



Western Australia

Fire and Emergency Services Authority of Western Australia Act 1998

**Fire and Emergency Services Authority of
Western Australia Regulations 1998**

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Fire and Emergency Services Authority of Western Australia Regulations 1998

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Fire and Emergency Services Authority of Western Australia Regulations 1998

1. Citation

These regulations may be cited as the *Fire and Emergency Services Authority of Western Australia Regulations 1998*¹.

2. Commencement

These regulations come into operation on the day on which the *Fire and Emergency Services Authority of Western Australia Act 1998* comes into operation¹.

3. Definitions

In these regulations —

nominating body means a body referred to in regulation 4(1) or (2);

Western Australian Municipal Association means the body corporate of that name constituted under section 9.58 of the *Local Government Act 1995*.

4. Nominations for appointment by Minister of representative members of board of management (section 6(1)(c) and (d))

- (1) For the purposes of making the appointments to the board of the members referred to in section 6(1)(c) of the Act, the Minister may invite 3 written nominations to be submitted to the Minister by each of the following bodies —

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- (a) the Association of Volunteer Bush Fire Brigades of WA Incorporated;
 - (b) the SES Volunteers Association of WA (Inc.);
 - (c) the WA Volunteer Fire Brigades Association (Inc.).
- (2a) For the purposes of making the appointment to the board of the member referred to in section 6(1)(cc) of the Act, the Minister may invite 3 written nominations to be submitted to the Minister by —
- (a) West Coast Volunteer Marine Search and Rescue Association (Inc); and
 - (b) Volunteer Marine Rescue Western Australia (Inc).
- (2) For the purposes of making the appointment to the board of the member referred to in section 6(1)(d) of the Act, the Minister may invite 3 written nominations to be submitted to the Minister by the Western Australian Municipal Association.
- (3) A nomination submitted under subregulation (1), (2) or (2a) is to be accompanied by a summary of the expertise or experience of the person nominated that the appropriate nominating body considers relevant to the functions of the Authority.
- (4) Nothing in this regulation limits sections 6(1)(c), (cc) and (d) and 7(2) of the Act.

[Regulation 4 amended in Gazette 3 Oct 2003 p. 4352.]

4A. Appointment by Minister of representative member of board of management under section 6(1)(cd)

- (1) For the purpose of assisting the Minister in deciding whom to appoint to the board as the member referred to in section 6(1)(cd) of the Act, the Minister may request the chief executive officer to conduct a poll of members of staff to determine whom they prefer as the representative of members of staff.

- (2) If the Minister requests the chief executive officer to conduct a poll of members of staff, the chief executive officer must conduct the poll.
- (3) On completion of the poll the chief executive officer must —
 - (a) forward the results of the poll to the Minister; and
 - (b) in respect of each person who contested the poll, provide the Minister with a summary of that person's expertise or experience that is relevant to the functions of the Authority.
- (4) Nothing in this regulation limits sections 6(1)(cd) and 7(2) of the Act.

[Regulation 4A inserted in Gazette 3 Oct 2003 p. 4352-3.]

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

- (1) 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; or
 - (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*²; or
 - (c) land in respect of which an exploration permit for petroleum is granted under the *Petroleum and Geothermal Energy Resources Act 1967*; or
 - (d) land —
 - (i) that is determined by the Minister, having regard to the advice of the Authority, to be contaminated; and
 - (ii) that is in an area in which, because of that contamination, no services under the emergency services Acts are provided.

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- (2) In subregulation (1)(d) —
contaminated has the same meaning as it has in the
Contaminated Sites Act 2003 section 4.

*[Regulation 5 inserted in Gazette 16 May 2003 p. 1697-8;
amended in Gazette 10 Jun 2008 p. 2487.]*

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 private fire brigade, or a bush fire brigade, supported by permanent fire brigades; or
 - (ii) a volunteer fire brigade supported by permanent fire brigades or 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;
 - (ia) a private 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, private fire brigade*** and ***volunteer fire brigade*** have the same meanings as they have in the *Fire Brigades Act 1942*.
- [Regulation 6 inserted in Gazette 16 May 2003 p. 1698-9; amended in Gazette 13 Jun 2003 p. 2117; 27 Jun 2003 p. 2388.]*

**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.

[Regulation 7 inserted in Gazette 16 May 2003 p. 1699.]

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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 review 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.

*[Regulation 8 inserted in Gazette 16 May 2003 p. 1699-700;
amended in Gazette 30 Dec 2004 p. 6973.]*

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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.

[Regulation 9 inserted in Gazette 16 May 2003 p. 1700-1.]

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 review 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.

*[Regulation 10 inserted in Gazette 16 May 2003 p. 1701;
amended in Gazette 30 Dec 2004 p. 6973.]*

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.

[Regulation 11 inserted in Gazette 16 May 2003 p. 1701.]

12. Exercise of powers under sections 18B, 18G and 18L of the Act

- (1) The Authority must not under section 18B(3)(i), 18G(3)(e) or 18L(3)(e) of the Act shut off the gas supply to premises unless those premises are residential premises and the gas supply is shut off by closing a valve located above ground on the premises.
- (2) If practicable, before shutting off the gas supply under subregulation (1), the Authority must liaise with the network operator supplying the gas to the premises.
- (3) If the Authority closes a valve under subregulation (1), the Authority must not re-open that valve.

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- (4) The Authority must not under section 18B(3)(i), 18G(3)(e) or 18L(3)(e) of the Act shut off the gas supply to premises that are not residential premises unless it has been authorised to do so by the network operator supplying gas to the premises.
- (5) If the gas supply to premises is shut off by the Authority, the Authority must as soon as practicable after doing so and in any event within 2 hours of doing so give the network operator supplying gas to the premises a notice containing the following information —
 - (a) the gas supply has been shut off;
 - (b) the address of the premises; and
 - (c) the time at which the gas supply was shut off.
- (6) The Authority must not under section 18B(3)(i), 18G(3)(e) or 18L(3)(e) of the Act disconnect or shut off the electricity supply to premises unless —
 - (a) it has been authorised to do so by the network operator supplying the electricity to the premises;
 - (b) the person who disconnects or shuts off the electricity supply is, in the opinion of the Authority, competent to do so and is familiar with the electrical installations on the premises;
 - (c) the premises are residential premises;
 - (d) electrical installations on the premises are metered by a single, direct connected electricity meter; and
 - (e) any installation on the premises has a voltage of not more than 415 volts.
- (7) If the Authority disconnects or shuts off the electricity supply to premises under subregulation (6), the Authority must not reconnect or switch on the electricity supply to those premises.

- (8) The Authority must not under section 18B(3)(i), 18G(3)(e) or 18L(3)(e) of the Act shut off the water supply to premises unless —
- (a) the water supply is shut off by a valve located on or immediately adjacent to the premises; and
 - (b) shutting off the water supply by that valve will not shut off water to any other premises.
- (9) If practicable, before shutting off the water supply under subregulation (8), the Authority must liaise with the person supplying the water to the premises.

[Regulation 12 inserted in Gazette 3 Oct 2003 p. 4353-4.]

13. Register of members of SES Unit

For the purposes of section 18D(a) of the Act, the register of members of an SES Unit must contain the following particulars —

- (a) the member's full name;
- (b) the member's postal address;
- (c) the member's residential address;
- (d) the member's date of birth;
- (e) the member's membership type (active, casual or probationary);
- (f) the member's contact telephone numbers;
- (g) the name of the SES Unit of which the person is a member.

[Regulation 13 inserted in Gazette 3 Oct 2003 p. 4354.]

14. Register of members of VMRS Group

For the purposes of section 18I(a) of the Act, the register of members of a VMRS Group must contain the following particulars —

- (a) the member's full name;

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- (b) the member's postal address;
- (c) the member's residential address;
- (d) the member's date of birth;
- (e) the member's membership type (active, non-active, junior or associate);
- (f) the member's contact telephone numbers;
- (g) the VMRS Group of which the person is a member.

[Regulation 14 inserted in Gazette 3 Oct 2003 p. 4355.]

15. Register of members of FESA Unit

For the purposes of section 18N(a) of the Act, the register of members of a FESA Unit must contain the following particulars —

- (a) the member's full name;
- (b) the member's postal address;
- (c) the member's residential address;
- (d) the member's date of birth;
- (e) the member's membership type (active, support, probationary or junior);
- (f) the member's contact telephone numbers;
- (g) the FESA Unit of which the person is a member.

[Regulation 15 inserted in Gazette 3 Oct 2003 p. 4355.]

Notes

- ¹ This is a compilation of the *Fire and Emergency Services Authority of Western Australia Regulations 1998* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Fire and Emergency Services Authority of Western Australia Regulations 1998</i>	22 Dec 1998 p. 6843-4	1 Jan 1999 (see r. 2 and <i>Gazette</i> 22 Dec 1998 p. 6833)
<i>Fire and Emergency Services Authority of Western Australia Amendment Regulations (No. 2) 2003</i>	16 May 2003 p. 1697-701	16 May 2003
<i>Fire and Emergency Services Authority of Western Australia Amendment Regulations (No. 3) 2003</i>	13 Jun 2003 p. 2117	13 Jun 2003
<i>Fire and Emergency Services Authority of Western Australia Amendment Regulations (No. 4) 2003</i>	27 Jun 2003 p. 2387-8	27 Jun 2003
<i>Fire and Emergency Services Authority of Western Australia Amendment Regulations 2003</i>	3 Oct 2003 p. 4351-5	3 Oct 2003
<i>Fire and Emergency Services Authority of Western Australia Amendment Regulations 2004</i>	30 Dec 2004 p. 6973	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
Reprint 1: The <i>Fire and Emergency Services Authority of Western Australia Regulations 1998</i> as at 4 Feb 2005 (includes amendments listed above)		
<i>Fire and Emergency Services Authority of Western Australia Amendment Regulations 2008</i>	10 Jun 2008 p. 2486-7	r. 1 and 2: 10 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Jun 2008 (see r. 2(b))

- ² Repealed by the *Mining Act 1978*.