



Jervis Bay Territory Rural Fires Rules 2024

I, Kristy McBain, Minister for Regional Development, Local Government and Territories, make the following rules.

Dated

Kristy McBain **DRAFT ONLY—NOT FOR SIGNATURE**
Minister for Regional Development, Local Government and Territories

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Part 1—Preliminary

1 Name

This instrument is the *Jervis Bay Territory Rural Fires Rules 2024*

2 Commencement

This instrument commences on 1 October 2024.

3 Authority

This instrument is made under subsection 98(1) of the *Jervis Bay Territory Rural Fires Ordinance 2014*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 6 of the Ordinance, including the following:

- (a) AFP;
- (b) Fire Management Committee;
- (c) Service Standards.

In these rules:

appropriate disciplinary authority: see section 11.

brigade register means a 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*.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2—Rural fire brigades

6 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.

7 Membership of rural fire brigades

- (1) A person is eligible to be listed on a brigade register 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.

8 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

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- (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 7(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.

9 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 the person's 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 11; 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 the person's 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 10(3).

10 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 7(2); or
 - (b) to remove a person's name from a brigade register under paragraph 9(2)(b), (c), (d), or (e).

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- (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 7(2)—include the applicant's name on the brigade register (subject to such conditions as the review officer thinks fit); or
 - (c) for review of a decision under paragraph 9(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.

11 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 these rules; or
 - (b) is negligent, careless, inefficient or incompetent in the discharge of the member's 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 7(4) or the review officer under paragraph 10(4)(b).
- (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:
 - (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 12(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;

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- (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 7(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.

12 Appeals concerning disciplinary action

- (1) Before taking disciplinary action under section 11 in relation to a member of a rural fire brigade, the appropriate disciplinary authority appointed under subsection 11(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 proposed to take.
- (3) On an appeal, the Minister may:
 - (a) confirm the decision of the appropriate disciplinary authority; or
 - (b) determine that no action, or that other disciplinary action, be taken against the member.

13 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 Procedures 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 Meetings of the Fire Management Committee

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 Fire Management Committee.

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Part 4—Notices

16 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 document 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.

17 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.

18 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.

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19 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.

20 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 or direction 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 or direction 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 5—Miscellaneous

21 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.

22 Voluntary work by rural fire brigades

- (1) For subsection 27(1) of the Ordinance, each of the following functions of a public authority is a prescribed function:
 - (a) a function that may be exercised by a public authority:
 - (i) under the *Jervis Bay Territory Emergency Management Ordinance 2015*;
 - (ii) in relation to the prevention and suppression of bush fires and other fires;
 - (b) for the Commissioner of Fire and Rescue NSW:
 - (i) a function performed in relation to hazardous materials and similar matters;
 - (ii) assisting with an incident or emergency;
 - (c) for the AFP:
 - (i) traffic control by a police officer;
 - (ii) assisting with an incident or emergency;
 - (d) for the Ambulance Service of NSW—a function of the Ambulance Service of NSW in relation to patient care and similar matters.
 - (e) for the Commissioner of the NSW State Emergency Service - a function in relation to assisting with an incident or emergency.

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 the definition of **public authority** in section 6 of the Ordinance, the following are prescribed, but only for the purposes of section 27 of the Ordinance:
 - (a) the Minister;
 - (b) the Commissioner of Fire and Rescue NSW;
 - (d) the Commissioner of the NSW State Emergency Service;
 - (e) an emergency services organisation as defined in section 4 of the *Jervis Bay Territory Emergency Management Ordinance 2015*.

23 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.

24 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 would be 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.

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Schedule 1—Repeals

Jervis Bay Territory Rural Fires Rule 2014

1 The whole of the instrument

Repeal the instrument

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