

South Australia

National Parks and Wildlife (National Parks) Regulations 2016

under the *National Parks and Wildlife Act 1972*

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Legislative history

1—Short title

These regulations may be cited as the *National Parks and Wildlife (National Parks) Regulations 2016*.

2—Commencement

These regulations will come into operation on 1 September 2016.

3—Interpretation

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

Act means the *National Parks and Wildlife Act 1972*;

cave means a cave in a reserve and includes any natural cavity in the earth's surface;

drive includes ride;

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

filming means taking moving or still pictures by any means;

permit means a permit or other written permission granted by the relevant authority under these regulations;

relevant authority means—

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

unprotected animal means an animal (including fish and invertebrates) 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.

- (2) If the co-management board for a co-managed park is suspended under section 43I 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 park constituted of Aboriginal-owned land.
- (2) A warden is not subject to these regulations in relation to the performance of his or her functions or the exercise of his or her powers as a warden and an employee of the Department is not subject to these regulations in relation to the performance of the duties of his or her employment.

5—Qualifications of wardens

For the purposes of section 20(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—Entrance to reserves and parts of reserves where fee payable

- (1) Where a fee is prescribed or fixed by the relevant authority for entrance to a reserve or part of a reserve, a person may not enter or remain in the reserve or part of the reserve unless the appropriate fee has been paid.
- (2) Where a fee is prescribed or fixed by the relevant authority for the hire of a tennis court, pavilion, accommodation block or cottage in a reserve, a person must not enter or remain within the boundaries of the facility unless that person has hired the facility or has been permitted by the hirer to enter or remain within the boundaries of the facility.
- (3) Where an oval or open space recreation area in a reserve has been hired, no person, except the hirer or a person given permission by the hirer, may enter or remain on that oval or area.

7—Opening and closing of reserves

- (1) The relevant authority may, by causing a notice to be published in the Gazette, give notice of the hours during which a reserve is open to the public.
- (2) The relevant authority may vary or revoke a notice under this regulation at any time by subsequent notice published in the Gazette.
- (3) The relevant authority may close a reserve or any part of a reserve—
 - (a) if, in the relevant authority's opinion, the closure is necessary or desirable for the proper management of the reserve; or

- (b) if a total fire ban is in force in an area that includes all or part of the reserve, or the risk of uncontrolled fire in the reserve is, in the relevant authority's opinion, extreme; or
 - (c) if the staff necessary to patrol the reserve are unavailable; or
 - (d) if it is, in the relevant authority's opinion, in the interest of public safety to close the reserve.
- (4) A person must not, without the permission of the relevant authority, enter or remain in a reserve when it is closed to the public.

8—Access to Seal Bay beach

A person must not, without the permission of the relevant authority, enter or remain in that part of Seal Bay Conservation Park shown as Seal Bay Beach User Fee Zone on the plan in Schedule 2 except in the company of a warden or a person assisting a warden.

9—Setting aside a reserve or part of a reserve for a particular use

- (1) The relevant authority may set aside a reserve, or part of a reserve, as an area in which a particular activity may be undertaken by visitors to the reserve.
- (2) One method by which the relevant authority may set aside the whole or part of a reserve under subregulation (1) is to cause a notice to be published in the Gazette setting aside the reserve, or part of the reserve, 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 published in the Gazette.
- (4) A person must not contravene or fail to comply with a condition.

10—Use of vehicles

- (1) A person must not, without the permission of the relevant authority, drive or tow a vehicle in a reserve except on a road or track set aside for that purpose by the relevant authority or in any other area of the reserve set aside for that purpose by the relevant authority.
- (2) A person must not, without the permission of the relevant authority, drive a vehicle in a reserve at a speed that exceeds the speed limit fixed by the relevant authority or, if no limit has been fixed by the relevant authority, at a speed that exceeds 40 kilometres per hour.
- (3) A person must not drive a vehicle in a reserve 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 reserve.
- (5) A warden may remove, or cause to be removed, a vehicle left in contravention of subregulation (4) and the relevant authority 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 reserve unless it is registered and insured.

- (7) A person who drives a vehicle in a reserve must comply with all traffic signs and signals in the reserve that are applicable to him or her.

11—Display of certain receipts and permits in vehicles

- (1) Where the payment of a fee or the issue of a permit is required for entry to a reserve, a person who enters the reserve in a vehicle must ensure that the receipt for the entrance fee in respect of, or the permit authorising, his or her entry into the reserve is displayed in the vehicle in accordance with subregulation (3) continuously until he or she or the vehicle leaves the reserve.
- (2) Where the issue of a permit is required for camping in a reserve, a person who camps in the reserve in or near a vehicle that he or she has travelled in to get to the camping site must ensure that the permit authorising him or her to camp in the reserve is displayed in the vehicle in accordance with subregulation (3) continuously while he or she is camping in or near the vehicle.
- (3) For the purposes of these regulations a receipt for an entrance fee or a permit is displayed in a vehicle only if—
- (a) the receipt or permit is displayed on the inside of the windscreen on the side of the vehicle opposite to the driver's position; or
 - (b) where, because of the design of the vehicle, it is not possible to comply with paragraph (a)—the receipt or permit is displayed in a prominent position in or on the vehicle,
- so that the receipt or permit is facing outwards from the vehicle and can be easily seen and read by a person standing beside the vehicle.
- (4) This regulation does not apply to a person who enters, or camps in, a reserve as the client of a person conducting a tour for fee or reward if the vehicle concerned is owned by, or is under the control of, the tour operator.

12—Use of aircraft

- (1) A person must not, without the permission of the relevant authority, use an aircraft on land or water in a reserve except in an area set aside by the relevant authority for that purpose.
- (2) A person must not, without the permission of the relevant authority, jump into a reserve from an aircraft or drop an object into a reserve from an aircraft.
- (3) A person must not, without the permission of the relevant authority, fly a drone or other remotely piloted aircraft over a reserve.

13—Use of boats

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

14—Camping

A person must not, without the permission of the relevant authority, camp in a reserve either in an area set aside for that purpose or in any other part of the reserve.

15—Fires

- (1) A person must not, without the permission of the relevant authority, light, maintain or use a fire in a reserve in contravention of a ban or restriction imposed by the relevant authority.
- (2) A person must not light or maintain a fire in a reserve in contravention of the *Fire and Emergency Services Act 2005*.
- (3) Subject to subregulation (4), a person must not, without the permission of the relevant authority, light, maintain or use a fire in a reserve except in a fire place constructed at the direction of the relevant authority for that purpose.
- (4) Subregulation (3) does not apply in relation to an area excluded from the operation of that subregulation by the relevant authority by notice published in the Gazette.
- (5) An exclusion under subregulation (4) may apply in relation to all fires or a class or classes of fire.
- (6) The relevant authority may vary or revoke a notice under this regulation at any time by subsequent notice published in the Gazette.
- (7) A person who has lit, maintained or used a fire in a reserve must not leave the fire unattended.
- (8) In this regulation—
fire includes a solid fuel fire, gas fire and liquid fuel fire.

16—Possession and use of chainsaws

- (1) Subject to subregulation (2), a person must not, without the permission of the relevant authority, have control of, carry or use a chainsaw in a reserve.
- (2) A person may have control of, carry or use a chainsaw in a reserve—
 - (a) in the course of exercising rights or performing obligations pursuant to a lease, licence or agreement entered into by the Minister or the relevant authority in relation to the reserve; or
 - (b) in the course of exercising powers or performing obligations under an Act or statutory instrument; or
 - (c) for the purpose of fighting a bushfire or dealing with any other emergency.

17—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 reserve except in an area set aside by the relevant authority 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.

18—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 reserve.

19—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 explosives or fireworks,
in a reserve.
- (2) Subregulation (1)(a) does not apply to an Aborigine in relation to a firearm that he or she has control of, carries or uses for the purpose of taking animals in accordance with a proclamation referred to in section 68D(4) of the Act.
- (3) A person may, if he or she complies with the Act and these regulations, have control of, carry or use a firearm in a game reserve if the firearm has a smooth bore not exceeding 19 millimetres in diameter.

20—Swimming and diving

A person must not swim or dive in any water in a reserve except—

- (a) in the case of Piccaninnie Ponds Conservation Park, in pursuance of a diving or snorkelling permit issued by the relevant authority;
- (b) in the case of any other reserve—
 - (i) in an area set aside by the relevant authority for that purpose; or
 - (ii) with the permission of the relevant authority.

21—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 any rock, mineral or fossil in a cave; or
- (c) disturb or interfere with any plant or animal (whether dead or alive) in a cave;
or
- (d) touch or interfere with any karstcalcite formation (speleothem) in a cave; or
- (e) urinate or defecate in a cave; or
- (f) deposit any 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 any 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 any tobacco product in a cave; or
- (k) dive in the waters of a cave or sink hole.

22—Regulation of certain recreational activities

- (1) A person must not, without the permission of the relevant authority—
 - (a) engage in the sport of climbing rock faces; or
 - (b) engage in the sport of abseiling; or
 - (c) use a hang glider or any other kind of glider; or
 - (d) launch a hot air balloon; or
 - (e) fly model planes or gliders; or
 - (f) engage in the sport of sand boarding (sliding down a sandhill on a board),in a reserve except in an area set aside by the relevant authority for that purpose.
- (2) A person must not, without the permission of the relevant authority, engage in any sport other than golf on any part of a reserve designated as a golf course.

23—Protection of animals

- (1) A person must not, without the permission of the relevant authority or other lawful authority, take or molest an unprotected animal in a reserve.
- (2) A person must not, without the permission of the relevant authority, intentionally damage the nest or burrow of an animal in a reserve.

24—Removal of carcasses

A person must not, without the permission of the relevant authority, remove the carcass, or any part of the carcass, of a protected animal from a reserve.

25—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 reserve, have control of, carry or use a device designed for the purpose of taking an animal.
- (2) Subregulation (1) does not apply to a person in relation to a device that he or she has control of, carries or uses solely for the purpose of taking fish or crustaceans in waters adjoining the reserve.
- (3) Subregulation (1) does not apply to an Aborigine in relation to a device that he or she has control of, carries or uses for the purpose of taking animals in accordance with a proclamation referred to in section 68D(4) of the Act.

26—Bringing animals into reserve

- (1) Subject to this regulation, a person who has control of an animal must not, without the permission of the relevant authority, bring it into a reserve or permit it to enter a reserve.
- (2) A person who is entitled to use a reserve pursuant to a lease, licence or agreement entered into by the Minister or the relevant authority may, subject to the terms of the lease, licence or agreement, bring animals into the reserve in the course of using the reserve pursuant to the lease, licence or agreement.

- (3) A person may ride or lead a horse in a reserve on a road or track set aside for that purpose by the relevant authority or in any other area of the reserve set aside for that purpose by the relevant authority.
- (4) A person who needs the assistance of a guide dog, hearing dog, or disability dog, within the meaning of the *Dog and Cat Management Act 1995* may bring the dog into a reserve if it is restrained on a lead while in the reserve.
- (5) A person who is entitled to enter a game reserve to hunt may bring a dog into the reserve for the purposes of assisting him or her when hunting if the dog is restrained on a lead when not assisting that person in hunting.
- (6) A lead referred to in subregulations (4) and (5) must not exceed 3 metres in length.

27—Straying and grazing of animals

A person must not, without the permission of the relevant authority, permit an animal to stray into, or graze in, a reserve unless he or she is authorised to do so by a lease, licence or agreement entered into by the Minister or the relevant authority.

28—Seizure of animals etc

- (1) Where an unprotected animal is in a reserve and—
 - (a) is not under the control of any person; and
 - (b) is not in the reserve with the written permission of the relevant authority or pursuant to a lease, licence or agreement entered into by the Minister or the relevant authority,a warden or any other person authorised by the relevant authority may subject to subregulation (2)—
 - (c) capture and dispose of the animal by sale or in any other manner; or
 - (d) destroy the animal.
- (2) Where a warden or other person authorised by the relevant authority knows, or has reason to believe, that a person claims ownership of an animal in a reserve, the warden or other person must, before disposing of or destroying the animal, serve notice on the person claiming ownership requiring him or her to remove the animal from the reserve within 7 days.
- (3) The notice may be served—
 - (a) personally or by post; or
 - (b) if the whereabouts of the person on whom the notice is to be served are unknown—by publication of the notice in a newspaper circulating generally throughout the State.
- (4) 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.
- (5) An animal or the carcass of an animal that has been captured or destroyed must not be surrendered to its owner until those costs have been paid.

29—Plants

- (1) A person must not, without the permission of the relevant authority, take an exotic plant that is growing in a reserve.
- (2) A person must not, without the permission of the relevant authority, bring a plant into a reserve unless the plant is dead and is brought into the reserve as food for human consumption.

30—Interference with earth etc

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

- (a) remove from a reserve 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 any soil or similar material in a reserve; or
- (c) intentionally disturb any—
 - (i) wood, mulch or other dead vegetation in a reserve; or
 - (ii) fossil or archaeological remains in a reserve.

31—Scientific research

A person must not, without the permission of the relevant authority, enter a reserve for the purpose of carrying out scientific research in the reserve.

32—Littering

A person must not, in a reserve—

- (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; or
- (b) deposit, discharge or leave any noxious, smelly, offensive or polluting substance, matter or thing; or
- (c) deposit or leave any offal, dead animal or dung; or
- (d) deposit in any receptacle provided for litter any domestic garbage; or
- (e) wilfully break any article of glass, china, pottery, plastic or other brittle material; or
- (f) deposit, discharge or leave any mineral, mineral waste or other industrial waste or by-product.

33—Pollution of waters

A person must not foul or pollute any water in a creek, river, well, dam, reservoir or lake in a reserve.

34—Abandoned property

- (1) A person must not, without the permission of the relevant authority, abandon or leave unattended for more than 24 hours any vehicle or other personal property in a reserve.
- (2) Any vehicle or personal property abandoned or left unattended for more than 24 hours in a reserve may be seized and impounded by a warden.
- (3) The relevant authority may require the owner of any vehicle or personal property seized and impounded under this regulation to pay the cost of seizing, impounding and keeping such vehicle or personal property before returning the vehicle or personal property to the owner.
- (4) 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 paid to the relevant authority the cost of seizing, impounding and keeping the vehicle or personal property, the relevant authority may sell or otherwise dispose of the vehicle or personal property.
- (5) If the owner of any 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.

35—Disorderly behaviour etc

- (1) A person must not behave in a reserve in a disorderly, offensive or indecent manner or use any offensive or indecent language or create any disturbance.
- (2) A person must not, in a reserve, wilfully obstruct, disturb, interrupt or annoy any other person engaged in the proper use of such reserve.
- (3) A person must not, in a reserve, throw, roll or discharge any stone, substance or missile to the danger of any person or animal in the reserve.
- (4) A person must not deface, paint, write on, cut names or letters in or otherwise make marks or affix bills on trees, rocks, gates, fences, buildings, signs or other property in a reserve.

36—Activities that must be authorised by a lease, licence or agreement

A person must not undertake any of the following activities in a reserve except pursuant to a lease, licence or agreement between that person, or some other person, and the Minister or the relevant authority:

- (a) filming, videotaping or taking photographs for commercial purposes;
- (b) conducting tours for fee or reward;
- (c) conducting surfing, fishing or any other kind of competition;
- (d) selling or hiring goods or offering goods for sale or hire;
- (e) providing, or offering to provide, any service for fee or reward;
- (f) conducting speed trials;
- (g) conducting scientific experiments;
- (h) keeping bees;

- (i) an activity of any kind for the purpose of fund raising or making a profit.

Maximum penalty: \$5 000.

Expiation fee: \$315.

37—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, any loud speaker or similar device or other noisy equipment in a reserve.
- (2) A person must not, without the permission of the relevant authority, construct or erect any booth, marquee or other structure in a reserve.
- (3) A person must not, without the permission of the relevant authority, organise or cause to be organised or attend or participate in any public meeting, demonstration or gathering in a reserve.

38—Compliance with notices and signs

A person in a reserve 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 reserve.

39—Compliance with directions of warden

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

- (a) use of a reserve; or
- (b) conduct and behaviour in a reserve; or
- (c) safety in a reserve.

40—Permission of relevant authority

- (1) A permission granted by the relevant authority pursuant to these regulations must be in writing and may be included in a lease, licence or agreement with the applicant or (unless it is published in the Gazette) be in the form of a permit and may—
 - (a) be conditional; and
 - (b) be varied or revoked by the relevant authority at any time.
- (2) A 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 relevant authority grants permission subject to a condition, a person must not contravene or fail to comply with the condition.

41—Prescription of offences—section 73A

An offence against regulation 42 that arises from a contravention of or failure to comply with a regulation set out in Schedule 1 is prescribed for the purposes of the definition of *prescribed offence* in section 73A of the Act.

42—General offence

- (1) Subject to an express provision to the contrary, a person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

Maximum penalty: \$1 000.

Expiation fee:

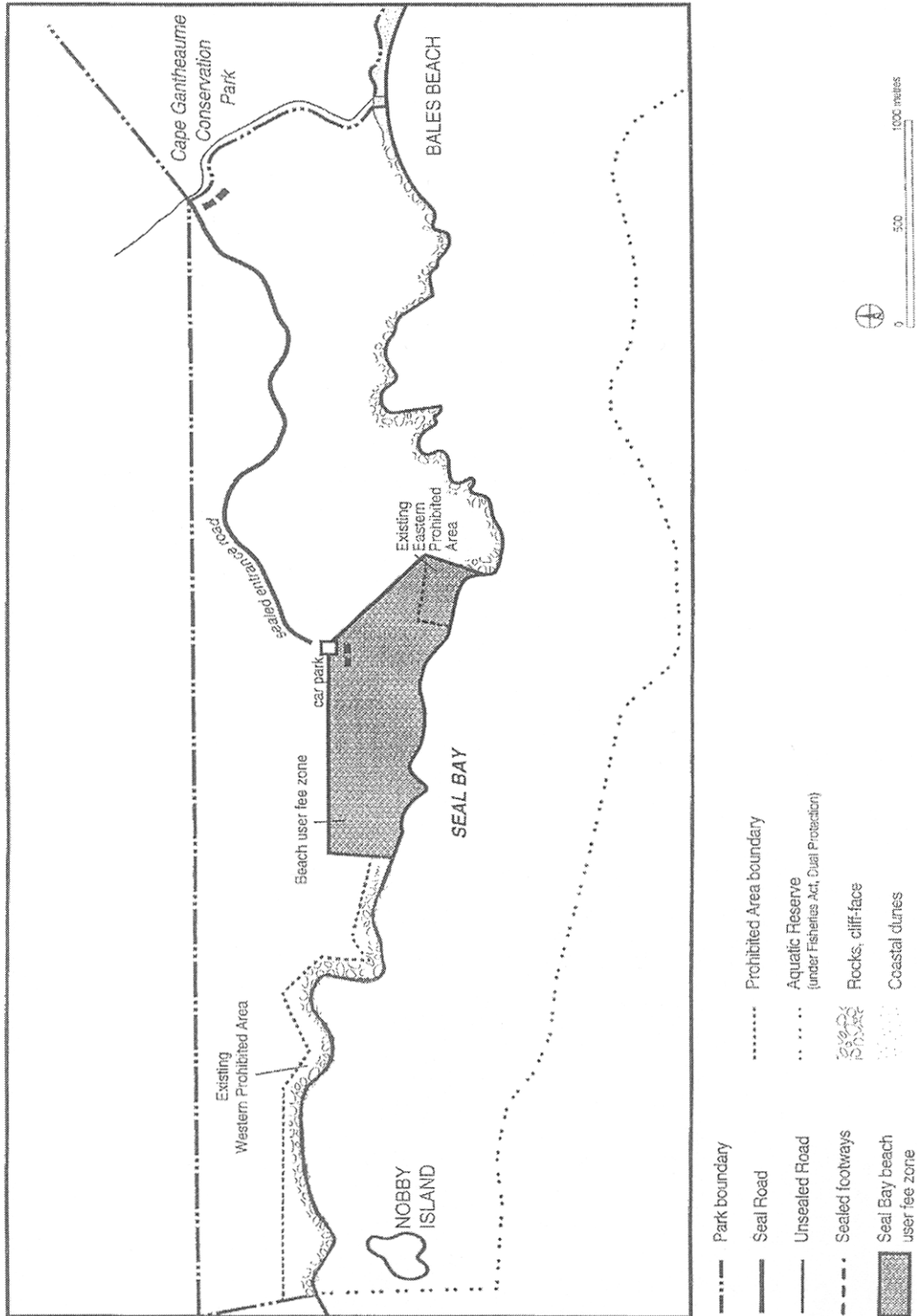
- (a) in the case of an alleged contravention of, or failure to comply with, regulation 6(1), 10, 15, 19(1)(a), 35(1) or (2) or 39—\$150;
 - (b) in any other case—\$75.
- (2) It is a defence to a charge of an offence against these regulations if—
- (a) the defendant proves that he or she acted in response to an emergency; and
 - (b) the court finds that the action was reasonable in the circumstances.

Schedule 1—Regulations referred to in regulation 42

Regulation 6(1)
Regulation 7(4)
Regulation 10(1)
Regulation 10(2)
Regulation 10(3)
Regulation 10(4)
Regulation 10(6)
Regulation 11(1)
Regulation 11(2)
Regulation 14

Schedule 2—Seal Bay Beach User Fee Zone

Seal Bay Beach User Fee Zone



**Schedule 3—Revocation of *National Parks and Wildlife*
(*National Parks*) Regulations 2001**

The *National Parks and Wildlife (National Parks) Regulations 2001* 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.

Principal regulations

Year	No	Reference	Commencement
2016	204	<i>Gazette 25.8.2016 p3471</i>	1.9.2016: r 2