



What you need to know about bushfires and the law

Police Officers have a lawful authority to take preventative action to stop bushfires from starting. This authority **applies at all times of the year**, not just the Fire Danger Season. The intent of the authority is to protect the community from uncontrolled fires.

(Section 105IA Fire and Emergency Services Act 2005).

The law states -

If a police officer is satisfied:

- That a person proposes to carry out an activity of a kind prescribed by the regulations or any other activity that the police officer is satisfied may cause a fire; and
- That because of weather conditions the fire, if caused by the activity, might get out of control.

Then a police officer may direct that person to refrain from carrying on the activity during a period specified in the direction.

Before issuing a direction, the police officer will take into account relevant information to determine if a direction is necessary. This may involve assessing the weather, policies, regulations, codes and consulting with the Country Fire Service on conditions.

A direction will generally expire at 11.59pm on the day it is issued, but you should confirm this with the officer issuing it.

If a direction is issued it is recorded by police. A person who contravenes, or fails to comply with a direction commits an offence and may be prosecuted.

So what is an activity of a kind prescribed by regulations?

There are numerous specific activities, but common ones listed include:

- Lighting and maintaining a fire.
- Operating a gas fire or electric element for cooking.
- Operating an appliance for welding, soldering, metal cutting, grinding or abrasion.



The regulations also mention the term ‘any other activity’ which although not defined could be anything assessed as posing a risk of causing a fire.

(Regulation 54 Fire and Emergency Services Regulations 2021)

Roadblocks and closures

For many reasons, travel into or through the scene of an emergency, can be dangerous and potentially fatal.

Therefore such travel must be controlled and minimised to reduce risk to community safety and to ensure clear access for fire fighters.

Roadblocks are usually managed by police officers but the responsibility may be delegated to other authorised personnel such as firefighters or the State Emergency Service.

During a declared bushfire

Police and other authorised officers have powers under the *Emergency Management Act 2004* to:

- Direct or prohibit the movement of persons, animals or vehicles (*Section 25 F*).
- Require a person to provide such information as may be reasonably required in the circumstances (*Section 25 KA*).

It is an offence to:

- Without reasonable excuse refuse/fail to comply with a requirement or direction (*Section 28*).
- Hinder or obstruct the emergency operation (*Section 29*).
- Impersonate an authorised officer (*Section 30*).

A person who commits an offence under the above Act may be prosecuted.

Traffic management at emergencies

It is not always appropriate to prohibit all road travel as the impact of an emergency on the community can sometimes be reduced by allowing certain classes of people to travel on roads in the vicinity of the emergency.



A tiered access system exists allowing people access into an area or out of an area and then to return. Access is authorised by the control agency responsible for the emergency, which may impose restrictions.

- Tier 1 - Emergency services, accredited fire farm unit operators and those authorised by the control agency only.
- Tier 2 - Essential services assessment and restoration activities, media with escort.
- Tier 3 - Bona fide residents and/or land owners returning to protect/defend property, media, relief/recovery service.
- Tier 4 - Residents returning home, relief/recovery services, aid agencies.
- Tier 5 - Open to all.

For information regarding roadblocks and closures, search: [SAPOL - Road closures \(police.sa.gov.au\)](https://www.police.sa.gov.au).

Did you know it is an offence to:

- To light or maintain a fire in the open during the Fire Danger Season unless you comply with the following requirements:
 - The fire is contained in a properly constructed fireplace, a portable cooking appliance or a trench at least 30 centimetres deep; and
 - The space immediately around and above the fire is cleared of all flammable vegetation to a distance of at least 4 metres; and
 - The fire does not occupy an area in excess of 1 square metre; and
 - A person who is able to control the fire is present at the site of the fire from the time it is lighted to the time it is completely extinguished; and
 - An appropriate agent adequate to extinguish the fire is at hand.
- If a Total Fire Ban Day has been declared in your district you must not have a campfire, or light a fire for warmth or comfort **without a council permit**. (*Regulation 30(1) Fire and Emergency Services Regulations 2021*).



- To drop or throw a burning object or material from a vehicle. (Regulation 45(2) Fire and Emergency Services Regulations 2021).
- To drop or throw a burning object or material in circumstances in which it may come into contact with flammable vegetation and cause a fire in the country. (Regulation 45(3) Fire and Emergency Services Regulations 2021).
- During the Fire Danger Season, to light a fire to burn off on your property or burn rubbish or grass clippings without a Schedule 9 council permit. On declared Total Fire Ban Days without a Schedule 10 council permit. **Without a permit you are committing an offence.** (Section 79(1) Fire and Emergency Services Act 2005, Section 31 Fire and Emergency Services Regulations 2021).
- Burning in the open is also regulated all year under environment protection air quality laws. Failure to have a required permit under environmental protection laws is an offence. Contact your local council for advice (Section 34 Environment Protection Act 1993).
- To enter or remain in a reserve which has been closed to the public. (Regulation 7(4) National Parks and Wildlife (National Parks) Regulations 2016).
- Fires in a forest reserve are not permitted on a Total Fire Ban Day. Contact the Forestry Reserve office for further information. (Regulation 15 (1, 2) National Parks and Wildlife (National Parks) Regulations 2016).
- To use private fireworks. This applies at all times of year, not just during the Fire Danger Season. (Regulation 9 Explosives (Fireworks) Regulations 2016).
- During the Fire Danger Season to use an appliance for welding or soldering with an exposed flame or an appliance for metal cutting, grinding or abrasion that produces sparks in the open air unless you comply with the following requirements:
 - The space immediately around and above the appliance is cleared of all flammable vegetation to a distance of at least 10 meters; and
 - An appropriate agent to extinguish the fire is at hand; and
 - A person who is able to control the appliance is present at all times while the appliance is in use or alight.
 - Use is not permitted during a Total Fire Ban Day without a permit. (Regulation 39(2) Fire and Emergency Services Regulations 2021).