

SOUTH AUSTRALIA

WILDERNESS PROTECTION REGULATIONS 1992

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1.

REGULATIONS UNDER THE WILDERNESS PROTECTION ACT 1992*Wilderness Protection Regulations 1992*

being

No. 87 of 1992: *Gaz.* 18 June 1992, p. 1781

as varied by

No. 259 of 1996: *Gaz.* 23 December 1996, p. 2262¹¹ Came into operation 3 February 1997: reg. 2.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 1.

2.

Citation

1. These regulations may be cited as the *Wilderness Protection Regulations 1992*.

Interpretation

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

"Aborigine" means a person of Aboriginal descent who is accepted as a member by a group in the community who claim descent from the people who inhabited Australia before European colonization:

"the Act" means the *Wilderness Protection Act 1992*:

"aircraft" includes a balloon or glider that is capable of carrying one or more persons:

"cave" includes any natural cavity in the earth's surface:

"to drive" includes to ride:

"exotic plant" means a plant that is not a native plant:

"to film" includes to take still photographs and "film" has a corresponding meaning:

"protected animal" has the same meaning as in the *National Parks and Wildlife Act 1972*:

"to take" has the same meaning as in the *National Parks and Wildlife Act 1972*:

"unprotected animal" means an animal that is not a protected animal:

"vessel" means a boat, jet-ski, sailboard, raft, pontoon or any other man-made object capable of floating on water and includes a hovercraft.

"wilderness area or zone" means a wilderness protection area or wilderness protection zone:

Note: For definition of divisional penalties see Appendix 2.

Qualifications of wardens

3. For the purposes of section 13(1) of the Act, a person has prescribed qualifications if the person:

(a) has satisfactorily completed the training necessary for

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appointment as a member of a police force of the
Commonwealth or a State or a Territory of the Commonwealth;

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- (b) has satisfactorily completed the course conducted from time to time by the Director known as the Basic Warden Training Course;
- (c) has satisfactorily completed at least two weeks full-time employment (or the equivalent part-time employment) in the Wildlife Protection Branch of the National Parks and Wildlife Service;
- (d) is employed in the Australian Customs Service;

or

- (e) is employed in a unit or department, responsible for wildlife conservation, of another State or a Territory of the Commonwealth.

Entrance to wilderness areas and zones

4. Where a fee is prescribed for entrance to a wilderness protection area or zone or part of such an area or zone, a person must not enter or remain in the area or zone or part of the area or zone unless the appropriate fee has been paid.

Opening and closing of wilderness areas and zones

5. (1) The Director may, by notice published in the *Gazette*, give notice of the days and hours during which a wilderness area or zone is open to the public.

(2) The Director may vary or revoke a notice under this regulation at any time by subsequent notice published in the *Gazette*.

(3) The Director may close a wilderness area or zone or any part of a wilderness area or zone-

- (a) if a total fire ban is in force in an area that includes all or part of the wilderness area or zone, or the risk of uncontrolled fire in the wilderness area or zone is, in the Director's opinion, extreme;
- (b) if the staff necessary to patrol the wilderness area or zone are unavailable;
- (c) if it is, in the Director's opinion, in the interest of public safety to close the wilderness area or zone;

or

- (d) in accordance with a plan of management for the wilderness area or zone.

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(4) A person must not, without the permission of the Director, enter or remain in a wilderness area or zone when it is closed to the public.

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Use of vehicles

6. (1) A person must not, without the permission of the Director, drive or tow a vehicle in a wilderness area or zone except on a road or track set aside for that purpose by the Director.

(2) A person must not, without the permission of the Director, drive a vehicle in a wilderness area or zone at a speed that exceeds the speed limit fixed by the Director or, if no limit has been fixed by the Director, at a speed that exceeds 40 kilometres per hour.

(3) A person must not drive a vehicle in a wilderness area or zone without due care, recklessly or at a speed or in a manner dangerous to the public.

(4) A person must not leave a vehicle in a position that obstructs other vehicles from entering, leaving or proceeding along a road or track in a wilderness area or zone.

(5) A warden may remove, or cause to be removed, a vehicle left in contravention of subregulation (4) and the Director may recover the costs of removal from the owner of the vehicle as a debt.

(6) A person must not drive a vehicle that is propelled by an internal combustion engine on land in a wilderness area or zone unless it is registered and insured.

Use of aircraft

7. (1) A person must not use an aircraft for recreational purposes over a wilderness area or zone below 1500 metres above ground level.

(2) A person must not land an aircraft in a wilderness area or zone when using the aircraft for recreational purposes but may, with the permission of the Director, land an aircraft in a wilderness area or zone when using the aircraft for any other purpose.

(3) Subregulations (1) and (2) are subject to any law of the Commonwealth to the contrary.

(4) A person must not, without the permission of the Director, jump into a wilderness area or zone from an aircraft or use an aircraft for the purpose of dropping or lowering an object into a wilderness area or zone.

Use of boats etc.

8. A person must not, without the permission of the Director, launch, or use, a vessel on a lake, river or other body of water in a wilderness area or zone unless the water has been set aside by the Director for the use of vessels of that kind.

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Camping

9. (1) A person must not, without the permission of the Director, camp in a wilderness area or zone except in an area set aside by the Director for that purpose.

(2) Where a fee is prescribed for camping in a wilderness area or zone a person must not camp in the area or zone if the fee has not been paid.

Fires

10. (1) A person must not, without the permission of the Director, light, maintain or use a fire in a wilderness area or zone in contravention of a ban or restriction imposed by the Director.

(2) A person must not light or maintain a fire in a wilderness area or zone in contravention of the *Country Fires Act 1989*.

(3) A person must not, without the permission of the Director, collect wood or other material in a wilderness area or zone, or use wood or other material collected from a wilderness area or zone, to light or maintain a fire.

(4) A person who has lit, maintained or used a fire in a wilderness area or zone must not leave the fire unattended.

Possession and use of chainsaws

11. (1) Subject to subregulation (2), a person must not, without the permission of the Director have control of, carry or use a chainsaw in a wilderness area or zone.

(2) A person may have control of, carry or use a chainsaw in a wilderness area or zone-

(a) in the course of exercising powers or performing obligations under an Act or statutory instrument;

or

(b) for the purpose of fighting a bushfire or dealing with any other emergency.

Use of generators and alternators

12. (1) Subject to subregulation (2), a person must not, without the permission of the Director, operate a generator or alternator in a wilderness area or zone except in an area set aside by the Director for that purpose.

(2) Subregulation (1) does not apply in relation to the use of a motor vehicle of a kind that is normally equipped with a

generator or alternator. 9.

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Use of metal or mineral detectors

13. A person must not, without the permission of the Director, use a device for detecting metal or minerals in a wilderness area or zone except in pursuance of a mining tenement and a proclamation under Part 3 Division 2 of the Act.

Possession and use of firearms, etc.

14. (1) A person must not, without the permission of the Director, have control of, carry or use a firearm or other weapon in a wilderness area or zone unless he or she is an Aborigine and has control of, carries or uses the firearm or other weapon for the purpose of taking animals in accordance with a proclamation referred to in section 68d(4) of the *National Parks and Wildlife Act 1972*.

(2) A person must not, without the permission of the Director, have control of, carry or use explosives in a wilderness area or zone unless he or she has control of, carries or uses the explosives in pursuance of a mining tenement and a proclamation under Part 3 Division 2 of the Act.

(3) A person must not, without the permission of the Director, have control of, carry or use fireworks in a wilderness area or zone.

Swimming and diving

15. A person must not swim or dive in any water in a wilderness area or zone except-

(a) in an area set aside by the Director for that purpose;

or

(b) with the permission of the Director.

Use of caves

16. A person must not, without the permission of the Director-

(a) enter a cave in a wilderness area or zone (except in the company of a warden or person assisting a warden);

(b) remove or displace any rock, mineral or fossil in a cave in a wilderness area or zone;

(c) disturb or interfere with any plant or animal (whether dead or alive) in a cave in a wilderness area or zone;

(d) touch or interfere with any karstcalcite formation (speleothem) in a cave in a wilderness area or zone;

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- (e) urinate or defecate in a cave in a wilderness area or zone;
- (f) deposit any organic or inorganic matter in a cave in a wilderness area or zone;
- (g) disturb, touch or interfere with any Aboriginal art or artefact in a cave in a wilderness area or zone;
- (h) use any paint, dye or marker in a cave, or release any substance into the waters of a cave, in a wilderness area or zone;
- (i) light a fire or burn any material in a cave in a wilderness area or zone;
- (j) smoke any tobacco product in a cave in a wilderness protection area or zone.

Certain recreational activities

17. (1) A person must not, without the permission of the Director, engage in the sport of climbing rock faces or in the sport of abseiling in a wilderness area or zone except in an area set aside by the Director for that purpose.

(2) A person must not fly model planes or gliders in a wilderness area or zone.

Protection of animals

18. (1) A person must not, without the permission of the Director or other lawful authority, take, injure or molest an unprotected animal in a wilderness area or zone.

(2) A person must not, without the permission of the Director, intentionally damage the nest or burrow of an animal in a wilderness area or zone.

Possession and use of trapping devices, etc.

19. A person must not, without the permission of the Director, while in a wilderness area or zone, have control of, carry or use a device designed for the purpose of taking an animal.

Seizure of animals, etc.

20. (1) Where an unprotected animal is in a wilderness area or zone without the written permission of the Minister or the Director, or is in such an area or zone but is not under the control of any person, a warden or any other person authorized by the Director may-

- (a) capture and dispose of the animal by sale or in any other manner;

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or

(b) destroy the animal.

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(2) The costs of capturing and disposing of an animal or destroying an animal under subregulation (1) are a debt due by the owner of the animal to the Crown and an animal that has been captured must not be surrendered to its owner until those costs have been paid.

(3) Where an animal is sold under this regulation, the Crown is entitled to the excess (if any) of the proceeds of the sale over the costs of capturing and selling the animal.

Plants

21. (1) A person must not, without the permission of the Director, take an exotic plant that is growing in a wilderness area or zone.

(2) A person must not, without the permission of the Director, bring a plant into a wilderness area or zone unless the plant is dead and is brought into the wilderness area or zone as food for human consumption.

Interference with earth, etc.

22. A person must not, without the permission of the Director or other lawful authority-

(a) remove from a wilderness area or zone any-

(i) soil, rock, mineral or similar material;

(ii) wood, mulch or other dead vegetation;

or

(iii) fossil or archaeological remains;

(b) dig or otherwise intentionally disturb any soil or similar material in a wilderness area or zone;

or

(c) intentionally disturb any-

(i) wood, mulch or other dead vegetation in a wilderness protection area or zone;

or

(ii) fossil or archaeological remains in a wilderness protection area or zone.

Fossil and geomorphological sites

14.

23. (1) Where, in the opinion of the Director, it is necessary or desirable in order to protect a fossil site or a site of geomorphological significance in a wilderness area or zone, the Director may, by notice published in the *Gazette*, declare the site to be a fossil site of significance or a site of geomorphological significance.

(2) A person who, intentionally and without the permission of the Director or other lawful authority, destroys, damages, or disturbs a site that is the subject of a declaration under subregulation (1) is guilty of an offence.

Penalty: Division 4 fine.

Expiation fee: \$1 500.

Note: The penalty under section 27 of the Act for destroying or damaging any part of a wilderness protection area or zone is a division 4 fine (\$15,000) or division 4 imprisonment (4 years) or both. The destruction of, or damage to, a fossil site or site of geomorphological significance in a wilderness protection area or zone would normally constitute an offence against section 27 of the Act.

Scientific research

24. A person must not, without the permission of the Director, carry out scientific research in a wilderness area or zone.

Scientific and sight seeing expeditions

25. A person must not take a group of people into a wilderness protection area or zone on a sight seeing or scientific expedition except in pursuant of a licence granted by the Minister.

Littering

26. (1) A person must not, in a wilderness area or zone-

- (a) deposit or leave any litter, bottle, broken glass, china, pottery, plastic article, rubbish, refuse or other waste material except in an area or receptacle provided for that purpose.
- (b) deposit, discharge or leave any noxious, offensive or polluting substance, matter or thing;
- (c) deposit or leave any offal, dead animal or dung;
- (d) deposit in any receptacle provided for litter any domestic garbage;
- (e) wilfully break any article of glass, china, pottery, plastic or other brittle material;

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(f) deposit, discharge or leave any mineral, mineral waste or other industrial waste or by-product.

(2) Subregulation (1) is subject to the rights of a person pursuant to a mining tenement and a proclamation under Part 3 Division 2 of the Act.

16.

Pollution of waters

27. A person must not pollute any water in a creek, river, well, dam, reservoir or lake in a wilderness area or zone.

Abandoned property

28. (1) A person must not, without the permission of the Director, abandon or leave unattended for more than 24 hours any vehicle or other personal property in a wilderness area or zone.

(2) Subregulation (1) is subject to the rights of a person pursuant to a mining tenement and a proclamation under Part 3 Division 2 of the Act.

(3) Any vehicle or personal property abandoned or left unattended for more than 24 hours in a wilderness area or zone may be seized and impounded by a warden.

(4) The Director may require the owner of any vehicle or property seized and impounded under this regulation to pay the cost of seizing, impounding and keeping the vehicle or property before returning it to the owner.

(5) If, at the expiration of one month after the owner of a vehicle or other property has been notified of its seizure or impounding, the owner has not paid to the Director the cost of seizing, impounding and keeping the vehicle or property, the Director may sell or otherwise dispose of the vehicle or property.

(6) If the owner of any vehicle or property seized or impounded under this regulation is unknown or cannot be contacted, the Director may, after the expiration of one month after the vehicle or property has been seized or impounded, sell or otherwise dispose of the vehicle or personal property.

Disorderly behaviour, etc.

29. (1) A person must not behave in a disorderly, offensive or indecent manner or use any offensive or indecent language or create any disturbance in a wilderness area or zone.

(2) A person must not in a wilderness area or zone wilfully obstruct, disturb, interrupt or annoy any other person engaged in the proper use of the wilderness area or zone.

(3) A person must not in a wilderness area or zone throw, roll or discharge any stone, substance or missile to the danger of any person or animal in the wilderness area or zone.

(4) A person must not deface, paint, write, cut names or letters, or otherwise make marks or affix bills on trees, rocks, gates, fences, buildings, signs or other property in a wilderness

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area or zone.

18.

Filming, trading and other activities

30. (1) A person must not, without the permission of the Director, film for commercial purposes in a wilderness area or zone.

(2) A person must not, without the permission of the Director, use or cause to be used, any loud speaker or similar device or other noisy equipment in a wilderness area or zone.

(3) A person must not erect or construct a building or other structure in a wilderness area or zone without the permission of the Director.

(4) A person must not, without the permission of the Director, organize, attend or participate in, or cause to be organized, any public meeting, demonstration or gathering in a wilderness area or zone.

(5) A person must not carry on any business within a wilderness area or zone except with the permission of the Director or pursuant to a licence granted by the Minister.

Compliance with directions of warden

31. A person must not fail to comply with any reasonable direction or request given by a warden relating to-

- (a) use of a wilderness area or zone;
- (b) conduct and behaviour in a wilderness area or zone;

or

- (c) safety in a wilderness area or zone.

Observance of Aboriginal tradition

32. Subject to the permission of the Director, Aboriginal people are exempted from the provisions of the Act to the extent necessary to enable them to observe Aboriginal tradition in wilderness protection areas or zones.

Permission of Director

33. (1) Permission granted by the Director pursuant to these regulations-

- (a) must be in writing;
- (b) may be conditional;

and

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(c) may be varied or revoked by the Director at any time.

(2) The permission may apply to a particular person or persons or may, if published in the *Gazette*, apply generally or to a particular class of persons.

(3) Where the Director grants permission subject to conditions, a person must not contravene or fail to comply with the conditions.

General offence

34. (1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

Penalty: Division 8 fine unless otherwise provided.

Expiation fee:

- (a) in the case of an alleged contravention of, or failure to comply with, reg. 4, 6, 10, 14, 16, 19, 22, 27, 29 or 31-\$150;
- (b) in any other case (except for an alleged offence against reg. 23)-\$100.

(2) It is a defence to a charge of an offence against these regulations if-

- (a) the defendant proves that he or she acted in response to an emergency;

and

- (b) the court finds that the action was reasonable in the circumstances.

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APPENDIX 1**LEGISLATIVE HISTORY****Transitional Provisions**

(Transitional provision from Regulation No. 259 of 1996, reg. 4)

4. A regulation varied or revoked by these regulations will continue to apply (as in force immediately prior to the variation or revocation coming into operation) to an expiation notice issued under the varied or revoked regulations.

Legislative History

Regulation 23(2):	varied by 259, 1996, reg. 3 (Sched. cl. 32)
Regulation 34(1):	varied by 259, 1996, reg. 3 (Sched. cl. 32)
Regulation 35:	revoked by 259, 1996, reg. 3 (Sched. cl. 32)
Schedule 1:	revoked by 259, 1996, reg. 3 (Sched. cl. 32)

21.

APPENDIX 2**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	-
2	10 years	\$40 000	-
3	7 years	\$30 000	-
4	4 years	\$15 000	-
5	2 years	\$8 000	-
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.