

South Australia

# Wilderness Protection Regulations 2021

under the *Wilderness Protection Act 1992*

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## Schedule 1—Revocation of *Wilderness Protection Regulations 2006*

1	Revocation of <i>Wilderness Protection Regulations 2006</i>
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## Legislative history

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## 1—Short title

These regulations may be cited as the *Wilderness Protection Regulations 2021*.

## 2—Commencement

These regulations come into operation on the day on which they are made.

## 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

**Aboriginal person** means a person of Aboriginal descent who is accepted as a member by a group in the community who claim Aboriginal descent;

**Act** means the *Wilderness Protection Act 1992*;

**aircraft** includes a glider or balloon capable of carrying a person;

**cave** means a cave in a wilderness protection area or wilderness protection zone and includes any natural cavity in the earth's surface;

**co-managed wilderness protection area** means a wilderness protection area in relation to which a co-management agreement is in force under Part 3 Division 4 of the Act;

**co-managed wilderness protection zone** means a wilderness protection zone in relation to which a co-management agreement is in force under Part 3 Division 4 of the Act;

**co-management agreement** means a co-management agreement under Part 3 Division 4 of the Act;

**co-management board** for a co-managed wilderness protection area or co-managed wilderness protection zone means a board established under Part 3 Division 4 of the Act;

**drive** includes ride;

**exotic plant** means a plant that is not a native plant;

**filming** means taking moving or still pictures by any means;

**motor vehicle** has the same meaning as in the *Motor Vehicles Act 1959*;

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

**relevant authority** means—

- (a) in relation to a co-managed wilderness protection area or a co-managed wilderness protection zone for which there is a co-management board—the co-management board for the wilderness protection area or the wilderness protection area; or
- (b) in any other case—the Director;

**take** has the same meaning as in the *National Parks and Wildlife Act 1972*;

**unprotected animal** means an animal (including fish and invertebrates) that is not a protected animal;

**vessel** includes a boat, jet-ski, sailboard, raft, pontoon and hovercraft.

- (2) If the co-management board for a co-managed wilderness protection area or co-managed wilderness protection zone is suspended under the Act (by virtue of section 43I of the *National Parks and Wildlife Act 1972* as that section applies under section 33A of the Act), a reference in these regulations to the *relevant authority* will be taken to be a reference to the Director.

#### **4—Application of regulations**

- (1) These regulations do not apply to a co-managed wilderness protection area or co-managed wilderness protection zone constituted of Aboriginal-owned land.
- (2) A warden is not subject to these regulations in relation to the performance of the warden's functions or the exercise of the warden's powers as a warden and a person who is an employee of the Department is not subject to these regulations in relation to the performance of the duties of the person's employment.

#### **5—Qualifications of wardens**

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

- (a) has completed satisfactorily the training necessary for appointment as a police officer of the Commonwealth or a State or a Territory of the Commonwealth; or
- (b) is an employee of the Australian Border Force of the Commonwealth; or
- (c) is a customs officer of the Commonwealth Department of Immigration and Border Protection; or
- (d) is an employee or has, within the 2 years preceding the appointment, been an employee in an administrative unit or department of the government of another State or a Territory of the Commonwealth if the unit or department is responsible for wildlife conservation; or
- (e) holds any other qualification approved by the Minister.

#### **6—Entry to wilderness protection areas and zones**

A person must not enter or remain in a wilderness protection area or wilderness protection zone unless the appropriate entrance fee fixed by the relevant authority has been paid in respect of the person's entry into the area or zone.

Maximum penalty: \$1 250.

Expiation fee: \$150.

#### **7—Opening and closing of wilderness protection areas and zones**

- (1) The relevant authority may, by notice in the Gazette—
  - (a) give notice of the hours during which a wilderness protection area or wilderness protection zone is open to the public; and
  - (b) vary or revoke a notice under paragraph (a).

- (2) The relevant authority may close a wilderness protection area or wilderness protection zone, or part of such an area or zone—
- (a) if a total fire ban is in force in an area that includes all or part of the area or zone, or the risk of uncontrolled fire in the area or zone is, in the relevant authority's opinion, extreme; or
  - (b) if the staff necessary to patrol the area or zone are unavailable; or
  - (c) if it is, in the relevant authority's opinion, in the interest of public safety to close the area or zone; or
  - (d) if the closure is in accordance with a plan of management for the area or zone.

- (3) A person must not, without the permission of the relevant authority, enter or remain in a wilderness protection area or wilderness protection zone when the area or zone is closed to the public.

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (4) A person must not, without the permission of the relevant authority, enter or remain in a particular part of a wilderness protection area or wilderness protection zone when that part of the area or zone is closed to the public.

Maximum penalty: \$1 250.

Expiation fee: \$100.

## **8—Setting aside wilderness protection area or wilderness protection zone or part of area or zone for particular use**

- (1) The relevant authority may set aside—
- (a) a wilderness protection area, or part of an area; or
  - (b) a wilderness protection zone, or part of a zone,

as an area in which a particular activity may be undertaken by persons visiting the wilderness protection area or wilderness protection zone (as the case requires).

- (2) One method by which the relevant authority may set aside the whole or part of a wilderness protection area or wilderness protection zone under subregulation (1) is by notice in the Gazette setting aside the wilderness protection area, or part of that area, or the wilderness protection zone, or a part of that zone, (as the case requires) for that purpose.

- (3) A notice may impose conditions in relation to the activity and the relevant authority may vary or revoke a notice at any time by subsequent notice in the Gazette.

- (4) A person must not contravene or fail to comply with a condition.

Maximum penalty: \$1 250.

Expiation fee: \$100.

## 9—Use of vehicles

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

Maximum penalty: \$1 250.

Expiation fee: \$150.

- (2) A person must not, without the permission of the relevant authority, drive a vehicle in a wilderness protection area or wilderness protection zone—

- (a) at a speed exceeding the speed fixed by the relevant authority as the speed limit; or

- (b) if no speed limit has been fixed by the relevant authority—at a speed exceeding 40 kilometres per hour.

Maximum penalty: \$1 250.

Expiation fee: \$150.

- (3) 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 protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$150.

- (4) A warden may remove, or cause to be removed, a vehicle left in contravention of subregulation (3) and the relevant authority may recover the costs of removal from the owner of the vehicle as a debt due to the relevant authority.

## 10—Use of aircraft

- (1) A person must not, without the permission of the relevant authority, use an aircraft on land or water in a wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (2) A person must not, without the permission of the relevant authority, jump into a wilderness protection area or wilderness protection zone from an aircraft or use an aircraft for the purpose of dropping or lowering an object into such an area or zone.

Maximum penalty: \$1 250.

Expiation fee: \$150.

- (3) A person must not, without the permission of the relevant authority, fly a drone or other remotely piloted aircraft over a wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (4) This regulation is subject to any law of the Commonwealth to the contrary.

## 11—Use of vessels

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

Maximum penalty: \$1 250.

Expiation fee: \$100.

## 12—Camping

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

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (2) A person must not camp in a wilderness protection area or wilderness protection zone unless the appropriate camping fee fixed by the relevant authority has been paid in respect of the person's use of the camping site.

Maximum penalty: \$1 250.

Expiation fee: \$100.

## 13—Fires

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

Maximum penalty: \$1 250.

Expiation fee: \$150.

- (2) A person must not, without the permission of the relevant authority, collect wood or other material in a wilderness protection area or wilderness protection zone, or use wood or other material collected from such an area or zone, to light or maintain a fire.

Maximum penalty: \$1 250.

Expiation fee: \$150.

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

Maximum penalty: \$1 250.

Expiation fee: \$150.

## 14—Possession and use of chainsaws

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

Maximum penalty: \$1 250.

Expiation fee: \$100.

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

### **15—Use of generators and alternators**

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

Maximum penalty: \$1 250.  
Expiation fee: \$100.
- (2) Subregulation (1) does not apply in relation to the use of a motor vehicle of a kind normally equipped with a generator or alternator.

### **16—Use of metal or mineral detectors**

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

Maximum penalty: \$1 250.  
Expiation fee: \$100.

### **17—Possession and use of firearms etc**

- (1) Subject to this regulation, a person must not, without the permission of the relevant authority—
  - (a) have control of, carry or use a firearm or other weapon; or
  - (b) have control of, carry or use fireworks or explosives,in a wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.  
Expiation fee: \$150.
- (2) Subregulation (1)(a) does not apply to an Aboriginal person in relation to a firearm or other weapon that the person has control of, carries or uses for the purpose of taking animals in accordance with section 68D of the *National Parks and Wildlife Act 1972*.
- (3) Subregulation (1)(b) does not apply in relation to explosives that a person has control of, carries or uses pursuant to a mining tenement and a proclamation under Part 3 Division 2 of the Act.

## 18—Swimming and diving

A person must not, without the permission of the relevant authority, swim or dive in any water in a wilderness protection area or wilderness protection zone except in an area set aside for that purpose by the relevant authority.

Maximum penalty: \$1 250.

Expiation fee: \$100.

## 19—Use of caves

A person must not, without the permission of the relevant authority—

- (a) enter a cave except in the company of a warden or person assisting a warden; or
- (b) remove or displace a rock, mineral or fossil in a cave; or
- (c) disturb or interfere with a plant or animal (whether alive or dead) in a cave; or
- (d) touch or interfere with a karstcalcite formation (speleothem) in a cave; or
- (e) urinate or defecate in a cave; or
- (f) deposit organic or inorganic matter in a cave; or
- (g) disturb, touch or interfere with any Aboriginal art or artefact in a cave; or
- (h) use a paint, dye or marker in a cave, or release any substance into the waters of a cave; or
- (i) light a fire or burn any material in a cave; or
- (j) smoke a tobacco product in a cave; or
- (k) dive in the waters of a cave or sink hole.

Maximum penalty: \$1 250.

Expiation fee: \$150.

## 20—Regulation of certain recreational activities

- (1) A person must not, without the permission of the relevant authority, engage in—
  - (a) climbing rock faces; or
  - (b) abseiling; or
  - (c) sand boarding (sliding down a sandhill on a board or other thing),

in a wilderness protection area or wilderness protection zone except in an area set aside for that purpose by the relevant authority.

Maximum penalty: \$1 250.

Expiation fee: \$100.

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

Maximum penalty: \$1 250.

Expiation fee: \$100.



**21—Protection of animals**

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

Maximum penalty: \$1 250.

Expiation fee: \$100.

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

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (3) A person must not, without the permission of the relevant authority or other lawful authority, feed an unprotected animal in a wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$100.

**22—Possession and use of devices for taking animals**

- (1) Subject to this regulation, a person must not, without the permission of the relevant authority, while in a wilderness protection area or wilderness protection zone, have control of, carry or use a device designed for the purpose of taking an animal.

Maximum penalty: \$1 250.

Expiation fee: \$150.

- (2) Subregulation (1) does not apply to an Aboriginal person in relation to a device that the person has control of, carries or uses for the purpose of taking animals in accordance with section 68D of the *National Parks and Wildlife Act 1972*.

**23—Seizure of animals etc**

- (1) If an unprotected animal is in a wilderness protection area or wilderness protection zone—

- (a) without the written permission of the relevant authority; or  
(b) with such permission but not under the control of any person,

a warden or other person authorised by the relevant authority may—

- (c) capture and sell or otherwise dispose of the animal; or  
(d) destroy the animal.

- (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.

- (3) An animal that has been captured must not be surrendered to its owner until those costs have been paid.

- (4) If 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.

## 24—Plants

- (1) A person must not, without the permission of the relevant authority, take an exotic plant that is growing in a wilderness protection area or wilderness protection zone.  
Maximum penalty: \$1 250.  
Expiation fee: \$100.
- (2) A person must not, without the permission of the relevant authority, bring a plant into a wilderness protection area or wilderness protection zone unless the plant is dead and is brought into the area or zone as food for human consumption.  
Maximum penalty: \$1 250.  
Expiation fee: \$100.

## 25—Interference with earth etc

A person must not, without the permission of the relevant authority or other lawful authority—

- (a) remove from a wilderness protection area or wilderness protection zone any—
  - (i) soil, rock, mineral or similar material; or
  - (ii) wood, mulch or other dead vegetation; or
  - (iii) fossil or archaeological remains; or
- (b) dig or otherwise intentionally disturb soil or similar material in a wilderness protection area or wilderness protection zone; or
- (c) intentionally disturb—
  - (i) wood, mulch or other dead vegetation in a wilderness protection area or wilderness protection zone; or
  - (ii) fossil or archaeological remains in a wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$150.

## 26—Fossil and geomorphological sites

- (1) If, in the opinion of the relevant authority, it is necessary or desirable in order to protect a fossil site or a site of geomorphological significance in a wilderness protection area or wilderness protection zone, the relevant authority may, by notice 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 relevant authority 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.

Maximum penalty: \$15 000.

Expiation fee: \$1 500.

## 27—Littering

- (1) A person must not, in a wilderness protection area or wilderness protection zone—
  - (a) deposit or leave litter or any bottle, broken glass, china, pottery, plastic article, rubbish, refuse or other waste material except in an area or receptacle provided for that purpose; or
  - (b) deposit, discharge or leave a noxious, offensive or polluting substance, matter or thing; or
  - (c) deposit or leave offal or a dead animal or dung; or
  - (d) deposit domestic garbage in a receptacle provided for litter; or
  - (e) wilfully break an article of glass, china, pottery, plastic or other brittle material; or
  - (f) deposit, discharge or leave a mineral, mineral waste or other industrial waste or by-product.

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (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.

## 28—Pollution of waters

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

Maximum penalty: \$1 250.

Expiation fee: \$150.

## 29—Abandoned property

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

Maximum penalty: \$1 250.

Expiation fee: \$100.

- (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) A vehicle or personal property abandoned or left unattended for more than 24 hours in a wilderness protection area or wilderness protection zone may be seized and impounded by a warden.
- (4) The relevant authority may require the owner of a vehicle or personal property seized and impounded under this regulation to pay the cost of seizing, impounding and keeping the vehicle or personal property before returning the vehicle or personal property to the owner.

- (5) If, at the expiration of 1 month after the owner of a vehicle or personal property has been notified of its seizure or impounding, the owner has not—
- (a) paid to the relevant authority the cost of seizing, impounding and keeping the vehicle or personal property; or
  - (b) if no such costs are payable—collected the vehicle or personal property, the relevant authority may sell or otherwise dispose of the vehicle or personal property.
- (6) If the owner of a vehicle or personal property seized or impounded under this regulation is unknown or cannot be contacted, the relevant authority may, after the expiration of 1 month after the vehicle or personal property has been seized or impounded, sell or otherwise dispose of the vehicle or personal property.

### **30—Disorderly behaviour etc**

- (1) A person must not, in a wilderness protection area or wilderness protection zone, behave in a disorderly, offensive or indecent manner or use offensive or indecent language or create a disturbance.  
Maximum penalty: \$1 250.  
Expiation fee: \$150.
- (2) A person must not, in a wilderness protection area or wilderness protection zone, wilfully obstruct, disturb, interrupt or annoy any other person engaged in the proper use of the area or zone.  
Maximum penalty: \$1 250.  
Expiation fee: \$150.
- (3) A person must not, in a wilderness protection area or wilderness protection zone, throw, roll or discharge any stone, substance or missile to the danger of a person or animal in the area or zone.  
Maximum penalty: \$1 250.  
Expiation fee: \$150.
- (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 protection area or wilderness protection zone.  
Maximum penalty: \$1 250.  
Expiation fee: \$150.

### **31—Other activities subject to relevant authority's permission**

- (1) A person must not, without the permission of the relevant authority, use or cause to be used, a loud speaker or similar device or other noisy equipment in a wilderness protection area or wilderness protection zone.  
Maximum penalty: \$1 250.  
Expiation fee: \$100.

- (2) A person must not, without the permission of the relevant authority, organise or cause to be organised or attend or participate in a public meeting, demonstration or gathering in a wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$100.

### **32—Compliance with notices and signs**

A person in a wilderness protection area or a wilderness protection zone must not, without the permission of the relevant authority, contravene or fail to comply with a direction given by the relevant authority in the form of a notice or sign displayed in the wilderness protection area or wilderness protection zone.

Maximum penalty: \$1 250.

Expiation fee: \$100.

### **33—Compliance with directions of warden**

A person must not fail to comply with a reasonable direction or request given by a warden relating to—

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

Maximum penalty: \$1 250.

Expiation fee: \$150.

### **34—Permission of relevant authority**

- (1) A permission granted by the relevant authority under these regulations—
- (a) must be in writing; and
  - (b) may be conditional; and
  - (c) may be varied or revoked by the relevant authority 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) If the relevant authority grants permission subject to a condition, a person must not contravene or fail to comply with the condition.

Maximum penalty: \$1 250.

Expiation fee: \$100.

### **35—General defence**

It is a defence to a charge of an offence against these regulations if the defendant proves that they acted in response to an emergency and that the action was reasonable in the circumstances.

**Schedule 1—Revocation of *Wilderness Protection Regulations 2006***

**1—Revocation of *Wilderness Protection Regulations 2006***

The *Wilderness Protection Regulations 2006* 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 or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2021	112	<i>Gazette 5.8.2021 p2962</i>	5.8.2021: r 2