

South Australia

Marine Parks Regulations 2008

under the *Marine Parks Act 2007*

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation

Part 2—General provisions supporting Act

- 4 Notice of establishment of marine park (section 10(7))
- 5 Applications for warrants (section 34(6))
- 6 General duty of care—prescribed circumstances (section 37(3))
- 7 Action on non-compliance with order etc—prescribed rate of interest (sections 39, 41 and 42)

Part 3—Permits

Division 1—Application of Part

- 8 Application of Part

Division 2—Permits for activities

- 10 Variation of conditions of permit
- 11 Transfer of permit
- 12 Minister may require further information
- 13 Defects in applications
- 14 Waiver or refund of permit fees
- 15 Issue of duplicate permit

Division 3—Contravention of condition of permit

- 16 Expiation of offence

Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Marine Parks Regulations 2008*.

3—Interpretation

In these regulations—

Act means the *Marine Parks Act 2007*.

Part 2—General provisions supporting Act

4—Notice of establishment of marine park (section 10(7))

For the purposes of section 10(7) of the Act, the Minister must give notice of the making of a proclamation to establish a marine park by notice in the Gazette, in a newspaper circulating generally within the State and on a website determined by the Minister.

5—Applications for warrants (section 34(6))

- (1) The grounds of an application for a warrant under section 34 of the Act made personally must be verified by affidavit.
- (2) If an application for a warrant is made by telephone—
 - (a) the applicant must inform the magistrate of the applicant's name and identify the position that he or she 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 proper grounds to issue a warrant, 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).

6—General duty of care—prescribed circumstances (section 37(3))

For the purposes of section 37(3) of the Act, any circumstance involving the exercise of a statutory power by a public authority in an emergency situation is prescribed.

7—Action on non-compliance with order etc—prescribed rate of interest (sections 39, 41 and 42)

- (1) For the purposes of sections 39(5)(a), 41(5)(a) and 42(8)(a) of the Act, the prescribed rate of interest per annum on an unpaid amount will be the prime bank rate for any financial year for which the amount remains unpaid.

(2) In this regulation—

prime bank rate for a particular financial year means the corporate loan reference rate applied by the Commonwealth Bank of Australia for corporate lending on the first trading day of the Bank in that financial year.

Part 3—Permits

Division 1—Application of Part

8—Application of Part

This Part applies in relation to applications relating to permits (whether for the grant of a permit, variation of conditions of a permit or transfer of a permit) made after the commencement of this Part.

Division 2—Permits for activities

10—Variation of conditions of permit

For the purposes of section 19(8)(c)(ii) of the Act, an application for variation of a condition of a permit—

- (a) must be made to the Minister in the manner and form determined by the Minister; and
- (b) must be accompanied by the prescribed fee.

11—Transfer of permit

For the purposes of section 19(9) of the Act—

- (a) a permit is for a prescribed activity if it is for an activity referred to in regulation 8(3)(g) to (k) (inclusive) of the *Marine Parks (Zoning) Regulations 2012*; and
- (b) the prescribed conditions to be complied with in respect of the transfer of such a permit are as follows:
 - (i) the permit may only be transferred with the consent of the Minister;
 - (ii) an application for consent to transfer the permit—
 - (A) must be made to the Minister in the manner and form determined by the Minister; and
 - (B) must be accompanied by the prescribed fee;
 - (iii) the proposed transferee must, in the opinion of the Minister, be a fit and proper person to hold the permit;
 - (iv) the transfer must not result in a change in—
 - (A) conditions of the permit; or
 - (B) the expiry date of the permit.

12—Minister may require further information

A person who makes an application for a permit, or any application under this Part, must provide the Minister with any information required by the Minister in connection with the determination of the application, verified, if the Minister so requires, by statutory declaration.

13—Defects in applications

- (1) The Minister may request a person who makes an application for a permit, or any application under this Part, to remedy a defect or deficiency in an application or accompanying document or information required by or under the Act or these regulations.
- (2) The Minister may, in relation to such an application, request the applicant—
 - (a) to pay the relevant fee prescribed in connection with the application; or
 - (b) to provide any outstanding information required to be provided under these regulations by the applicant.
- (3) If the applicant to whom a request has been made under this regulation fails to comply with the request within 60 days or such longer period as the Minister may allow, the application lapses.

14—Waiver or refund of permit fees

The Minister may waive a fee payable in relation to an application for a permit, or any application under this Part, if satisfied that—

- (a) the application is made in connection with—
 - (i) a statutory authorisation; or
 - (ii) an authorisation or matter under a law of the Commonwealth; or
- (b) it is otherwise appropriate to do so in a particular case.

15—Issue of duplicate permit

If—

- (a) the holder of a permit satisfies the Minister that the permit has been lost or destroyed; or
- (b) a permit that has been altered or defaced or has become illegible in a particular way is delivered by the permit holder to the Minister,

the Minister may, on payment of the prescribed fee, issue a duplicate of the permit, in which case the former permit is null and void.

Division 3—Contravention of condition of permit

16—Expiation of offence

Pursuant to section 63(2)(d) of the Act, the expiation fee fixed for an alleged offence against section 20 of the Act is \$315.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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 and variations

New entries appear in bold.

Year	No	Reference	Commencement
2008	284	<i>Gazette 6.11.2008 p5066</i>	6.11.2008: r 2
2014	248	<i>Gazette 2.10.2014 p6068</i>	2.2.2015: r 2
2015	135	<i>Gazette 18.6.2015 p2744</i>	1.7.2015: r 2
2016	100	<i>Gazette 23.6.2016 p2251</i>	1.7.2016: r 2
2017	172	<i>Gazette 22.6.2017 p2460</i>	1.7.2017: r 2
2018	123	<i>Gazette 21.6.2018 p2335</i>	1.7.2018: r 2
2019	115	<i>Gazette 13.6.2019 p1976</i>	1.7.2019: r 2
2020	197	<i>Gazette 4.6.2020 p3070</i>	1.7.2020: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
heading	inserted by 248/2014 r 4	2.2.2015
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	2.2.2015
Pt 2		
heading	inserted by 248/2014 r 5	2.2.2015
Pt 3	inserted by 248/2014 r 6	2.2.2015
r 9	<i>deleted by 197/2020 r 4</i>	1.7.2020
r 10	varied by 197/2020 r 5	1.7.2020
r 11	varied by 197/2020 r 6	1.7.2020
r 13		
r 13(2)	varied by 197/2020 r 7	1.7.2020
r 15	varied by 197/2020 r 8	1.7.2020
Sch 1	<i>inserted by 248/2014 r 7</i>	2.2.2015

<i>substituted by 135/2015 r 4</i>	<i>1.7.2015</i>
<i>substituted by 100/2016 r 4</i>	<i>1.7.2016</i>
<i>substituted by 172/2017 r 4</i>	<i>1.7.2017</i>
<i>substituted by 123/2018 r 4</i>	<i>1.7.2018</i>
<i>substituted by 115/2019 r 4</i>	<i>1.7.2019</i>
<i>deleted by 197/2020 r 9</i>	<i>1.7.2020</i>

Historical versions

2.2.2015
1.7.2015
1.7.2016
1.7.2017
1.7.2018
1.7.2019