

Bush Fires Amendment Regulations 2021

SL 2021/10

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Bush Fires Amendment Regulations 2021*.

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 after that day.

3. Regulations amended

These regulations amend the *Bush Fires Regulations 1954*.

4. Regulation 24AA amended

- (1) In regulation 24AA delete the definitions of:

approved fire extinguisher
fireworks activity
fireworks site
road
urgent works

- (2) In regulation 24AA insert in alphabetical order:

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;

private road means —

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

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;

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;

- (3) In regulation 24AA in the definition of ***essential service*** after paragraph (a) insert:

- (aa) rubbish collection or disposal services;

- (4) In regulation 24AA in the definition of ***fire danger forecast*** delete “fireworks site,”.

5. Regulation 24A amended

- (1) In regulation 24A(3):
 - (a) delete paragraph (a) and insert:
 - (a) on a road that is not a private road; or
 - (b) in paragraph (b) delete “driveway,” and insert:

private road,
- (2) In regulation 24A(5)(b) delete “a suitable spark arrester that is maintained in a clean, sound and efficient condition.” and insert:

a suitable spark arrester for the engine.

6. Regulation 24DA inserted

At the end of Part VA Division 3 insert:

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.

7. Regulation 24E replaced

Delete regulation 24E and insert:

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.

8. Regulation 24F amended

In regulation 24F(2) delete “on infrastructure used in the provision” and insert:

in relation to the provision or restoration

9. Regulation 24H amended

Delete regulation 24H(1) and (2) and insert:

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

10. Regulation 24I amended

In regulation 24I(1) after “extinguishers” insert:

for hot work

11. Regulation 24J amended

In regulation 24J(2)(a) delete “extinguishers; and” and insert:

extinguishers for hot work; and

12. Regulation 24N amended

In regulation 24N(2) after “extinguisher” insert:

for blasting

13. Part VA Division 6 deleted

Delete Part VA Division 6.

14. Regulation 24ZA amended

In regulation 24ZA(2) delete “on infrastructure used in the provision” and insert:

in relation to the provision or restoration

15. Regulation 24ZD amended

In regulation 24ZD after “extinguishers” insert:

for the road work

16. Regulation 24ZG amended

In regulation 24ZG(2)(a) delete “extinguishers; and” and insert:

extinguishers for the road work; and

17. Regulation 24ZH amended

In regulation 24ZH(3) delete “on infrastructure used in the provision” and insert:

in relation to the provision or restoration

18. Regulation 24ZI amended

In regulation 24ZI(2) delete “on infrastructure used in the provision” and insert:

in relation to the provision or restoration

19. Regulation 24ZK amended

In regulation 24ZK(2)(b)(ii) delete “a suitable spark arrester that is maintained in a clean, sound and efficient condition.” and insert:

a suitable spark arrester for the exhaust system.

20. Regulation 24ZL amended

In regulation 24ZL after “extinguisher” insert:

for the off-road activity

21. Regulation 24ZP amended

Delete regulation 24ZP(2) and (3) and insert:

- (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.

22. Regulation 24ZQ replaced

Delete regulation 24ZQ and insert:

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.

23. Regulation 24ZR amended

In regulation 24ZR(1) delete “extinguishers —” and insert:

extinguishers for the catering activity —

24. Regulation 39E amended

Delete regulation 39E(4).

Note: The heading to amended regulation 39E is to read:

Use of fireworks

N. HAGLEY, Clerk of the Executive Council.