

EXPLANATORY STATEMENT

Issued by the authority of the Assistant Minister for Regional Development and Territories

Jervis Bay Territory Acceptance Act 1915

Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019

The *Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019* (the Rules) make a range of amendments to the *Jervis Bay Territory Rural Fires Rule 2014* (the Principal Rule) following a review.

Authority

These Rules are made under subsection 98(1) of the *Jervis Bay Territory Rural Fires Ordinance 2014* (the Ordinance), which allows the Minister to make rules on a range of matters, including the conduct and discipline of members of the Jervis Bay Territory (JBT) Rural Fire Service and the membership of rural fire brigades.

The Ordinance is made under section 4F of the *Jervis Bay Territory Acceptance Act 1915*, which allows the Governor-General to make ordinances for the peace, order and good government of the JBT.

The Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Purpose and operation

This instrument makes some amendments to the Principal Rule following a review carried out in 2017 and 2018, in accordance with section 99 of the Ordinance.

Amongst other matters, the review considered changes to the *Rural Fires Act 1997* (NSW) and *Rural Fires Regulation 2008* (NSW) (the NSW rural fires legislation) made since 2014. This is because, due to the cross-border delivery of fire services from NSW to the JBT, the Ordinance and Principal Rule are based on the NSW rural fires legislation, with modifications to reflect the JBT's jurisdictional and administrative circumstances. They aim to ensure, amongst other things, that the NSW Rural Fire Service is able to deliver fire management services to the JBT in a similar legislative environment to that in NSW. There has been a series of amendments to the NSW rural fires legislation since 2014.

The Rules make minor amendments to the Principal Rule to:

- correct an error (“of” is changed to “on”);
- allow the Minister to impose conditions on a person’s listing on a JBT rural fire brigade membership register, as can be done in NSW;
- make consequential amendments to the disciplinary provisions, in order to take account of any conditions imposed by the Minister on the person’s listing on the register; and
- remove references to ‘groups of rural fire brigades’, as this concept is not recognised in the Ordinance or Principal Rule.

Details of the amendments are in **Attachment A**.

Documents incorporated by reference

No documents are incorporated by reference.

Consultation

In 2017 and 2018, the Department of Infrastructure, Transport, Regional Development and Cities consulted with JBT residents via the JBT Community Bulletin, and the JBT Fire Management Committee about any changes required to the Ordinance or Principal Rule. The JBT Fire Management Committee comprises representatives from the NSW Rural Fire Service, Australian Federal Police, Department of Defence, Wreck Bay Aboriginal Community Council, Parks Australia, Shoalhaven City Council, Fire and Rescue NSW, State Emergency Service, NSW Police, NSW Ambulance and JBT Rural Fire Service. Emergency Management Australia was also invited to comment.

Draft amendments to the Ordinance and Rule were provided to the Jervis Bay Territory Fire Management Committee in October 2019 and no comments were received.

Statement of compatibility with human rights

The statement of compatibility is at **Attachment B**.

Details of the Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019

Section 1 sets out the name of the Rules.

Section 2 sets out the commencement provisions. The Rules commence on the day after registration.

Section 3 states that the Rules are made under the *Jervis Bay Territory Rural Fires Ordinance 2014*.

Section 4 states that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule to this instrument has effect according to its terms. Schedule 1 sets out the amendments to the Rules.

Schedule 1 – Amendments

Item 1 amends the heading to Part 2 to remove a reference to groups of rural fire brigades, as there are no groups in the JBT. Instead, JBT brigades are part of a local NSW group in the Shoalhaven district.

Item 2 amends subsection 6(3) of the Principal Rule to correct an error.

Item 3 amends section 6 relating to a person's membership of a rural fire brigade so as to align the Principal Rule more closely with the NSW rural fires legislation. New subsection 6(4) states that a person's listing on a brigade register is subject to any conditions imposed by the Minister.

Items 4 and 5 are consequential changes arising from Item 3. **Item 4** adds a new ground on which the Minister may remove the person's name from a brigade register at the end of their probationary period, that is, where the person has not complied with any conditions of membership imposed by the Minister (paragraph 7(2)(c)). **Item 5** adds a new ground for breaches of discipline by a member of a rural fire brigade, that is, where the person has not complied with any conditions of membership imposed by the Minister (new paragraph 10(1)(d)).

Items 6 and 7 remove references in the Principal Rule to groups of rural fire brigades in subsection 10(4), for the reasons set out at Item 1 above.

Item 8 amends paragraph 10(4)(c) (recommending that the Minister take certain disciplinary action) to add a reference to imposing conditions on the person's membership of a rural fire brigade.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the disallowable legislative instrument

The *Jervis Bay Territory Rural Fires Amendment (Miscellaneous Measures) Rules 2019* (the Rules) are made under subsection 98(1) of the *Jervis Bay Territory Rural Fires Ordinance 2014* (the Ordinance). This instrument makes some amendments to the *Jervis Bay Territory Rural Fires Rule 2014* (the Principal Rule) following a review.

Amongst other matters, the review considered changes to the *Rural Fires Act 1997* (NSW) and *Rural Fires Regulation 2008* (NSW) (the NSW rural fires legislation) made since 2014. This is because, due to the cross-border delivery of fire services from NSW to the Jervis Bay Territory (JBT), the Ordinance and Principal Rule are based on the NSW rural fires legislation, with modifications to reflect the JBT's jurisdictional and administrative circumstances. They aim to ensure, amongst other things, that the NSW Rural Fire Service is able to deliver fire management services to the JBT in a similar legislative environment to that in NSW.

The Rules make minor amendments to the Principal Rule to:

- correct an error (“of” is changed to “on”);
- allow the Minister to impose conditions on a person’s listing on a JBT rural fire brigade membership register, as may be done in NSW under the NSW rural fires legislation;
- make consequential amendments to the disciplinary provisions, in order to take account of any conditions imposed by the Minister on the person’s listing on the register; and
- remove references to ‘groups of rural fire brigades’, as this concept is not recognised in the Ordinance or Principal Rule.

Human rights implications

This disallowable legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This disallowable legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Assistant Minister for Regional Development and Territories,
the Hon Nola Marino MP**