

South Australia

# Botanic Gardens and State Herbarium Regulations 2021

under the *Botanic Gardens and State Herbarium Act 1978*

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## Schedule 1—Revocation and transitional and saving etc provisions

### Part 1—Revocation of *Botanic Gardens and State Herbarium Regulations 2007*

- 1 Revocation of *Botanic Gardens and State Herbarium Regulations 2007*

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## Legislative history

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Botanic Gardens and State Herbarium Regulations 2021*.

### 2—Commencement

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

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Botanic Gardens and State Herbarium Act 1978*;

*authorised person*—see regulation 9;

*Botanic Garden* means—

- (a) the fenced area of Adelaide Botanic Garden (Adelaide) (and, for this purpose, the boundary between the Adelaide Botanic Garden and the Centre land within the meaning of the *National Wine Centre (Restructuring and Leasing Arrangements) Act 2002* is to be regarded as a fence); or
- (b) the fenced area of Wittunga Botanic Garden (Blackwood); or
- (c) the fenced area of Mount Lofty Botanic Garden (Crafers);

**Botanic Reserves** means those lands vested in or under the control of the Board other than Botanic Gardens;

**Note—**

This includes the following:

- (a) Botanic Park—the land comprising the whole of Section 574 Hundred of Adelaide and Section 640 Hundred of Adelaide;
- (b) Giles Corner—the land comprising the whole of Section 464 Hundred of Alma;
- (c) Hackney Road frontage—the land comprising that part of allotment 102 in Lands Titles Office Deposited Plan 66751 and allotment A201 in Deposited Plan D86132 outside the fenced area of Adelaide Botanic Garden;
- (d) Somerset Rocks—the land comprising the whole of Section 484 Hundred of Onkaparinga;
- (e) Quarry car park—that part of allotment 6 in Lands Titles Office Filed Plan 129160 contained in Certificate of Title Register Book Volume 5775 Folio 323 outside the fenced area of Mount Lofty Botanic Garden.

**child** means a person who has not attained the age of 15 years;

**Conservatory** means the Bicentennial Conservatory situated within Adelaide Botanic Garden;

**Gardens employee** means the Director or any other member of the staff appointed or assigned to assist in the administration of the Act.

#### 4—Application

A Gardens employee or person engaged to perform services on behalf of the Board is not subject to these regulations in relation to the performance of their duties as a Gardens employee or the performance of those services.

## Part 2—Administration

### 5—Approval of Board

- (1) An approval given by the Board for the purposes of these regulations—
  - (a) may be given—
    - (i) by notice in the Gazette; or
    - (ii) by notice in writing to a person; or
    - (iii) orally to a person (in which case it must be confirmed in writing as soon as practicable); and
  - (b) may be subject to such conditions (including a condition requiring payment of a fee determined by the Board) as are specified by the Board; and
  - (c) may be varied or revoked by the Board—
    - (i) in the case of an approval given by notice in the Gazette—by notice in the Gazette; or
    - (ii) in any other case—by notice given to the person to whom approval was given.
- (2) An approval may be in the form of a lease or licence.

- (3) If the Board gives approval subject to a condition, the person to whom approval is given, or, if it is given by notice in the Gazette, a person to whom the approval applies, must not contravene or fail to comply with the condition.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 6—Provision of education and training by Board

- (1) Pursuant to section 13(1)(m) of the Act, it is a function of the Board to provide courses of education and training, including vocational education and training, in relation to the fields of botany, horticulture, biology, conservation of the natural environment and history—
- (a) whether on a commercial basis or otherwise, as determined by the Board; and
  - (b) whether by the Board acting alone or in partnership or joint venture with another person or body.
- (2) For the purposes of subregulation (1), the Board may—
- (a) take such action as may be necessary to comply with requirements of any laws of this State or the Commonwealth in relation to the provision of education and training including, without limitation, complying with the requirements necessary for registration (and maintaining registration) as a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth; and
  - (b) determine fees and charges in relation to the provision of education and training.

## 7—Reward

The Board may, at its discretion, pay a sum not exceeding \$1 000 to a person (other than a Gardens employee or police officer) for information leading to the conviction of any person for an offence against the Act or these regulations.

## 8—Waiver or reduction of fees

The Board may, if it considers appropriate, waive or reduce a fee or charge prescribed for the purposes of the Act or these regulations.

## 9—Appointment of authorised persons

- (1) The Board may appoint suitable members of the staff to be authorised persons for the purposes of these regulations.
- (2) An appointment may be made subject to conditions specified in the instrument of appointment.
- (3) The Board may, at any time, revoke an appointment of an authorised person or vary or revoke a condition of appointment or impose a further condition of appointment.
- (4) The Director is an authorised person for the purposes of these regulations.

## 10—Identity cards

- (1) The Board must provide an identity card to each authorised person.

- (2) An authorised person must produce the person's identity card at the request of a person in relation to whom the authorised person has exercised, or intends to exercise, powers under these regulations.

### **11—Powers of authorised persons**

- (1) If an authorised person knows or reasonably suspects that a person has committed, or is committing, an offence against these regulations, the authorised person may do any or all of the following:
  - (a) require the person to state the person's full name and usual place of residence;
  - (b) if the person has been given, or alleges that they have been given, an approval by the Board—require the person to produce the approval for inspection;
  - (c) if the person is in a Botanic Garden or Botanic Reserve—order the person to leave the Garden or Reserve for a stated period not exceeding 24 hours.
- (2) If an authorised person suspects on reasonable grounds that a person is about to commit an offence against these regulations, the authorised person may require the person to state the person's full name and usual place of residence.
- (3) If an authorised person suspects on reasonable grounds that the name or place of residence stated pursuant to this regulation is false, the authorised person may require the person to produce evidence of the person's full name or usual place of residence.
- (4) For the purposes of the *Expiation of Offences Act 1996*, authorised persons are authorised to issue expiation notices for alleged offences against these regulations.
- (5) A person must comply with a requirement or order of an authorised person under this regulation.

Maximum penalty: \$2 000.

### **12—Hindering authorised persons**

A person must not hinder or obstruct an authorised person in the carrying out of the authorised person's duties.

Maximum penalty: \$2 000.

## **Part 3—Control of activities**

### **13—Public access**

- (1) A Botanic Garden is only open to members of the public—
  - (a) during the hours displayed at the entrances to the Garden; or
  - (b) at such other times as may be determined by the Board and notified in such manner as determined by the Board.
- (2) The Board may close a Botanic Garden or Botanic Reserve or part of a Botanic Garden or Botanic Reserve to members of the public if, in the Board's opinion, it is necessary or desirable to do so for any of the following purposes:
  - (a) leasing or licensing the Garden, Reserve or area to a particular person;
  - (b) conducting, or facilitating the conduct of, a particular celebration or event;

- (c) the proper management of the Garden or Reserve (including if staff necessary to patrol the Garden or Reserve are unavailable);
  - (d) public safety (including if a total fire ban is in force in the area that includes the Garden or Reserve).
- (3) A person must not, without the approval of the Board—
- (a) enter or remain in a Botanic Garden when it is not open to members of the public; or
  - (b) enter or remain in a Botanic Garden or Botanic Reserve, or part of a Botanic Garden or Botanic Reserve, cordoned or closed off on behalf of the Board so as to deny public access or in respect of which a notice indicating that public access is denied is conspicuously displayed on behalf of the Board.

Maximum penalty: \$2 000.

Expiation fee: \$200.

#### **14—Children in Botanic Gardens**

- (1) A person having the custody or care of a child must not permit the child to enter or remain in a Botanic Garden unless accompanied by, and under the care of, a person who is 15 years of age or more.

Maximum penalty: \$2 000.

- (2) A child must not enter or remain in a Botanic Garden unless accompanied by, and under the care of, a person who is 15 years of age or more.

Maximum penalty: \$2 000.

#### **15—Conservatory and other buildings**

- (1) A person must not enter or remain in the Conservatory unless the appropriate charge for admission prescribed for the purposes of the Act has been paid.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (2) A person must not enter or remain in a glasshouse or building (or part of a building) within a Botanic Garden or Botanic Reserve used for the purposes of an exhibition, program, event or other activity approved by the Board unless the appropriate charge for admission prescribed for the purposes of the Act has been paid.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (3) A person must not, without the approval of the Board, take food or drink into the Conservatory, a glasshouse or a building (or part of a building) used for the purposes of an exhibition, program, event or other activity, within a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 16—Flora and fauna protection

- (1) A person must not, without the approval of the Board—
- (a) remove from a Botanic Garden or Botanic Reserve any soil, rock, mineral or similar material; or
  - (b) dig or otherwise intentionally disturb any soil or similar material in a Botanic Garden or Botanic Reserve; or
  - (c) take, damage, climb on or interfere with any tree, shrub, plant, flower or other plant material in a Botanic Garden or Botanic Reserve; or
  - (d) take or molest any bird, animal or fish in a Botanic Garden or Botanic Reserve; or
  - (e) take or intentionally damage the nest or burrow of any bird or animal in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

- (2) A person must not, without the approval of the Board—
- (a) plant (or attempt to plant), release, deposit or abandon, a tree, shrub, plant, flower or other plant material or vegetation; or
  - (b) release, deposit or abandon any insect, bird, animal or fish (whether dead or alive) in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

## 17—Protection of Board's property

- (1) A person must not, in a Botanic Garden or Botanic Reserve—
- (a) remove, damage, deface or interfere with any label, sign, seat, statue, building, installation or other structure erected or placed in the Botanic Garden or Botanic Reserve (whether temporarily or permanently) on behalf of the Board; or
  - (b) step or walk on any garden bed or border.

Maximum penalty: \$2 000.

Expiation fee: In the case of an offence against paragraph (b)—\$200.

- (2) A person must not—
- (a) climb over, pass under or break through any gate, fence or hedge or other barricade, in or surrounding a Botanic Garden or Botanic Reserve; or
  - (b) use a storm water drain or culvert, or other structure not designed or intended to be used as a usual means of pedestrian or vehicular access, to enter a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 18—Animals

- (1) Subject to this regulation, a person must not bring an animal into, or permit an animal to enter, a Botanic Garden except as follows:
- (a) a dog may be brought into, or permitted to enter, an area specifically set aside for the purpose by the Board during any period for which it is so set aside (but not for the purposes of participating in organised dog training);
  - (b) an animal may be brought into, or permitted to enter, a Botanic Garden with the approval of the Board.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (2) Subject to this regulation, a person must not bring an animal into, or permit an animal to enter, a Botanic Reserve except as follows:
- (a) a horse may be ridden or led on a road in a Botanic Reserve;
  - (b) a dog may be brought into, or permitted to enter, a Botanic Reserve (but not for the purposes of participating in organised dog training);
  - (c) an animal may be brought into, or permitted to enter a Botanic Reserve in the course of being transported to or from the Adelaide Zoo by or on behalf of the Royal Zoological Society of South Australia Incorporated;
  - (d) an animal may be brought into, or permitted to enter, a Botanic Reserve with the approval of the Board.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (3) A person who is wholly or partially blind or deaf, or otherwise disabled, is entitled to be accompanied by an accredited assistance dog in a Botanic Garden or Botanic Reserve.
- (4) A person who brings a dog into, or permits a dog to enter, a Botanic Garden or Botanic Reserve must ensure that the dog is under effective control by means of physical restraint, within the meaning of the *Dog and Cat Management Act 1995*, at all times while in the Garden or Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (5) A person who brings a dog into, or permits a dog to enter, a Botanic Garden or Botanic Reserve (not being an accredited assistance dog) must immediately remove any faeces deposited by the dog in the Botanic Garden or Botanic Reserve and dispose of them in a suitable manner.

Maximum penalty: \$100.

Expiation fee: \$50.

- (6) In this regulation—

***accredited assistance dog*** means an assistance dog accredited under the *Dog and Cat Management Act 1995*.



## 19—Camping

A person must not, without the approval of the Board, camp or stay overnight in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 20—Firearms etc

A person must not, without the approval of the Board—

- (a) bring a firearm, catapult or other weapon into a Botanic Garden or Botanic Reserve; or
- (b) carry or use a firearm, catapult or other weapon in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

## 21—Fireworks

A person must not, without the approval of the Board, bring a firework into a Botanic Garden or Botanic Reserve or discharge a firework in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 22—Sport and other recreational activities

- (1) A person must not, without the approval of the Board, in a Botanic Garden—
  - (a) engage in any form of sport or sporting activity or in any game involving the use of a ball or any game in which an object is thrown or discharged; or
  - (b) engage in an activity involving a mechanically propelled model vehicle, aircraft or vessel; or
  - (c) operate a drone or any other remotely controlled device; or
  - (d) fly a kite.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (2) Subregulation (1) does not apply in relation to an area specifically set aside for the purpose by the Board during any period for which it is so set aside.
- (3) A person must not, without the approval of the Board, engage in any organised sport or organised sporting activity in a Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.
- (4) A person must not, without the approval of the Board, swim or jump or dive into water or take a boat, raft, hovercraft or other vessel onto water in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 23—Consumption of alcohol

- (1) A person must not, without the approval of the Board, consume alcohol in a Botanic Garden or Botanic Reserve except in licensed premises within the meaning of the *Liquor Licensing Act 1997* or in an area in which the consumption of alcohol is authorised by a licence under that Act.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (2) Subregulation (1) does not apply in relation to an area specifically set aside for the purpose by the Board during any period for which it is so set aside.

## 24—Behaviour

- (1) A person must not be intoxicated (whether by alcohol or by any other substance or combination of substances) or behave in a disorderly, offensive or indecent manner or create any disturbance in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

- (2) A person must not, without the approval of the Board, smoke in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (3) A person must not intentionally obstruct, disturb, interrupt or annoy any other person making proper use of a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

- (4) A person must not throw, roll or discharge any stone, substance or missile or engage in any other activity that may endanger the safety of any person or animal in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

- (5) A person must not urinate or defecate in any place within a Botanic Garden or Botanic Reserve except in a public convenience.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 25—Noise

- (1) A person must not, without the approval of the Board—

(a) use or cause to be used any loud speaker, amplifier, radio, television or similar device in a Botanic Garden or Botanic Reserve; or

(b) play or sound any musical instrument or whistle in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (2) This regulation does not apply if the device or instrument is not audible except to the person using it by reason of the person's use of headphones, earplugs or some other similar device.

## **26—Litter and pollution**

- (1) A person must not deposit litter, refuse or waste matter in a Botanic Garden or Botanic Reserve except in a receptacle provided for the purpose.  
Maximum penalty: \$2 000.  
Expiation fee: \$200.
- (2) A person must not, without the approval of the Board, deposit goods, materials, earth, stone, gravel, green waste or any other substance in a Botanic Garden or Botanic Reserve.  
Maximum penalty: \$2 000.
- (3) A person must not foul or pollute any waters or waterways in a Botanic Garden or Botanic Reserve.  
Maximum penalty: \$2 000.

## **27—Weddings and memorial services etc**

- (1) A person must not, without the approval of the Board, use any part of a Botanic Garden or Botanic Reserve for a wedding or memorial service.  
Maximum penalty: \$2 000.  
Expiation fee: \$200.
- (2) A person must not scatter, bury or otherwise dispose of, the ashes of a deceased person or animal in a Botanic Garden or Botanic Reserve.  
Maximum penalty: \$2 000.  
Expiation fee: \$200.

## **28—Commercial activities etc**

- (1) A person must not, without the approval of the Board, use any part of a Botanic Garden or Botanic Reserve for the purpose, or in the course, of carrying out any commercial enterprise (including, without limitation, guided tours and busking).  
Maximum penalty: \$2 000.  
Expiation fee: \$200.
- (2) A person must not, without the approval of the Board, advertise any goods or services in a Botanic Garden or Botanic Reserve.  
Maximum penalty: \$2 000.  
Expiation fee: \$200.
- (3) A person must not, without the approval of the Board, sell any goods (including any badge) or services in a Botanic Garden or Botanic Reserve.  
Maximum penalty: \$2 000.  
Expiation fee: \$200.
- (4) A person must not, without the approval of the Board, post, distribute or leave for collection any pamphlet, paper or other written matter in a Botanic Garden or Botanic Reserve or on a vehicle in a Botanic Garden or Botanic Reserve.  
Maximum penalty: \$2 000.  
Expiation fee: \$200.

- (5) A person must not, without the approval of the Board, display or erect any flag, sign, hoarding or similar object in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

- (6) A person must not, without the approval of the Board, conduct a survey or poll of opinions of members of the public in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 29—Public assembly or announcement

A person must not, without the approval of the Board—

- (a) engage or take part in public speaking (including preaching) or make any public announcement in a Botanic Garden or Botanic Reserve; or
- (b) organise, attend or participate in any public meeting, demonstration or gathering in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## 30—Donations

A person must not, without the approval of the Board—

- (a) collect or seek money or other donations in a Botanic Garden or Botanic Reserve; or
- (b) obtain or seek to obtain any promise or undertaking to pay any money or other donation in a Botanic Garden or Botanic Reserve.

Maximum penalty: \$2 000.

Expiation fee: \$200.

## Part 4—Special provisions relating to vehicles

### 31—Interpretation of Part 4

In this Part—

**bus** means a motor vehicle—

- (a) designed for the principal purpose of carrying passengers; and
- (b) designed to carry more than 12 persons, including the driver;

**drive** has the same meaning as in the *Road Traffic Act 1961*;

**long passenger vehicle** means a motor vehicle (other than a bus)—

- (a) designed for the principal purpose of carrying passengers; and
- (b) exceeding 6 metres in length, excluding any trailer, caravan or other vehicle attached to the vehicle;

**owner**, in relation to a vehicle, has the same meaning as in the *Road Traffic Act 1961*;

**prescribed offence** means an offence against regulation 33 or 35;

**prescribed vehicle** means—

- (a) a motor vehicle that is constructed solely or mainly for the carriage of goods and has a gross vehicle mass (within the meaning of section 47A of the *Road Traffic Act 1961*) of 4.5 tonnes or more; or
- (b) a prime mover; or
- (c) a vehicle (including any trailer, caravan or other vehicle attached to the vehicle) that exceeds 6 metres in length other than—
  - (i) a bus that is less than 3 metres high when unladen; or
  - (ii) a long passenger vehicle;

**road** has the same meaning as in the *Road Traffic Act 1961*;

**vehicle** has the same meaning as in the *Road Traffic Act 1961*;

**wheeled recreation device** has the same meaning as in the *Road Traffic Act 1961* and includes an electric personal transporter within the meaning of the *Road Traffic (Miscellaneous) Regulations 2014*.

**Note—**

A wheeled recreation device includes rollerblades, rollerskates, skateboards, scooters, unicycles or similar wheeled devices, but does not include prams, strollers, trolleys, bicycles, wheelchairs (including motorised wheelchairs) or wheeled toys.

### **32—Public vehicular access to Botanic Gardens and Botanic Reserves**

The Board may, from time to time, determine areas of a Botanic Garden or Botanic Reserve that are closed to public vehicular access.

### **33—Driving or bringing vehicles into Botanic Gardens and Botanic Reserves**

- (1) A person must not, without the approval of the Board—
  - (a) bring a vehicle into, or drive a vehicle in, any part of a Botanic Garden or Botanic Reserve closed to public vehicular access; or
  - (b) drive a vehicle in a Botanic Garden or Botanic Reserve except on an area specifically set aside for the driving or parking of vehicles; or
  - (c) bring a prescribed vehicle into, or drive a prescribed vehicle in, a Botanic Garden or Botanic Reserve.

Maximum penalty: \$1 000.

Expiation fee: \$150.

- (2) This regulation does not prevent a bicycle being wheeled (rather than ridden) in a Botanic Garden or Botanic Reserve.

### **34—Prohibition against riding wheeled recreational devices in Botanic Gardens**

A person must not, without the approval of the Board, travel in or on a wheeled recreational device in a Botanic Garden.

Maximum penalty: \$50.

Expiation fee: \$25.

### 35—Speed limits in Botanic Gardens and Botanic Reserves

- (1) A person must not, without the approval of the Board, drive a vehicle in a Botanic Garden or Botanic Reserve at a speed greater than—
  - (a) in the case of a road open to vehicular access by the public—20 kilometres per hour;
  - (b) in the case of a road within the fenced area of Mount Lofty Botanic Garden and not open to vehicular access by the public—15 kilometres per hour;
  - (c) in any other case—10 kilometres per hour.

Maximum penalty: \$1 000.

Expiation fee: \$150.

- (2) This regulation does not apply in circumstances where a speed limit applies under the *Road Traffic Act 1961*.

### 36—Liability of vehicle owners and expiation of certain offences

- (1) Without derogating from the liability of any other person, but subject to this regulation, if a vehicle is involved in a prescribed offence, the owner of the vehicle is guilty of an offence and liable to the same penalty as is prescribed for the principal offence and the expiation fee that is fixed for the principal offence applies in relation to an offence against this regulation.
- (2) The owner and driver of a vehicle are not both liable through the operation of this regulation to be convicted of an offence arising out of the same circumstances, and consequently conviction of the owner exonerates the driver and conversely conviction of the driver exonerates the owner.
- (3) An expiation notice or expiation reminder notice given under the *Expiation of Offences Act 1996* to the owner of a vehicle for an alleged offence against this regulation involving the vehicle must be accompanied by a notice inviting the owner, if the owner was not the driver at the time of the alleged prescribed offence, to provide the Board, within the period specified in the notice, with a statutory declaration—
  - (a) setting out the name and address of the driver; or
  - (b) if the owner had transferred ownership of the vehicle to another prior to the time of the alleged prescribed offence and has complied with the *Motor Vehicles Act 1959* in respect of the transfer—setting out details of the transfer (including the name and address of the transferee).
- (4) Before proceedings are commenced against the owner of a vehicle for an offence against this regulation involving the vehicle, the informant must send the owner a notice—
  - (a) setting out particulars of the alleged prescribed offence; and
  - (b) inviting the owner, if the owner was not the driver at the time of the alleged prescribed offence, to provide the informant, within 21 days of the date of the notice, with a statutory declaration setting out the matters referred to in subregulation (3).

- (5) Subregulation (4) does not apply to—
  - (a) proceedings commenced where an owner has elected under the *Expiation of Offences Act 1996* to be prosecuted for the offence; or
  - (b) proceedings commenced against an owner of a vehicle who has been named in a statutory declaration under this regulation as the driver of the vehicle.
- (6) Subject to subregulation (7), in proceedings against the owner of a vehicle for an offence against this regulation, it is a defence to prove—
  - (a) that, in consequence of some unlawful act, the vehicle was not in the possession or control of the owner at the time of the alleged prescribed offence; or
  - (b) that the owner provided the informant with a statutory declaration in accordance with an invitation under this regulation.
- (7) The defence in subregulation (6)(b) does not apply if it is proved that the owner made the declaration knowing it to be false in a material particular.
- (8) If—
  - (a) an expiation notice is given to a person named as the alleged driver in a statutory declaration under this regulation; or
  - (b) proceedings are commenced against a person named as the alleged driver in such a statutory declaration,

the notice or summons, as the case may be, must be accompanied by a notice setting out particulars of the statutory declaration that named the person as the alleged driver.
- (9) The particulars of the statutory declaration provided to the person named as the alleged driver must not include the address of the person who provided the statutory declaration.
- (10) In proceedings against a person named in a statutory declaration under this regulation for the offence to which the declaration relates, it will be presumed, in the absence of proof to the contrary, that the person was the driver of the vehicle at the time at which the alleged offence was committed.
- (11) In proceedings against the owner or driver of a vehicle for an offence against this Part, an allegation in the information that a notice was given under this regulation on a specified day will be accepted as proof, in the absence of proof to the contrary, of the facts alleged.

### **37—Permits for permit zones**

- (1) This regulation applies if the Board has installed or determined that it will install, permit zone signs to establish a permit zone for the purposes of the *Road Traffic Act 1961*.
- (2) The Board may determine—
  - (a) the class of permits required for vehicles to stop in the permit zone; and
  - (b) the persons entitled to such permits; and
  - (c) any fees to be paid for such permits; and

- (d) the conditions to which the permits will be subject (which may include conditions as to the period for which such permits remain in force and conditions as to the display of permits in vehicles),  
and may vary any such determination.
- (3) The Board may issue permits in respect of the permit zone to persons entitled to them, on payment of the fee (if any), and subject to the conditions, determined by the Board.
- (4) A permit issued by the Board and in force in respect of the permit zone permits a vehicle to stop in the permit zone subject to the conditions of the permit.

### **38—Parking and parking ticket-vending machines or parking meters**

- (1) This regulation applies if the Board has installed, or determined that it will install, permissive parking signs to apply to a length of road or an area for the purposes of the *Road Traffic Act 1961*.
- (2) Subject to subregulation (3), the Board may determine fees that will be payable for parking in the length of road or the area by—
  - (a) the operation of parking ticket-vending machines or parking meters installed or to be installed in or near the length of road or area; or
  - (b) electronic devices (including mobile phones, tablets or other electronic method determined by the Board),and may vary such fees.
- (3) The fees determined by the Board in respect of the parking or standing of vehicles in a Botanic Garden or Botanic Reserve for the purposes of the *Road Traffic Act 1961* must not include any fee in respect of the parking or standing of a vehicle on a Sunday or other public holiday.

### **39—Fee for release of vehicle after hours**

- (1) The Board may, from time to time, fix a fee for the release of a vehicle from a Botanic Garden or Botanic Reserve at a time when the relevant part of the Garden or Reserve is closed to the public.
- (2) A person is not entitled to release of the vehicle until the fee is paid.

## **Schedule 1—Revocation and transitional and saving etc provisions**

### **Part 1—Revocation of *Botanic Gardens and State Herbarium Regulations 2007***

#### **1—Revocation of *Botanic Gardens and State Herbarium Regulations 2007***

The *Botanic Gardens and State Herbarium Regulations 2007* are revoked.



## **Part 2—Transitional and saving etc provisions**

### **2—Interpretation**

In this Part—

*revoked regulations* means the *Botanic Gardens and State Herbarium Regulations 2007*.

### **3—Approvals of Board**

An approval of the Board under regulation 5 of the revoked regulations and in force immediately before the commencement of this clause will be taken, on that commencement, to be an approval of the Board under regulation 5 of these regulations, and to continue for the balance of the term, and subject to the same conditions (if any), as applied under the approval immediately before that commencement.

### **4—Authorised persons**

A person holding an appointment as an authorised person under regulation 8 of the revoked regulations immediately before the commencement of this clause will, on that commencement, be taken to hold an appointment as an authorised person under regulation 9 of these regulations, subject to the same conditions of appointment (if any) as applied to the appointment immediately before that commencement.

### **5—Permits for permit zones**

A permit issued by the Board under regulation 36 of the revoked regulations and in force immediately before the commencement of this clause will continue for the balance of the period for which the permit was issued, subject to the same conditions (if any), as applied under the permit immediately before that commencement, as if it were a permit issued under regulation 37 of these regulations.

## **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	135	<i>Gazette 2.9.2021 p3471</i>	2.9.2021: r 2