



# **Jervis Bay Territory Rural Fires Rule 2014**

made under the

*Jervis Bay Territory Rural Fires Ordinance 2014*

## **Compilation No. 2**

<b>Compilation date:</b>	23 November 2019
<b>Includes amendments up to:</b>	Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019
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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Jervis Bay Territory Rural Fires Rule 2014* that shows the text of the law as amended and in force on 23 November 2019 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## **Part 1—Preliminary**

### **1 Name of rule**

This rule is the *Jervis Bay Territory Rural Fires Rule 2014*.

### **3 Authority**

This rule is made under the *Jervis Bay Territory Rural Fires Ordinance 2014*.

### **4 Definitions**

In this rule:

***appropriate disciplinary authority***: see section 10.

***brigade register*** means the register for a rural fire brigade required to be kept under section 15 of the Ordinance.

***hazardous material*** means anything that, when produced, stored, moved, used or otherwise dealt with without adequate safeguards to prevent the thing from escaping, may cause injury, death to persons or animals, or damage to property.

***Ordinance*** means the *Jervis Bay Territory Rural Fires Ordinance 2014*.

## Part 2—Rural fire brigades

### 5 Constitution for rural fire brigade

- (1) The constitution for a rural fire brigade must be in a form approved by the Minister, and must provide for the following matters:
  - (a) the name of the brigade;
  - (b) the council or other governing body (however described) of the brigade and its officers;
  - (c) the classification of members of the brigade other than officers;
  - (d) arrangements for meetings of the brigade;
  - (e) voting rights of members of the brigade;
  - (f) the conduct of fundraising appeals by the brigade and the application of any money or benefit received in the course of a fundraising appeal.
- (2) The members of a rural fire brigade must review the brigade's constitution annually to decide whether it should be amended.
- (3) In determining whether the constitution should be amended, the members must take into consideration any relevant Service Standards.

### 6 Membership of rural fire brigades

- (1) A person is eligible to be listed on the register of a rural fire brigade if the person:
  - (a) complies with the procedures (if any) for attaining membership set out in the constitution for the rural fire brigade; and
  - (b) satisfies the requirements (if any) for attaining membership of a rural fire brigade determined by the Minister.
- (2) However, the Minister may refuse to list a person's name on a brigade register if, in the Minister's opinion, the person is not a fit and proper person to be a member of the rural fire brigade.
- (3) If the Minister refuses to list a person's name on a brigade register, the Minister must notify the person, in writing, of the refusal.
- (4) A person's listing on a brigade register is subject to such conditions as may be imposed by the Minister.

### 7 Probationary membership

- (1) Unless the Minister determines otherwise, a person who becomes a member of a rural fire brigade holds his or her membership for an initial probationary period of 6 months.

- (2) The Minister may remove the person's name from the brigade register if, at the end of the probationary period, the person:
  - (a) has not achieved a satisfactory level of competency required by the Service Standards; or
  - (b) does not satisfy any requirements for the confirmation of membership set out in the brigade's constitution; or
  - (c) has not complied with any conditions of membership imposed by the Minister under subsection 6(4).
- (3) If the Minister removes a person's name from the brigade register under subsection (2), the Minister must notify the person, in writing, of the removal.

## **8 Removal from membership**

- (1) The Minister must remove the name of a person from a brigade register if the person:
  - (a) has died; or
  - (b) applies in writing to have his or her name removed from the brigade register.
- (2) The Minister may remove the name of a person from a brigade register if the person:
  - (a) is found to have committed a breach of discipline under section 10; or
  - (b) becomes mentally incapacitated; or
  - (c) is convicted in the Territory of an offence punishable by imprisonment for 12 months or more; or
  - (d) is convicted outside the Territory of an offence that, if committed in the Territory, would be an offence punishable by imprisonment for 12 months or more; or
  - (e) in the Minister's opinion, is no longer a fit and proper person to be a member of the rural fire brigade.
- (3) Without limiting paragraph (2)(e), the Minister may form an opinion that a person is no longer a fit and proper person to be a member of a rural fire brigade if the person:
  - (a) has not been an active member of the brigade for a period of at least 12 months; or
  - (b) has not paid his or her annual subscription in accordance with the brigade's constitution.
- (4) The Minister must notify the person, in writing, before removing the person's name from the brigade register under paragraph (2)(b), (c), (d) or (e).
- (5) If the Minister gives notice under subsection (4), the Minister must not remove the person's name until 21 days after giving the notice, or until the conclusion of any review under subsection 9(3).

## Section 9

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### 9 Review of decisions relating to membership

- (1) A person may apply to the Minister for review of the Minister's decision:
  - (a) to refuse to include a person's name on a brigade register under subsection 6(2); or
  - (b) to remove a person's name from a brigade register under paragraph 8(2)(b), (c), (d) or (e).
- (2) An application for review must:
  - (a) be in writing; and
  - (b) set out the reasons for the application; and
  - (c) be made within 21 days after the decision was made.
- (3) On receiving an application, the Minister must appoint an officer of the NSW Rural Fire Service, at or above the rank of Assistant Commissioner, as a review officer to review the Minister's decision.
- (4) After taking into account all relevant information available to the review officer, the review officer must:
  - (a) confirm the Minister's decision; or
  - (b) for review of a decision under subsection 6(2)—include the applicant's name on the brigade register; or
  - (c) for review of a decision under paragraph 8(2)(b), (c), (d) or (e)—decide to retain the applicant's name on the brigade register.
- (5) The review officer must notify the applicant, in writing, of the review officer's decision and the reasons for the decision.
- (6) If a decision to remove a person's name from a brigade register is subject to an application for review, the person's name must not be removed from the register until the application is decided by the review officer.

### 10 Disciplinary action

- (1) A member of a rural fire brigade commits a breach of discipline if the member:
  - (a) contravenes the Ordinance or a provision of this rule; or
  - (b) is negligent, careless, inefficient or incompetent in the discharge of his or her duties; or
  - (c) fails to comply with the Service Standards; or
  - (d) fails to comply with conditions of membership imposed by the Minister under subsection 6(4).
- (2) The Minister may appoint an officer of the NSW Rural Fire Service, at or above the rank of Superintendent, to be the appropriate disciplinary authority in relation to an alleged breach of discipline by a member of a rural fire brigade.
- (3) An appropriate disciplinary authority may take disciplinary action against a member of a rural fire brigade if:



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- (a) an alleged breach of discipline is dealt with in accordance with the procedure set out in the Service Standards and notice has been given in accordance with subsection 11(1); and
  - (b) the member is found by the appropriate disciplinary authority to have committed the breach.
- (4) The appropriate disciplinary authority may take any of the following disciplinary action:
- (a) reprimand the member;
  - (b) suspend the member from service with the rural fire brigade for a specified period;
  - (c) recommend to the Minister that the Minister take one or more of the following actions:
    - (i) demote the member (if the member is an officer);
    - (ii) disqualify the member from holding rank in the brigade;
    - (iii) remove the member's name from the brigade register;
    - (iv) impose conditions under subsection 6(4) on the member's membership of a rural fire brigade.
- (5) In this section:

*appropriate disciplinary authority*, in relation to an alleged breach of discipline by a member of a rural fire brigade, means:

- (a) an officer appointed under subsection (2) in relation to the alleged breach; or
- (b) if no officer is appointed—a disciplinary panel constituted in relation to the alleged breach in accordance with the procedure set out in the Service Standards.

## **11 Appeals concerning disciplinary action**

- (1) Before taking disciplinary action under section 10 in relation to a member of a rural fire brigade, the appropriate disciplinary authority appointed under subsection 10(2) must:
  - (a) investigate the alleged breach of discipline; and
  - (b) give the member at least 14 days' notice in writing of the findings of the investigation and of the disciplinary action that the appropriate disciplinary authority proposes to take in relation to the member.
- (2) The member may, within 14 days after receiving the notice, appeal to the Minister against the findings of the appropriate disciplinary authority, or against any disciplinary action the appropriate disciplinary authority proposes to take.
- (3) On an appeal, the Minister:
  - (a) may confirm the decision of the appropriate disciplinary authority; or
  - (b) may recommend to the appropriate disciplinary authority that no action, or that other disciplinary action, be taken against the member.

Section 12

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**12 Incident reports**

- (1) If a rural fire brigade attends a fire or other incident or emergency, the officer in charge of the brigade must ensure that the Minister is given a written report on the fire, incident or emergency.
- (2) The report must:
  - (a) be given to the Minister within the time required by the Service Standards; and
  - (b) include any matters required to be covered in the report by the Service Standards.

## **Part 3—Fire Management Committee**

### **14 Procedure for meetings of the Fire Management Committee**

The Fire Management Committee must:

- (a) meet in the manner, and at the times, determined by the committee; and
- (b) call meetings and conduct business in accordance with the procedures determined by the committee.

### **15 Chair of the Fire Management Committee**

- (1) The member of the Fire Management Committee nominated by the Jervis Bay Territory Administration is the Chair of the Fire Management Committee.
- (2) The Chair (or in the absence of the Chair, another member elected to chair the meeting by the members present) presides at meetings of the committee.

## Part 5—Notices

### 25 Public notice and display of draft bush fire risk management plan

- (1) For subsection 47(1) of the Ordinance, the Fire Management Committee must publicly display a draft bush fire risk management plan for at least 42 days.
- (2) The Fire Management Committee must display with the draft plan any other matter that:
  - (a) the committee considers appropriate or necessary to better understand the draft plan and its implications; or
  - (b) the public notice given for the draft plan states will be displayed with the draft plan.
- (3) While the draft bush fire risk management plan is on display, an interested person may make a submission in relation to the draft plan to the Fire Management Committee.

### 27 Notice for bush fire hazard reduction work

- (1) This section applies if:
  - (a) a hazard management officer requires an occupier or owner of land to take action on the land under a bush fire hazard reduction notice; and
  - (b) the land is within 8 kilometres (or a shorter distance specified in the bush fire management plan) of Commonwealth land.
- (2) For subsection 58(3) of the Ordinance, the hazard management officer must give a copy of the bush fire hazard reduction notice to an officer of the authority responsible for the Commonwealth land.
- (3) The hazard management officer must give the copy of the notice to the officer within 24 hours of giving the notice to the occupier or owner of the land to which the notice relates.

### 28 Notice if Minister is to carry out bush fire hazard reduction work

- (1) This section applies if:
  - (a) the Minister intends to enter land to carry out bush fire hazard reduction work under subsection 59(1) of the Ordinance; and
  - (b) the land is within 8 kilometres (or a shorter distance specified in the bush fire management plan) of Commonwealth land.
- (2) The Minister must, no later than 24 hours before entering the land, give written notice to an officer of the authority responsible for the Commonwealth land stating where and when the bush fire hazard reduction work will be carried out.

**30 Notice of issue of fire permit**

For section 82 of the Ordinance:

- (a) Commonwealth land is prescribed as land to which that section applies;  
and
- (b) the authority responsible for the Commonwealth land is prescribed as the body to which notice must be given.

Note: Section 82 of the Ordinance provides that if the Minister issues a fire permit to light a fire on land prescribed in the rules, the Minister must give notice in an approved form to the persons or bodies prescribed by the rules.

**31 Giving of notices**

- (1) For section 92 of the Ordinance, a notice or direction required or permitted to be served on a person must be served in one of the following ways:
  - (a) by delivering the notice or direction to the person personally;
  - (b) by delivering the notice or direction to the premises at which the person lives or carries on business, and leaving it with a person apparently over the age of 14 years resident or employed at the premises;
  - (c) by posting the notice or direction by prepaid letter addressed to the last known place of residence or business or post office box of the person;
  - (d) by fax to a number given by the person as a number to which facsimile transmissions to that person may be sent;
  - (e) by email to an email address given by the person as an address to which emails to that person may be sent;
  - (f) by fixing the notice on a conspicuous part of any land, building or premises owned or occupied by the person;
  - (g) if the notice or direction relates to an offence involving a vehicle—by attaching the notice to the vehicle.
- (2) In addition to the means of service mentioned in subsection (1):
  - (a) if the person to be served is, or after inquiry appears to be, absent from the Territory, service may be on the agent of the person in a way mentioned in paragraph (1)(a), (b), (d) or (e); and
  - (b) if the land, building or premises mentioned in paragraph (1)(b), (c) or (f) are unoccupied, and the owner's address or place of residence is not known to the person serving the notice or direction, service may be by advertisement in the approved form published in a newspaper circulating in the Territory.
- (3) For paragraph (1)(b), (c) or (f), a notice or direction may be addressed to the "occupier" or "owner" of the land, building or premises in relation to which the notice or direction is served, and does not need to name the person.

## Part 6—Miscellaneous

### 32 Bravery and other awards

The Minister must keep a register of:

- (a) the names of each member of the Rural Fire Service who is given a commendation or award for long service, bravery or other forms of meritorious service; and
- (b) details of the commendation or award given to the member.

### 33 Voluntary work by rural fire brigades

- (1) A function of a public authority is a prescribed function for subsection 27(1) of the Ordinance if:
  - (a) it is a function mentioned in subsection (2); and
  - (b) for a function mentioned in paragraph (2)(b)—it is exercised in accordance with an agreement between the Minister and the Commissioner of Fire and Rescue NSW.

Note: Subsection 27(1) of the Ordinance allows a rural fire brigade to voluntarily cooperate with a public authority in the exercise of a function of the public authority prescribed by the rules.

- (2) For paragraph (1)(a), the functions are:
  - (a) a function that may be exercised by the public authority:
    - (i) under the *Jervis Bay Territory Emergency Management Ordinance 2015*; or
    - (ii) in relation to the prevention and suppression of bush fires and other fires; and
  - (b) for cooperation with the Commissioner of Fire and Rescue NSW—a function of the Commissioner of Fire and Rescue NSW in relation to hazardous materials and similar matters; and
  - (c) for cooperation with the AFP—traffic control by a police officer; and
  - (d) for cooperation with the Ambulance Service of NSW—a function of the Ambulance Service of NSW in relation to patient care and similar matters.
- (3) For the definition of **public authority** in section 6 of the Ordinance, the Minister is prescribed as a public authority for the purposes of section 27 of the Ordinance.

### 34 Definition of *managed land*

For the definition of **managed land** in section 6 of the Ordinance, the following types of land are **managed land**:

- (a) land dedicated for a public purpose;
- (b) a road vested in the Commonwealth.

**35 Conditions of fire permit**

For paragraph 80(1)(d) of the Ordinance, the following conditions are prescribed as conditions of a fire permit authorising the lighting of a fire on land specified in the permit:

- (a) the fire may be lit on the land only if to do so is consistent with the bush fire risk management plan;
- (b) the fire must be lit on the land in accordance with any direction given to the holder of the permit by the Minister;
- (c) unless the permit provides otherwise—at least one person must be present at the site of the fire from the time the fire is lit until it is extinguished.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.



**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Name</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Jervis Bay Territory Rural Fires Rule 2014	15 May 2014 (F2014L00533)	16 May 2014 (s 2)	
Jervis Bay Territory Rural Fires Amendment (Scope of Rules) Rule 2015	9 Sept 2015 (F2015L01413)	10 Sept 2015 (s 2(1) item 1)	—
Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019	22 Nov 2019 (F2019L01494)	23 Nov 2019 (s 2(1) item 1)	—

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 2 .....	rep LIA s 48D
s 4 .....	am F2015L01413
<b>Part 2</b>	
Part 2 heading .....	rs F2019L01494
s 6 .....	am F2019L01494
s 7 .....	am F2019L01494
s 10 .....	am F2019L01494
<b>Part 3</b>	
s 13 .....	rep F2015L01413
Part 4 .....	rep F2015L01413
s 16 .....	rep F2015L01413
s 17 .....	rep F2015L01413
s 18 .....	rep F2015L01413
s 19 .....	rep F2015L01413
s 20 .....	rep F2015L01413
s 21 .....	rep F2015L01413
s 22 .....	rep F2015L01413
s 23 .....	rep F2015L01413
s 24 .....	rep F2015L01413
<b>Part 5</b>	
s 26 .....	rep F2015L01413
s 29 .....	rep F2015L01413
s 31 .....	am F2015L01413
<b>Part 6</b>	
s 33 .....	am F2015L01413
s 34 .....	am F2015L01413
s 36 .....	rep F2015L01413
Schedule 1 .....	rep F2015L01413

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