

As in force at 1 September 2002.

South Australia

**ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND
OTHER PURPOSES) REGULATIONS 2002**

1.

**REGULATIONS UNDER THE ANIMAL AND PLANT CONTROL (AGRICULTURAL
PROTECTION AND OTHER PURPOSES) ACT 1986**

*Animal and Plant Control (Agricultural Protection and Other
Purposes) Regulations 2002*

being

No. 178 of 2002: *Gaz.* 29 August 2002, p. 3298¹

¹ Came into operation 1 September 2002: reg. 2.

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PART 1
PRELIMINARY

Citation

1. These regulations may be cited as the *Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 2002*.

Commencement

2. These regulations will come into operation on 1 September 2002.

Revocation

3. The *Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 1987* (see *Gazette* 25 June 1987 p. 1706), as varied, are revoked.

Interpretation

4. In these regulations, unless the contrary intention appears-

"**Act**" means the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*;

"**advisory committee**" means an advisory committee continued in existence by these regulations;

"**animal-proof fence**"-see *Schedule 1*;

"**prescribed control body**"-see *Schedule 2*;

"**revoked regulations**" means the regulations revoked by regulation 3.

4.

PART 2**ADVISORY COMMITTEES****Continuation of advisory committees**

5. The *Exotic Animals Advisory Committee*, the *Deer Advisory Committee* and the *Exotic Birds Advisory Committee* established under the revoked regulations continue in existence.

Exotic Animals Advisory Committee

6. (1) The Exotic Animals Advisory Committee consists of 6 members appointed by the Minister, of whom-

- (a) 1 (the presiding member) must be the Presiding Officer of the Commission or, if the Presiding Officer is unwilling to act, a nominee of the Presiding Officer of the Commission;
- (b) 1 must be the Executive Officer of the Commission or, if the Executive Officer is unwilling to act, a nominee of the Executive Officer;
- (c) 1 must be the Director of National Parks and Wildlife SA or, if the Director is unwilling to act, a nominee of the Director;
- (d) 1 must be the Director of the Adelaide Zoological Gardens or, if the Director is unwilling to act, a nominee of the Director;
- (e) 1 must be a nominee of the Australian Quarantine and Inspection Service;
- (f) 1 must be the Executive Director of the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated or, if the Executive Director is unwilling to act, a nominee of the Executive Director.

(2) The function of the Exotic Animals Advisory Committee is to advise the Commission in relation to-

- (a) the classification of species of exotic animals; and
- (b) the development of policies relating to-
 - (i) the entry of exotic animals into the State; and
 - (ii) the movement of exotic animals within the State; and
 - (iii) the keeping of exotic animals in the State.

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Deer Advisory Committee

7. (1) The Deer Advisory Committee consists of 8 members appointed by the Minister, of whom-

- (a) 1 (the presiding member) must be the Presiding Officer of the Commission or, if the Presiding Officer is unwilling to act, a nominee of the Presiding Officer;
- (b) 1 must be the Executive Officer of the Commission or, if the Executive Officer is unwilling to act, a nominee of the Executive Officer;
- (c) 1 must be the Director of National Parks and Wildlife SA or, if the Director is unwilling to act, a nominee of the Director;
- (d) 1 must be a nominee of the Australian Deer Association (South Australian Branch);
- (e) 1 must be a nominee of the Sporting Shooters' Association of South Australia (Hunting and Conservation Branch);
- (f) 1 must be a nominee of the Conservation Council of South Australia Incorporated;
- (g) 2 must be nominees of the Deer Industry Association of Australia (South Australian Branch).

(2) The function of the Committee is to advise the Commission in relation to-

- (a) the classification of deer; and
- (b) the development of policies relating to deer.

Exotic Birds Advisory Committee

8. (1) The Exotic Birds Advisory Committee consists of 8 members appointed by the Minister, of whom-

- (a) 1 (the presiding member) must be the Presiding Officer of the Commission or, if the Presiding Officer is unwilling to act, a nominee of the Presiding Officer;
- (b) 1 must be the Executive Officer of the Commission or, if the Executive Officer is unwilling to act, a nominee of the Executive Officer;
- (c) 1 must be the Director of National Parks and Wildlife SA or, if the Director is unwilling to act, a nominee of the Director;

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- (d) 1 must be a nominee of the Pet Industry Joint Advisory Committee (South Australian Branch);
- (e) 2 must be nominees of the United Bird Societies of South Australia;
- (f) 2 must be nominees of Birds SA.

(2) The function of the Committee is to advise the Commission in relation to-

- (a) the classification of species of exotic birds; and
- (b) the development of policies relating to exotic birds.

Terms and conditions of office of nominated members

9. (1) A member of an advisory committee who has been nominated to that position (a nominated member) will be appointed for a term not exceeding 3 years on such conditions as the Minister determines and, on the expiration of the term of office, will be eligible for reappointment.

(2) The Minister may remove a nominated member of an advisory committee from office-

- (a) for breach of, or non-compliance with, a condition of appointment; or
- (b) for misconduct; or
- (c) for failure or incapacity to carry out official duties satisfactorily.

(3) The office of a nominated member of an advisory committee becomes vacant if the member-

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister; or
- (d) is removed from office under subregulation (2).

(4) On the office of a member of an advisory committee becoming vacant, a person must be appointed in accordance with these regulations to the vacant office.

Procedures

10. (1) A quorum of an advisory committee consists of one half

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the total number of its members (ignoring any fraction resulting from the division) plus one.

(2) A meeting of an advisory committee will be chaired by the presiding member but, in his or her absence, the members present at a meeting of the committee must choose one of their number to preside at the meeting.

(3) A decision carried by a majority of the votes cast by members of an advisory committee at a meeting is a decision of the committee.

(4) Each member of an advisory committee present at a meeting of the committee has one vote on any question arising for decision, and if the votes are equal, the member presiding at the meeting may exercise a casting vote.

(5) An advisory committee must cause accurate minutes to be kept of its meetings.

(6) Subject to these regulations, an advisory committee may determine its own procedures.

Vacancies or defects in appointment of members

11. An act or proceeding of an advisory committee is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Commission to have due regard to advice of advisory committees

12. (1) Subject to subregulation (2), the Commission must, in relation to any function of the Commission in relation to which it is the function of an advisory committee to advise the Commission, obtain, and have due regard to, the advice of the committee before performing that function.

(2) Subregulation (1) does not apply if, in the opinion of the Commission, action must be taken urgently and there is insufficient time to obtain the advice of the appropriate advisory committee.

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PART 3
CONTROL OF ANIMALS

Interpretation

13. In this Part-

"Flinders Ranges" means the control area declared by proclamation under section 40 of the Act in relation to goats in the Flinders Ranges;

"off-shore islands"-

- (a) in relation to deer-means the control area declared by proclamation under section 40 of the Act in relation to deer on islands (other than Kangaroo Island) off the coast of the State;
- (b) in relation to goats-means the control area declared by proclamation under section 40 of the Act in relation to goats on islands off the coast of the State.

Issue of permits by Commission under s. 45 of Act-prescribed amount

14. For the purposes of section 45(3) of the Act, the following amounts are prescribed:

- (a) in the case of a natural person-\$1 000;
- (b) in the case of a body corporate-\$10 000.

Prescribed measures for control of deer and goats (other than on off-shore islands, etc.)

15. (1) For the purposes of section 47(3) of the Act, the measures set out in this regulation are prescribed in relation to-

- (a) deer in all parts of the State (other than on off-shore islands); and
- (b) goats in all parts of the State (other than in the Flinders Ranges or on off-shore islands).

(2) A deer or goat on land owned or occupied by the owner of the deer or goat, or on land with the consent of the owner or occupier of the land, must be-

- (a) secured or confined; and
- (b) permanently identified,

in a manner determined by the Commission.

9.

(3) Subject to subregulation (4) and regulation 17, a deer or goat on land without the consent of the owner or occupier of the land must-

- (a) be captured and removed from the land within 6 weeks after capture; or
- (b) be destroyed.

(4) An owner of land is not required to capture a deer or goat if, by reason of the terrain inhabited by the deer or goat or any other circumstance, capture is impossible.

(5) Subject to subregulation (6), a deer or goat (whether captured under subregulation (3) or not) may be released with a radio transmitter or other tracking device attached for the purpose of locating other deer or goats, as the case requires.

(6) A deer or goat must not be released under this regulation except with the written approval of the Commission and in accordance with the conditions (if any) to which the approval is subject.

Prescribed measures for control of deer and goats on off-shore islands and goats in the Flinders Ranges

16. (1) For the purposes of section 47(3) of the Act, the measures set out in this regulation are prescribed in relation to-

- (a) deer on off-shore islands; and
- (b) goats in the Flinders Ranges and on off-shore islands.

(2) Subject to subregulation (3) and regulation 17, a deer or goat must-

- (a) be captured and removed from the land within 6 weeks after capture; or
- (b) be destroyed.

(3) An owner of land is not required to capture a deer or goat if, by reason of the terrain inhabited by the deer or any other circumstance, capture is impossible.

(4) Subject to subregulation (5), a deer or goat (whether captured under subregulation (2) or not) may be released with a radio transmitter or other tracking device attached for the purpose of locating other deer or goats, as the case requires.

(5) A deer or goat must not be released under this regulation

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except with the written approval of the Commission and in accordance with the conditions (if any) to which the approval is subject.

Additional measures in relation to deer and goats

17. (1) A person taking measures for the control or destruction of deer on land pursuant to the Act and these regulations must not destroy, sell or otherwise dispose of the deer if-

- (a) the deer bears a clearly visible ear tag at least 6 cm wide and 5 cm high; and
- (b) the person has received notification (either orally or in writing) from a deer keeper that deer have escaped from land where deer are kept by the deer keeper; and
- (c) less than 48 hours have elapsed since that notification was received.

(2) A person taking measures for the control or destruction of goats on land pursuant to the Act and these regulations must not, knowing or having reason to believe that another person claims ownership of the goats, destroy the goats or sell or otherwise dispose of them to any other person unless-

- (a) written notice has been served on the person who claims, or is believed to claim, ownership of the goats requiring that person to remove the goats from the land within a period specified in the notice (being a period not less than-
 - (i) if the notice is served personally-48 hours; or
 - (ii) if the notice is served by post or by publication in a newspaper-7 days commencing at the time of posting or publication); and
- (b) the period specified in the notice has expired; and
- (c) not more than 90 days have elapsed since the expiry of the period specified in the notice.

(3) A notice under subregulation (2) may be served-

- (a) personally or by post; or
- (b) if the whereabouts of the person on whom the notice is to be served are unknown-by publication of the notice in a newspaper circulating generally throughout the State.

(4) In this regulation-

11.

"deer keeper" means a person registered as a deer keeper under the *Livestock Regulations 1998*.

12.
PART 4
MISCELLANEOUS

Exemption from ss. 41 and 52 for authorised officers

18. An authorised officer is exempt from sections 41 and 52 of the Act while carrying out official duties.

Exemption from s. 44(1) for purposes of research

19. (1) A person is exempt from section 44(1) of the Act in respect of the release of an animal of a class to which that subsection applies in a control area for that class of animals if the Commission has approved that release for the purposes of research relating to the control of animals of that class.

(2) An approval under subregulation (1) -

- (a) must be given to the person by notice in writing;
- (b) may be given subject to such conditions as the Commission thinks fit and specifies in the notice.

(3) The Commission may, by notice in writing, vary or revoke an approval under this regulation.

Exemptions from s. 52

20. (1) A person is exempt from section 52(1) and (2) (a) of the Act in respect of a plant that -

- (a) is being carried by wool that is being transported or moved to a place where it is to be cleaned; or
- (b) is being carried by grain that is being transported or moved to a place where it is to be milled.

(2) A person is exempt from section 52(2) (b) of the Act in respect of -

- (a) wool carrying a plant of a class to which section 52(2) of the Act applies if the wool is being transported or moved on a public road to a place where it is to be cleaned; or
- (b) grain carrying a plant of a class to which section 52(2) of the Act applies if the grain is being transported or moved on a public road to a place where it is to be milled.

(3) A person is exempt from section 52(1) and (2) of the Act in respect of a plant declared under the *Biological Control Act 1986* to be a target organism for the purposes of that Act if the person is participating in a community programme to rear and release an agent organism (within the meaning of that Act) for the control

13.

of that target organism.

Exemption from s. 54

21. A person who sells wool or grain carrying a plant of a class to which section 54(2) of the Act applies is exempt from that section if, at the time of the sale, the person believes on reasonable grounds that the purchaser will remove, or arrange for the removal of, that plant from the wool or grain before any re-sale of the wool or grain.

Exemption from s. 59

22. A control board is exempt from section 59(1) of the Act in respect of a plant that is a target organism the subject of a community programme referred to in regulation 20.

Application for review

23. An application under section 48(5), 58(3) or 69(1) of the Act for a review must be made in writing and set out clearly the grounds on which the applicant seeks the review.

General offence

24. A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

Maximum penalty: \$2 000.

Expiation fee: \$200.

14.

SCHEDULE 1*Prescribed requirements for animal-proof fences***Prescribed requirements for dog-proof fences**

1. For the purposes of the definition of "animal-proof fence" in section 3 of the Act, a dog-proof fence is a fence that consists of-

- (a) strainers that-
 - (i) are not less than 150 mm in diameter; and
 - (ii) are placed 100 m apart, 0.85 m under the ground and protrude 1.55 m above the ground; and
- (b) posts that are placed 5 m apart, 0.3 m under the ground and protrude 1.5 m above the ground; and
- (c) wire netting that-
 - (i) has a gauge of 1.8 mm; and
 - (ii) has a width of 1.8 mm; and
 - (iii) has a maximum mesh of 100 mm; and
 - (iv) is erected on the outside of the fence so that 1.5 m of the netting is above the ground with a ground lap of 0.3 m that is held in place and secured by means of a 0.3 m x 25 mm x 5 mm flat iron pin every metre, with a hole drilled 25 mm from the top, driven into the ground for a depth of 0.27 m at the outer edge of the ground lap with one 2.5 mm gauge galvanised wire well strained and the wire and wire netting secured to the pin by not less than 2.5 mm gauge galvanised wire; and
- (d) four plain wires-
 - (i) each of which is made of galvanised iron and is not less than 2.5 mm in diameter; and
 - (ii) that are placed at 50 mm, 0.5 m, 1.0 m and 1.5 m intervals above the ground and secured at equal intervals to each 5 m panel securing the netting to the 3 bottom wires at not more than 0.75 m intervals and to the top wire at not more than 0.5 m intervals.

15.

[Diagram appears in *Gaz.* 29 August 2002, p. 3298]

16.

Prescribed requirements for rabbit-proof fences

2. For the purposes of the definition of "**animal-proof fence**" in section 3 of the Act, a rabbit-proof fence is a fence that consists of-

- (a) strainers that-
 - (i) are not less than 150 mm in diameter and not more than 200 mm in diameter; and
 - (ii) are placed 150 m apart, 1.1 m under the ground and protrude 1.2 m above the ground; and
- (b) posts that-
 - (i) are at least 100 mm in diameter but not more than 120 mm in diameter; and
 - (ii) are placed 10 m apart, 0.7 m in the ground and protrude 1.1 m above the ground; and
- (c) droppers at 3.3 m intervals between the posts; and
- (d) 4 plain fence wires-
 - (i) each of which is 2.4 mm in diameter; and
 - (ii) that are placed at intervals of 50 mm, 0.45 m, 0.9 m and 1.0 m above the ground; and
- (e) 1 barbed wire that is placed 1.1 m above the ground; and
- (f) wire netting that-
 - (i) has a gauge of at least 1.4 mm; and
 - (ii) has a width of 1.05 m; and
 - (iii) has a maximum mesh of 40 mm; and
 - (iv) 150 mm of which is placed under the ground and 0.9 m of which protrudes above the ground; and
 - (v) is secured to the lower 3 plain fence wires with galvanised tie iron 1.44 mm in diameter and not more than 0.5 m apart on the highest of the 3 wires and not more than 0.75 m apart on the lower 2 wires; and
- (g) struts on the corner strainers that are either-
 - (i) single diagonal struts (on which are placed barriers to prevent the entry of rabbits if the struts are placed outside the netting); or
 - (ii) double post and brace rail struts.

17.

[Diagram appears in *Gaz.* 29 August 2002, p. 3298]

18.

SCHEDULE 2*Prescribed control bodies***Prescribed control bodies**

1. For the purposes of the definition of "**prescribed control body**" in section 3 of the Act, the following bodies are prescribed:

Box Flat Dingo Control Committee
Eastern Districts Soil Conservation Board
Far West District Soil Conservation Board
Gawler Ranges Soil Conservation Board
Kingoonya Soil Conservation Board
Marla-Oodnadatta Soil Conservation Board
Maree Soil Conservation Board
North East Pastoral Soil Conservation Board
Northern Flinders Ranges Soil Conservation Board
Purple Peril Woody Weed Management Committee.