

BUSH FIRES ACT 1954
SHIRE OF MENZIES
BUSH FIRE BRIGADES LOCAL LAW 2015

Consolidated to 16 February 2022

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BUSH FIRES ACT 1954

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Under the powers conferred by the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the Shire of Menzies resolved on 21 May 2015 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Menzies Bush Fire Brigades Local Law 2015*.

1.2 Commencement

This local law will come into operation 14 days after its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Menzies Bush Fire Brigades Local Law 2007* published in the *Government Gazette* on 6 July 2007 is repealed.

1.5 Interpretations

In this local law unless the context otherwise requires –

Act means the Bush Fires Act 1954;

brigade area is defined in clause 2.2(b);

brigade member means a volunteer fire fighter of a bush fire brigade;

brigade officer means a person holding a position referred to in clause 5.5 (1)(a), irrespective of method of appointment to the position;

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

bush fire control officer means a person appointed to that office by the local government;;

Bush Fire Operating Procedures means the Bush Fire Operating Procedures as may be adopted by the local government and amended from time to time;

Captain means the person holding or acting in that position in a bush fire brigade;

CBFCO means the Chief Bush Fire Control Officer;

CEO means the chief executive officer of the local government;

Council means the Council of the local government;

DFES means the Department of Fire and Emergency Services;

district means the district of the local government;

fire fighting activities means all normal brigade activities relating to an live bush fire which is active in the district, and includes burning off, creating fire breaks and other methods for the control of bush fires;

Lieutenant means the person holding that position in a bush fire brigade;

local government means the Shire of Menzies;

normal brigade activities is defined in section 35A of the Act.

Regulations means Regulations made under the Act; and

volunteer fire fighter is defined in section 35A of the Act.

PART 2 - ESTABLISHMENT OF BUSH FIRE BRIGADES

2.1 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).

2.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 4(1) the local government is to –
 - (a) give a name to the bush fire brigade;
 - (b) specify the brigade area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; 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.
- (2) A person appointed to a position pursuant to subclause (1)(c) is to be taken to be a brigade member.
- (3) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (4) In accordance with section 43 of the Act, the local government may remove or appoint officers of a bush fire brigade as deemed necessary or appropriate.
- (5) Subject to subclause (4) –
 - (a) an election is to be held at the first annual general meeting by the members of the brigade for appointments to the positions referred to in subclause (1)(c) and every subsequent annual general meeting.
 - (b) if a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting or at any time, then the brigade members are to vote for a replacement member to fill the position.
- (6) The brigade members may elect, set the term of office, describe the duties of, and dismiss, any person to any other position including secretary, treasurer, equipment officer, training officer or other positions, and may combine those positions; and

[Clause 2.2 amended by Government Gazette No.20 of 16 February 2022]

2.3 Objects of bush fire brigades

The objects of the bush fire brigade are to carry out—

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.4 Chain of command during fire fighting activities

- (1) Subject to the Act, the chain of command to apply during fire fighting activities is –
 - (a) Bush fire control officers in order of seniority;
 - (b) Brigade officers in order of seniority;
 - (c) all other volunteer fire fighters.
- (2) The person in command has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters, and may exercise all the powers and duties provided for by the Act.

2.5 Existing bush fire brigades

A bush fire brigade established prior to the day on which this local law comes into operation—

- (a) 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 2.1; and
- (c) any rules governing the operation of the bush fire brigade are repealed and substituted with the provisions of this local law.

2.6 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

If a local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3 - ORGANISATION OF BUSH FIRE BRIGADES

3.1 Local government responsible for structure

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Appointment of bush fire control officers

- (1) The local government may appoint bushfire control officers in their absolute discretion, and apply conditions as considered appropriate.
- (2) Where only one person is appointed as a bush fire control officer, that person is a Chief Bush Fire Control Officer for the purposes of this local law.
- (3) Where more than one person is appointed as a fire control officer, the local government shall determine seniority as Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer, and further seniority as is considered appropriate.
- (4) When considering the appointment of a person as a bush fire control officer, the local government is to have regard to the qualifications and experience which may be advisable to fill the position.

3.3 Training of officers

- (1) The local government is to supply each bush fire control officer and brigade officer with a copy of the Act, the Regulations, any Bush Fire Operating Procedures adopted, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments made from time to time.
- (2) *Deleted*
- (3) *Deleted*

[Clause 3.3 amended by Government Gazette No.20 of 16 February 2022]

3.4 Managerial role of Chief Bush Fire Control Officer

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.5 Duties of Chief Bush Fire Control Officer and Captain

The duties of the Chief Bush Fire Control Officer and Captain include –

- (a) to provide leadership to volunteer bush fire brigades;
- (b) to monitor bush fire brigades' resourcing, equipment and training levels;
- (c) to liaise with the local government concerning fire prevention/suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (d) to ensure that lists of brigade members are maintained;
- (e) to report to the local government each year, for consideration and appropriate provision being made in the next local government budget, the status of a bush fire brigade's–
 - (i) training and readiness;
 - (ii) protective clothing;
 - (iii) equipment; and
 - (iv) vehicles and appliances.

3.5A Duties of other brigade officers

The duties of lieutenants are –

- (a) to support the Captain in his or her role; and
- (b) in the absence or inability of the Captain or more senior role, to act in that role in order of seniority.

[Clause 3.5A inserted by Government Gazette No.20 of 16 February 2022]

3.6 Chief Bush Fire Control Officer to act as Captain

In the absence of a person elected as the Captain of a bush fire brigade, or in order of seniority, willing to act in that position until a meeting of the bush fire brigade is held, the Chief Bush Fire Control Officer is to act as Captain until a meeting of the bush fire brigade is held and a person is elected to the position.

PART 4 - MEMBERSHIP

4.1 Types of membership of bush fire brigade

- (1) The membership of a bush fire brigade consists of volunteer fire fighters.
- (2) Registration as a volunteer fire fighter does not commit the person to participating in all normal brigade activities.

4.2 Membership applications

- (1) An application for membership of a bush fire brigade as a volunteer fire fighter is to be made in writing in the form determined by DFES.
- (2) The decision on an application for admission of member, with or without conditions or restrictions, may be made by –
 - (a) either the Captain or CBFCO; jointly with
 - (b) either the CEO or local government president.
- (3) DFES is to be notified of acceptance of an application, and provided with a copy of the application.

4.3 Membership – review, refusal, suspension or termination

- (1) No later than 31 August in each year, the Captain is to review the membership and report to the CEO the name and contact details of each brigade member.
- (2) If circumstances warrant, membership of the bush fire brigade may be refused or suspended at any time for a period considered appropriate in the opinion of –
 - (i) either the Captain or CBFCO; jointly with
 - (ii) either the CEO or Shire President.
- (3) Membership of the bush fire brigade terminates if the member –
 - (a) dies;
 - (b) gives written notice of resignation to the Captain or CEO;
 - (c) is permanently incapacitated by mental or physical ill-health in the opinion of –
 - (i) either the Captain or CBFCO; jointly with
 - (ii) either the CEO or Shire President;
 - (d) has been removed from the membership list as being no longer resident, or for other sufficient reason in the opinion of –
 - (i) either the Captain or CBFCO; jointly with
 - (ii) either the CEO or Shire President.
- (4) Where a decision under subclause (2), (3)(c) or (3)(d) is unable to be agreed, the matter is to be referred to Council, whose decision shall be final.
- (5) Members are eligible to reapply where membership has ceased for any reason.
- (6) DFES is to be notified of the outcome of review of membership.

[Clause 4.3 amended by Government Gazette No.20 of 16 February 2022]

4.4 Member has right to review

A brigade member may appeal to the Council, whose decision shall be final, any –

- (a) refusal of membership;
- (b) suspension of membership; or
- (c) termination of membership.

4.5 Existing liabilities to continue

The resignation, suspension or termination of a member under clause 4.3 does not affect any liability of the brigade member arising prior to the date of resignation, suspension or termination of membership.

4.6 Disagreements

- (1) Any disagreement between brigade members regarding normal brigade activities may be referred to the Captain.
- (2) Where a disagreement in sub-clause (1) is considered by the Captain to be of importance to the interests of the bush fire brigade, then the Captain is to refer the disagreement to the CEO.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under sub-clause (1) or (2).

PART 5 - MEETINGS

5.1 Holding of meetings

- (1) A bush fire brigade is to hold a meeting at least annually.
- (2) The person presiding at bush fire brigade meetings shall be the senior most brigade officer in attendance, or if of equal seniority, selected by the members then present.
- (3) Notice of all meetings of a brigade is to be given to the local government and to DFES.

[Clause 5.1 amended by Government Gazette No.20 of 16 February 2022]

5.2 Calling of meetings

- (1) Meetings may be called at any time by giving at least 7 days notice to all brigade members, by –
 - (a) the Captain;
 - (b) the CEO; or
 - (c) sufficient number of members to constitute a quorum of a meeting.
- (2) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under sub-clause (1) in relation to that meeting.

5.3 Quorum at meetings

- (1) The quorum for a meeting of the a fire brigade is –
 - (a) Where membership is 3 or less – 100% of members;
 - (b) Where membership is 4 or more, but less than 8 – 3 members;
 - (c) Where membership is 8 or more, but less than 12 – 4 members;
 - (d) Where membership is 12 or more, but less than 20 – 5 members; or
 - (e) Where membership is 20 or more– 25% of members.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person.
- (3) Should a quorum not be present, all matters requiring urgent decision are to be referred to the CEO for decision.
- (4) If a meeting ceases to have a quorum at any time, the presiding member is to immediately –
 - (a) close the meeting; or
 - (b) adjourn the meeting for not more than 30 minutes, after which the meeting is to be closed if a quorum is not achieved within that time.

5.4 Voting at meetings

- (1) Each brigade member is to have one vote.
- (2) In the event of an equality of votes, the person presiding may exercise a casting vote.

- (3) All decisions of the meeting are to be made by majority of the members then present at the meeting.
- (4) Proxy voting is not permitted.

5.5 Business of meetings

- (1) The business of bush fire brigade meetings is –
 - (a) At the first brigade meeting held in accordance with clause 5.1(1), elect –
 - (i) a Captain;
 - (ii) First Lieutenant;
 - (iii) Second Lieutenant;
 - (iv) any additional officers as necessary for the effective management of normal brigade activities;
 - (b) where a vacancy has occurred in a position elected under subclause (1)(a), elect persons to the positions necessary;
 - (c) to consider the nomination of persons to the local government for appointment as bush fire control officers by the local government;
 - (d) to arrange for normal brigade activities as authorised by the Act or by the local government;
 - (e) to discuss any matter considered appropriate; and
 - (f) to make recommendations to the local government for endorsement prior to implementation.
- (2) When considering the appointment of persons to the positions of Captain, Lieutenant or other position, the brigade members are to have regard to the qualifications and experience which may be advisable to fill each position.

5.6 Minutes of meetings

Within 10 business days of a meeting of a bush fire brigade, the Captain is to ensure that minutes of each meeting of the brigade are –

- (a) available on request to brigade members, and
- (b) sent to the local government and to DFES.

PART 6 - GENERAL

6.1 Administration

All administrative matters of a bush fire brigade are to be managed by the local government.

6.2 Finances

All financial matters of a bush fire brigade are to be managed by the local government.

6.3 Equipment

All equipment purchased by the local government is the property of, and shall be insured by, the local government.

6.4 Consideration in the local government budget

In addition to funding made available through emergency services grants, the local government may provide further funding depending upon the assessment of budget priorities for the year in question.

Dated this 28th day of May 2015

The Common Seal of the Shire of Menzies was affixed by authority of a resolution of Council in the presence of –

G. DWYER, President.

Notes to this administrative compilation –

1. Original local law published in Government Gazette on 8 September 2017
2. Amended as published in Government Gazette No.20 on 16 February 2022