

South Australia

# **National Parks and Wildlife (Kanku-Breakaways Conservation Park) Regulations 2013**

under the *National Parks and Wildlife Act 1972*

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## Preamble

- 1 The Breakaways Reserve was dedicated as a reserve for natural features on 24 June 2001 and is under the care, control and management of the District Council of Coober Pedy.
- 2 The Antakirinja Matuntjara Yankunytjatjara people have traditional ownership and native title in relation to the land comprising the reserve.
- 3 The area of the reserve was constituted as the Breakaways Conservation Park under the Act on 4 July 2013.

**Note—**

See *Gazette 4.7.2013 p2975*.

- 4 It is now intended that the Breakaways Conservation Park be co-managed by the Antakirinja Matuntjara Yankunytjatjara people, the District Council of Coober Pedy and the Minister.
- 5 The name of the park has been altered to Kaṅku-Breakaways Conservation Park.

**Note—**

See *Gazette 19.11.2015 p4979*.

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *National Parks and Wildlife (Kaṅku-Breakaways Conservation Park) Regulations 2013*.

### 3—Interpretation

In these regulations—

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

*Antakirinja Matuntjara Yankunytjatjara people* means the Native Title Holders as defined in the determination of native title made by the Federal Court of Australia in Native Title Claim SAD 6007/98 on 11 May 2011 (and *Antakirinja Matuntjara Yankunytjatjara person* has a corresponding meaning);

**AMYAC** means the Antakirinja Matu-Yankunytjatjara Aboriginal Corporation incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth;

**Board** means the *Kanku-Breakaways Conservation Park co-management board* continued as the co-management board for the Kanku-Breakaways Conservation Park under the *National Parks and Wildlife (Co-management Boards) Regulations 2016*;

**co-management agreement** means the co-management agreement for the Park, as in force from time to time;

**drive** includes ride;

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

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

**nominating body**, in relation to the Board, means a body (other than the Minister) who, in accordance with the co-management agreement for the Park, nominates a person for appointment as a member of the Board;

**Park** means the Kanku-Breakaways Conservation Park;

**permit** means a permit or other written permission granted by the Board under these regulations;

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

## Part 3—General provisions

### 17—Application of regulations

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 or the Board is not subject to these regulations in relation to the performance of the duties of his or her employment.

### 18—Entry to Park

- (1) A person must not enter or remain on the Park unless the person has paid the appropriate fee (if any) set by the Board.
- (2) This regulation does not apply to Antakirinja Matuntjara Yankunytjatjara people.

### 19—Opening and closing of Park

- (1) The Board may, by causing a notice to be published in the Gazette, give notice of the hours during which the Park is open to the public.
- (2) The Board may vary or revoke a notice under this regulation at any time by subsequent notice published in the Gazette.
- (3) Subject to subregulation (5), the Board may close the Park, or any part of the Park—
  - (a) if, in the Board's opinion, the closure is necessary or desirable for the proper management of the Park; or
  - (b) if, in the Board's opinion, the closure is necessary or desirable to enable a cultural activity to occur; or

- (c) if a total fire ban is in force in an area that includes all or part of the Park, or the risk of uncontrolled fire in the Park is, in the Board's opinion, extreme; or
  - (d) if it is, in the Board's opinion, in the interest of public safety to close the Park; or
  - (e) for any other reason contemplated by the co-management agreement for the Park.
- (4) The Board must not close the Park if to do so would be inconsistent with the co-management agreement.
  - (5) A person must not, without the permission of the Board, enter or remain in the Park when it is closed to the public.

## **20—Setting aside part of the Park for a particular use**

- (1) The Board may, by causing a notice to be published in the Gazette, set aside part of the Park as an area in which a particular activity may be undertaken by visitors to the Park.
- (2) A notice may impose conditions in relation to the activity and the Board may vary or revoke a notice at any time by subsequent notice published in the Gazette.
- (3) A person must not contravene or fail to comply with a condition.

## **21—Use of vehicles**

- (1) A person must not, without the permission of the Board, drive or tow a vehicle in the Park except on a road or track set aside for that purpose by the Board or in any other area of the Park set aside for that purpose by the Board.
- (2) A person must not, without the permission of the Board, drive a vehicle in the Park at a speed that exceeds the speed limit fixed by the Board.
- (3) A person must not drive a vehicle in the Park 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 the Park.
- (5) A warden may remove, or cause to be removed, a vehicle left in contravention of subregulation (4) and the Board may recover the costs of removal from the owner of the vehicle as a debt.
- (6) A person must not drive a motor vehicle in the Park unless it is registered and insured.
- (7) A person who drives a vehicle in the park must comply with all applicable traffic signs and signals.

## **22—Display of certain receipts and permits in vehicles**

- (1) A person who enters the Park in a vehicle must ensure that the receipt for the entrance fee (if any) in respect of, or the permit authorising, his or her entry into the Park is displayed in the vehicle in accordance with subregulation (3) continuously until he or she or the vehicle leaves the Park.

- (2) A person who camps in the Park 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 Park 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) if, 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, the Park 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.

### **23—Use of aircraft**

- (1) Except in an emergency, a person must not, without the permission of the Board, use an aircraft on land in the Park except in an area set aside by the Board for that purpose.
- (2) A person must not, without the permission of the Board—
  - (a) jump into the Park; or
  - (b) drop an object into the Park,from an aircraft.

### **24—Camping**

A person must not, without the permission of the Board, camp in the Park.

### **25—Fires**

- (1) A person must not, without the permission of the Board, light, maintain or use a fire in the Park in contravention of a ban or restriction imposed by the Board.
- (2) A person must not light or maintain a fire in the Park in contravention of the *Fire and Emergency Services Act 2005*.
- (3) A person who has lit, maintained or used a fire in the Park must not leave the fire unattended.

### **26—Possession and use of chainsaws**

- (1) Subject to subregulation (2), a person must not, without the permission of the Board, have control of, carry or use a chainsaw in the Park.
- (2) A person may have control of, carry or use a chainsaw in the Park—
  - (a) in the course of exercising rights or performing obligations pursuant to a lease, licence or agreement under this or any other Act entered into in relation to the Park; 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.

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

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

Maximum penalty: \$1 000.

Expiation fee: \$150.

- (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.

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

A person must not, without the permission of the Board, use a device for detecting metal or minerals in the Park.

Maximum penalty: \$1 000.

Expiation fee: \$150.

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

- (1) Subject to subregulation (2), a person must not, without the permission of the Board—
  - (a) have control of, carry or use a firearm or other weapon; or
  - (b) have control of, carry or use explosives or fireworks,in the Park.

Maximum penalty: \$1 000.

Expiation fee: \$150.

- (2) Subregulation (1)(a) does not apply to an Aboriginal person in relation to a firearm that he or she has control of, carries or uses for the purpose of taking animals in accordance with section 68D of the Act.

### **30—Swimming and diving**

A person must not, without the permission of the Board, swim or dive in any water (including water held in a water tank) in the Park.

### **31—Regulation of certain recreational activities**

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

- (a) use a hang glider or any other kind of glider; or
  - (b) launch a hot air balloon; or
  - (c) engage in the sport of sand boarding (sliding down a sandhill on a board),
- in the Park except in an area set aside by the Board for that purpose.

### **32—Protection of animals**

- (1) A person must not, without the permission of the Minister, take or molest an unprotected animal in the Park.
- (2) A person must not, without the permission of the Minister, intentionally damage the nest or burrow of an animal in the Park.

### **33—Removal of carcasses**

A person must not, without the permission of the Board, remove the carcass, or any part of the carcass, of a protected animal from the Park.

### **34—Possession and use of devices for taking animals**

- (1) Subject to subregulation (2), a person must not, without the permission of the Board, while in the Park, have control of, carry or use a device designed for the purpose of taking an animal.
- (2) Subregulation (1) does not apply to an Aboriginal person in relation to a device that he or she has control of, carries or uses for the purpose of taking animals in accordance with section 68D of the Act.

### **35—Bringing animals into the Park**

- (1) Subject to this regulation, a person who has control of an animal must not, without the permission of the Board, bring it into the Park or permit it to enter the Park.
- (2) A person who is entitled to use the Park pursuant to a lease, licence or agreement under this or any other Act may, subject to the terms of the lease, licence or agreement, bring animals into the Park in the course of using the Park pursuant to the lease, licence or agreement.
- (3) A person may ride or lead a horse in the Park on a road or track set aside for that purpose by the Board or in any other area of the Park set aside for that purpose by the Board.
- (4) A person who needs the assistance of a guide dog may bring the dog into the Park if it is restrained on a lead not exceeding 3 metres in length while in the Park.

### **36—Straying and grazing of animals**

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

### **37—Seizure of animals etc**

- (1) If an unprotected animal is in the Park and—
  - (a) is not under the control of any person; and
  - (b) is not in the Park with the written permission of the Board or pursuant to a lease, licence or agreement under this or any other Act,a warden or any other person authorised by the Board 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) If a warden or other person authorised by the Board knows, or has reason to believe, that a person claims ownership of an animal in the Park, 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 Park 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 Board.
- (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.

### **38—Plants**

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

### **39—Interference with earth etc**

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

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

### **40—Scientific research**

A person must not, without the permission of the Board, enter the Park for the purpose of carrying out scientific research in the Park.

#### **41—Littering**

A person must not, in the Park—

- (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.

#### **42—Pollution of waters**

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

#### **43—Abandoned property**

- (1) A person must not, without the permission of the Board, abandon or leave unattended for more than 24 hours any vehicle or other personal property in the Park.
- (2) Any vehicle or personal property abandoned or left unattended for more than 24 hours in the Park may be seized and impounded by a warden.
- (3) The Board 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 one 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 Board the cost of seizing, impounding and keeping the vehicle or personal property, the Board 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 Board may, after the expiration of one month after the vehicle or personal property has been seized or impounded, sell or otherwise dispose of the vehicle or personal property.

#### **44—Disorderly behaviour etc**

A person must not, in the Park—

- (a) behave in a disorderly, offensive or indecent manner or use any offensive or indecent language or create any disturbance; or
- (b) wilfully obstruct, disturb, interrupt or annoy any other person engaged in the proper use of the Park; or

- (c) throw, roll or discharge any stone, substance or missile to the danger of any person or animal in the Park; or
- (d) 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 the Park.

#### **45—Activities that must be authorised by a lease, licence or agreement**

A person must not undertake any of the following activities in the Park except pursuant to a lease, licence or agreement under this or any other Act:

- (a) filming for commercial purposes;
- (b) conducting tours for fee or reward;
- (c) conducting 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.

#### **46—Other activities subject to Board's permission**

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

- (a) use or cause to be used, any loud speaker or similar device or other noisy equipment in the Park; or
- (b) construct or erect any booth, marquee or other structure in the Park; or
- (c) organise or cause to be organised or attend or participate in any public meeting, demonstration or gathering in the Park.

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

A person in the Park must not, without the permission of the Board, contravene or fail to comply with a direction given by the Board in the form of a notice or sign displayed in the Park.

#### **48—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 the Park; or
- (b) conduct and behaviour in the Park; or
- (c) safety in the Park.

#### 49—Permission of Board

- (1) A permission granted pursuant to these regulations must be in writing and may be included in a lease, licence or agreement under this or any other Act 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 Board at any time.
- (2) Without limiting the generality of subregulation (1), a condition of a permission granted pursuant to these regulations may include a condition prohibiting the possession or consumption of alcohol in the Park.
- (3) The Board must not grant permission, or refuse to grant permission, if to do so would be inconsistent with the co-management agreement.
- (4) 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.
- (5) If the Board grants permission subject to a condition, a person must not contravene or fail to comply with the condition.

#### 50—Prescription of offences—section 73A

For the purposes of the definition of *prescribed offence* in section 73A(1) of the Act, an offence against regulation 51 that arises from a contravention of, or failure to comply with, 1 or more of the following provisions is prescribed:

- (a) regulation 18;
- (b) regulation 19(5);
- (c) regulation 21(1), (2), (3), (4) and (6);
- (d) regulation 22;
- (e) regulation 24.

#### 51—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 18, 21, 25, 29(1)(a), 44(a) or (b), or 48—\$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—Transitional provision

### 1—Transitional provision

A licence, permit or written permission issued under the Act or the *National Parks and Wildlife (National Parks) Regulations 2001* in relation to the Park, or any other licence, permit, written permission or agreement issued or entered by the Minister in relation to the land constituting the Park, in force immediately before the commencement of these regulations continues in force in accordance with its terms.

## 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).

### Formerly

*National Parks and Wildlife (Breakaways Conservation Park) Regulations 2013*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2013	201	<i>Gazette 1.8.2013 p3401</i>	1.8.2013: r 2
<b>2016</b>	<b>231</b>	<b><i>Gazette 22.9.2016 p3870</i></b>	<b>22.1.2017 immediately after the commencement of the <i>National Parks and Wildlife (Co-management Boards) Regulations 2016</i>: r 2</b>

### Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
Preamble		
cl 5	inserted by 231/2016 r 4	22.1.2017
Pt 1		
r 1	varied by 231/2016 r 5	22.1.2017
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	22.1.2017
r 3		
Board	substituted by 231/2016 r 6(1)	22.1.2017
Park	substituted by 231/2016 r 6(2)	22.1.2017
Pt 2	<i>deleted by 231/2016 r 7</i>	22.1.2017