

South Australia

Fire and Emergency Services (Miscellaneous) Variation Regulations 2021

under the *Fire and Emergency Services Act 2005*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fire and Emergency Services (Miscellaneous) Variation Regulations 2021*.

2—Commencement

These regulations come into operation on the day on which section 11 of the *Fire and Emergency Services (Miscellaneous) Amendment Act 2020* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Fire and Emergency Services Regulations 2005*

4—Insertion of Part 3 Division 2A

Part 3—after Division 2 insert:

Division 2A—Industry Brigades

25A—Designation of area

- (1) For the purposes of section 69B of the Act, in preparing a written notice to designate an area of land for the establishment of an industry brigade, the Chief Officer must—
 - (a) in the case of an industry brigade being established in respect of a forestry plantation—
 - (i) identify the designated area, within a radius of 25 kilometres of a central point determined by the Chief Officer, with 1 or more plantation holdings amounting to an aggregate of not less than 500 hectares—
 - (A) located wholly or partially within the area;
or
 - (B) contiguous with plantation holdings located wholly or partially within the area;
and
 - (ii) consider the following matters:
 - (A) the size, location, topography, number and dispersion of the plantation holdings that will form the designated area;
 - (B) the characteristics of the area, including—
 - the location of roads; and
 - the existing capacity for the suppression of fires; and
 - the past incidence of fire; and
 - the risk posed by fire to plantation holdings and the community; and
 - (iii) be satisfied that—
 - (A) there is no other industry brigade in another designated area that is able and willing to provide adequate services for the suppression of fires and the saving of life at fires in the designated area; and

- (B) there is sufficient availability of competent persons to become members of the brigade;
or
 - (b) in the case of an industry brigade established for any other purpose—
 - (i) identify the designated area, within a radius specified in the notice of a central point determined by the Chief Officer located wholly or partially within the area; and
 - (ii) consider the following matters:
 - (A) the size, location, topography, amount and dispersion of vegetation within the designated area;
 - (B) the assets and infrastructure within the designated area;
 - (C) the characteristics of the area, including—
 - the location of roads; and
 - the existing capacity for the suppression of fires or other emergencies; and
 - the past incidence of fire or other emergencies; and
 - the risk posed by fire to vegetation, assets, infrastructure and the community; and
 - (D) any other risk factors identified within the designated area, including the use or presence of chemicals, explosives or flammable materials; and
 - (iii) be satisfied that—
 - (A) there is no other industry brigade in another designated area that is able and willing to provide adequate services for the suppression of fires and the saving of life at fires or other emergencies in the designated area; and
 - (B) there is sufficient availability of competent persons to become members of the brigade.
- (2) Before designating an area for the establishment of an industry brigade, the Chief Officer must consult all owners and occupiers of land in the area by—
 - (a) specifying the reasons for the decision to designate the area;
and

- (b) providing a map of the area to be designated.
- (3) The Chief Officer must keep a register of designated areas for industry brigades available on a website determined by the Chief Officer.

25B—Formation of industry brigade

A notice under section 69C(1) of the Act must—

- (a) state the reasons why the requirement to form the brigade has been made; and
- (b) identify the officers and members which the Chief Officer has determined are to be provided for the brigade at the expense of the prescribed person; and
- (c) identify the equipment or apparatus for undertaking the responsibilities of the industry brigade, which the Chief Officer has determined is to be provided for the brigade at the expense of the prescribed person; and
- (d) state the Chief Officer's training, operational and administrative requirements of the prescribed person; and
- (e) state that the prescribed person must apply to the Chief Officer for registration of the industry brigade.

5—Insertion of regulation 56AB

After regulation 56A insert:

56AB—Prescribed activity

For the purposes of section 105IA of the Act, the following activities are prescribed:

- (a) lighting or maintaining a fire;
- (b) operating a gas fire or electric element for cooking purposes in the open air;
- (c) operating a stationary engine not enclosed by non-flammable material in the open air;
- (d) operating an internal combustion engine;
- (e) operating a vehicle driven by an internal combustion engine;
- (f) landing an aircraft on, or taking off from, land;
- (g) operating an appliance used for gas welding or soldering with an exposed flame in the open air;
- (h) operating an appliance used for metal cutting in the open air;
- (i) operating an appliance used for metal grinding in the open air;
- (j) operating an appliance used for metal abrasion in the open air;

- (k) operating an appliance used as a rabbit fumigator;
- (l) operating a device that detonates a flammable gas or pyrotechnics to create a noise to scare birds (a *bird scarer*);
- (m) operating an appliance used to generate smoke for manipulating bees;
- (n) lighting or maintaining a fire in the open air to protect against frost in an orchard or vineyard (*smudging*);
- (o) using fireworks in the open air;
- (p) blasting any tree, wood or timber by the use of explosive materials;
- (q) blasting as part of mining operations by the use of explosive materials.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 11 February 2021

No 13 of 2021