

Factsheet

35. Bushfires (or wildfires)

Wildfires pose a hazard to people, property and the environment. Once out of control, such fires can be immensely destructive. It is not surprising then that considerable resources go into wildfire prevention and control. This fact sheet outlines the regulatory regime relating to wildfires in Western Australia. In particular, it examines: the bodies responsible for fire control and 'prohibited' and 'restricted' burning times, together with further restrictions directed at reducing fire hazards.



Who is responsible for wildfire response?

The *Fire and Emergency Services Authority Act 1998* provides for the creation of the Fire and Emergency Services Authority ('FESA'). FESA has principal responsibility for fire control policy as well as public education and fire prevention programs.

Fire districts are declared by the Minister for Emergency Services (Minister), being published in the Western Australian Government Gazette (Gazette). Changes to fire district boundaries are also published in the Gazette. You can find maps of the various fire districts at the Department of Land Information. Each fire district has an associated fire brigade(s).



What are Bush Fire Officers and Bush Fire brigades?

FESA directs the operations of these district fire brigades. One of the ways FESA can direct district fire brigades is through the activities of *bush fire liaison officers* whom it appoints to take the responsibility for coordinating FESA's response to a wildfire through managing district fire brigades, bush fire control officers and bush fire brigades. Bush fire liaison officers are generally required to co-operate with and advise bush fire control officers, but they are empowered to give directions to bush fire control officers and bush fire brigades in a bush fire situation.

Local governments also have a significant role to play in fire control through the activities of bush fire control officers and bush fire brigades to provide fire prevention and control services outside declared fire districts and to supplement the district fire brigades. Bush fire brigades are comprised mostly of volunteers who are on call, and *bush fire control officers*, who are permanent employees of the local government. The work of bush fire control officers and bush fire brigades is important because the declared fire districts concentrate on urban areas. There are approximately 800 career fire-fighters in Western Australia, divided between 20 metropolitan and 5 regional fire stations.

What can these responsible authorities do in case of a bush fire?

The powers of bush fire control officers, bush fire brigades and district fire brigades in the event of a fire extend to nearly any activity that is reasonably necessary for the control and extinguishment of a wildfire. For example, a bush fire control officer in the performance of his or her duties under the Act, may:

- Enter any land;
- Pull down, cut and remove fences (generally used to remove fences that are blocking access to a fire);
- Take and use water from any source other than a domestic tank or water intended for use at a school;
- Take and use other fire extinguishing material from any land;
- Clear fire breaks;
- Enter any building that is believed to be on fire and take necessary steps to extinguish the fire or prevent it from spreading;
- Take other appropriate measures required to control a fire; and
- Do any other thing which in the officer's opinion is incidental to the exercise of any other power.

Bush fire control officers have further powers with regard to the lighting of fires. These are usually employed in relation to 'burning off' activities carried out by land owners (whether to clear a fire break, burn stubble, control vegetation along a fence

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line, etc.). They can order that the lighting of the fire be postponed, even when a permit to burn on that particular day has been granted. They can also direct a land owner to take all reasonable steps to control or extinguish a fire where the officer believes there is a danger that the fire will escape from the owner's property.



Prohibited and restricted burning times

The Act allows for the declaration of 'prohibited' and 'restricted' burning times for the whole or part of the State, as discussed in detail below. Any burning within these times is an offence unless carried out in accordance with the strict requirements of the Act and the relevant permit, which are aimed at the reduction of fire hazards and the safe containment of any fire.

What are prohibited burning times?

Prohibited burning times are declared by the Minister for Emergency Services in a proclamation published in the Gazette. However, during a prohibited burning time, in certain limited circumstances, it is lawful to burn bush. It is permissible for the owner or occupier of land, during a prohibited burning time:

- To burn bush on that land in order to protect a dwelling house, building or stack of hay, wheat or other produce from damage by fire.
- Provided that the local government for the relevant district has made a determination to that effect and it is in order to protect pasture or crop growing on his or her land, to burn bush:
 - o in a road reserve adjacent to that land; and
 - o on any of that land that is grassland.

In the above-mentioned circumstances, the owner or occupier must obtain a permit from a bush fire control officer of the relevant local government district. The bush can only be burnt between 4pm and midnight of the day specified in the permit. The burn must take place between established fire breaks. Any restrictions that apply to burning during a restricted burning time also apply.

The Minister may declare that burning may be conducted to eradicate a plant disease or a pest plant. The Act also makes special provision for other burning e.g. relating to subterranean clover.

Prohibited burning times may be suspended or varied by FESA. A local government may also vary the prohibited burning times within its district. However this variation can be overridden by the Minister acting on the recommendation of FESA. A local government cannot vary a prohibited burning time so as to shorten it by, or to suspend it for, more than 14 consecutive days. On variation of the prohibited burning times a local government must publish details of the variation as soon as possible within the district and notify any local government of any adjacent district, any government agency that controls land in the district and FESA.

Where FESA suspends a prohibited burning time with respect to a particular area of land, the owner or occupier of adjacent land may also burn bush lawfully for the purpose of fire hazard reduction. The permission of the relevant local government is required and the burn must be carried out between the common boundary and an established fire break (this must be 3 metres or more in width that runs parallel or nearly parallel to the boundary and not more than 60 metres from the boundary). The owners or occupiers of the exempt land and the adjacent land are obliged to co-operate as far as possible in the conduct of the burn.

What are restricted burning times?

Restricted burning times are declared by the Minister, and can be varied, by FESA, in the same way as prohibited burning times. Local governments may vary restricted burning times in their district subject to the same limitations that apply to the variation of prohibited burning times.

During restricted burning times, in order to burn bush lawfully, you must obtain a permit (from the relevant bush fire control officer, or the Chief Executive Officer, for the relevant district) stating the date or dates for the burn and any site specific conditions over and above the standard conditions which are in the Act.

The standard conditions require the permit holder to:

- Notify the following people about the bush burn:
 - o the chief executive officer or a bush fire control officer of the local government in whose district that land is situated;
 - o the owner or occupier of all adjacent land; and
 - o a forest officer if the bush is situated within 3 kilometres of forest land.

- Give notice either verbally or in writing but that must generally occur not more than 28 and not less than 4 days before the burn is to take place.
 - o Ensure that at least 3 able-bodied persons are in attendance from the time the fire is lit until there is no burning or smouldering fuel within 30 metres of the perimeter of the fire, or of the fire-break if one is used.
 - o Not burn on any day for which a 'very high' or 'extreme' fire danger has been forecast for the area, notwithstanding the date on the permit or the notice given, but the permit holder may burn on the next day following that the fire danger is not forecast as 'very high' or 'extreme'.
 - o In the event that the fire escapes the boundaries set in the permit, immediately notify the nearest bush fire control officer or other authorised officer and within 24 hours of the suppression of the fire give a full report of the circumstances of the escape to the officer who granted the permit to burn.

Any local government may prohibit burning within its district on Sundays and public holidays by notice published in a local newspaper.



Occupier's obligation

Where a wildfire is burning on any land during a restricted or prohibited burning time, the occupier, immediately upon becoming aware of the fire, must take all possible measures to extinguish the fire. The occupier bears the expense of any measures employed to extinguish the fire.

If the occupier requires assistance to extinguish the fire he or she shall if practicable, without leaving the fire unattended, inform the nearest available bush fire control officer, or bush fire brigade officer, of the existence and locality of the fire.



Emergency bush fire periods

The Minister may declare an emergency bush fire period for any defined area. Such a declaration takes precedence over any existing prohibited or restricted burning time. When a bush fire emergency period has been declared for an area, it is an offence to light any fire within that area without the express permission of the Minister or an officer authorised by the Minister.



Controlled activities

Burning garden refuse

Garden refuse may not be burned when the fire danger is very high or extreme. To "burn garden refuse" is defined in the Act as "[to] light or use a fire in the open air for the purpose of destroying garden refuse or rubbish or for any like purpose". When the fire danger is not very high or extreme, garden refuse may be burned on the ground or in an incinerator but restrictions apply regarding its proximity to inflammable materials and supervision. However, if the fire is to be lit at a rubbish tip and the tip is subject to a prohibited or restricted burning time, the tip must first be proclaimed as exempt by the Minister by notice in the Government Gazette.



Other

The Act also governs a number of other activities that do not directly involve the lighting of a fire, but still present a fire risk. Some examples are:

- The use of a tractor or self-propelled harvester during prohibited or restricted burning times (there is a risk of heat from the exhaust pipe igniting crops, pasture or stubble);
- The carriage and storage of incendiary materials;
- Blasting;
- Welding and the use of certain power tools;
- Fireworks; and
- Disposal of burning cigarettes.



Further Information and Contacts

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The FESA website is very useful. Not only does it contain contact details for FESA district offices, bush fire brigade details and individual fire stations it also hosts the State Emergency Services website.

We recommend that you check with FESA and/or the bush fire control officer for the relevant local government district in any emergency situation and before lighting any fire or undertaking any activity that presents a significant fire risk.

This Fact Sheet refers several times to notices published in the Gazette, which can be searched on-line at the State Law Publisher's website: www.slp.wa.gov.au/gazette/gazette.nsf

Bush fire control officers contact details can be obtained from the relevant local government.

Lists of local government contact details can be found on the Department of Local Government and Regional Development website and the Western Australian Local Governments Association website:

www.dlgrd.wa.gov.au/localGovt/localGovtContacts/localGovtList.asp

www.walga.asn.au