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DEPARTMENT OF WATER AFFAIRS AND FORESTRY

No. R

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**REGULATIONS IN TERMS OF CHAPTER 2 OF THE
NATIONAL VELD AND FOREST FIRE ACT, 1998**

The Minister of Water Affairs and Forestry has, under section 20 of the National Veld and Forest Fire Act, 1998, (Act No. 101 of 1998) made the regulations set out in the Schedule.

SCHEDULE

FIRE PROTECTION ASSOCIATION REGULATIONS

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MODEL CONSTITUTION FOR FIRE PROTECTION ASSOCIATION

CHAPTER 1

GENERAL PROVISIONS

Short title

1. These regulations shall be called the Fire Protection Association Regulations.

Definitions

2. In these regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates –
 - (i) “arbitrator” means a person appointed by the executive committee of a fire protection association to resolve a dispute between members;
 - (ii) “dissolution” means, in relation to a fire protection association, the process of the association being formally dissolved;
 - (iii) “Fire Brigade Services Act” means the Fire Brigade Services Act, 1987 (Act No. 99 of 1987);
 - (iv) “fire service” means a fire brigade service as defined in section 1 of the Fire Brigade Services Act;
 - (v) “founding meeting” means, in relation to the formation of a fire protection association, a properly constituted meeting of owners which formally votes on whether or not to form a fire protection association;
 - (vi) “quorum” means the minimum number of members who must be present at a meeting for the meeting to take place officially;
 - (vii) “the Act” or “this Act” means the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998);
 - (viii) “umbrella association” means an association formed to benefit a number of fire protection associations through shared resources and services as referred to in section 4(9) of the Act; and

CHAPTER 2

FIRE PROTECTION ASSOCIATIONS

Formation of a fire protection association

3. (1) Owners who wish to form a fire protection association for the purpose of predicting, preventing, managing and extinguishing veldfires must form a fire protection association at a founding meeting.

(2) The founding meeting must take place after a reasonable notice has been given to all owners.

(3) If there is a fire service or fire services in an area in respect of which a fire protection association may be formed, a notice contemplated in sub regulation (2) must be given to the chief fire officer or officers in charge of that fire service or those fire services.

(4) Where there a fire service or fire services in the area in respect of which a fire protection association may be formed, the chief fire officer or officers of that or those fire services, or persons authorised by them in writing, must attend the founding meeting.

(5) An owner may, with his or her written consent, be represented at a founding meeting by—

(a) another owner; or

(b) an organisation of which he or she is a member

(6) An owner and his or her representative must retain copies of the owner's written consent as contemplated in subregulation (5).

(7) Owners and/or representatives who are present at the founding meeting must elect a chairperson.

(8) At a founding meeting, the chairperson must identify –

(a) all owners present who represent themselves personally and allocate each owner one vote;

(b) each owner present who represents another owner or owners in terms of sub regulation 5(a), and allocate each such owner one vote for each owner represented by him or her; and

(c) each organisation present which represents an owner or owner in terms of sub regulation 5(b), and allocate to each such organisation one vote for each owner represented by it.

(9) A founding meeting must vote on whether a fire protection association must be formed in the proposed area.

(10) Representatives attending the founding meeting on behalf of owners must have the written authority to vote for, vote against or to abstain from voting for the formation of a fire protection association.

(11) The minutes of the founding meeting must indicate—

(a) whether or not there was unanimous support among owners or their representatives for the formation of the fire protection association;

(b) the number of votes cast in favour of the said formation; and/or

(c) the number of votes cast against the said formation; and

(d) the number of owners or their representatives who abstained from casting their votes on the said formation.

(12) Where a founding meeting votes in favour of forming a fire protection

association, it must at least—

- (a) give a name for the fire protection association;
- (b) describe the area in respect of which the fire protection association is formed;
- (c) elect the executive committee of the fire protection association; and
- (d) record its decisions on matters referred to in sub regulation 12(a) to (c).

(13) The minutes of the founding meeting must include an attendance register recording—

- (a) the names, contact details including the postal address, telephone numbers, cell phone numbers, fax numbers and e-mail addresses, where applicable, and the registered property names of the owners who attended the meeting;
- (b) the names, contact details and property names of the owners who were duly represented at the meeting, if any, and the names and contact details of the owners or organisations so representing them; and
- (c) where a chief fire officer has authorised another person in writing to attend the founding meeting on his or her behalf, a copy of that written authorisation.

Constitution of a fire protection association

4. (1) The Appendix contains a model constitution which may be used as a basis for drawing up and proposing a constitution for a fire protection association.

- (2) The constitution of a fire protection association must contain at least —
 - (a) the name and address of the fire protection association;
 - (b) the name of the district municipality, municipalities, metropolitan municipality, or municipalities within which the fire protection association falls;
 - (c) the name of the local municipality or municipalities within which the fire protection association falls;
 - (d) the area of jurisdiction of the fire protection association;
 - (e) state that it falls under Chapter 2 of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) and these regulations; and
 - (f) state that membership is open to all owners within the fire protection association's area, provided they are prepared to abide by its constitution and rules.
- (3) The constitution of a fire protection association must set out—
 - (a) all the requirements for membership of the fire protection association and its committees; and
 - (b) the rights, duties and liability of members, including payment of fees, charges and interest.
- (4) The constitution of a fire protection association must provide for—
 - (a) the keeping of an up to date register of its members;
 - (b) the termination of membership;
 - (c) the allocation of voting rights to members;
 - (d) the appointment of employees or agents;
 - (e) the financing of the fire protection association, including the raising

- of loans and other financial resources;
 - (f) accounting and the presentation of annual reports and financial statements;
 - (g) procedures for the dissolution of the fire protection association and the winding up of its affairs; and
 - (h) may deal with any other relevant matter.
- (5) The constitution of a fire protection association must be adopted by a properly constituted meeting of the fire protection association.

CHAPTER 3

APPLICATION AND REGISTRATION

Application for registration of a fire protection association

5. (1) An application for—
- (a) registration of a fire protection association under section 4(1) of the Act and these regulations; or
 - (b) recognition and registration of a fire protection association under section 4(3) of the Act and these regulations,
- must be made on the prescribed form, which is available at the national or any regional office of the Department.
- (2) In addition to any other relevant information, an application for registration must include the following information -
- (a) the name of the fire protection association,
 - (b) particulars of the person representing the fire protection association;
 - (c) the address of the fire protection association;
 - (d) information regarding the founding meeting of the fire protection association, including its minutes;
 - (e) a declaration that no owner or his or her representative has been deliberately excluded from the formation of the fire protection association;
 - (f) a copy of the constitution of the fire protection association;
 - (g) a declaration that membership of the fire protection association is representative of owners within its area;
 - (h) a record of any objections to the formation of the fire protection association;
 - (i) particulars of the fire protection officer, if one was appointed for the fire protection association;
 - (j) particulars of any umbrella association that will support the fire protection association and the services it will provide;
 - (k) a description of the capability of the fire protection association to carry out its duties as provided for in section 5(1) of the Act;
 - (l) copies of the minutes of the meeting or meetings at which the fire protection association approved—
 - (i) the constitution of the fire protection association;
 - (ii) the appointment of the fire protection officer; and
 - (iii) a declaration by the representative of the fire protection

association that the information given in the prescribed form is true and correct.

Registration of a fire protection association

6. (1) If the Minister is not satisfied that –
- (a) the fire protection association is capable of performing the duties imposed on it in terms of section 5 of the Act; or
 - (b) the fire protection association is representative of owners in the area, the Minister must not register the fire protection association.
- (2) Where the Minister has decided not to register a fire protection association, the Minister must, within a reasonable time, give reasons in writing and set out steps that the fire protection association may take to satisfy the requirements for registration.
- (3) If the Minister is satisfied that a fire protection association complies with section 4(2)(a) and (b) of the Act, the Minister must –
- (a) enter the details of the fire protection association into a register of fire protection associations; and
 - (b) issue a registration certificate and a registration number.
- (4) If the Minister is satisfied that the fire protection association does not qualify for registration until it has fulfilled certain specified conditions in terms of section 4(4) of the Act, the Minister must, within a reasonable time, inform the fire protection association in writing, of the conditions it must fulfil in order to qualify for registration.
- (5) Upon being satisfied that the fire protection association has fulfilled the specified conditions, the Minister must approve its registration and –
- (a) enter the fire protection association in a register of fire protection associations; and
 - (b) issue a registration certificate and a registration number.
- (6) If the Minister is satisfied that the fire protection association qualifies for registration but must require it, in terms of section 4(4) of the Act, to fulfil certain conditions after registration, the Minister must –
- (a) enter the fire protection association in a register of fire protection associations;
 - (b) issue a registration certificate and a registration number; and
 - (c) inform the fire protection association in writing of the conditions it must fulfil once it has been registered and the time period within which it must do so.

Deregistration of a fire protection association

7. (1) If a fire protection association fails to fulfil the conditions specified in terms of section 4(4) within the specified time period, it will, after being given a reasonable time to remedy its failure, be deregistered by the Minister in terms of section 8 of the Act.
- (2) If the Minister decides to deregister a fire protection association, the Minister must within a reasonable time—
- (a) inform the fire protection association in writing;
 - (b) cancel the registration of the fire protection association; and
 - (c) withdraw the fire protection association's registration certificate and

registration number.

Change of boundaries of a registered fire protection association

8. (1) A fire protection association may change a boundary or boundaries of the area in respect of which it is registered only if it has completed and submitted the relevant section of the prescribed form, which form is available at the national or any regional office of the Department, and only after the Minister has given approval for such change.
- (2) If the Minister approves the change of a boundary or boundaries as contemplated under sub regulation 1, the Minister must within a reasonable time—
 - (a) enter the new details of the boundary into the Department's records;
 - and
 - (b) inform the fire protection association accordingly.

Change of membership of the executive committee of a registered fire protection association

9. If a fire protection association changes the membership of its executive committee after registration, it must inform the Minister by completing and submitting the relevant section of the prescribed form, which form is available at the national office or any regional office of the Department.

Fees

10. The Minister may, in the *Government Gazette*, fix a tariff of fees to be paid to the Department for the costs of providing any person or organisation with information in the register of fire protection associations, or for a copy of the constitution of any fire protection association.

CHAPTER 4

FIRE PROTECTION OFFICERS

Appointment of fire protection officers

11. (1) Where –

- (a) a municipality is a member of a fire protection association and renders a fire service, or where a designated service is a member, the chief fire officer shall be the fire protection officer for as long as he or she is employed in that capacity and does not decline the position;
- (b) a fire protection association has as its members more than one entity having a chief fire officer, members of such fire protection association shall appoint one of those chief fire officers as a fire protection officer, at a general meeting of the association in terms of its constitution; and
- (c) there is no chief fire officer who is willing to assume the powers and duties of a fire protection officer, members of a fire protection association must appoint a fire protection officer from among one or more members of their choice.

(2) A person appointed as contemplated under sub regulation 10(1)(c) must remain a fire protection officer for as long as members are satisfied with his or her services.

(3) If –

- (a) the fire protection officer has stopped performing his or her duties for any reason or there is a vacancy in the office of the fire protection officer, the executive committee may immediately nominate a fire protection officer and the chairperson of the executive committee must, within 14 days, call a special general meeting to appoint a new fire protection officer, unless the vacancy arises within 60 days of the annual general meeting, in which case a new fire protection officer will be appointed at the annual general meeting.
- (a) the fire protection association does not have the means to appoint a fire protection officer, the Director-General may designate an officer or employee of the Department to act as a fire protection officer for such fire protection association for a fixed period to be determined by the Director-General, and for a further period as contemplated in section 6(5)(b) of the Act;

Proof of appointment of fire protection officers

12. Proof of appointment of a fire protection officer must-

- (a) be in writing;
- (b) bear at the heading the words “Department of Water Affairs and Forestry”;
- (c) show the signature of the Director-General or an official appointed by the Director-General; and

- (d) include—
- (i) the full names of the fire protection officer;
 - (ii) the date of his or her appointment;
 - (iii) the words “fire protection officer” in bold print; and
 - (iv) a clear photograph of the fire protection officer.

CHAPTER 5

APPLICATION AND REGISTRATION OF FIRE PROTECTION OFFICERS

Application for registration of a fire protection officer

13. (1) A fire protection officer must apply to the Director-General for registration.

(2) The application must be made in the appropriate section of the prescribed form which is available at the national office or any regional office of the Department.

(3) An application for registration must include—

- (i) the name and contact details of the fire protection officer;
- (ii) his or her *curriculum vitae*;
- (iii) the names and contact details of two referees;
- (iv) a statement as to the nature of any objections to the appointment of the fire protection officer and whether such objections have been resolved; and
- (v) any other relevant information.

Registration of a fire protection officer

14. (1) If the Director-General is satisfied that the fire protection officer will be able to enforce the Act, he or she must —

(a) enter the details of the fire protection officer into a register of fire protection officers; and

(b) issue a registration certificate and a registration number.

(2) If the Director-General refuses to register a fire protection officer, he or she must state in writing, and within a reasonable time, the reasons for his or her refusal, and steps that the fire protection officer may take in order to qualify for registration.

Deregistration of fire protection officers

15. The Director-General must deregister a fire protection officer if he or she is satisfied that the fire protection officer is unable to enforce the Act in a proper manner.

CHAPTER 6

FINANCES AND ACCOUNTABILITY

Financial year of a registered fire protection association

16. The financial year of a registered fire protection association must run from 1 April of any year to 31 March of the following year.

Annual report of a registered fire protection association

17. (1) A registered fire protection association must submit an annual report to the Minister by 30 June of every year on its activities and the achievement of its objectives, provided that the Minister may at any time request a registered fire protection association to report on any other matter as related to the Act.

(2) The Minister must make available within a reasonable time to any interested party the information about veld fire management, in accordance with the requirements of Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

CHAPTER 7

REPEAL OF REGULATIONS

Repeal of regulations made under the Forest Act, 1984

18. Regulations 24, 25 and 26, published in *Government Gazette No 10136* dated 16 February 1996, in terms of the Forest Act, 1984 (Act No. 122 of 1984), are hereby repealed.

CHAPTER 9

TITLE

Short title

19. These are the Fire Protection Association Regulations.

APPENDIX: MODEL CONSTITUTION FOR FIRE PROTECTION ASSOCIATION

Contents

1. Name of the association
2. Address of the association
3. Area of the association
4. Application of the Act to this constitution
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6. Duties of the association
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10. Rights and duties of members
11. Termination of membership
12. Fees, charges and interest
13. Liability of members
14. Assets
15. The executive committee
16. Employees
17. Loans
18. Finances
19. Annual general meeting
20. Special general meeting
21. Dispute resolution
22. Dissolution

1. Name of the fire protection association

The name of the association is the fire protection association (“the association”), which falls within the metropolitan municipality/district municipality and thelocal municipality.

2. Address of the fire protection association

Physical address:.....
.....
Postal address:.....
.....

3. Area of the fire protection association

Describe the area of your fire protection association in a way that your

members can understand:

.....
.....
.....
.....

4. Application of the Act to this constitution

This constitution is in accordance with Chapter 2 of the National Veld and Forest Fire Act, 1998 (No. 101 of 1998) (“the Act”) and the regulations under it.

5. Aim of the fire protection association

The aim of the association is to predict, prevent, manage and extinguish veld fires in its area.

6. Duties of the association

The duties of the association are to—

- (a) develop and apply a veldfire management strategy for its area;
- (b) provide in the strategy for agreed mechanisms for the co-ordination of actions with adjoining fire protection associations;
- (c) make rules which bind its members;
- (d) identify the ecological conditions that affect the fire danger;
- (e) regularly communicate the fire danger rating referred to in sections 9 and 10 of the Act to its members;
- (f) organise and train its members in fire-fighting, management and prevention;
- (g) inform its members of equipment and technology available for preventing and fighting veldfires;
- (h) provide management services, training and support for communities in their efforts to manage and control veld fires;
- (i) supply the Minister with statistics about veldfires in its area at least once every 12 months.
- (j) give any information requested by the Minister to prepare or maintain the fire danger rating system;
- (k) exercise the powers and perform the duties delegated to it by the Minister;
- (l) appoint a fire protection officer.

7. Membership

- (1) Any owner in the area of the association may at any time become a member, provided he or she undertakes to abide by this constitution and the rules of the fire protection association.
- (2) Every municipality with a fire service and every owner in respect of State land in the area must become a member.
- (3) A member is a person whose name is in the register of members referred to in clause 8(3) of this constitution.

8. Register of members

- (1) Every member must give the secretary—
 - (a) the name of his, her or its property or properties, and where necessary, a sketch map of the boundaries of the property;
 - (b) his or her name, address and if available, telephone number, cell phone number, e-mail address, fax number and radio frequency; and
 - (c) he name, address, and if available, telephone number, cell phone number, e-mail address, fax number and radio frequency of his or her agents or representatives.
- (2) Any—
 - (a) change of address or contact details; and
 - (b) transfer of property or change in ownershipmust be communicated to the secretary within a reasonable time.
- (3) The Secretary must keep all the details referred to in sub-paragraphs (1) and (2), and other relevant information, in a register of members.

9. Voting rights

At any meeting where voting is required, each member will have one vote.

10. Rights and duties of members

A member of the association—

- (a) must pay any fees and charges set by the association from time to time;
- (b) is entitled to enjoy all the benefits of membership;
- (c) must comply with the rules of the association; and
- (d) does not have a right to any of the money, property or assets of the association.

11. Termination of membership

(1) A member may terminate his or her membership by written notice to the chairperson, except in the case of municipalities and owners in respect of State land.

(2) If a member terminates his or her membership, he or she automatically gives up all fees and charges already paid by him or her to the association.

(3) Membership is automatically terminated if a member does not pay the membership fees, charges or interest within days-

- (a) after the annual general meeting, or
- (b) after these fees, charges or interest are due.

(4) The association may terminate membership of any member who fails to comply with the rules within a reasonable period of time after receiving a notice of failure to comply with an agreed rectification plan from the fire

protection officer, with the exception of municipal owners and owners in respect of State land.

12. Fees, charges and interest

- (1) The executive committee may from time to time—
 - (a) fix fees for registration and membership and charges for services that are necessary for the proper management of the association; and
 - (b) levy interest on unpaid fees and charges that the law allows.
- (2) The fees and charges of the association will be determined by the association in terms of its rules.
- (2) The association may exempt any member from the payment of fees and charges, and accord him or her full membership status.
- (3) Annual membership fees must be paid on or before the day of every year.
- (4) Any increase in registration and membership fees or charges for services must be decided at an annual general meeting; and if not decided at an annual general meeting, by the majority of members present at a general meeting called for that purpose.

13. Liability of members

Members are not personally liable for any claims against, debts owed by or omissions to carry out duties of the association, but they do have to pay unpaid fees, charges or interest owed by them in their individual capacities as members.

14. Assets

The Association may acquire and dispose of any asset.

15. The executive committee

- (1) The executive committee of the association consists of—
 - (a) the chairperson;
 - (b) the secretary;
 - (c) and
 - (d) an additional member.
- (2) Any member of the association may be elected to the executive committee.
- (3) The chairperson is elected for a period of three years, but may stand for re-election at the end of this period.
- (4) The secretary and other members are elected for a period of three years, but may stand for re-election at the end of this period.
- (5) If any member of the executive committee resigns, dies, becomes incapacitated or disqualified, or is removed from office by a majority vote of the association, his or her position becomes vacant.
- (6) A member of the executive committee becomes disqualified if he or she—
 - (a) is declared to be of unsound mind by a court;
 - (b) is declared insolvent by a court;
 - (c) is convicted of a crime involving dishonesty; or
 - (d) has been absent without an apology and a good reason at two consecutive meetings of the executive committee.
- (7) If there is a vacancy in the executive committee, it must be filled by the election or co-option of another member for the remaining period of service.

16. Employees

- (1) The executive committee may employ any person it deems suitable to help the association in carrying out its functions.
- (2) The employment of any person, or any change to the contract of employment of any employee, must be approved by a resolution of the executive committee.

17. Loans

- (1) The fire protection association may raise loans for the funds it needs to carry out any of its functions.
- (2) Whenever the executive committee wishes to raise a loan of more than R....., it must first call a meeting of all its members, subject to at least a period of notice of 21 days in order to obtain their mandate to raise the loan.
- (3) The executive committee cannot raise a loan that will lead to increased registration or membership fees, unless this is approved by a majority of the members at the meeting.

18. Finances

(1) The financial year of the association runs from the date of its registration to 31 March of the following year, and then from 1 April every year to 31 March of the next year.

(2) The secretary is responsible for all the financial business of the association and must keep a record of all its business transactions.

(3) The secretary must present an audited financial statement of the association's accounts for the previous financial year, including full details of any salary paid to members of the executive committee and employees of the association every year at the annual general meeting.

(4) The financial statement must be available for inspection at reasonable times by any member for a period of weeks from the date of the annual general meeting.

19. Annual general meeting

(1) An annual general meeting must be called by the executive committee—

(a) within 60 days of the end of the financial year; and

(b) on 21 days' notice to all members.

(2) In addition to any other business, the annual general meeting must deal with—

(a) the chairperson's annual report on the general affairs of the association;

(c) the audited financial statements of the association; and the introduction and approval of any increase in fees, charges or

(d) interest.

(3) A quorum for the annual general meeting will be% of the total number of all members of the association.

(4) If there is no quorum, members must be given notice that the meeting is adjourned for at least seven days.

(5) If there is no quorum at the next meeting, the members present form a quorum.

(6) Only those members whose registration and membership fees are fully paid up have a right to vote.

20. Special general meeting

(1) The executive committee may convene a special general meeting at any time on 14 (fourteen) days' notice.

(2) A special general meeting must be convened by the executive committee if—

(a)% of paid-up members request this meeting in writing and identify the issues to be dealt with, and

(b) the requested meeting is to be held at least 60 (sixty) days before an annual general meeting.

(3) A quorum will be% of all members of the association.

(4) If there is no quorum at a special general meeting, the meeting must be closed, and the agenda for discussion will be deferred to the next annual general meeting.

21. Dispute resolution

(1) In the case of a dispute between members, members must negotiate to resolve the dispute.

(2) If such negotiations fail, any member may approach the executive committee, which must appoint an arbitrator whose decision will be final.

22. Dissolution

(1) The association may be dissolved—

(a) by a resolution passed at an annual general meeting or a special general meeting called for that purpose and by its deregistration by the Minister in terms of section 8 of the Act; or

(b) by its deregistration by the Minister in terms of section 8 of the Act.

(2) The resolution to dissolve the association must be passed by a two-thirds majority of members present who constitute a quorum.

(3) After confirmation of the dissolution and at that meeting, the members must pass a resolution for the appointment of a liquidator to dispose of the association's assets, pay its debts, and settle all its liabilities.