



# Building Amendment Regulations (No. 3) 2015

The Building Amendment Regulations (No. 3) 2015 (the Amendment Regulations) were published in the Government Gazette on Monday 7 December 2015 to come into operation on Tuesday 8 December 2015.

The Amendment Regulations prescribe applicable building standards for buildings located in areas designated by the Fire and Emergency Services (FES) Commissioner under section 18P of the *Fire and Emergency Services Act 1998* as bush fire prone areas. This designation is called the Fire and Emergency Services (Bush Fire Prone Areas) Order 2015.

As a transitional arrangement, a four month delay will apply to any such designation (this will not, however, affect an area identified under a local planning scheme (LPS) as a bush fire prone area immediately prior to commencement of the Amendment Regulations).

This transitional period is necessary to give the building industry time to adjust to the designation of a bush fire prone area. This is because building contract arrangements and costings are prepared months in advance of lodging a building permit application and both the builder and applicant need to be aware of any requirement to obtain a Bush Fire Attack Level Assessment and/or to design and build in accordance with the Building Code's bush fire construction requirements.

The key Amendment Regulations are outlined below:

Regulation 2 provides that the key proposed amendments in the Amendment Regulations come into effect on the day on which the Fire and Emergency Services (Bush Fire Prone Areas) Order 2015 comes into operation. This happened on Tuesday 8 December 2015.

Regulation 3 provides that the Amendment Regulations amend the Building Regulations 2012.

Regulation 4 inserts a new definition of **bush fire prone area** in regulation 3 to mean an area which has been designated as that by the FES Commissioner.

Regulation 5 amends regulation 31A to provide that the primary applicable building standards (the standards) for building permit applications are modified by new regulation 31BA.

Regulation 6 creates new regulation 31BA, which prescribes the following standards for buildings in bush fire prone areas:

- New subregulation (1) provides that the standards set out in subregulation (2) apply to buildings constructed with a building permit in bush fire prone areas.
- New subregulation (2) provides that the Building Code's bush fire construction standards in the Table to this regulation do not apply if the building has been located in a bush fire prone area for less than four months from the time the permit application was made.

- New subregulation (3) provides that the standards set out in subregulation (4) apply to buildings constructed without a building permit in bush fire prone areas.
- New subregulation (4) provides that the Building Code's bushfire construction standards in the Table do not apply if the building has been located in a bush fire prone area for less than four months from the time the construction commenced.
- New subregulation (5) provides that the standards set out in subregulation (6) apply to applications for occupancy permits for change of classification or occupancy permits or building approval certificates for unauthorised building work.
- New subregulation (6) provides that the Building Code's bushfire construction standards in the Table to this regulation do not apply if the building has been located in a bush fire prone area for less than four months from the time the application was made.
- The Table to this regulation sets out the Building Code's bushfire construction standards which do not apply in the circumstances set out in new regulation 31BA.
- New subregulation (7) provides that an area identified under an LPS as a bush fire prone area immediately prior to commencement of the Amendment Regulations is deemed to have been a bush fire prone area for a period of four months or more. This preserves the effect of such LPS provisions and puts beyond doubt that the four month delay for FES Commissioner designations does not apply to such areas.
- New subregulation (8) defines **commencement day** and **local planning scheme**.

Regulation 7 amends regulation 31E(1) to provide that the standards for buildings constructed without a building permit in bush fire prone areas are modified by new regulation 31BA.

Regulation 8 amends regulation 31G(1) to provide that the standards for applications for occupancy permits or building approval certificates for buildings with unauthorised building work are modified by new regulation 31BA.

Further information on the practical implications of the Amendment Regulations is provided in Industry Bulletin 59 - Launch of designated bush fire prone area reforms.

#### Disclaimer

The information contained in this bulletin is provided as general information only and should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.

December 2015

**Building Commission** | Department of Mines, Industry Regulation and Safety  
Level 1, 303 Sevenoaks Street, Cannington WA 6107  
P: Locked Bag 14, Cloisters Square WA 6850  
T: 1300 489 099 | F: 08 6251 1501  
E: BCinfo@dmirs.wa.gov.au  
W: www.dmirs.wa.gov.au/building-commission

**Building  
Commission**