

South Australia

Landscape South Australia (General) Regulations 2020

under the *Landscape South Australia Act 2019*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Landscape South Australia (General) Regulations 2020*.

2—Commencement

These regulations come into operation on 1 July 2020.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Landscape South Australia Act 2019*.

Part 2—Legislative definitions

4—Definition of animal

- (1) The following classes of animals are excluded from the definition of *animal* in section 3(1) of the Act:
 - (a) fish;
 - (b) invertebrates.
- (2) Subregulation (1) only applies for the purposes of Part 9 of the Act.
- (3) In this regulation—

fish has the same meaning as in the *Fisheries Management Act 2007*.

5—Definition of animal-proof fence

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, the requirements set out in Schedule 1 are prescribed for fences of a kind specified in that Schedule.

6—Definition of plant

- (1) The following classes of vegetation or material are excluded from the definition of *plant* in section 3(1) of the Act:
 - (a) non-living plant products including processed timber, food or medicinal products;
 - (b) bacteria, fungi, algae and micro-organisms.
- (2) Subregulation (1) only applies for the purposes of Part 9 of the Act.

Part 3—Regional landscape boards and plans

Division 1—Regional landscape boards

7—Notice of meetings (section 23 of Act)

- (1) A notice under section 23(2) of the Act must be given by a regional landscape board by—
 - (a) publishing the notice on the board's website; or
 - (b) in such other manner determined by the regional landscape board.
- (2) The requirement to give notice is dispensed with if—
 - (a) the only matters on the agenda for the relevant meeting relate to the receipt, discussion or consideration of information or matter specified in subregulation (3); and

- (b) the presiding member of the regional landscape board (or their delegate) has determined that there is a reasonable likelihood that the board will close the whole of the meeting to the public.
- (3) For the purposes of section 23(5) of the Act, the following information or matters are prescribed:
- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (b) information the disclosure of which—
 - (i) could reasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
 - (ii) would, on balance, be contrary to the public interest;
 - (c) information the disclosure of which would reveal a trade secret;
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
 - (e) matters affecting the safety or security of any person or property;
 - (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence or the right to a fair trial;
 - (g) matters that must be considered in confidence in order to ensure that the regional landscape board does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence or other legal obligation or duty;
 - (h) legal advice;
 - (i) information relating to actual litigation, or litigation that the regional landscape board believes on reasonable grounds will take place;
 - (j) information the disclosure of which—
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official; and
 - (ii) would, on balance, be contrary to the public interest;
 - (k) tenders for the supply of goods, the provision of services or the carrying out of works;
 - (l) information relating to a proposed amendment to a Development Plan under the *Development Act 1993* or the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*.

8—Annual reports (section 39 of Act)

The annual report of a regional landscape board under section 39 of the Act must include the following information:

- (a) an assessment of the extent to which the board has succeeded in implementing its annual business plan, and any water allocation plan, landscapes affecting activities control policy and water affecting activities control policy for which the board is responsible or that applies in the board's region;
- (b) the number of meetings (if any) that each member of the board has failed to attend during the relevant year and the reason given by each member for the failure;
- (c) the persons or bodies to whom or to which the board has delegated functions or powers under section 37 of the Act, and the nature of the functions or powers delegated to each person or body;
- (d) a report on any functions assigned to the board by the Minister.

9—Assignment of responsibility for infrastructure (section 42(3) of Act)

- (1) An agreement under section 42 of the Act must—
 - (a) be in writing; and
 - (b) describe the infrastructure with reasonable particularity; and
 - (c) set out the responsibilities that are being assigned to the relevant person; and
 - (d) comply with any instruction issued by the Registrar-General for the purposes of section 42(5) of the Act.
- (2) Subregulation (1) does not limit or affect the ability to include other provisions, terms or conditions in an agreement under section 42 of the Act.

Division 2—Annual business plans

10—Annual business plans (section 51 of Act)

- (1) For the purposes of section 51(5)(b) of the Act, a regional landscape board must—
 - (a) provide information relating to the proposal to each constituent council; and
 - (b) invite the council to provide it with written submissions in relation to the proposal within a specified period (which must be at least 21 days); and
 - (c) comply with any guidelines specified by the Minister for the purposes of consultation under section 51(5).
- (2) For the purposes of section 51(16) of the Act, the approval of the Minister is required in relation to an adjustment to an annual business plan of a regional landscape board in the following circumstances:
 - (a) if the adjustment is inconsistent with the board's regional landscape plan;
 - (b) if the adjustment is to include a proposal of kind referred to in section 51(4) of the Act.

Part 4—Levies

Division 1—Levies in respect of land within council areas

11—Interest payable by councils (section 67 of Act)

Interest accrues under section 67(1) of the Act from the date on which the instalment was payable under that section at the prime bank rate for the relevant financial year, calculated in respect of each month (or part of a month) for which the relevant amount remains unpaid.

12—Imposition of levy by councils (section 69 of Act)

- (1) Pursuant to section 69(5) of the Act, the following purposes for which rateable land is used are prescribed:
 - (a) *Residential* comprising the use of land for a detached dwelling, group dwelling, multiple dwelling, residential flat building, row dwelling or semi-detached dwelling within the meaning of a prescribed instrument;
 - (b) *Commercial—Shop* comprising the use of land for a shop within the meaning of a prescribed instrument;
 - (c) *Commercial—Office* comprising the use of land for an office within the meaning of a prescribed instrument;
 - (d) *Commercial—Other* comprising any other commercial use of land not referred to in the categories specified in paragraph (b) or (c);
 - (e) *Industry—Light* comprising the use of land for a light industry within the meaning of a prescribed instrument;
 - (f) *Industry—Other* comprising any other industrial use of land not referred to in the category specified in paragraph (e);
 - (g) *Primary Production* comprising—
 - (i) farming within the meaning of a prescribed instrument; or
 - (ii) horticulture within the meaning of a prescribed instrument; or
 - (iii) the use of land for horse keeping, intensive animal keeping or intensive animal husbandry within the meaning of a prescribed instrument; or
 - (iv) in respect of a dairy situated on a farm—the use of land for a dairy within the meaning of a prescribed instrument; or
 - (v) commercial forestry;
 - (h) *Vacant land* comprising the non-use of vacant land;
 - (i) *Other* comprising any other use of land not referred to in a previous category.
- (2) Pursuant to section 69(3)(d) of the Act, the operation of section 152(2) of the *Local Government Act 1999* is modified—
 - (a) as if it extended to a separate rate as well as a fixed charge; and

- (b) as if—
- (i) section 152(2)(c) provided that if a separate rate is a fixed charge based on a factor referred to in section 69(3)(a)(ii) or (iii) of the *Landscape South Australia Act 2019* and is imposed in respect of 2 or more pieces of contiguous rateable land (being land that is owned by the same owner and occupied by the same occupier), then only 1 fixed charge may be imposed against the whole of the land; and
 - (ii) section 152(2)(d) provided that if a separate rate is a fixed charge based on the factor referred to in section 69(3)(a)(ii) of the *Landscape South Australia Act 2019* and is imposed in respect of land constituting a single farm enterprise, then only 1 fixed charge may be imposed against the whole of the land.
- (3) Pursuant to section 69(3)(d) of the Act, the operation of section 159(9) of the *Local Government Act 1999* is modified—
- (a) so as to not require a council that grants to a person or body a rebate of general rates under section 166 of the *Local Government Act 1999* to grant a comparable rebate of a regional landscape levy to the person or body; and
 - (b) so as to allow a council to grant to a person or body a rebate of a regional landscape levy under section 166 of the *Local Government Act 1999* that is different to a rebate of general rates granted to the person or body.
- (4) In this regulation—
- prescribed instrument*** means—
- (a) the *Development Regulations 2008*; or
 - (b) the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*.

13—Refunds to councils in relation to unpaid regional landscape levies (section 69(10) of Act)

- (1) For the purposes of section 69(10) of the Act, an application by a council for refund of monies in respect of a debt written off by the council constituted of unpaid regional landscape levy (or part of a levy) must—
- (a) be made to the regional landscape board by 31 March in a given year; and
 - (b) contain the following information:
 - (i) certification by the council that the debt has been written off under section 143 of the *Local Government Act 1999*;
 - (ii) the name of the person liable for the payment of the landscape levy constituting the debt;
 - (iii) a copy of the certificate of title of the land to which the unpaid landscape levy constituting the debt relates;
 - (iv) the amount of the debt constituted by the unpaid landscape levy;
 - (v) the period of time for which the landscape levy constituting the debt has been unpaid;

- (vi) if the landscape levy constituting the debt has been unpaid for less than 3 years—a statement of the grounds relied on by the council in acting under section 143 of the *Local Government Act 1999*.
- (2) A council that does not submit an application under subregulation (1) by 31 March in a particular year may submit it after that date (to be considered in the next round of applications).
- (3) If—
 - (a) a council writes off a debt constituted by an unpaid regional landscape levy (or part of a levy); and
 - (b) a refund is made to the council under section 69(10) of the Act in relation to the unpaid levy; and
 - (c) the council subsequently recovers an amount (the **relevant amount**) with respect to the unpaid levy as part of steps taken by the council to recover rates in arrears under the *Local Government Act 1999*,

the council must pay the relevant amount to the regional landscape board that made the refund under section 69(10) of the Act.

14—Costs of councils (section 70 of Act)

- (1) This regulation makes provision with respect to the operation of section 70 of the Act.
- (2) In this regulation—

transitional financial year means—

 - (a) a transitional financial year under Schedule 5 clause 95 of the Act; and
 - (b) the 2023/2024 financial year and the 2024/2025 financial year.
- (3) For the purposes of this regulation—
 - (a) **establishment costs** are fair costs directly associated with—
 - (i) a council being required to impose a regional landscape levy on rateable land within its area (or part of its area) in a particular financial year after not being required to impose such a levy or a regional NRM levy under the repealed Act in the immediately preceding financial year; and
 - (ii) a council being required to impose a regional landscape levy on rateable land within its area (or part of its area) in a particular financial year on a basis under section 69(3)(a) of the Act that is different to the basis that applied with respect to the immediately preceding financial year (either under the Act or the repealed Act), other than where any additional costs incurred by the council on account of the change to the basis for the levy are not significant;
 - (b) **ongoing costs** are fair annual costs directly associated with a council imposing and collecting a regional landscape levy, other than costs that a council would incur in any event on account of the imposition and collection of rates under the *Local Government Act 1999*;
 - (c) **transitional costs** are fair costs incurred by a council, in relation to a transitional financial year, with respect to—

- (i) changing the name of the relevant levy from *regional NRM levy* to *regional landscape levy* in connection with imposing a levy under section 69 of the Act; or
 - (ii) a change in the boundaries of any region located within its area in connection with the imposition of a regional landscape levy; or
 - (iii) making any amendments to the council's rating system on account of the introduction of the regional landscape levy; or
 - (iv) conducting any tests involving the council's rating system on account of the introduction of the regional landscape levy; or
 - (v) setting up and assigning new codes within the council's rating system on account of the introduction of the regional landscape levy.
- (4) Subject to this regulation, the costs that a council may recover with respect to a particular financial year will be determined according to whether the council is claiming—
- (a) establishment costs; or
 - (b) ongoing costs; or
 - (c) transitional costs; or
 - (d) any combination of these costs.
- (5) Subject to this regulation, the amount that a council may recover as establishment costs will be—
- (a) fair costs incurred by a council with respect to—
 - (i) consulting with the relevant regional landscape board in relation to the basis for the regional landscape levy; and
 - (ii) establishing the ability of the council's rating system to deal with the regional landscape levy; and
 - (iii) making any amendments to the council's rating system on account of the imposition of the regional landscape levy; and
 - (iv) conducting any tests involving the council's rating system on account of the imposition of the regional landscape levy; and
 - (v) setting up and assigning codes within the council's rating system on account of the imposition of the regional landscape levy; and
 - (vi) obtaining any new assessment or valuation information on account of the imposition of the regional landscape levy; and
 - (vii) confirming the imposition of the appropriate levy with respect to rateable land in the area of the council; or
 - (b) \$10 848 (indexed), plus 71 cents (indexed) for each assessment of levy against a piece of rateable land, adjusted, if necessary, under subregulation (6).

- (6) If a council is claiming establishment costs under paragraph (b) of subregulation (5) from 2 or more regional landscape boards with respect to a particular financial year, the component under that paragraph represented by \$10 848 (indexed) will be reduced, with respect to the payment to each regional landscape board, to 60% of the amount that would otherwise apply.
- (7) Subject to this regulation, the amount that a council may recover as ongoing costs will be—
- (a) fair costs as described in subregulation (3)(b); or
 - (b) \$2 532 (indexed), plus 25 cents (indexed) for each assessment of levy against a piece of rateable land.
- (8) If a council is claiming transitional costs from 2 or more regional landscape boards with respect to a particular financial year, the respective shares of those boards will be as agreed between them or, in default of an agreement, as determined by the Minister.
- (9) Subject to subregulation (11), a council seeking to recover any costs with respect to a particular financial year, other than the 2020/2021 financial year, should, as a preliminary step, furnish to the relevant regional landscape board or boards, a reasonable estimate of the costs that the council expects to claim under this regulation.
- (10) An estimate under subregulation (9) should comply with any requirements determined by the Minister for the purposes of this regulation and be furnished before the regional landscape board or boards finalise their draft budgets for inclusion in their draft annual business plans for the relevant financial year.
- (11) In relation to ongoing costs, if—
- (a) a council is anticipated to be imposing a regional landscape levy in an ensuing financial year; and
 - (b) the council has not furnished, in accordance with subregulation (9), an estimate of its ongoing costs for that financial year by 31 January in the year in which the financial year will commence,
- it will be conclusively presumed that the council will be recovering costs under subregulation (7)(b).
- (12) A regional landscape board must, after taking into account any information furnished by a council under subregulation (9) or the operation of subregulation (11), include in its annual business plan for the relevant financial year the amount that it appears to be a reasonable estimate of its liability to the council under this regulation for that financial year.
- (13) A council must, after declaring the relevant levy, furnish to any regional landscape board from which it is seeking to recover costs, an invoice that sets out the amount that the council is claiming, and the calculations used by the council to determine the amount.
- (14) A council should, except in a case involving extraordinary administrative difficulty, furnish an invoice under subregulation (13) by 31 March in the financial year with respect to which the relevant regional landscape levy is imposed (starting with March 2021).

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- (15) A regional landscape board must, within 30 days after receiving an invoice under subregulation (13) (treating each category of costs claimed separately)—
- (a) pay the amount claimed by the council; or
 - (b) if the board considers that a claim is excessive and should therefore be reviewed—refer the matter to the Minister so that the Minister may determine what is a reasonable claim taking into account the scheme set out in this regulation.
- (16) The Minister must make a determination within 60 days after a matter is referred under subregulation (15) (and a determination of the Minister will have effect as a determination of the fair costs of the relevant council).
- (17) An assessment of levy under subregulation (5)(b) or (7)(b) will be determined according to assessments as they exist at the time that the council declares its levy with respect to the relevant financial year.
- (18) An amount specified by this regulation that is followed by the word (*indexed*) must be adjusted with respect to each financial year, beginning with the 2021/2022 financial year, by multiplying the amount by a proportion obtained by dividing the CPI for the September quarter of the immediately preceding financial year by the CPI for the September quarter 2019, on the basis that the quotient used for the purposes of the adjustment will be calculated to 2 decimal places and that the amount obtained from the adjustment will be rounded—
- (a) in the case of an amount specified in dollars—to the nearest dollar; and
 - (b) in the case of an amount expressed in cents—to the nearest cent.

15—Contributions by constituent councils—rateable land divided by boundaries of 2 or more landscape management regions or councils (section 73 of Act)

- (1) The following scheme applies for the purposes of section 73 of the Act:
- (a) if a piece of rateable land within the area of a council is divided by the boundaries of 2 or more landscape management regions, the whole of the land will be taken to be assigned to the landscape management region in which the larger (or, in the case of more than 2 landscape management regions, the largest) portion of the land is located (the *assigned landscape management region*);
 - (b) if—
 - (i) a piece of rateable land is divided by the boundaries of 2 or more councils; and
 - (ii) the regional landscape levy imposed by at least 1 of those councils is based on a fixed charge under section 69(3) of the Act,the whole of the land will be taken to be assigned to the council area in which the larger (or, in the case of more than 2 council areas, the largest) portion of the land is located (the *assigned council area*);
 - (c) if, in the opinion of the Minister, the application of a preceding paragraph (or both) has, in a particular case, resulted in—

- (i) uncertainty or disagreement as to which council area is the assigned council area or which landscape management region is the assigned landscape management region; or
- (ii) an excessively disproportionate burden falling on the council for the assigned council area,

the Minister may make a determination as to the assignment on such basis, and following such consultation (if any) with the Valuer-General or any other person or body, as the Minister thinks fit.

- (2) For the purposes of this regulation, a reference to a *piece of rateable land* includes a reference to 2 or more pieces of contiguous rateable land owned by the same owner and occupied by the same occupier.

Division 2—Levies in respect of land outside council areas

16—Exclusions of certain land from operation of section 71 of Act

Pursuant to section 71(3) of the Act, land outside council areas of the following classes is excluded from the operation of section 71 of the Act:

- (a) unalienated Crown land;
- (b) land used or held by the Crown or an instrumentality of the Crown for a public purpose (including an educational purpose), except any such land that is held or occupied by the Crown or instrumentality under a lease or licence;
- (c) land that is exempt from rates or taxes under the *Recreation Grounds Rates and Taxes Exemption Act 1981*;
- (d) land occupied or held by an emergency services organisation under the *Fire and Emergency Services Act 2005*;
- (e) land that is exempt from the operation of section 71 under another Act;
- (f) land that constitutes less than the whole of a single allotment.

17—Outside council areas—differential levies (section 71 of Act)

For the purposes of section 71(5) of the Act, differential levies may be declared, in relation to an area of rateable land referred to in section 71(4)(d) of the Act, by multiplying the factor specified in column 2 of the following table for the area of rateable land specified in column 1 with such minimum amount payable by way of a levy as may be fixed by a regional landscape board under section 71(7) of the Act.

Area of rateable land	Factor (with which the minimum amount is to be multiplied)
Less than 10 hectares	1
10 or more hectares but less than 100 hectares	3.5
100 or more hectares but less than 100 000 hectares	7
100 000 or more hectares	12

18—Remissions—contiguous land

If OC levies based on a factor referred to in section 71(4)(b) or (c) of the Act are declared by a regional landscape board in respect of 2 or more pieces of contiguous rateable land (being land that is owned by the same owner and occupied by the same occupier), the board must remit the levies in respect of all but 1 piece of rateable land.

19—Remissions—single farm enterprises

- (1) If OC levies based on the factor referred to in section 71(4)(b) of the Act are declared by a regional landscape board in respect of a single farm enterprise, the board must remit the levies in respect of all but 1 piece of rateable land forming part of the single farm enterprise.
- (2) Subregulation (1) only applies if the regional landscape board is satisfied, on application to the board and by provision of such information or evidence as the board may reasonably require, that the relevant land is a single farm enterprise.
- (3) If the grounds on which the relevant land is taken to be a single farm enterprise cease to exist, the person liable to pay an OC levy in respect of the land must inform the regional landscape board of that fact as soon as is reasonably practicable.

Maximum penalty: \$7 000.

- (4) For the purposes of this regulation, a reference to a *single farm enterprise* is a reference to 2 or more pieces of rateable land—
 - (a) which—
 - (i) are farm land; and
 - (ii) are farmed as a single enterprise; and
 - (iii) are occupied by the same person or persons, whether or not the pieces of land are contiguous; or
 - (b) which—
 - (i) as to all the pieces except 1, are farm land farmed as a single enterprise occupied by the same person or persons; and
 - (ii) as to 1 piece contiguous with at least 1 of the other pieces, is the principal place of residence of that person or 1 of those persons.

- (5) In this regulation—

farm land has the same meaning as in the *Local Government Act 1999*.

Division 3—Special provisions**20—Interest payable in cases of default (section 83 of Act)**

- (1) Interest accrues on an unpaid levy and on an unpaid instalment of levy under section 83 of the Act from the date stated for payment of the levy or instalment in the notice imposing the levy or instalment.
- (2) Interest accrues on unpaid interest under section 83 of the Act at 6 monthly intervals from the date referred to in subregulation (1).

- (3) Any interest—
- (a) that accrues under subregulation (1) or (2); or
 - (b) that is liable to be paid under section 99(16), 193(10), 194(4), 208(5)(a), 210(5)(a) or 211(9)(a) of the Act,

will be interest equal to the prime bank rate for the relevant financial year, calculated in respect of each month (or part of a month) for which the relevant amount remains unpaid.

21—Regional landscape levy first charge on land (section 85 of Act)

A charge created by section 85 of the Act will—

- (a) in the case of an OC levy—correspond to a mortgage in favour of the relevant regional landscape board over the land in respect of which the levy has been imposed that ranks ahead of any registered mortgage, encumbrance or charge; and
- (b) in the case of a water levy—correspond to a mortgage in favour of the Minister over the land where the water is used or applied that ranks ahead of any registered mortgage, encumbrance or charge.

Part 5—Statutory funds

22—The Landscape Administration Fund (section 90 of Act)

For the purposes of section 90(2)(f) of the Act, the prescribed percentage is 100%.

Part 6—Control of plants and animals

Division 1—Control provisions

23—Sale of produce or goods carrying plants

- (1) For the purposes of assisting to prevent the sale of any animal, plant, soil, vehicle, farming implement or other produce, goods, material or other thing carrying a prescribed plant in contravention of section 188(2) of the Act, the person making the sale may provide to the purchaser a declaration in the form approved by the Minister.
- (2) A person must not make a statement that is false or misleading in a material particular in a declaration provided under subregulation (1).

Maximum penalty: \$7 000.

- (3) In subregulation (1)—

prescribed plant means a plant to which section 188(2) of the Act applies.

24—Destruction of dingoes and wild dogs

- (1) A person required to destroy dingoes or wild dogs pursuant to a declaration made for the purposes section 192(1) of the Act, must destroy the dingoes or wild dogs by use of baits in the manner, and in accordance with the requirements, determined by the Chief Executive by notice in the Gazette.

- (2) The Chief Executive may vary or revoke a determination made for the purposes of subregulation (1) at any time by subsequent notice in the Gazette.

25—Measures for control and treatment of animals and plants (section 192(3) of Act)

- (1) For the purposes of section 192(3)(a) of the Act, the prescribed manner for specifying measures for the control of a class of animals or plants to which section 192(3) applies is by notice of the Chief Executive in the Gazette.
- (2) For the purposes of section 192(3)(b) of the Act, the prescribed manner for specifying measures for requiring that land or anything present on land be subjected to specified treatment is by notice of the Chief Executive in the Gazette.

Division 2—Permits

26—Permits

For the purposes of section 197(8)(b) of the Act, the following amounts are prescribed:

- (a) in the case of a natural person—\$1 250;
- (b) in the case of a body corporate—\$12 500.

Part 7—Exemptions

27—Movement of animals and plants

- (1) An authorised officer is exempt from the operation of section 186 of the Act while acting in the course of official duties.
- (2) A person is exempt from the operation of section 186(1), (2)(a) and (3)(a) of the Act in respect of a plant that is being carried by wool, grain or any other produce or goods (other than excluded produce or goods) if the wool, grain or other produce or goods—
 - (a) are being transported or moved to a place for cleaning, milling, or other processing, in a manner that renders the plant no longer viable; and
 - (b) are transported or moved to that place—
 - (i) using the most direct route reasonably practicable; and
 - (ii) in such manner so as to reasonably secure the plant against its spread, escape or release into the surrounding environment.
- (3) A person is exempt from the operation of section 186(2)(b) and (3)(b) of the Act in respect of wool, grain or any other produce or goods (other than excluded produce or goods) carrying a plant of a class to which section 186(2) or (3) of the Act applies if the wool, grain or other produce or goods—
 - (a) are being transported or moved on a public road to a place for cleaning, milling, or other processing, in a manner that renders the plant no longer viable; and
 - (b) are transported or moved to that place—
 - (i) using the most direct route reasonably practicable; and

- (ii) in such manner so as to reasonably secure the plant against its spread, escape or release into the surrounding environment.
- (4) For the purposes of subregulations (2) and (3), ***excluded produce or goods*** are produce or goods, or produce or goods of a class, determined by the Chief Executive by notice in the Gazette, to be excluded from the operation of either or both of those subregulations (as specified in the notice).
- (5) A determination of the Chief Executive under subregulation (4) may be varied or revoked by the Chief Executive at any time by subsequent notice in the Gazette.
- (6) A person is exempt from subsections (1), (2) or (3) of section 186 of the Act in respect of a plant of a class to which subsections (1), (2) or (3) apply if the person is transporting or moving a plant of that class for the purpose of releasing a biological control agent approved by the Chief Executive by notice in the Gazette for the control of plants of that class for the purposes of this subregulation.
- (7) An approval for the purposes of subregulation (6) may—
 - (a) be subject to such conditions as may be specified by the Chief Executive in the notice; and
 - (b) be varied or revoked by the Chief Executive at any time by subsequent notice in the Gazette.
- (8) A person is exempt from section 186(1), (2) and (3) of the Act in respect of an animal if the person is transporting or moving the animal for the purpose of its humane destruction by a veterinary surgeon or a person acting for or on behalf of an animal welfare organisation.
- (9) In this regulation—

animal welfare organisation has the same meaning as under the *Dog and Cat Management Act 1995*;

veterinary surgeon means a person registered as a veterinary surgeon under the *Veterinary Practice Act 2003*.

28—Sale of wool or grain etc carrying plants

- (1) A person who sells—
 - (a) wool or grain; or
 - (b) any other produce or goods, or produce or goods of a class, determined by the Chief Executive by notice in the Gazette for the purposes of this regulation,carrying a plant of a class to which section 188(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, or produce or goods in relation to which a determination has been made under paragraph (b), before any re-sale of the wool, grain, produce or goods (as the case requires).
- (2) A determination under subregulation (1)(b) may—
 - (a) be subject to such conditions as may be specified by the Chief Executive in the notice; and

-
- (b) be varied or revoked by the Chief Executive at any time by subsequent notice in the Gazette.

29—Release of animals

- (1) A person is exempt from subsection (1) or (2) of section 189 of the Act in respect of the release of an animal of a class to which subsections (1) or (2) applies if the Chief Executive has, by notice in writing to the person, approved that release—
- (a) for the purposes of research relating to the control of animals of that class; or
 - (b) for the purposes of control of animals of that class,
- and the release is in accordance with the conditions specified by the Chief Executive in the notice under subregulation (2) (if any).
- (2) An approval under subregulation (1) may be given subject to such conditions as the Chief Executive thinks fit and specifies in the notice.
- (3) The Chief Executive may, by notice in writing, vary or revoke an approval under this regulation.

Part 8—Miscellaneous

30—Review of notices

An application under the following provisions of the Act must be made in writing and must set out clearly the grounds on which the applicant seeks the review:

- (a) section 87(8);
- (b) section 99(3);
- (c) section 99(9);
- (d) section 195(5).

31—Applications for warrants (sections 31 and 204 of Act)

- (1) The grounds for an application for a warrant under section 31 or 204 of the Act made personally must be verified by affidavit.
- (2) If an application for a warrant is made under section 31 or 204 of the Act by telephone—
- (a) the applicant must inform the magistrate of the applicant's name and identify the position that the person holds for the purposes of the Act, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
 - (b) the applicant must inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought; and
 - (c) if it appears to the magistrate from the information given by the applicant that there are reasonable grounds to issue a warrant (taking into account the requirements of the Act), the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and

- (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant; and
 - (e) the warrant is taken to have been issued, and comes into force, when signed by the magistrate; and
 - (f) the magistrate must inform the applicant of the terms of the warrant; and
 - (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (3) A magistrate by whom a warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

32—Reimbursement of expenses (section 204(13) of Act)

- (1) An application for reimbursement under section 204(13) of the Act must—
- (a) be made to the Department in writing; and
 - (b) include reasonable details concerning the costs or expenses that have been incurred; and
 - (c) comply with any other requirement determined by the Chief Executive.
- (2) The reimbursement is to be made by electronic funds transfer to an account with a financial institution nominated by the person in the application.
- (3) The reimbursement should be made within 20 business days after a valid application is received under subregulation (1).

33—Service of notices or other documents

If a notice or other document is to be served on, or given to, a person under section 222(1)(d) of the Act, the person acting under that section must—

- (a) seal the notice or document in a clear wrapper that is reasonably waterproof; and
- (b) fix the notice or document, as wrapped, to a conspicuous part of the land (including by fixing it to a post and then by fixing the post into the ground in a conspicuous place on the land).

34—Criminal jurisdiction of ERD Court (section 231 of Act)

For the purposes of section 231 of the Act, an offence against any of the following sections of the Act lies within the criminal jurisdiction of the ERD Court:

- (a) section 99;
- (b) section 104;
- (c) sections 107 to 109 (inclusive);
- (d) sections 119 and 120;
- (e) section 175;
- (f) sections 186 to 191 (inclusive);

- (g) section 193;
- (h) sections 196 and 197;
- (i) section 199;
- (j) sections 200 and 201;
- (k) section 207;
- (l) section 209;
- (m) section 234;
- (n) section 236.

35—Exemption of part of State from certain provisions of the Act

Pursuant to section 247 of the Act, the following provisions of the Act do not apply in relation to the part of the State extending seawards from the low water mark:

- (a) Part 7;
- (b) sections 191 to 195 (inclusive);
- (c) Part 10 Division 2 Subdivision 1.

36—Correction of certain errors

Pursuant to section 247 of the Act, section 101(6), (7), (8) and (9) of the Act do not apply in relation to the variation of a regulation under section 101(1) or (2) that is being made in order to address an incorrect reference to a plan deposited in the General Registry Office, or to correct some other form of error.

37—Cultana Training Area

- (1) Pursuant to section 247 of the Act, the Act does not apply to or in relation to any act or activity carried out within the Cultana Training Area by or on behalf of, or with the authority or permission of, the Commonwealth Department of Defence or an arm of the Australian Defence Force.
- (2) In this regulation—

Cultana Training Area means the land comprised by the following:

- (a) the Allotment comprising Pieces 81, 82 and 83 in Deposited Plan 85852 Out of Hundreds (Port Augusta);
- (b) Allotment 6 in Deposited Plan 88907 Hundred of Handyside County of Manchester and Out of Hundreds (Port Augusta);
- (c) Sections 4, 13, 14 and 15, Hundred of Jenkins County of Manchester;
- (d) Allotment 7 in Deposited Plan 29397 Out of Hundreds (Port Augusta);
- (e) the Allotment comprising the Pieces 8, 9, 10 and 11 in Deposited Plan 29397 Out of Hundreds (Port Augusta);
- (f) Allotment 68 in Deposited Plan 85851 Hundred of Cultana County of York;
- (g) Allotment 72 in Deposited Plan 85851 Hundred of Cultana County of York;

- (h) the Allotment comprising Pieces 30, 31 and 32 in Deposited Plan 85850 Out of Hundreds (Whyalla), Out of Hundreds (Port Augusta) and Hundred of Cultana County of York;
- (i) Allotment 67 in Deposited Plan 93251, Hundred of Cultana County of York and Out of Hundreds (Port Augusta).

38—Fees

- (1) The Minister may, on application or on the Minister's own initiative, in the Minister's discretion, waive payment of the whole or a part of a fee prescribed for the purposes of the Act (and the regulations under the Act).
- (2) The following applications made for the purposes of the Act are exempt from fees prescribed under the Act in relation to such applications:
 - (a) an application for a water licence that is to be an environmental donations entitlement (where the applicant has already obtained the necessary accreditation from the relevant regional landscape board);
 - (b) an application made by the holder of a water licence or a water allocation, and granted by the Minister, to vary the conditions attached to the licence or water allocation so that the licence or water allocation will become an environmental donations entitlement;
 - (c) an application to transfer a water licence (either absolutely or for a limited period) where the relevant regional landscape board is satisfied that the transfer constitutes the donation of the licence in order to establish an environmental donations entitlement (and where the board is satisfied that an accreditation should be issued);
 - (d) an application to transfer a water access entitlement, or part of a water access entitlement, under a water licence to the holder of another water licence that is an environmental donations entitlement (for water to be used for environmental purposes);
 - (e) an application to transfer the whole or a part of a water allocation where the relevant regional landscape board is satisfied—
 - (i) that the transfer constitutes the donation of the water allocation; and
 - (ii) that the water will be used for environmental purposes under or in connection with an environmental donations entitlement.

39—Amendment of landscapes affecting activities control policies

Pursuant to Schedule 2 clause 4(8)(b) of the Act, the provisions of Schedule 2 clause 4 do not apply to an amendment of a landscapes affecting activities control policy by a prescribed authority if the amendment is—

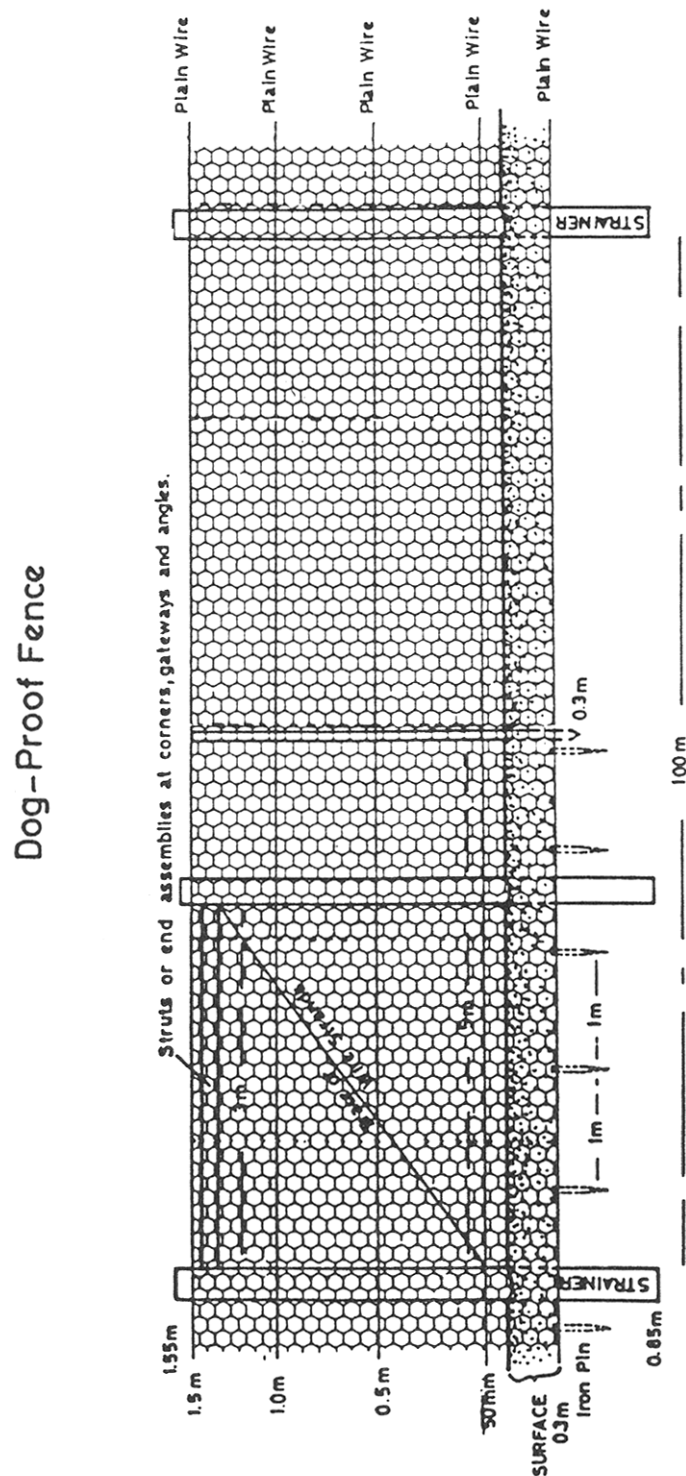
- (a) to correct an error in the policy; or
- (b) to make a change of form (not involving a change of substance) in the policy.

Schedule 1—Prescribed requirements for animal-proof fences

1—Prescribed requirements for dog-proof fences

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, a dog-proof fence is a fence that consists of—

- (a) strainers that—
 - (i) are not less than 150mm in diameter; and
 - (ii) are placed 100m apart, 0.85m under the ground and protrude 1.55m above the ground; and
- (b) posts that are placed 5m apart, 0.3m under the ground and protrude 1.5m above the ground; and
- (c) wire netting that—
 - (i) has a gauge of 1.8mm; and
 - (ii) has a width of 1.8m; and
 - (iii) has a maximum mesh of 100mm; and
 - (iv) is erected on the outside of the fence so that 1.5m of the netting is above the ground with a ground lap of 0.3m that is held in place and secured by means of a 0.3m x 25mm x 5mm flat iron pin every metre, with a hole drilled 25mm from the top, driven into the ground for a depth of 0.27m at the outer edge of the ground lap with one 2.5mm gauge galvanised wire well strained and the wire and wire netting secured to the pin by not less than 2.5mm gauge galvanised wire; and
- (d) 4 plain wires—
 - (i) each of which is made of galvanised iron and is not less than 2.5mm in diameter; and
 - (ii) that are placed at 50mm, 0.5m, 1.0m and 1.5m intervals above the ground and secured at equal intervals to each 5m panel securing the netting to the 3 bottom wires at not more than 0.75m intervals and to the top wire at not more than 0.5m intervals.



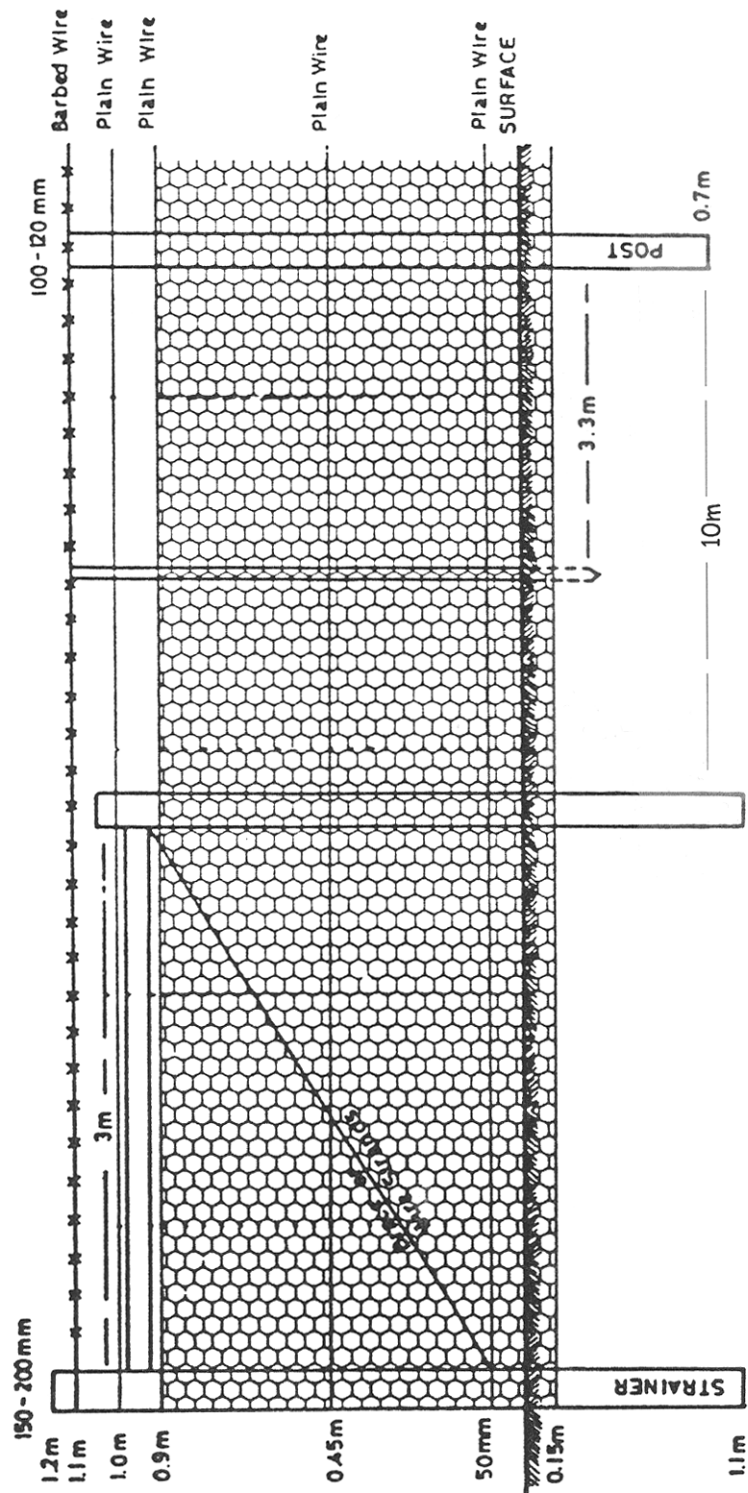
2—Prescribed requirements for rabbit-proof fences

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, a rabbit-proof fence is a fence that consists of—

- (a) strainers that—

- (i) are not less than 150mm in diameter and not more than 200mm in diameter; and
 - (ii) are placed 150m apart, 1.1m under the ground and protrude 1.2m above the ground; and
- (b) posts that—
 - (i) are at least 100mm in diameter but not more than 125mm in diameter; and
 - (ii) are placed 10m apart, 0.7m in the ground and protrude 1.1m above the ground; and
- (c) droppers at 3.3m intervals between the posts; and
- (d) 4 plain fence wires—
 - (i) each of which is 2.4mm in diameter; and
 - (ii) that are placed at intervals of 50mm, 0.45m, 0.9m and 1.0m above the ground; and
- (e) 1 barbed wire that is placed 1.1m above the ground; and
- (f) wire netting that—
 - (i) has a gauge of at least 1.4mm; and
 - (ii) has a width of 1.05m; and
 - (iii) has a maximum mesh of 30mm; and
 - (iv) 150mm of which is placed under the ground and 0.9m of which protrudes above the ground; and
 - (v) is secured to the lower 3 plain fence wires with galvanised tie iron or galvanised steel tie wire with a minimum 1.44mm in diameter and not more than 0.5m apart on the highest of the 3 wires and not more than 0.75m 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.

Rabbit-Proof Fence



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.

Principal regulations

Year	No	Reference	Commencement
2020	222	<i>Gazette 25.6.2020 p3515</i>	1.7.2020: r 2