

South Australia

Environment Protection (Burning) Policy 1994

under the *Environment Protection Act 1993*

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Legislative history

1—Short title

This policy may be cited as the *Environment Protection (Burning) Policy 1994*.

3—Interpretation

- (1) In this policy—

the Act means the *Environment Protection Act 1993*;

air pollution means the emission into the air of any pollutant;

chimney means any structure designed or used for the purpose of emitting pollutants from any premises into the air;

domestic incinerator means an incinerator that—

- (a) has a capacity of less than 0.25 cubic metres; and
- (b) is used for burning the refuse from a private household or private households;

domestic premises means premises used for residential purposes and includes—

- (a) land designated for residential use as shown on the Development Plan pursuant to the *Development Act 1993* that is not currently occupied; and
- (b) premises used for both residential and other purposes,

and *non-domestic premises* has a corresponding meaning;

fuel-burning equipment means any machine, engine, apparatus or structure in which, or in the operation of which, combustible material is burned, but does not include a motor vehicle;

motor vehicle means any machine, however propelled, that is designed or used for the purpose of transporting goods, materials or persons, but does not include a crane, vessel or railway locomotive;

occupier, in relation to premises, means a person who has, or is entitled to, possession or control of the premises;

premises means any land, building or structure, and includes a crane, vessel or railway locomotive;

vessel means any ship, boat or other water craft.

- (2) For the purposes of this policy, a fire that is burning in the open air will be regarded as a fire in the open despite the fact that it is burning in connection with the operation of any fuel-burning equipment, or within a container of some kind, unless the fuel-burning equipment or container has a chimney through which the products of combustion are channelled.
- (3) In this policy, the expression **Mandatory Provision** followed by a statement as to the category of an offence is to be taken to signify that contravention of the provision at whose foot the expression appears will be an offence of the category so stated for the purposes of Part 5 of the Act.

Note—

Unless the contrary intention appears, terms used in this policy that are defined in the Act have the respective meanings assigned to those terms by the Act.

4—Fires in the open on non-domestic premises

- (1) Subject to subclause (2) and to the provisions of the *Country Fires Act 1989*, a person must not cause or permit the burning of matter by a fire in the open on any non-domestic premises without written consent given under this clause by the Authority or another administering agency, or a council or council officer as delegate of the Authority.

Mandatory Provision: Category B offence.

- (2) Subject to compliance with the provisions of the *Country Fires Act 1989*, subclause (1) does not apply to any fire in the open for—
 - (a) disposal of gaseous wastes; or
 - (b) recreational purposes, including barbecuing, picnicking, and scouting or similar outdoor activities; or
 - (c) agricultural purposes occurring outside of the municipalities of Adelaide, Brighton, Burnside, Campbelltown, City of Onkaparinga—all of the area of the City of Onkaparinga, Enfield, Glenelg, Henley and Grange, Hindmarsh and Woodville, Kensington and Norwood, Marion, Mitcham, Payneham, Playford, Port Adelaide, Prospect, Salisbury, St Peters, Tea Tree Gully, Thebarton, Unley, Walkerville and West Torrens, including disposal of dead stock, crop stubble or diseased crops and the clearing of land for farming; or
 - (d) instruction in methods of fire-fighting; or
 - (e) the prevention and control of bush fires; or
 - (f) any purpose on land or premises outside the area of any council.

- (3) Applications for consent under this clause must be forwarded in writing to the Authority or another administering agency, or a council or council officer authorised to act as delegate of the Authority, and must contain the following particulars:
- (a) the proposed location of the fire in the open;
 - (b) the name of the occupier of the premises or the owner of the land where the fire in the open is proposed to be lit;
 - (c) the reason for wishing to burn in the open;
 - (d) the matter or class of matter proposed to be burned;
 - (e) the quantity of such matter;
 - (f) the period or periods of time for which the consent is sought.
- (4) Where the Authority or another administering agency, or a council or council officer, gives a consent under this clause, the consent must be contained in a written instrument and be expressed to operate for such periods and subject to such conditions as the Authority, administering agency, council or council officer considers necessary or desirable to control or minimise air pollution from the land or premises concerned.
- (5) A person to whom a consent has been given under this clause must comply with any conditions specified in the consent.
Mandatory Provision: Category B offence.
- (6) The requirements for consent under this clause have effect in addition to the general environmental duty imposed by Part 4 of the Act and the general offences contained in Part 9 of the Act, and hence a consent given under this clause does not bar proceedings for enforcement of that duty or such an offence in connection with the activity to which the consent relates. (Exemptions may be granted by the Authority under Part 6 of the Act for the purposes of burning in the open on non-domestic premises subject to the requirements of the Act).

5—Domestic burning and burning on streets, roads or laneways

- (1) A person must not cause or permit the burning on any domestic premises of wood treated with copper-chrome-arsenate or other chemical preservatives.
Mandatory Provision: Category D offence.
- (2) A person must not cause or permit the burning of matter by a fire in the open on any street, road or laneway.
Mandatory Provision: Category D offence.
- (3) A person must not cause or permit the burning of matter by a fire in the open or in a domestic incinerator—
- (a) on any domestic premises situated within a council area or portion of a council area referred to in Schedule 1; or
 - (b) on any other domestic premises except between the hours of 10.00am and 3.00pm on Monday to Saturday (inclusive).
- Mandatory Provision: Category D offence.

- (4) A person must not cause or permit the burning of matter, other than dry paper, dry cardboard, dry wood or dried gardening prunings, on any domestic premises.
Mandatory Provision: Category D offence.
- (5) Subclauses (3) and (4) do not apply to—
- (a) any fire within a dwelling; or
 - (b) any fire used principally for the preparation of food or beverages or the heating of a potable liquid; or
 - (c) the burning of charcoal within a brazier principally for the purpose of heating an area used for outdoor entertainment; or
 - (d) burning off by a person for the purpose of reducing the hazard of bushfires, provided that—
 - (i) the Authority or another administering agency, or a council or council officer as delegate of the Authority, has permitted the burning-off by notice in writing, or by notice published in a newspaper or other publication relating to burning-off in the area concerned, and the person complies with the conditions to which the permission is subject; or
 - (ii) the person has a permit under the *Country Fires Act 1989* to carry out the burning-off.
- (6) The Authority, other administering agency, council or council officer, in giving permission under this clause—
- (a) may give permission for such period, not exceeding two months, as the Authority, other administering agency, council or council officer thinks fit; and
 - (b) may impose such conditions in relation to the burning-off as the Authority, other administering agency, council or council officer thinks fit.
- (7) Permission given under this clause may be revoked or varied by the Authority or other administering agency, or the council or council officer responsible for giving the original permission.
- (8) This clause is subject to the provisions of the *Country Fires Act 1989*.
- (9) This clause does not apply to—
- (a) any land or premises located outside the boundaries of any municipality or township situated within a district council area; or
 - (b) any land or premises situated outside the area of any council.
- (10) The requirements under this clause have effect in addition to the general environment duty imposed by Part 4 of the Act and the general offences contained in Part 9 of the Act, and hence a permission given under this clause does not bar proceedings for enforcement of that duty or such an offence in connection with the activity to which the permission relates.
- (11) The Authority may not grant an exemption under Part 6 of the Act in relation to any mandatory provisions of this clause.

Schedule 1—Council areas or portions of council areas in which burning on domestic premises is prohibited

Adelaide

Berri Barmera—the area of The Berri Barmera Council excluding the following areas as defined in the relevant Development Plan under the *Development Act 1993*:

- Horticulture Zone;
- Dryland Farming Zone;
- Rural Zone.

Burnside

Campbelltown

Charles Sturt—all of the area of the City of Charles Sturt

City of Onkaparinga—all of the area of the City of Onkaparinga

Copper Coast—those zones within the District Council of Copper Coast shown on the Development Plan as—

- (a) land zoned for residential purposes;
- (b) all country township zones;
- (c) Kadina Town Centre Zone;
- (d) Historic (Conservation) Zone—Moonta Town Centre;
- (e) Holiday Settlement (Wallaroo North).

Gawler—the whole of the area of the Corporation of the Town of Gawler inclusive of that land zoned RuB of sections 3 and 4 in the Hundred of Nuriootpa, and land zoned RuL of section 3 in the Hundred of Nuriootpa, situated west of the road known as Riggs Hill Road, but excluding other lands zoned RuB, RuA, RuL, and Gawler East Area 2 as shown in the Development Plan under the Development Act 1993.

Holdfast Bay—all of the area of the City of Holdfast Bay

Kapunda and Light—the following zones, as identified in the Development Plan:

- (a) all areas in the district zoned as either Residential, Recreation or Centre Zones; and
- (b) the Industrial Zone at Freeling; and
- (c) the Town Centre Zone and Town Industry Zone at Kapunda; and

- (d) within Freeling, that land contained within and bounded by a line commencing on the north-western corner of allotment 265 on the corner of Railway Terrace and Daveyston-Templers Road and continuing down Daveyston-Templers Road in a south-westerly direction to the north-westerly corner of lot 101, deposited plan No. 17466, then travelling in a southerly direction to the south-western corner of lot 533, then travelling in a north-easterly direction to the north-western corner of lot 534, then travelling in a southerly direction to the south-western corner of lot 535, along the boundary of that allotment to the south-eastern corner of lot 535, then travelling north along Railway Terrace to join at the commencement point on the corner of Railway Terrace and Daveyston-Templers Road; and
- (e) all of that land contained within section 1822 in the Hundred of Nuriootpa; and
- (f) that land contained within the Rural Living Zone designated at the southern end of the town of Greenoch and bounded by the Residential Zone, Centre Zone, sections 148, 1672 and 166 in the Hundred of Nuriootpa.

Loxton Waikerie (areas including Residential (Loxton) Zone, Town Centre (Loxton) Zone, Industrial (Loxton) Zone, Special Uses (Showgrounds) (Loxton) Zone, Residential (Waikerie) Zone, Public Purpose (Waikerie) Zone, Town Centre (Waikerie) Zone, Industrial (Waikerie) Zone)

Marion

Mitcham

The Rural City of Murray Bridge (the township of Murray Bridge as gazetted in the Government Gazette, 17 July 1986)

Norwood, Payneham & St. Peters—all of the area of The Corporation of the City of Norwood, Payneham & St. Peters

Playford—the area of the City of Playford excluding the following areas as defined in the relevant Development Plan under the *Development Act 1993*:

- Extractive Industry Zone;
- Horticulture Zone;
- Horticulture West Zone;
- Rural Zone;
- Mount Lofty Ranges Rural Zone;
- Watershed Zone;
- Rural Living Zone;
- Hills Face Zone;
- Recreation (Motor Sports) Zone;
- Moss (Recreation) Zone.

Port Adelaide Enfield—all of the area of the City of Port Adelaide Enfield

Port Augusta—the area of the City of Port Augusta, but excluding those areas zoned rural, rural living and rural deferred (deferred urban) as described in the Supplementary Development Plan for the City of Port Augusta authorised on 1 March 1990.

Prospect

Salisbury—those zones or areas within the City of Salisbury shown on the Development Plan under the *Development Act 1993* as follows:

- (a) land zoned for residential purposes; and
- (b) all Country Township zones; and
- (c) the Rural Living (Bolivar) Zone.

Tea Tree Gully—except for the following zones as shown on the Development Plan under the *Development Act 1993*:

- (a) Rural A Zone; and
- (b) Rural Living Zone; and
- (c) Hills Face Zone; and
- (d) Mount Lofty Ranges Rural Zone.

Unley

Walkerville—all of the area of the Corporation of the Town of Walkerville.

West Torrens—all of the area of the City of West Torrens.

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 this policy (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 policy and amendments

New entries appear in bold.

Notice	Provision under which notice is made	Publication of policy in Gazette	Commencement
Gazette 27.10.1994 p1352	Sch 2 cl 5	<i>Gazette 27.10.1994 p1359</i>	1.5.1995: cl 2
Gazette 13.6.1996 p2921	s 32	—	13.6.1996
Gazette 17.10.1996 p1362	s 32	—	17.10.1996
Gazette 20.2.1997 p986	s 32	—	20.2.1997
Gazette 12.2.1998 p897	s 32	—	12.2.1998
Gazette 19.8.1999 p886	s 32	—	19.8.1999
Gazette 25.1.2001 p302	s 32	—	25.1.2001
Gazette 13.3.2003 p867	s 32	—	13.3.2003
Gazette 13.5.2004 p1242	s 32	—	13.5.2004
Gazette 13.5.2004 p1246	s 32	—	13.5.2004
Gazette 21.7.2005 p2419	Sch 1 cl 3 of Act 21/2005	—	21.7.2005
Gazette 3.11.2005 p3867	Act 21/2005	—	3.11.2005: cl 2
Gazette 20.4.2006 p1105	s 32	—	20.4.2006: cl 2

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
<i>cl 2</i>	<i>omitted under the Legislation Revision and Publication Act 2002</i>	<i>13.5.2004</i>
cl 4		
cl 4(1)	amended by 3.11.2005 p3867 cl 5(1)	3.11.2005

cl 4(2)	amended by 13.3.2003 p867	13.3.2003
	amended by 20.4.2006 p1105 cl 4(1), (2)	20.4.2006
cl 4(3)	amended by 3.11.2005 p3867 cl 5(2)	3.11.2005
cl 4(4)	amended by 3.11.2005 p3867 cl 5(3), (4)	3.11.2005
cl 5		
cl 5(1)—(4)	amended by 21.7.2005 p2419	21.7.2005
cl 5(5)	amended by 3.11.2005 p3867 cl 6(1)	3.11.2005
cl 5(6)	amended by 3.11.2005 p3867 cl 6(2)	3.11.2005
cl 5(7)	amended by 3.11.2005 p3867 cl 6(3)	3.11.2005
Sch 1		
Council areas		
<i>Berri and Barmera</i>	<i>inserted by 20.2.1997 p986</i>	<i>20.2.1997</i>
	<i>deleted by 20.4.2006 p1105 cl 5(1)</i>	<i>20.4.2006</i>
Berri Barmera	inserted by 20.4.2006 p1105 cl 5(1)	20.4.2006
<i>Brighton</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
Charles Sturt	inserted by 25.1.2001 p302	25.1.2001
City of Onkaparinga	inserted by 13.3.2003 p867	13.3.2003
Copper Coast	inserted by 19.8.1999 p886	19.8.1999
Elizabeth	<i>deleted by 20.4.2006 p1105 cl 5(2)</i>	<i>20.4.2006</i>
<i>Enfield</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
Gawler	inserted by 13.6.1996 p2921	13.6.1996
<i>Glenelg</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
<i>Happy Valley</i>	<i>deleted by 13.3.2003 p867</i>	<i>13.3.2003</i>
<i>Henley and Grange</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
<i>Hindmarsh and Woodville</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
Holdfast Bay	inserted by 25.1.2001 p302	25.1.2001
Kapunda and Light	inserted by 12.2.1998 p897	12.2.1998
<i>Kensington and Norwood</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
Loxton Waikerie	inserted by 13.5.2004 p1246	13.5.2004
Munno Para	<i>deleted by 20.4.2006 p1105 cl 5(3)</i>	<i>20.4.2006</i>
The Rural City of Murray Bridge	inserted by 13.5.2004 p1242	13.5.2004
<i>Noarlunga</i>	<i>deleted by 13.3.2003 p867</i>	<i>13.3.2003</i>
<i>Northern Yorke Peninsula</i>	<i>inserted by 13.6.1996 p2921</i>	<i>13.6.1996</i>
	<i>deleted by 19.8.1999 p886</i>	<i>19.8.1999</i>
Norwood, Payneham & St. Peters	inserted by 25.1.2001 p302	25.1.2001

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Playford	inserted by 20.4.2006 p1105 cl 5(4)	20.4.2006
<i>Payneham</i>	<i>inserted by 13.6.1996 p2921</i>	<i>13.6.1996</i>
	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
<i>Port Adelaide</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
Port Adelaide Enfield	inserted by 25.1.2001 p302	25.1.2001
Port Augusta	inserted by 17.10.1996 p1362	17.10.1996
<i>St Peters</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
<i>Thebarton</i>	<i>deleted by 25.1.2001 p302</i>	<i>25.1.2001</i>
Walkerville	inserted by 19.8.1999 p886	19.8.1999
West Torrens	substituted by 25.1.2001 p302	25.1.2001

Historical versions

13.5.2004

21.7.2005

3.11.2005