviable land is used;
  - (f) the amount of levy payable and the date on which payment is due;
  - (g) if arrangements have been approved under section 36Q(2)(a) of the Act for the levy to be paid by instalments —
    - (i) the amount of those instalments and the dates on which payment is due; and
    - (ii) any charges approved under section 36Q(2)(b) of the Act that apply to the payment of the levy by instalments;
  - (h) any discount or other incentive for the early payment of the levy granted under section 36R(1) of the Act;
  - (i) any rebate that applies to the levy under the *Rates and Charges (Rebates and Deferments) Act 1992*; and

- (j) any amount of unpaid levy and any interest that has accrued on that amount.
- (2) For the purposes of section 36J(2)(b) of the Act, the matters that an assessment notice for the levy year that ends on 30 June 2004 is to be accompanied by are —
- (a) a summary of the scheme for which the levy is to provide funds and how that scheme operates and the name of the Act under which it operates;
  - (b) a brief description of the emergency services categories;
  - (c) a brief description of the transitional arrangements provided for in Schedule 1 to the *Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Act 2002* that apply to that levy year;
  - (d) the rate of levy determined under section 36G of the Act for that levy year for each of the emergency services categories and any variations to that rate that apply according to the purpose for which the leviable land is used;
  - (e) any minimum amount or maximum amount of levy determined for that levy year under section 36I of the Act;
  - (f) any rate of interest declared under section 36S of the Act that applies for that levy year to unpaid levy on land in the relevant local government district; and
  - (g) a reference to the provision in Part 6A Division 8 of the Act for an objection and appeal in respect of the determination for section 36G(4)(b) or 36I(2)(b) of the Act of the purpose for which the leviable land is used.
- (3) For the purposes of section 36J(2)(b) of the Act, the matters that an assessment notice for the levy year that ends on 30 June 2005 is to be accompanied by are the matters referred to in subregulation (2), except for the matters referred to in paragraph (c) of that subregulation.

**9. Assessment of levy by local governments  
(section 36L(1)(a))**

- (1) For the purposes of section 36L(1)(a) of the Act, a local government is to assess the amount of levy payable for a levy year on leviable land owned by a State agency or instrumentality and in the local government's district if, for that year, the local government is required to give to the agency or

instrumentality a rate notice under the *Local Government Act 1995* in respect of that land.

- (2) Subregulation (1) does not apply to leviable land owned by a State agency or instrumentality in a local government district if, for the relevant levy year, the Authority gives to the local government a notice that —
- (a) states that it is given for the purposes of this subregulation; and
  - (b) identifies the land and the State agency or instrumentality.

**10. Rate of interest for overpaid or underpaid levy (section 36ZH(3)(c))**

For the purposes of section 36ZH(3)(c) of the Act, the rate of interest that applies to —

- (a) an amount by which the levy was overpaid that is to be refunded; or
- (b) an amount by which the levy was underpaid that is to be recovered,

is —

- (c) the rate of interest that applies under subsection (2) of section 36X of the Act at the time the relevant objection or appeal is determined; or
- (d) if no rate of interest applies under that subsection at that time, the rate of interest that most recently applied under that subsection before that time.

**11. Rate of interest for unpaid amount under ESL agreement (section 36ZJ(3))**

For the purposes of section 36ZJ(3) of the Act, the rate of interest that applies to an amount that remains unpaid after it becomes due and payable under an ESL agreement is —

- (a) the rate of interest that applies under subsection (2) of section 36X of the Act at the time the amount becomes due and payable; or
- (b) if no rate of interest applies under that subsection at that time, the rate of interest that most recently applied under that subsection before that time.

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.