

1993

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

BUSHFIRE ACT 1936

BUSHFIRE REGULATIONS (AMENDMENT)

EXPLANATORY MEMORANDUM

**Circulated by the Authority of the Minister for Urban Services
Terry Connolly MLA**

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Subsection 7A(1) of the Bushfire Act 1936 ("the Act") provides an offence where a person lights, uses or maintains a fire in the open on a day or during a period of acute fire danger a warning of which is broadcast by the Minister.

Subsection 7A(2) provides that subsection 7A(1) does not apply to, among other things, a fire included in a prescribed class of fires.

Further, section 17 of the Act provides a general power for the Executive to make regulations prescribing matters for the purposes of the Act.

The Bushfire Regulations (Amendment) ("the Amending Regulation") amends the Careless Use of Fire Regulations ("the Regulations") to -

- change the title of the Regulations to the Bushfire Regulations as a consequence of the change of the title of the Act; and
- prescribe, for the purposes of paragraph 7A(2)(c) of the Act, various classes of fire which it will be permissible to light during a day or a period of acute fire danger.

Financial Considerations

There are no revenue implications arising from the Amending Regulation.

Clause 1 provides for the commencement of the Amending Regulation on the day that it is notified in the Gazette.

Clause 2 is a formal provision explaining the meaning of the "Principal Regulations".

Clause 3 changes the title of the Regulations to the Bushfire Regulations as a consequence of the changes effected by the Bushfire (Amendment) Act 1993.

Clause 4 inserts a new regulation 1A into the Regulations. New regulation 1A is an interpretation provision which provides a definition of the terms "Act", "factory" and "heating appliance".

Clause 5 amends regulation 3 of the Regulations by omitting an unacceptable formulation which reverses the onus of proof.

Clause 6 amends regulation 4 of the Regulations to modify several gender specific words.

Clause 7 amends regulation 5 of the Regulations to give effect to current drafting policy.

Clause 8 inserts a new regulation 6 into the Regulations. New regulation 6 prescribes 3 classes of fire for the purposes of paragraph 7A(2)(c) of the Act as follows -

- (a) a fire at a factory where the fire is within a building or similar structure and reasonable steps have been taken to prevent a spread of the fire;
- (b) a fire which relates to the maintenance of essential services to the community where the Chief Fire Control Officer has been notified of the intention to light the fire and reasonable steps have been taken to prevent a spread of the fire; and
- (c) a fire used to heat a heating appliance where the appliance is under the control of a responsible adult while it is in use, the surrounding area of at least 3 metres is cleared of flammable material and a means of applying a continuous water stream is available for immediate use.