

As in force at 1 July 2002.

South Australia

**BOTANIC GARDENS AND STATE HERBARIUM (GENERAL)
REGULATIONS 1993**

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**REGULATIONS UNDER THE BOTANIC GARDENS AND STATE HERBARIUM ACT
1978**

*Botanic Gardens and State Herbarium (General) Regulations
1993*

being

No. 171 of 1993: *Gaz.* 15 July 1993, p. 569¹

as varied by

- No. 43 of 1994: *Gaz.* 2 June 1994, p. 1559²
No. 109 of 1994: *Gaz.* 30 June 1994, p. 1959³
No. 90 of 1995: *Gaz.* 10 May 1995, p. 2082⁴
No. 128 of 1996: *Gaz.* 30 May 1996, p. 2792⁵
No. 108 of 1997: *Gaz.* 13 May 1997, p. 1923⁶
No. 100 of 1998: *Gaz.* 28 May 1998, p. 2408⁷
No. 101 of 1999: *Gaz.* 27 May 1999, p. 2904⁸
No. 115 of 2000: *Gaz.* 25 May 2000, p. 2825⁹
No. 204 of 2000: *Gaz.* 31 August 2000, p. 1039¹⁰
No. 59 of 2001: *Gaz.* 31 May 2001, p. 1967¹¹
No. 10 of 2002: *Gaz.* 15 January 2002, p. 300¹²
No. 59 of 2002: *Gaz.* 20 June 2002, p. 2527¹³

- ¹ Came into operation 1 September 1993: reg. 2.
² Came into operation 1 July 1994: reg. 2.
³ Came into operation 30 June 1994: reg. 2.
⁴ Came into operation 1 July 1995: reg. 2.
⁵ Came into operation 1 July 1996: reg. 2.
⁶ Came into operation 1 July 1997: reg. 2.
⁷ Came into operation 1 July 1998: reg. 2.
⁸ Came into operation 1 July 1999: reg. 2.
⁹ Came into operation 1 July 2000: reg. 2.
¹⁰ Came into operation 31 August 2000: reg. 2.
¹¹ Came into operation 1 July 2001: reg. 2.
¹² Came into operation 15 January 2002: reg. 2.
¹³ **Came into operation 1 July 2002: reg. 2.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last consolidation.
- For the legislative history of the regulations see Appendix 1.

**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Botanic Gardens and State Herbarium (General) Regulations 1993*.

Commencement

2. These regulations will come into operation on 1 September 1993.

Revocation

3. All regulations previously made under the *Botanic Gardens and State Herbarium Act 1978* are revoked.

Interpretation

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

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

"**adult**" means a person who has attained the age of 15 years;

"**Botanic Park**" means the land comprising the whole of section 574 Hundred of Adelaide and section 640 Hundred of Adelaide;

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

"**concession cardholder**" means a person who is the holder of—

- (a) a current concession card issued by the Commonwealth Department of Social Security or the State Department of Family and Community Services; or
- (b) a current student identification card issued to a student of a secondary or tertiary educational institution by that institution; or
- (c) any other current concession card approved by the Director;

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

"**family**" means a group of adults and children not exceeding four in number and not including more than two adults;

"**the Gardens**" means all land within public botanic gardens and all other land vested in or placed under the care or control of the Board and includes the Conservatory and the Rose Garden but excludes Botanic Park;

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

3.

"the Rose Garden" means the Adelaide International Rose Garden situated at the corner of Plane Tree Drive and Hackney Road, adjacent to the Conservatory.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Application

5. 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 his or her duties as a Gardens employee or the performance of those services.

**PART 2
ADMINISTRATION**

Approval of Director

6. (1) An approval given by the Director for the purposes of these regulations—

- (a) must be in writing or, if given orally, 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) as are specified by the Director; and
- (c) may be varied or revoked by the Director at any time.

(2) Where the Director gives approval subject to a condition, the person to whom approval is given must not contravene or fail to comply with the condition.

Reward

7. The Board may, at its discretion, pay a sum not exceeding \$300 to a person (other than a Gardens employee or a member of the police force) for information leading to the conviction of any person for an offence against the Act or any regulations made under the Act.

Charges

8. (1) The charges set out in the schedule are payable to the Board.

(2) The Director may, if he or she considers it appropriate, waive or reduce payment of a charge otherwise payable under these regulations.

Identity cards

9. (1) The Minister must provide an identity card to each Gardens employee.

(2) A Gardens employee must produce his or her identity card at the request of a person in relation to whom the employee has exercised, or intends to exercise, powers under these regulations.

Powers of Gardens employees

10. (1) Where a Gardens employee knows or reasonably suspects that a person has committed, or is committing, an offence against these regulations, the employee may do any or all of the following:

- (a) require the person to state his or her full name and usual place of residence;
- (b) if the person has been given an approval by the Director—require the person to produce the approval for inspection;
- (c) if the person is in the Gardens or Botanic Park—order him or her to leave the Gardens or Botanic Park for a stated period not exceeding 24 hours.

(2) If a Gardens employee suspects on reasonable grounds that a person is about to commit an offence against these regulations, the Gardens employee may require the person to state his or her full name and usual place of residence.

5.

(3) If a Gardens employee suspects on reasonable grounds that the name or place of residence stated pursuant to this regulation is false, the employee may require the person to produce evidence of his or her full name or usual place of residence.

(4) A person must comply with a requirement or order of a Gardens employee under this regulation.

Hindering Gardens employees or agents

11. A person must not hinder or obstruct a Gardens employee or agent of the Board in the carrying out of his or her duties.

**PART 3
CONTROL OF ACTIVITIES**

Entrance to Gardens

12. (1) The Director may, from time to time, cause notice of the hours during which the Gardens or parts of the Gardens are open to the public to be displayed at the entrances to the Gardens or those parts of the Gardens.

(2) The Director may close the Gardens or parts of the Gardens when, in the opinion of the Director, it is in the interests of public safety to do so.

(3) A person must not, without the approval of the Director, enter or remain in the Gardens or a part of the Gardens when the Gardens or that part is closed to the public.

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Children in Gardens

14. (1) A person having the custody or care of a child must not permit the child to enter or remain in the Gardens unless accompanied by, and under the care of, an adult.

(2) A child must not enter or remain in the Gardens unless accompanied by, and under the care of, an adult.

Conservatory

15. (a1) A person must not enter or remain in the Conservatory unless the appropriate charge for admission has been paid (*see regulation 8 and the schedule*).

(1) A person must not take food or drink into the Conservatory.

(2) A person must not smoke in the Conservatory.

Flora and fauna protection

16. A person must not, without the approval of the Director—

(a) remove from the Gardens or Botanic Park any soil, rock, mineral or similar material;
or

(b) dig or otherwise intentionally disturb any soil or similar material in the Gardens or Botanic Park; or

(c) take, damage, climb on or interfere with any tree, shrub, plant, flower or other plant material in the Gardens or Botanic Park; or

(d) take or molest any bird, animal or fish in the Gardens or Botanic Park; or

(e) take or intentionally damage the nest or burrow of any bird or animal in the Gardens or Botanic Park.

Protection of Board's property

17. A person must not in the Gardens or Botanic Park—

- (a) remove, damage, deface or interfere with any label, sign, seat, statue, building or other structure erected or placed there on behalf of the Board; or
- (b) step or walk on any garden bed or border; or
- (c) climb over, pass under or break through any gate, fence or hedge; or
- (d) enter or remain in an area, building or structure 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.

Animals

18. (1) Subject to this regulation, a person must not, without the approval of the Director, bring an animal into the Gardens or Botanic Park or permit an animal to enter the Gardens or Botanic Park.

(2) A person may ride or lead a horse on a road in Botanic Park.

(3) A person who needs the assistance of a guide dog may bring the dog into the Gardens or Botanic Park if it is restrained on a lead not exceeding three metres in length at all times while in the Gardens or Botanic Park.

Camping

19. A person must not camp or stay overnight in the Gardens or Botanic Park.

Fires

20. (1) A person must not light or maintain a fire in the Gardens.

(2) A person must not, without the approval of the Director, light or maintain a fire in Botanic Park except in a barbecue, stove or other receptacle safely positioned in a place set apart by the Board for that purpose.

Firearms, etc.

21. A person must not bring a firearm, catapult or other weapon into the Gardens or Botanic Park or carry or use a firearm, catapult or other weapon in the Gardens or Botanic Park.

Sport and other recreational activities

22. (1) A person must not—

- (a) engage in the Gardens in any form of sport or sporting activity or in any game involving the use of a ball or any game in which any object is thrown or discharged; or
- (b) ride or use a skateboard, roller skates or other similar device in the Gardens or Botanic Park.

(2) A person must not, without the approval of the Director, engage in Botanic Park in any organised sport or organised sporting activity.

Consumption of alcohol

22A. A person must not consume alcohol in the Gardens except in licensed premises within the meaning of the *Liquor Licensing Act 1985*.

Behaviour

23. (1) A person must not behave in a drunken, disorderly, offensive or indecent manner or create any disturbance in the Gardens or Botanic Park.

(2) A person must not intentionally obstruct, disturb, interrupt or annoy any other person making proper use of the Gardens or Botanic Park.

(3) 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 the Gardens or Botanic Park.

(4) A person must not urinate or defecate in any place within the Gardens or Botanic Park except in a public convenience.

Noise

24. (1) A person must not, without the approval of the Director—

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

(b) play or sound any musical instrument or whistle in the Gardens or Botanic Park.

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

Litter and pollution

25. (1) A person must not deposit litter, refuse or waste matter in the Gardens or Botanic Park except in a receptacle provided for the purpose.

(2) A person must not, without the approval of the Director, deposit goods, materials, earth, stone, gravel, or any other substance in the Gardens or Botanic Park.

(3) A person must not foul or pollute any waters in the Gardens or Botanic Park.

Commercial activities, etc.

26. (1) A person must not, without the approval of the Director, use any part of the Gardens or Botanic Park for the purpose, or in the course, of carrying out any commercial enterprise.

(2) A person must not, without the approval of the Director, advertise any goods or services in the Gardens or Botanic Park.

(3) A person must not, without the approval of the Director, sell any goods (including any badge) or services in the Gardens or Botanic Park.

(4) A person must not, without the approval of the Director, distribute or leave for collection any pamphlet, paper or other written matter in the Gardens or Botanic Park.

9.

(5) A person must not, without the approval of the Director, display or erect any flag, sign, hoarding or similar object in the Gardens or Botanic Park.

Public assembly or announcement

27. A person must not, without the approval of the Director—

- (a) engage or take part in public speaking or make any public announcement in the Gardens or Botanic Park; or
- (b) organise, attend or participate in any public meeting, demonstration or gathering in the Gardens or Botanic Park.

Donations

28. A person must not, without the approval of the Director—

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

10.

**PART 4
PENALTIES**

General penalty

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

Penalty: Division 7 fine.

SCHEDULE
Charges

1. ADMISSION CHARGES

The Conservatory (during usual opening hours)—	\$3.40 per adult \$1.70 per child or concession holder \$8.00 per family
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2. SERVICES*(1) Tree Advisory Service*

<p><i>(a)</i> Tree inspection (including travelling time and time spent researching and writing report)</p> <p><i>(b)</i> Expert advice or court appearance as expert witness (including travelling time)</p>	<p>\$105.00 for the first hour (or part of an hour) plus \$53.50 for each subsequent half hour (or part of a half hour)</p> <p>\$105.00 for each hour (or part of an hour)</p>
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(2) Plant Sciences Services

For acting as consultant or court appearance as expert witness:

<p><i>(a)</i> where the service is provided by an officer classified at a level of or equivalent to Professional Service Officer 4 or below</p> <p><i>(b)</i> where the service is provided by an officer classified at a level of or equivalent to Professional Services Officer 5 or above</p>	<p>\$114.00 for each hour (or part of an hour)</p> <p>\$151.00 for each hour (or part of an hour)</p>
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(3) Identification of Plant Specimens and other Plant Material for Commonwealth Agency or Instrumentality

<p><i>(a)</i> per specimen, for a signed written identification</p> <p><i>(b)</i> per specimen, for an oral or unsigned identification</p>	<p>\$62.50 for the first 15 minutes (or part of 15 minutes) plus \$48.25 for each subsequent 30 minutes (or part of 30 minutes)</p> <p>\$38.00 for the first 15 minutes (or part of 15 minutes) plus \$48.25 for each subsequent 30 minutes (or part of 30 minutes)</p>
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(4) Identification of Plant Specimens by the State Herbarium

<p><i>(a)</i> where the service is provided to a person for commercial purposes</p> <p><i>(b)</i> in any other case</p>	<p>\$19.30 per specimen identified</p> <p>No charge</p>
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APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last consolidation)

Regulation 4:	definition of "the Gardens" varied by 204, 2000, reg. 3(a) definition of "the Rose Garden" inserted by 204, 2000, reg. 3(b)
Regulation 13:	varied by 204, 2000, reg. 4; revoked by 10, 2002, reg. 3
Regulation 15(a1):	inserted by 10, 2002, reg. 4
Regulation 22A:	inserted by 109, 1994, reg. 3
Schedule:	varied by 43, 1994, reg. 3; 90, 1995, reg. 3; 128, 1996, reg. 3; 108, 1997, reg. 3; 100, 1998, reg. 3; 101, 1999, reg. 3; 115, 2000, reg. 3; 204, 2000, reg. 5; substituted by 59, 2001, reg. 3; varied by 10, 2002, reg. 5; substituted by 59, 2002, reg. 3

APPENDIX 2**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.