

South Australia

# Forestry Regulations 2005

under the *Forestry Act 1950*

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### Legislative history

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Forestry Regulations 2005*.

### 2—Commencement

These regulations will come into operation on 1 September 2005.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Forestry Act 1950*;

*adult* means a person of or over 15 years of age;

*aircraft* includes a hang-glider, para-glider, ultra-light aircraft, gas or hot air balloon or other similar craft;

*boat* means any vessel or craft that is used, or is capable of being used, as a means of transportation on water;

*child* means a person of or over 3 years of age but under 15 years of age;

*drive* includes ride;

*firearm* means a device from which any kind of shot, bullet or other missile can be discharged;

*forest reserve* includes a native forest reserve;

*motor vehicle* means a mobile machine propelled, or capable of being propelled by an engine, electricity or any other power including animal power but not human power;

*trapping device* means a trap, net, snare or other device designed to take or facilitate the taking of animals.

### 4—Non-derogation from Corporation's powers

Nothing in these regulations derogates from the power of the Corporation—

- (a) to deny a person access to, or require a person to leave, a forest reserve or part of a forest reserve as the Corporation thinks fit for the proper control and management of the forest reserve but subject to any lease, licence, easement, profit or other interest, or any permit, granted and in force under the Act or these regulations; or
- (b) to authorise entry to or an activity in a forest reserve otherwise than by a permit under these regulations.

## **Part 2—Entrance to reserves or parts of reserves**

### **5—Prohibition of entrance on total fire ban days**

A person must not, without lawful authority, enter or remain in a forest reserve on a day on which the lighting or maintaining of fires in the open air for any purpose is banned under the *Country Fires Act 1989* throughout the State or a part of the State in which the forest reserve is situated.

Maximum penalty: \$750.

Expiation fee: \$105.

### **6—Prohibition of entrance by notice**

- (1) A person must not, without lawful authority, enter or remain in a forest reserve or part of a forest reserve contrary to the terms of notices erected with the approval of the Corporation at the entrances to that reserve or that part of the reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) In subregulation (1), a reference to an entrance to a forest reserve or part of a forest reserve is a reference to a place at which any established road or track intersects the boundary of that forest reserve or that part of the reserve.

### **7—Prohibition of entrance at night**

A person must not, without lawful authority—

- (a) camp in a forest reserve overnight; or
- (b) enter a forest reserve before sunrise on any day; or
- (c) enter or remain in a forest reserve after sunset on any day.

Maximum penalty: \$750.

Expiation fee: \$105.

### **8—Prohibition of entrance to caves or sinkholes**

A person must not, without lawful authority, enter or remain in a cave or sinkhole in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## **Part 3—Controls on activities in reserves**

### **9—Lighting or maintaining of fires**

- (1) A person must not, without lawful authority, light or maintain a fire in the open air in a native forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person must not, without lawful authority, at any time during the month of November, December, January, February, March or April in any year light or maintain a fire in the open air, or use a gas or electrical cooking appliance, heater or lamp in the open air, in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) A person must not, without lawful authority, light or maintain a fire in a forest reserve unless—
- (a) the fire is for cooking or personal comfort; and
  - (b) the fire is contained in a properly constructed fire place or a portable cooking appliance; and
  - (c) the space immediately around and above the fire is cleared of all flammable material to a distance of at least four metres; and
  - (d) the fire does not occupy an area in excess of 1 square metre; and
  - (e) 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
  - (f) an appropriate agent adequate to extinguish the fire is at hand.

Maximum penalty: \$750.

Expiation fee: \$105.

## **10—Driving vehicles in reserves**

- (1) A person must not, without lawful authority, drive a motor vehicle in a native forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person must not, without lawful authority, drive a motor vehicle in a forest reserve—

- (a) except on an established road or track, or within five metres either side of such road or track for the purpose only of parking or turning the vehicle; or
- (b) on a road or track or part of a road or track that has been closed off by a sign or barrier erected with the approval of the Corporation.

Maximum penalty: \$750.

Expiation fee: \$105.

## **11—Using boats in reserves**

A person must not, without lawful authority, use a boat on any stream, creek, dam, reservoir, lake, sinkhole or other body of water in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## **12—Landing or using aircraft in reserves**

A person must not, without lawful authority, land or use an aircraft in a forest reserve except in the case of an emergency.

Maximum penalty: \$750.

Expiation fee: \$105.

## **13—Use of firearms etc**

A person must not, without lawful authority, carry, discharge or use a firearm or a trapping device in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## **14—Taking animals into reserves**

- (1) A person must not, without lawful authority, take any animal into a native forest reserve or permit any animal of which that person has the care and control to enter or remain in a native forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person must not, without lawful authority, take any pet into a forest reserve, or permit any pet of which that person has the care and control to enter or remain in a forest reserve, unless the animal is, at all times while in the reserve, under his or her effective control or the effective control of some other person.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) A person must not, without lawful authority, lead or ride a horse within a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## **15—Depositing rubbish**

- (1) A person must not, without lawful authority, deposit rubbish (including soil, stone, rubble, animal or vegetable matter and other debris, waste or refuse) in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) Subregulation (1) does not apply in relation to rubbish arising from an activity lawfully engaged in by the person in the forest reserve if the rubbish is deposited in a receptacle or place set aside for that purpose in the reserve.

## 16—Protection of animals

A person must not, without lawful authority, damage, destroy or remove any animal warren, burrow or nest in or from a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## 17—Protection of vegetation

- (1) A person must not, without lawful authority, damage, destroy or remove any tree, plant, wood, bark, pine needles or other similar matter in or from a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) Subregulation (1) does not prevent wood that is set aside in a forest reserve for use as firewood from being so used.

## 18—Protection of water

A person must not, without lawful authority—

- (a) take water from any tank, watercourse or natural water storage in a forest reserve except as reasonably required in connection with any activity lawfully engaged in by that person in the forest reserve; or
- (b) dam or divert a watercourse in a forest reserve; or
- (c) foul or pollute water in any tank, watercourse or natural water storage in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## 19—Protection of soils etc

A person must not, without lawful authority, remove soil or stones from, or fossick for gems or minerals in, a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

## Part 4—Permits

### 20—Permits

- (1) Subject to these regulations, the Corporation may issue a permit authorising an act or activity that would otherwise be unlawful by virtue of these regulations.
- (2) An application for a permit—
  - (a) must be made in the manner and form determined by the Corporation; and
  - (b) must, if the application is for a permit of a class in respect of which a fee is specified in Schedule 1, be accompanied by the appropriate fee.
- (3) A permit may be issued applying to a group of persons named in the permit on the application of 1 member of the group.

- (4) A permit may be issued subject to such conditions as are specified in the permit.
- (5) Without limiting the conditions to which a permit may be subject, those conditions may—
- (a) require only persons licensed or otherwise qualified to engage in an activity to which the permit relates to engage in that activity;
  - (b) specify the area to which the permit relates;
  - (c) restrict any person to whom the permit applies to the use of a specified type of motor vehicle, boat, aircraft, camping equipment, firearm or trapping device in undertaking an activity to which the permit relates.
- (6) A permit—
- (a) comes into force on the day fixed in the permit for its commencement or, if no day is fixed, on the day on which it is issued; and
  - (b) expires on the day fixed in the permit for its expiry (being a day not more than 12 months from the day of commencement) or, if no expiry day is fixed, on the expiration of 12 months after the day on which it came into force.
- (7) A person must not contravene or fail to comply with a condition of a permit applying to the person.  
Maximum penalty: \$750.  
Expiation fee: \$105.
- (8) A permit may—
- (a) if any person to whom the permit applies contravenes or fails to comply with any condition of the permit—be varied or revoked by the Corporation by instrument in writing served personally or by post—
    - (i) on the person to whom the permit was issued; or
    - (ii) on the person who contravened or failed to comply with the condition; or
  - (b) if, in the opinion of the Corporation, it is necessary or desirable to do so for the purpose of protecting a forest reserve or anything in a forest reserve—be varied or revoked by the Corporation by instrument in writing served personally or by post on the person to whom the permit was issued.
- (9) A person whose application for a permit is refused must, on request, be refunded an amount equal to the fee that accompanied the application.
- (10) A person to whom a permit under these regulations applies must carry the permit or ensure that it is readily available for production at all times while that person is in the forest reserve to which the permit relates.  
Maximum penalty: \$750.  
Expiation fee: \$105.

## 21—Fees

- (1) If a permit authorises an act or activity described in an entry in Schedule 1 that would otherwise be unlawful under the regulation referred to in the entry, the fee specified in the entry is payable in respect of that permit.

- (2) If a permit authorises more than 1 act or activity described in Schedule 1, the specified fee for each act or activity authorised is payable (except in the case of acts or activities that relate to the same regulation).
- (3) The fee for a permit may be waived if the Corporation is satisfied that it is appropriate to do so having regard to—
  - (a) the purposes for which the permit is sought; or
  - (b) the limited financial means of the applicant.
- (4) If the Corporation is satisfied that a permit has been lost or destroyed, the Corporation may, on payment of the appropriate fee specified in Schedule 1, issue a replacement permit.

## Part 5—Miscellaneous

### 22—False or misleading statements

- (1) A person must not make a statement that is false or misleading in a material particular in, or in connection with, an application for a permit under these regulations.  
Maximum penalty: \$750.
- (2) It is a defence to a charge of an offence against subregulation (1) for the defendant to prove that he or she believed on reasonable grounds that the statement was true.

### Schedule 1—Fees

1	For a permit authorising camping in a forest reserve overnight, or entering, or remaining in, a forest reserve at night (regulation 7) (per person per night)—	
	(a) per child	\$1
	(b) per adult	\$3
2	For a permit authorising driving a motor vehicle in a forest reserve (regulation 10) (per vehicle per day)	\$5
3	For a permit authorising the use of a boat on a body of water in a forest reserve (regulation 11) (per boat)—	
	(a) per day	\$2
	(b) per year	\$30
4	For a permit authorising landing or using an aircraft in a forest reserve (regulation 12) (per aircraft per day)	\$20
5	For a permit authorising leading or riding a horse in a forest reserve (regulation 14)—	
	(a) for the purposes of an event conducted by a club, association or other body (whether or not incorporated) (per person per day)—	
	(i) per child	\$1
	(ii) per adult	\$2
	(b) in any other case—	
	(i) per month—	
	(A) per child	\$3

	(B) per adult	\$5
	(ii) per year—	
	(A) per child	\$25
	(B) per adult	\$35
6	For a permit authorising the removal of soil or stones from, or fossicking for gems or minerals in, a forest reserve (regulation 19)—	
	(a) per person per day—	
	(i) per child	\$1
	(ii) per adult	\$2
	(b) per person per month—	
	(i) per child	\$3
	(ii) per adult	\$5
	(c) per person per year—	
	(i) per child	\$20
	(ii) per adult	\$30
7	For a replacement permit	\$2

## **Schedule 2—Revocation of *Forestry (Recreational Access and Use of Reserves) Regulations 1989***

The *Forestry (Recreational Access and Use of Reserves) Regulations 1989* are revoked.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Principal regulations

Year	No	Reference	Commencement
2005	191	<i>Gazette 1.9.2005 p3219</i>	1.9.2005: r 2