

SOUTH AUSTRALIA

**ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION
AND OTHER PURPOSES) REGULATIONS, 1987**

**REGULATIONS UNDER THE ANIMAL AND PLANT CONTROL
(AGRICULTURAL PROTECTION AND OTHER PURPOSES) ACT, 1986**

*Animal and Plant Control (Agricultural Protection and
Other Purposes) Regulations, 1987*

being

No. 132 of 1987: *Gaz.* 25 June 1987, p. 1706¹

as varied by

No. 162 of 1989: *Gaz.* 24 August 1989, p. 652

No. 200 of 1992: *Gaz.* 19 November 1992, p. 1562²

No. 214 of 1995: *Gaz.* 23 November 1995, p. 1458³

No. 259 of 1996: *Gaz.* 23 December 1996, p. 2262⁴

No. 174 of 1997: *Gaz.* 24 July 1997, p. 209⁵

- ¹ Came into operation 1 July 1987: reg. 2.
- ² Came into operation 19 March 1993: reg. 2.
- ³ Came into operation 23 March 1996: reg. 2.
- ⁴ Came into operation 3 February 1997: reg. 2.
- ⁵ Came into operation 24 July 1997: reg. 2.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

2.

1. These regulations may be cited as the *Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations, 1987*.

2. These regulations will come into operation on 1 July 1987.

3. In these regulations, unless the contrary intention appears—

"the Act" means the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act, 1986*.

4. For the purposes of section 3 of the Act—

(a) the prescribed requirements for an animal proof fence are—

(i) set out in Schedule 2 in relation to a dog proof fence;

and

(ii) set out in schedule 3 in relation to a rabbit proof fence;

(b) the following bodies are prescribed control bodies:

Box Flat Dingo Control Committee
Eastern Districts Soil Conservation Board
Far West Outside Areas Weeds and Vermin Committee
Gawler Ranges Soil Conservation Board
North East Pastoral Soil Conservation Board
Northern Flinders Ranges Soil Conservation Board.

Advisory Committees (section 13(3))

5. The following advisory committees will be established:

(a) the Exotic Animals Advisory Committee;

(b) the Deer Advisory Committee;

(c) the Exotic Birds Advisory Committee.

6. (1) The Exotic Animals Advisory Committee will consist of six members, appointed by the Minister, of whom—

(a) one (who will be the presiding officer) will be the Presiding Officer of the Commission or, if the Presiding Officer is unwilling to act, the nominee of the Presiding Officer of the Commission;

(b) one will be the Director of the Adelaide Zoological Gardens or, if the Director is unwilling to act, the nominee of the Director;

(c) one will be the Director of the South Australian National Parks and Wildlife Service or, if the Director is unwilling to act, the nominee of the Director;

3.

(d) one will be the Chief Quarantine Officer (Animals) for South Australia or, if the Chief Quarantine Officer is unwilling to act, the nominee of the Chief Quarantine Officer;

(da) one who will be the Executive Director of the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated or, if the Executive Director is unwilling to act, the nominee of the Executive Director;

and

(e) one will be the nominee of the Animal and Plant Control Branch of the Department of Agriculture.

(2) The functions of the Committee are to advise the Commission in relation to—

(a) the classification of species of exotic animals;

(b) the introduction of exotic animals into South Australia;

(c) the keeping and control of exotic animals;

and

(d) the performance of any other function of the Commission that relates to exotic animals.

7. (1) The Deer Advisory Committee will consist of eight members, appointed by the Minister, of whom—

(a) one (who will be the presiding officer) will be the Presiding Officer of the Commission or, if the Presiding Officer is unwilling to act, a nominee of the Presiding Officer of the Commission;

(b) one will be the Director of the South Australian National Parks and Wildlife Service or, if the Director is unwilling to act, a nominee of the Director;

(c) one will be nominated by the Animal and Plant Control Branch of the Department of Agriculture;

(d) one will be nominated by the Australian Deer Association (South Australian Branch);

(e) one will be nominated by the Sporting Shooters' Association of Australia Deer Stalkers' Association (South Australia) Incorporated;

(f) one will be nominated by the Conservation Council of South Australia Incorporated;

and

(g) two will be nominated by the South Australian Deer Breeders Association Incorporated.

(2) The function of the Committee is to advise the Commission in relation to the performance of any function of the Commission that relates to deer.

4.

8. (1) The Exotic Birds Advisory Committee will consist of ten members, appointed by the Minister, of whom—

- (a) one (who will be the presiding officer) will be the Presiding Officer of the Commission or, if the Presiding Officer is unwilling to act, a nominee of the Presiding Officer;
- (b) one will be the Director of the South Australian National Parks and Wildlife Service or, if the Director is unwilling to act, a nominee of the Director;
- (c) one will be nominated by the Animal and Plant Control Branch of the Department of Agriculture;
- (d) one will be nominated by the Pet Traders Association of South Australia Incorporated;
- (e) two will be nominated by the United Bird Societies of South Australia;
- (f) two will be nominated by the South Australian Federation of Bird Dealers and Breeders;
- (g) two will be nominated by the South Australian Ornithological Association.

(2) The function of the Committee is to advise the Commission in relation to the performance of any function of the Commission that relates to exotic birds.

9. A member of an advisory committee who has been nominated to that position (a nominated member) will be appointed for a term not exceeding two years on such conditions as the Minister determines and, on the expiration of the term of office, will be eligible for reappointment.

10. (1) The Minister may remove a nominated member of an advisory committee from office for—

- (a) a breach of or non-compliance with the conditions of the member's appointment;
 - (b) mental or physical incapacity to carry out official duties satisfactorily;
 - (c) neglect of duty;
- or
- (d) dishonourable conduct.

(2) The office of a nominated member of an advisory committee will become vacant if the member—

- (a) dies;
- (b) completes a term of appointment and is not reappointed;

5.

(c) resigns by written notice to the Minister;

or

(d) is removed from office under subregulation (1).

11. On the office of a member of an advisory committee becoming vacant, a person will be appointed in accordance with these regulations to the vacant office.

12. (1) The number of members of an advisory committee that constitute a quorum at meetings of the advisory committee is the integer that is closest to and greater than one half of the number of members of the Committee.

(2) The presiding officer will preside at meetings of an advisory committee but, in the absence of the presiding officer, the members present may decide who is to preside at the meeting.

(3) A question arising before an advisory committee will be determined in accordance with the opinion of a majority of the members present or, where they are equally divided in opinion, in accordance with the opinion of the person presiding at the meeting.

(4) An advisory committee must cause accurate minutes to be kept of the business conducted at its meetings.

(5) Subject to these regulations the conduct of the business of an advisory committee will be determined by the advisory committee.

13. An act or proceeding of an advisory committee is not invalid by reason of a vacancy in the membership of the committee or a defect in the appointment of a member to the committee.

14. (1) Subject to subregulation (2), the Commission must, in relation to any function of the Commission in relation to which it is the function of an advisory committee to advise the Commission, obtain, and have due regard to, the advice of the advisory committee before performing that function.

(2) Subregulation (1) does not apply if, in the opinion of the commission, action must be taken urgently and there is insufficient time to obtain the advice of the appropriate advisory committee.

Dingo Control

15. (1) A person who wishes to claim a reward from the Commission for the destruction of a dingo must deliver to the designated person for the area in which the dingo was destroyed—

(a) an application in the form of Part A of Schedule 1; and

(b) the scalp and tail of the dingo.

6.

(2) A designated person who receives an application referred to in subregulation (1) must—

- (a) complete a certificate in the form of Part B of the schedule; and
- (b) forward the application and certificate, together with the dingo tail and scalp, to the Commission and a copy of the certificate to the applicant.

(3) A decision by the Commission or a designated person—

- (a) that a scalp or tail is not a dingo scalp or tail;
- (b) as to the age of a dingo;

or

- (c) as to the locality in which a dingo was destroyed,

is final but, in the event of disagreement between the Commission and a designated person the decision of the Commission will prevail.

(4) In this regulation—

"designated person" means a person designated by the Commission in relation to a particular area of the State by notice in the *Gazette* that states the person's name and describes the area concerned:

"scalp" means the two ears of a dingo together with the connecting skin.

Prescribed Measures for Control of Animals

16. (1) The following measures are prescribed under section 47(3) of the Act in relation to goats in the Flinders Ranges and on the Off-shore Islands:

The goats must, subject to regulation 18—

- (a) be captured and removed from the land within six weeks after capture;

or

- (b) be destroyed.

(2) A goat (whether captured pursuant to subregulation (1)(a) or not) may, subject to regulation 18(2), be released with a radio transmitter or other tracking device attached for the purpose of locating other goats.

(3) In this regulation and in regulation 17—

"Flinders Ranges" means the control area declared by proclamation under section 40 of the Act in relation to goats in relation to the Flinders Ranges:

7.

"Off-shore Islands" means the control area declared by proclamation under section 40 of the Act in relation to goats in relation to the islands off the coast of South Australia.

17. (1) The following measures are prescribed under section 47(3) of the Act in relation to goats in all parts of the State except the Flinders Ranges and the Off-shore Islands:

- (a) in the case of goats that are on land owned or occupied by the owner of the goats or on land with the consent of the owner or occupier of the land, the goats must—
 - (i) be secured or confined in a manner determined by the Commission;and
 - (ii) in the case of goats that are over six months of age or 15 kilograms in body weight—be permanently identified in a manner determined by the Commission;
- (b) in the case of goats that are on land without the consent of the owner or occupier of the land the goats must, subject to regulation 18—
 - (i) be captured and removed from the land within six weeks after capture;or
 - (ii) be destroyed.

(2) A goat (whether captured pursuant to subregulation (1)(b)(i) or not) may, subject to regulation 18(2), be released with a radio transmitter or other tracking device attached for the purpose of locating other goats.

18. (1) An owner of land is not required to capture a goat if, by reason of the terrain inhabited by the goat or any other circumstance, capture is impossible.

(2) A goat must not be released pursuant to regulation 16 or 17 unless it is released with the written approval of the Commission and in accordance with conditions (if any) to which the approval is subject.

(3) An owner of land (or a person acting on behalf of an owner of land) or any other person taking measures for the control or destruction of goats pursuant to the Act or these regulations must not, if he or she knows or has reason to believe that another person claims ownership of the goats, destroy the goats or sell or otherwise dispose of them to any person (other than the owner of the goats) without first complying with subregulation (4).

(4) Before destroying the goats or selling or otherwise disposing of them, an owner of land or other person referred to in subregulation (3) must serve notice on the person who claims ownership, or the person who is believed to claim ownership, of the goats requiring that person to remove the goats from the land within a period (being a period that is not less than the period prescribed by subregulation (7)) specified in the notice.

(5) The owner of land or other person referred to in subregulation (3) must not destroy or sell or otherwise dispose of the goats until the period specified in the notice has expired.

8.

(6) 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.

(7) The minimum period of notice for the purposes of a notice under subregulation (4) is as follows:

(a) where the notice is served personally—48 hours;

(b) where the notice is served by post or by publication in a newspaper—7 days commencing at the time of posting or publication.

Prevention of Cruelty to Animals

18a. (1) A person who—

(a) destroys an animal;

(b) captures or removes an animal from land;

or

(c) takes any other action in relation to an animal that is a prescribed measure for the control of animals,

pursuant to the Act or these regulations must not deliberately or unreasonably cause the animal unnecessary pain, suffering or distress.

(2) A person who attempts to destroy an animal, but only succeeds in injuring it, must take reasonable steps to destroy it as quickly and as painlessly as possible.

(3) A person must not set a steel jaw trap for an animal within the area of a municipal council in the course of undertaking a prescribed measure for the control of animals pursuant to the Act or these regulations.

(4) A person who conveys or transports an animal in the course of removing it from land pursuant to the Act or these regulations—

(a) must before conveying or transporting the animal, ensure that it has been properly rested and provided with appropriate food and water;

(b) must avoid undue delay during the conveyance or transport;

9.

- (c) must not convey or transport the animal in a vehicle in which other animals of a different species or substantially different size are being conveyed or transported, unless the animals are caged separately, or in groups consisting of animals of the same species and similar size;
- (d) must provide the animal with food and water as soon as is practicable after conveying or transporting the animal;
- (e) must, where the animal is conveyed or transported by road, comply with the provisions of the Code of Practice for the Welfare of Animals, Road Transport of Livestock, published in the *Gazette* on 24 April, 1986, at p. 1035;

and

- (f) must, where the animal is conveyed or transported by rail, comply with the provisions of the Code of Practice for the Welfare of Animals, Rail Transport of Livestock, published in the *Gazette* on 24 April, 1986, at p. 1051.

(5) Subregulation (4) does not prevent a person from conveying or transporting a female animal with her unweaned offspring in the same vehicle or cage.

Reviews

19. An application to the Minister under section 48(5) or 69(1) of the Act and an application to the Commission under section 58(3) of the Act, must be made in writing and must set out clearly the grounds on which the applicant seeks a review of a notice.

Exemptions

20. An authorized officer is exempt from the provisions of sections 41 and 52 of the Act in the course of carrying out his or her duties under the Act.

21. (1) A person is exempt from the provisions of section 52(1) of the Act in respect of a plant carried by wool or grain that is being transported or moved to a place where it will be cleaned or milled.

(2) A person is exempt from the provisions of section 52(2) of the Act in respect of wool or grain being transported or moved to a place where it will be cleaned or milled.

22. A person is exempt from the provisions of section 54(2) of the Act in respect of wool or grain sold by that person if he or she believes, on reasonable grounds, at the time of the sale that the purchaser will remove, or arrange for the removal, of plants of a class to which section 54(2) of the Act applies from the wool or grain—

- (a) before reselling the wool or grain;

and

- (b) in the case of wool or grain intended for export—before the wool or grain leaves Australia.

23. (1) Subject to subregulation (2), a person who keeps a rabbit for a purpose that is not, or purposes that do not include, a commercial purpose is exempt from sections 41, 42, 46 and 47 of the Act in relation to that rabbit if—

- (a) the rabbit is kept in a cage that does not exceed four square metres in floor area;
- and
- (b) not more than one cage is used for the purpose of keeping rabbits on the premises on which the rabbit is kept.

(2) The exemption granted under this regulation does not extend to the keeping of a rabbit—

- (a) on Hindmarsh Island or on any off-shore island that forms part of the State;
- or
- (b) in a building from which, or from part of which, animals are sold as pets.

Poisons

24. (1) A person who uses poison on a road for the destruction or control of animals in pursuance of the Act must display—

- (a) a notice at each end of the section of the road on which the poison is laid;
- and
- (b) a notice on all roads that intersect the section of the road on which the poison is laid at a distance of not more than 400 metres from the intersection.

(2) The notices referred to in subregulation (1) must be displayed so as to be easily seen by motorists entering the section of the road on which the poison is laid.

(3) The notices must state "POISON LAID ON ROAD" in red capital letters of not less than 55 mm in height on a white background.

25. (1) A person who lays poison on land (other than a road) for the destruction or control of animals in pursuance of the Act must display a notice in a conspicuous position at the points at which other persons are most likely to enter the land.

(2) The notice must state "Poison Laid On This Property".

(3) The notices must be displayed not more than 21 days before the poison is laid and, once displayed, must be continuously displayed until at least 14 days after the poison is laid.

(4) Where a notice is displayed in relation to the laying of poison on land for the destruction or control of rabbits, a person shall not before the expiration of 14 days after the poison is laid—

11.

- (a) take rabbits on the land by hunting, trapping or any other means; or
- (b) do anything else that is likely to frighten rabbits on the land.

26. (1) A notice displayed pursuant to regulation 24 or 25 must be clearly legible.

(2) Regulations 24 and 25 do not apply to poison used as a fumigant.

* * * * *

Miscellaneous

28. (1) If an application made under these regulations contains a statement that is false or misleading in a material particular, the person by whom the application is made is guilty of an offence.

(2) It is a defence to a charge for an offence under subregulation (1) to prove that the defendant believed, on reasonable grounds that the statement was true or, in the case of a statement that was true but misleading, that the statement was not misleading.

29. A person who contravenes, or fails to comply with, a provision of these regulations is guilty of an offence.

Penalty: \$2 000.

SCHEDULE 1

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) ACT, 1986
Regulation 15

PART A

Application for Payment of a Reward for the Destruction of a Dingo

I of
(name of applicant) (address of applicant)

apply for the payment of a reward for the destruction of a dingo and I declare—

(a) that the tails and scalps produced by me
(number)
to are the tails and scalps
(name of designated person)
of dingoes of which were pups;
(number) (number)

(b) that the dingoes were killed at or in the locality
of.....;
(name of place)

and

(c) that the dingoes were killed between the month of
....., 19, and the month of
....., 19

.....
(Signature of applicant)

.....
(Date)

13.

PART B

Certification by Designated Person

I, of
(full name) (address)

being a designated person, certify that

.....
(full name and address)

produced and delivered to me on the day of, 19,

the tails and scalps of dingoes which are declared to
(number)

have been killed at between the month
(locality)

of, 19, and the month of, 19,

inclusive, and I further certify that the tails and scalps have been forwarded by me to the Commission.

Dated this day of, 19

.....
(Signature of designated person)

14.

SCHEDULE 2

Dog-Proof Fence

[Diagram appears in *Gaz.* 25 June 1987, p. 1706]

SCHEDULE 2

STRAINERS 150 to 200mm diameter, 100m apart, 0.85m in the ground and 1.55m out of the ground.

POSTS to be iron, 5m apart, 0.3m in the ground and 1.5m out of the ground.

WIRE NETTING of 1.8mm gauge, width of 1.8m and maximum mesh of 100mm to be erected on the outside of the fence—1.5m to be above the ground and a ground lap of 0.3m. The ground lap to be held in place and secured by means of a 0.3m by 25mm by 5mm flat iron pin every metre, with a hole drilled 25mm from the top, driven into the ground for a depth of 0.27m at the outer edge of the ground lap with one 2.5mm gauge galvanized wire well strained and the wire and wire netting secured to the pin by not less than 2.5mm gauge galvanized wire.

FOUR PLAIN WIRES, galvanized of not less than 2.5mm diameter—50mm; 0.5m; 1.0m; and 1.5m above the ground.

THE WIRES except where otherwise specified, to be of 1.4mm or 1.6mm galvanized iron wire, secured at equal intervals to each 5m panel securing the netting to the three bottom wires at not more than 0.75m intervals and to the top wire at not more than 0.5m intervals,

15.

SCHEDULE 3

Rabbit-Proof Fence

[Diagram appears in *Gaz.* 25 June 1987, p. 1706]

SCHEDULE 3

STRAINERS 150 to 200mm diameter, 150m apart, 1.1m in the ground and 1.2m out of the ground.

POSTS 100 to 120mm diameter, 10m apart, 0.7m in the ground and 1.1m out of the ground.

DROPPERS at 3.3m intervals between the posts.

WIRE NETTING of not less than 1.4mm gauge, width of 1.05m and maximum mesh of 40mm—150mm to be placed in the ground and 0.9m out of the ground.

FENCE WIRES—4 plain wires, 2.4mm diameter, at 50mm; 0.45m; 0.9m; and 1.0m above the ground (the netting to be securely fastened to the first three wires with galvanized tie wire of 1.44mm diameter and not more than 0.5m apart on the top wire and not more than 0.75m apart on the lower wires). A barbed wire 1.1 m above the ground.

STRUTS on corner strainers may be either the single diagonal strut or the double post and brace rail strut. A barrier to prevent the entry of rabbits is to be placed on any single diagonal strut placed outside the netting.

* * * * *

APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Regulation No. 259 of 1996, reg. 4)

4. A regulation varied or revoked by these regulations will continue to apply (as in force immediately prior to the variation or revocation coming into operation) to an expiation notice issued under the varied or revoked regulations.

Legislative History

Regulation 4:	varied by 200, 1992, reg. 3; 214, 1995, reg. 3
Regulation 6(1):	varied by 174, 1997, reg. 3
Regulation 15(1):	varied by 162, 1989, reg. 2
Regulation 18(3):	substituted by 162, 1989, reg. 3
Regulation 18(4) - (7):	inserted by 162, 1989, reg. 3
Regulation 18a and heading:	inserted by 162, 1989, reg. 4
Regulation 23(2):	substituted by 200, 1992, reg. 4
Regulation 27:	substituted by 200, 1992, reg. 5; revoked by 259, 1996, reg. 3 (Sched. cl. 2)
Schedule 4:	inserted by 200, 1992, reg. 6; revoked by 259, 1996, reg. 3 (Sched. cl. 2)