

# NORTHERN TERRITORY OF AUSTRALIA

## BUSHFIRES REGULATIONS

As in force at 13 November 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 13 November 2014

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## BUSHFIRES REGULATIONS

### Regulations under the *Bushfires Act*

#### Part 1 Preliminary

##### 1 Citation

These Regulations may be cited as the *Bushfires Regulations*.

##### 2 Definitions

In these Regulations:

***bulk fuel*** means petrol, diesel, oil or other fuel, whether solid, liquid or gaseous, stored in bulk.

***fire-break*** means an area clear of bush and flammable material.

#### Part 2 Fire prevention and control

##### 3 Clearing area to avoid risk of fire

- (1) The owner or occupier of land within a fire protection zone must establish and maintain a fire-break at least 4 m wide around any house, caravan, structure, stationary engine, bulk fuel, haystack, cordwood or stacked sawn timber on the land.

Maximum penalty: 20 penalty units and 2 penalty units for each day during which the offence continues.

- (2) An offence against subregulation (1) is a regulatory offence.
- (3) Subregulation (1) does not require the owner or occupier of land to clear bush or flammable material that forms part of a lawn or garden on the land.

**4        Avoiding risk of fire when using welding or cutting equipment**

- (1) A person must not use electric or gas welding or cutting equipment in the open in a fire protection zone or during a fire danger period or fire ban day:
- (a) within 4 m of bush or flammable material; and
  - (b) unless there is readily available a fire extinguishing device in good working order, appropriate to the type of equipment being used and the potential fire hazard.

Maximum penalty:        20 penalty units and 2 penalty units for each day during which the offence continues.

- (2) An offence against subregulation (1) is a regulatory offence.

**5        Lighting or using fire on appliances in vehicles or caravans**

For section 38 of the Act, a fire on a gas-burning or spirit-burning appliance within a vehicle or caravan is not a fire in the open to which the conditions referred to in that section apply.

**6        Spark arresters**

For section 42 of the Act, the equipment for arresting sparks is equipment that:

- (a) effectively prevents the escape of sparks, flame or burning material from the exhaust of a motor vehicle or engine; and
- (b) is in good working order.

**7        Fire-break and flammable material warnings and notices**

- (1) An instrument served under section 47(1) of the Act must be in accordance with Form 1 or 2 in Schedule 1.
- (2) An instrument served under section 47(2) of the Act must be in accordance with Form 3 or 4 in Schedule 1.

**8        Appeals against refusal to issue permit**

- (1) A fire control officer or fire warden who determines an application under section 57(2) of the Act by refusing to issue a permit must give the applicant written notice of the refusal.
- (2) Within 7 days after receiving the notice of refusal, the applicant may appeal to the Chief Executive Officer against the refusal.

- (3) After determining the applicant's appeal, the Chief Executive Officer must direct a fire control officer or fire warden to:
  - (a) issue a permit to the applicant, either conditionally or unconditionally; or
  - (b) refuse to issue a permit to the applicant.

## **Part 3                      Infringement notices**

### **9                      When infringement notice may be served**

If a fire warden reasonably believes a person has committed an offence against a provision of the Act or these Regulations specified in column 1 of Schedule 2, the fire warden may serve an infringement notice on the person.

### **10                     Prescribed amount**

The prescribed amount that may be paid, instead of the penalty that may otherwise be imposed, for an offence specified in column 1 of Schedule 2 is the amount specified opposite in column 2.

### **11                     Particulars to be included in infringement notice**

- (1) An infringement notice must include the following particulars:
  - (a) the name and address of the alleged offender, if known;
  - (b) the date of the infringement notice;
  - (c) the date, time and place of the offence;
  - (d) the nature of the offence and the prescribed amount payable in respect of that offence;
  - (e) the enforcement agency to whom the prescribed amount is payable.
- (2) An infringement notice must contain the following statements:
  - (a) a statement to the effect that:
    - (i) the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act* if he or she pays the prescribed amount to the enforcement agency specified in the infringement notice within 28 days of service of the infringement notice; and

- (ii) if the alleged offender pays the prescribed amount within the period specified in the infringement notice, the enforcement agency will take no further action in relation to the offence;
- (b) a statement to the effect that if the alleged offender does not pay the prescribed amount within the period specified in the infringement notice and does not serve on the enforcement agency specified in the infringement notice a statement of election to have the matter dealt with by a court (as contained in the infringement notice), unless the infringement notice is withdrawn:
  - (i) the *Fines and Penalties (Recovery) Act* will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the prescribed amount together with the costs in respect of the issue of that letter; and
  - (ii) if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against him or her under the *Fines and Penalties (Recovery) Act* which, after due process, may result in the suspension of the alleged offender's licence to drive, the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached;
- (c) a statement to the effect that the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under the *Fines and Penalties (Recovery) Act* by completing a statement of election (as contained in the infringement notice) and serving it on the enforcement agency specified in the infringement notice;
- (d) a statement of election, for completion by the alleged offender if he or she elects to have the matter dealt with by a court, that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations*.

## **12 Expiation of offence**

- (1) If an alleged offender pays the prescribed amount specified in an infringement notice in accordance with the notice, the alleged offender is taken to have expiated the offence and no further proceedings are to be taken in respect of the offence.

- (2) If an alleged offender tenders a cheque in payment of a prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on presentation.

### **13 Withdrawal of infringement notice**

An infringement notice may be withdrawn at any time within 28 days after it is served, but before payment of the prescribed amount specified in the infringement notice, by serving on the alleged offender a notice:

- (a) signed by the Chief Fire Control Officer or a person on behalf of the enforcement agency specified in the infringement notice; and
- (b) stating that the infringement notice is withdrawn.

### **14 How service effected**

Service of an infringement notice or notice of withdrawal of an infringement notice is effected:

- (a) by serving it personally on the alleged offender;
- (b) by posting it to the alleged offender at his or her last known address; or
- (c) by leaving it for the alleged offender at his or her last known place of residence or business with a person apparently resident or employed there and apparently not less than 16 years of age.

### **15 General**

This Part:

- (a) does not prevent more than one infringement notice in respect of the same offence being served on an alleged offender, but it is sufficient for the application of regulation 12 to an alleged offender on whom more than one infringement notice has been served for the alleged offender to pay the prescribed amount in accordance with any one of those notices;
- (b) does not limit the penalty that may be imposed by a court for an offence; and
- (c) does not require an infringement notice to be served and does not affect the liability of a person to be prosecuted in a court for an offence in respect of which an infringement notice has not been served.

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## Schedule 1

### FORM 1

#### NORTHERN TERRITORY OF AUSTRALIA

#### *Bushfires Act*

### **FIRE-BREAK WARNING**

regulation 7(1)

\*I, (name) ....., the Chief Executive Officer,

\*I, (name) ....., a delegate of the Chief Executive Officer by an instrument dated ....., pursuant to section 47(1) of the *Bushfires Act*, **NOTIFY YOU**, as the \*owner \*lessee \*licensee \*mortgagee in possession \*occupier \*person apparently managing or controlling the use of land at .....

....., that unless you make representations to the Chief Executive Officer **within 72 hours** after service on you of this warning, the Chief Executive Officer intends to serve on you a Fire-break Notice requiring you to establish \*a fire-break/fire-breaks\* on that land before (date) .....

The Fire-break Notice will require \*a fire-break/fire-breaks\* to be established, as indicated on the map \*attached/shown overleaf\*, by any of the following methods: ploughing; grading; chemical spraying; rolling; slashing; mowing; raking; burning. (Burning may only be by permit and is subject to any restrictions imposed by the *Bushfires Act*.)

You may make representations, giving reasons why you should not be served with a Fire-break Notice, to the Chief Executive Officer at the following address:

The contact officer is (name) ..... on (phone) .....

Dated: ..... Signed: .....

\* Delete whichever is not applicable.

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FORM 2

NORTHERN TERRITORY OF AUSTRALIA

*Bushfires Act*

**FLAMMABLE MATERIAL WARNING**

regulation 7(1)

\*I, (name) ....., the Chief Executive Officer,

\*I, (name) ....., a delegate of the Chief Executive Officer by an instrument dated .....,

pursuant to section 47(1) of the *Bushfires Act*, **NOTIFY YOU**, as the \*owner \*lessee \*licensee \*mortgagee in possession \*occupier \*person apparently managing or controlling the use of land at .....

....., that unless you make representations to the Chief Executive Officer **within 72 hours** after service on you of this warning, the Chief Executive Officer intends to serve on you a Flammable Material Notice requiring you to remove the following flammable material from that land before (date) .....

You may make representations, giving reasons why you should not be served with a Flammable Material Notice, to the Chief Executive Officer at the following address:

The contact officer is (name) ..... on (phone) .....

Dated: ..... Signed: .....

\* *Delete whichever is not applicable.*



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FORM 3

NORTHERN TERRITORY OF AUSTRALIA

*Bushfires Act*

**FIRE-BREAK NOTICE**

regulation 7(2)

\*I, (name) ....., the Chief Executive Officer,

\*I, (name) ....., a delegate of the Chief Executive Officer by an instrument dated .....,

pursuant to section 47(2) of the *Bushfires Act*, **GIVE YOU NOTICE THAT** as the \*owner \*lessee \*licensee \*mortgagee in possession \*occupier \*person apparently managing or controlling the use of land at .....

**YOU ARE NOW REQUIRED TO ESTABLISH \*A FIRE-BREAK/FIRE-BREAKS\*** on that land, as indicated on the map \*attached/shown overleaf\*, before (date) .....

The fire-break(s) must be an area or areas ..... metres wide clear of all bush and flammable material, and may be established by any of the following methods: ploughing; grading; chemical spraying; rolling; slashing; mowing; raking; burning. (If a fire-break is to be established by burning you must first obtain a permit from a fire control officer or fire warden, and comply with any other requirements or restrictions under the *Bushfires Act* e.g. fire bans.) Fire-breaks must be maintained to the satisfaction of a fire warden for the following period of time: .....

**Review:** You may, within 7 days after being served with this notice, apply in writing to the Minister with responsibility for the *Bushfires Act* to review the terms of this notice. You must set out the reasons for your application.

**Penalty:** If you do not comply with this notice, as served or as varied by the Minister, you may be liable to a maximum penalty of 40 penalty units or imprisonment for 2 years and 4 penalty units for each day you continue to fail to comply. The Chief Executive Officer may also authorize a person to enter the land described in this notice and do the things necessary to comply with this notice. The cost of work carried out to achieve compliance will be a debt owed by you to the Territory.

Dated: ..... Signed: .....

\* Delete whichever is not applicable.

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FORM 4

NORTHERN TERRITORY OF AUSTRALIA

*Bushfires Act*

**FLAMMABLE MATERIAL NOTICE**

regulation 7(2)

\*I, (name) ....., the Chief Executive Officer,

\*I, (name) ....., a delegate of the Chief Executive Officer by an instrument dated .....,

pursuant to section 47(2) of the *Bushfires Act*, **GIVE YOU NOTICE THAT** as the \*owner \*lessee \*licensee \*mortgagee in possession \*occupier \*person apparently managing or controlling the use of land at .....  
.....

**YOU ARE NOW REQUIRED TO REMOVE FROM THAT LAND** the following flammable material before (date) ..... :

The material may be removed, destroyed or disposed of by any of the following methods:

If, however, the material is to be removed or destroyed by burning, you must first obtain a permit from a fire control officer or fire warden and comply with any other requirements or restrictions under the *Bushfires Act* (e.g. fire bans).

**Review:** You may, within 7 days after being served with this notice, apply in writing to the Minister with responsibility for the *Bushfires Act* to review the terms of this notice. You must set out the reasons for your application.

**Penalty:** If you do not comply with this notice, as served or as varied by the Minister, you may be liable to a maximum penalty of 40 penalty units or imprisonment for 2 years and 4 penalty units for each day you continue to fail to comply. The Chief Executive Officer may also authorize a person to enter the land described in this notice and do the things necessary to comply with this notice. The cost of work carried out to achieve compliance will be a debt owed by you to the Territory.

Dated: ..... Signed: .....

\* Delete whichever is not applicable.

**Schedule 2     Infringement notices**

regulations 9 and 10

**PRESCRIBED OFFENCES AND AMOUNTS**

<b>Column 1 Offence Provision</b>	<b>Column 2 Prescribed Amount</b>
Section 34(3) Failure to comply with notice	4 penalty units
Section 35 Setting fire to bush or flammable material in fire protection zone without, or in contravention of, permit	4 penalty units
Section 38 Lighting or using fire in open in contravention of conditions	4 penalty units
Section 39 Using fire to clear land, muster or burn fire-break in contravention of conditions	4 penalty units
Section 40(1) Leaving fire in open without extinguishing	4 penalty units
Section 41 Throwing down flammable, burning or smouldering matter	4 penalty units
Section 42 Starting or driving motor vehicle or starting engine without spark arresting equipment	4 penalty units
Section 44(3) Lighting or using prohibited fire on fire ban day	4 penalty units
Section 45(1) Failure to extinguish prohibited fire in fire ban area or to notify if unable to extinguish	4 penalty units
Section 45(3) Failure to comply with direction for controlling fire	4 penalty units

Section 47(3B) Failure to comply with notice to establish fire-breaks or remove flammable material	4 penalty units
Section 49(1) Failure by owner or occupier of land to take reasonable steps to control fire likely to spread to other land or to notify if unable to control	4 penalty units
Section 49(2) Failure by user of fire on land to take reasonable steps to control fire likely to spread or to notify if unable to control	4 penalty units
Section 49(3) Failure to comply with directions for controlling fire	4 penalty units
Section 52(1) Hindering fire control officer or fire warden	4 penalty units
Section 52(2) Failure to comply with requirement made by, or giving false information to, fire control officer or fire warden	4 penalty units
Regulation 3(1) Failure to establish and maintain fire-break	4 penalty units
Regulation 4(1) Using equipment in fire protection zone or during fire danger period or fire ban day in contravention of conditions	4 penalty units

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

***Bushfires Regulations (SL No. 17, 2005)***

Notified	31 May 2005
Commenced	31 May 2005

***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date	12 July 2013
Commenced	28 August 2013 ( <i>Gaz</i> G35, 28 August 2013, p 2)

***Statute Law Revision Act 2014 (Act No. 38, 2014)***

Assent date	13 November 2014
Commenced	13 November 2014

### 3 LIST OF AMENDMENTS

rr 3 – 4	amd Act No. 23, 2013, s 14
r 8	amd Act No. 38, 2014, s 2
sch 1	amd Act No. 23, 2013, s 14; Act No. 38, 2014, s 2
sch 2	amd Act No. 23, 2013, s 14