



## ***Local Government Act 1995***

### **City of Rockingham**

## **Bush Fire Control and Bush Fire Brigades Local Law 2001**

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**Local Government Act 1995**

**CITY OF ROCKINGHAM**

**BUSH FIRE CONTROL AND BUSH FIRE BRIGADES LOCAL LAW 2001**

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**Bush Fires Act 1954**

**CITY OF ROCKINGHAM**

**BUSH FIRE CONTROL AND BUSH FIRE BRIGADES LOCAL LAW 2001**

Under the powers conferred by the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the City of Rockingham resolved on 23 October 2001 to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the City of Rockingham Bush Fire Control and Bush Fire Brigades Local Law 2001.

**1.2 Definitions**

(1) In this local law unless the context otherwise requires –

“**Act**” means the *Bush Fires Act 1954*;

“**brigade area**” is defined in clause 3.2(1)(b);

“**bush fire brigade**” is defined in section 7 of the Act;

*bush fire brigade* means a bush fire brigade for the time being registered in a register kept pursuant to section 41;

Extract from s7 of *Bush Fires Act 1954*

“**district**” means the district of the local government;

“**local government**” means the City of Rockingham;

“**normal brigade activities**” is defined by section 35A of the Act;

**5A. Terms used**

In this Division, and in section 41 —

**bush fire** means a fire or potential fire, however caused, and includes a fire in a building;

**loss or damage** does not include loss or damage that is caused by or results from theft, reasonable wear or tear, mechanical or electrical breakdown, failure or breakage;

**normal brigade activities** means the following activities when carried out by a volunteer fire fighter —

- (a) the prevention, control or extinguishment of bush fires;
- (b) any act or operation at or about the scene of a bush fire, or in connection with a bush fire, which is necessary for, directed towards, or incidental to, the control or suppression of the fire or the prevention of spread of the fire, or in any other way necessarily associated with the fire including travelling and support services such as meals and communication systems;
- (c) any bush fire prevention activity including the burning, ploughing or clearing of fire-breaks or any other operation, including but without being limited to, the inspection of fire-breaks or other works and the survey of areas for the purpose of detecting fire or ascertaining the need for precautions against the outbreak of fire, but not including the activities of an owner or occupier providing a fire-break or fire prevention works on his own property in order to comply with a notice given under section 33(1) or a local law made under section 33(5a);
- (d) demonstrations, exercises, fundraising, promotions, public education, competitions or a training process for volunteers;
- (e) examination, preparation, maintenance, adjustment or repair of any vehicle, equipment, building or thing used or intended to be used by a bush fire brigade for the purpose of fighting fires or for carrying out fire prevention operations including activities associated with administration of a bush fire brigade;
- (f) travelling in aircraft for the purposes of inspection of fire-breaks, fire hazards and bush fires;
- (g) erection, removal or maintenance of radio masts used for fire related purposes;
- (h) attending an incident where the skills of a volunteer fire fighter or the operation of fire fighting equipment may reduce or remove a perceived threat to life or property;
- (i) attending an incident subsequently found to be a false alarm;

**volunteer fire fighter** means a bush fire control officer, a person who is a registered member of a bush fire brigade established under this Act or a person working under the direction of that officer or member.

*[Section 35A inserted by No. 60 of 1992 s. 18; amended by No. 14 of 1996 s. 4.]*

*Extract from Bush Fires Act 1954*

**“Regulations”** means Regulations made under the Act; and

**“Rules”** means the Rules Governing the Operation of Bush Fire Brigades set out in the City of Rockingham Policy and Procedures Manual.

(2) In this local law, unless the context otherwise requires, a reference to —

- a) a Captain;
- b) a First Lieutenant;
- c) a Second Lieutenant; and
- d) any additional Lieutenants.

means a person holding that position in a bush fire brigade. (*Government Gazette 18 January 2019 No. 9*)

**1.3 Repeal**

The City of Rockingham Local Laws relating to the Establishment, Maintenance and Equipment of Bush Fire Brigades published in the Government Gazette on 22 June 1990 is repealed.

**1.4 Application**

This local law applies throughout the district.

**PART 2 - BUSH FIRE CONTROL**

**2.1 Firebreaks to be cleared**

Provisions relating to the establishment and maintenance of firebreaks, and the powers of the local government to enter the property and establish firebreaks on default by an owner or occupier are dealt with in the Act. *(Government Gazette 18 January 2019 No. 9)*

**Deleted clauses 2.2, 2.3, 2.5 and 2.5** *(Government Gazette 18 January 2019 No. 9)*

**33. Local government may require occupier of land to plough or clear fire-break**

- (1) Subject to subsection (2) a local government at any time, and from time to time, may, and if so required by the Minister shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local government or shall give notice to all owners or occupiers of land in its district by publishing a notice in the *Government Gazette* and in a newspaper circulating in the area requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things —
- (a) to plough, cultivate, scarify, burn or otherwise clear upon the land fire-breaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local government may and is hereby empowered to determine and as are specified in the notice, and thereafter to maintain the fire-breaks clear of inflammable matter;
  - (b) to act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local government or its duly authorised officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,
- and the notice may require the owner or occupier to do so —
- (c) as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land; and
  - (d) in any event, to the satisfaction of either the local government or its duly authorised officer, according to which of them is specified in the notice.
- (2) A notice in writing under subsection (1) may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government pursuant to the *Local Government Act 1995*, as his address for the service of rate notices.
- (2a) The provisions of subsection (2) are in addition to and not in derogation of those of sections 75 and 76 of the *Interpretation Act 1984*.
- (3) The owner or occupier of land to whom a notice has been given under subsection (1) and who fails or neglects in any respect duly to comply with the requisitions of the notice is guilty of an offence.  
Penalty: \$5 000.
- (4) Where an owner or occupier of land who has received notice under subsection (1) fails or neglects to comply with the requisitions of the notice within the time specified in the notice —
- (a) the local government may direct its bush fire control officer, or any other officer of the local government, to enter upon the land of the owner or occupier and to carry out the requisitions of the notice which have not been complied with; and
  - (b) the bush fire control officer or other officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen, or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.
- (5) The amount of any costs and expenses incurred by the bush fire control officer or other officer in doing the acts, matters, or things provided for in subsection (4) —
- (a) shall be ascertained and fixed by the local government and a certificate signed by

the mayor or president of the local government shall be *prima facie* evidence of the amount; and

- (b) may be recovered by the local government in any court of competent jurisdiction as a debt due from the owner or occupier of land to the local government.
- (5a) A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* —
- (a) requiring owners and occupiers of land in its district to clear fire-breaks in such manner, at such places, at such times, of such dimensions and to such number, and whether in parallel or otherwise, as are specified in the local laws and to maintain the fire-breaks clear of inflammable matter;
- (b) providing that things required by the local laws to be done shall be done to the satisfaction of the local government or its duly authorised officer.
- (5b) Where an owner or occupier of land fails or neglects in any respect to comply with the requirements of local laws made under subsection (5a) the provisions of subsections (3), (4) and (5) apply *mutatis mutandis* as if those requirements were the requisitions of a notice given under subsection (1).
- (5c) Nothing in subsection (5a) affects the power of a local government to give notice under subsection (1) nor its duty to do so if so required by the Minister.
- (5d) Where the provisions of local laws made under subsection (5a) are inconsistent with those of a notice given under subsection (1) or under section 34 or 35, the provisions of that notice shall, to the extent of the inconsistency, prevail.
- (6) A local government may, at the request of the owner or occupier of land within its district, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of a fire danger, and the amount of the expense, if not paid on demand, may be recovered from the owner or occupier by the local government in a court of competent jurisdiction as a debt due from the owner or occupier to the local government.
- (7) Nothing in this section authorises a local government —
- (a) to set fire to the bush, or to require an owner or occupier of land to set fire to the bush, contrary to the provisions of section 17; or
- (b) to make local laws authorising or requiring bush to be set on fire contrary to the provisions of section 17.
- (8) Any amount recoverable by a local government under this section as a debt due from the owner or occupier of land is, until paid in full —
- (a) a debt due from each subsequent owner in succession; and
- (b) a charge against the land with the same consequences as if it were a charge under the *Local Government Act 1995* for unpaid rates; and
- (c) recoverable by the local government in the same manner as rates imposed in respect of the land are recoverable under that Act.
- (9) In this section —

- **owner or occupier of land** includes a prescribed department of the Public Service that occupies land or a prescribed State agency or instrumentality that owns or occupies land.

[Section 33 amended by No. 11 of 1963 s. 15; No. 113 of 1965 s. 8(1); No. 65 of 1977 s. 32 and 48; No. 51 of 1979 s. 3 and 5; No. 8 of 1987 s. 8; No. 14 of 1996 s. 4; No. 38 of 2002 s. 28 and 39; No. 70 of 2003 s. 7; No. 19 of 2010 s. 52(4).]

Extract from *Bush Fires Act 1954*

## PART 3 – ESTABLISHMENT OF BUSH FIRE BRIGADES

### 3.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

### 3.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 3.1(1) the local government is to –
  - (a) give a name to the bush fire brigade;
  - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the “**brigade area**”); and
  - (c) appoint –
    - (i) a Captain;
    - (ii) a First Lieutenant;
    - (iii) a Second Lieutenant; and
    - (iv) additional Lieutenants if the local government considers it necessary.  
*(Government Gazette 18 January 2019 No. 9)*
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position pursuant to subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade. An election is to be held at that meeting by the members of the Brigade for appointments expiring at the next Annual General Meeting.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the Brigade members are to vote for a replacement member to fill the position.

### 3.3 Deleted *(Government Gazette 18 January 2019 No. 9)*

### 3.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules.

### 3.5 Variation of Rules

- (1) The local government may vary the Rules in their application to all bush fire brigades in the district or in respect of a particular bush fire brigade.
- (2) The Rules, as varied, have effect on and from the date of a decision under subclause (1).
- (3) The local government is to notify a bush fire brigade of any variation to the Rules as soon as practicable after making a decision under subclause (1).

### 3.6 Existing Bush Fire Brigades

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day –
  - (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
  - (b) the provisions of this local law apply to the bush fire brigade save for clause 3.2; and
  - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.
- (2) In this clause –  
“**commencement day**” means the day on which this local law comes into operation.

### 3.7 Dissolution of bush fire brigade

**Dissolution of a bush fire brigade is dealt with in s41(3) of the Act. (*Government Gazette 18 January 2019 No. 9*)**

<p><b>41. Bush fire brigades</b></p> <ol style="list-style-type: none"><li>(1) For the purpose of carrying out normal brigade activities a local government may, in accordance with its local laws made for the purpose, establish and maintain one or more bush fire brigades and may, in accordance with those local laws, equip each bush fire brigade so established with appliances, equipment and apparatus.</li><li>(2) A local government shall keep a register of bush fire brigades and their members in accordance with the regulations and shall register therein each bush fire brigade established by it under subsection (1) and each member of each such brigade.</li><li>(2a) A local government is to notify the FES Commissioner as soon as practicable after any changes occur in any of the details required to be recorded in the register under subsection (2).</li><li>(3) A local government may at any time cancel the registration of a bush fire brigade.</li></ol>
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#### **PART 4**

**Deleted (*Government Gazette 18 January 2019 No. 9*)**

#### **PART 5**

**Deleted (*Government Gazette 18 January 2019 No. 9*)**

#### **PART 6 – APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS**

##### **6.1 Rules to govern**

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules as set out in the City of Rockingham Policy and Procedures Manual.

#### **PART 7**

**Deleted (*Government Gazette 18 January 2019 No. 9*)**