

South Australia

Forestry Regulations 2013

under the *Forestry Act 1950*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Forestry Regulations 2013*.

2—Commencement

These regulations will come into operation 4 months after the day on which they are made (see *Subordinate Legislation Act 1978* section 10AA).

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Forestry Act 1950*;

adult means a person of or over 15 years of age;

aircraft includes any hang-glider, para-glider, ultra-light aircraft, gas or hot air balloon, or other similar craft;

animal includes any amphibian, bird, crustacean, fish, mollusc or reptile, but does not include an insect;

boat means any vessel or craft that is used, or is capable of being used, as a means of transportation on water;

bus means a motor vehicle built mainly to carry people that seats over 12 adults (including the driver);

child means a person of or over 3 years of age but under 15 years of age;

drive includes be in control of;

family means a group consisting of either 1 or 2 adults and at least 1 child, with no more than 4 persons in total;

firearm means a device from which any kind of shot, arrow, bullet or other missile can be discharged;

forest reserve includes a native forest reserve;

fossicking means the gathering of minerals—

- (a) as a recreation; and
- (b) without any intention to sell the minerals or to utilise them for a commercial or industrial purpose,

but does not include the gathering of minerals by any means involving the disturbance of land or water by machinery or explosives;

lawful authority means authority pursuant to the Act or these regulations and includes authority pursuant to—

- (a) a permit or other authority issued or provided by the Corporation; or
- (b) a lease, licence, easement or other interest granted by the Corporation;

minerals includes stone but does not include soil;

motor bike means a motor vehicle with 2 wheels, and includes a 2 wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel;

motor vehicle means a vehicle built to be propelled by a motor that forms part of the vehicle;

night means the period between sunset on one day and sunrise on the next day;

ride, in relation to a motor bike or bicycle or an animal-drawn vehicle, includes be in control of;

senior or pensioner means the holder of—

- (a) a current State Seniors Card issued by the State Government; or
- (b) a current Pensioner Concession Card issued by the Commonwealth Government;

soil includes sand, clay and similar material;

take, in relation to an animal, includes any act of hunting, catching, restraining, killing or injuring, and any act of attempting or assisting to hunt, catch, restrain, kill or injure;

trapping device means a trap, net, snare or other device designed to take or facilitate the taking of animals;

unprotected animal means an animal that is not a protected animal within the meaning of the *National Parks and Wildlife Act 1972*;

vehicle has the same meaning as in the *Road Traffic Act 1961*.

4—Non-derogation from Corporation's powers

Nothing in these regulations derogates from the power of the Corporation—

- (a) to deny a person access to, or require a person to leave, a forest reserve or part of a forest reserve as the Corporation thinks fit for the proper control and management of the forest reserve but subject to any lease, licence, easement or other interest, or any permit, granted and in force under the Act or these regulations; or

- (b) to authorise entry to or an activity in a forest reserve otherwise than by a permit under these regulations.

Part 2—Entrance to reserves or parts of reserves

5—Prohibition of entrance on total fire ban days

A person must not, without lawful authority, enter or remain in a forest reserve on a day on which the lighting or maintaining of fires in the open air for any purpose is banned under the *Fire and Emergency Services Act 2005* throughout the State or a part of the State in which the forest reserve is situated.

Maximum penalty: \$750.

Expiation fee: \$105.

6—Prohibition of entrance by notice

- (1) A person must not, without lawful authority, enter or remain in a forest reserve or part of a forest reserve contrary to the terms of notices erected with the approval of the Corporation at the entrances to that reserve or that part of the reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) In subregulation (1), a reference to an entrance to a forest reserve or part of a forest reserve is a reference to a place at which any established road or track intersects the boundary of that forest reserve or that part of the forest reserve.

7—Prohibition of entrance at night

A person must not, without lawful authority—

- (a) camp in a forest reserve overnight; or
(b) enter a forest reserve before sunrise on any day; or
(c) enter or remain in a forest reserve after sunset on any day.

Maximum penalty: \$750.

Expiation fee: \$105.

8—Prohibition of entrance to caves or sinkholes

A person must not, without lawful authority, enter or remain in a cave or sinkhole in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

Part 3—Controls on activities in reserves

9—Lighting, maintaining or using fires

- (1) A person must not, without lawful authority, light, maintain or use a fire in the open air in a native forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person must not, without lawful authority, at any time during the month of November, December, January, February, March or April in any year light, maintain or use a fire in the open air, or use a gas or electrical cooking appliance, heater or lamp in the open air, in a forest reserve.
Maximum penalty: \$750.
Expiation fee: \$105.
- (3) A person must not, without lawful authority, light, maintain or use a fire in a forest reserve unless—
- (a) the fire is for cooking or personal comfort; and
 - (b) the fire is contained in a properly constructed fire place or a portable cooking appliance; and
 - (c) the space immediately around and above the fire is cleared of all flammable material to a distance of at least 4 metres; and
 - (d) the fire does not occupy an area in excess of 1 square metre; and
 - (e) a person who is able to control the fire is present at the site of the fire from the time it is lighted to the time it is completely extinguished; and
 - (f) an appropriate agent adequate to extinguish the fire is at hand.
- Maximum penalty: \$750.
Expiation fee: \$105.

10—Use of vehicles

- (1) A person must not, without lawful authority, drive or ride a vehicle in a forest reserve.
Maximum penalty: \$750.
Expiation fee: \$105.
- (2) Subregulation (1) does not apply to a person who drives or rides a vehicle in a forest reserve other than a native forest reserve—
- (a) on an established road or track (other than a road or track or part of a road or track that has been closed off by a sign or barrier erected with the approval of the Corporation); or
 - (b) within 5 metres either side of such a road or track for the purpose only of parking or turning the vehicle.
- (3) 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 a forest reserve.
Maximum penalty: \$750.
Expiation fee: \$105.
- (4) A warden may remove, or cause to be removed, a vehicle left in contravention of subregulation (3) and the Corporation may recover the reasonable costs of removal from the owner of the vehicle as a debt due to the Corporation.

11—Use of boats

A person must not, without lawful authority, use a boat on any stream, creek, dam, reservoir, lake, sinkhole or other body of water in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

12—Use of aircraft

A person must not, without lawful authority, land or otherwise use an aircraft in a forest reserve except in the case of an emergency.

Maximum penalty: \$750.

Expiation fee: \$105.

13—Possession or use of firearms etc

A person must not, without lawful authority, have control of, carry or use—

- (a) a firearm or trapping device; or
- (b) fireworks or explosives,

in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

14—Protection of animals

- (1) A person must not, without lawful authority, take, molest or interfere with an unprotected animal, or the eggs of an unprotected animal, in a forest reserve.
Maximum penalty: \$750.
Expiation fee: \$105.
- (2) A person must not, without lawful authority, remove from a forest reserve, or intentionally destroy, damage or disturb in a forest reserve, any animal nest or burrow.
Maximum penalty: \$750.
Expiation fee: \$105.

15—Protection of vegetation

- (1) A person must not, without lawful authority, remove from a forest reserve, or intentionally destroy, damage or disturb in a forest reserve, any—
 - (a) tree, plant or other vegetation; or
 - (b) wood, bark, mulch or other dead vegetation.Maximum penalty: \$750.
Expiation fee: \$105.
- (2) Subregulation (1) does not apply to—
 - (a) the removal of wood for firewood where the wood has been set aside by the Corporation for removal and use as firewood; or

- (b) destruction, damage or disturbance reasonably required in connection with an activity lawfully engaged in by that person in the forest reserve.

16—Protection of water

A person must not, without lawful authority—

- (a) take water from any tank, watercourse or natural water storage in a forest reserve except as reasonably required in connection with any activity lawfully engaged in by that person in the forest reserve; or
- (b) dam or divert a watercourse in a forest reserve; or
- (c) foul or pollute water in any tank, watercourse or natural water storage in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

17—Protection of soil, fossils etc

- (1) A person must not, without lawful authority—

- (a) fossick for minerals in a forest reserve; or
- (b) remove any soil, minerals or similar material from a forest reserve; or
- (c) intentionally destroy, damage or disturb any soil, minerals or similar material in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) Subregulation (1)(c) does not apply to destruction, damage or disturbance reasonably required in connection with an activity lawfully engaged in by that person in the forest reserve.

- (3) A person must not, without lawful authority—

- (a) remove any fossil or archaeological remains from a forest reserve; or
- (b) intentionally destroy, damage or disturb any fossil or archaeological remains in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

18—Depositing rubbish

- (1) A person must not, without lawful authority, deposit rubbish (including soil, stone, rubble, animal or vegetable matter and other debris, waste or refuse) in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) Subregulation (1) does not apply in relation to rubbish arising from an activity lawfully engaged in by the person in the forest reserve if the rubbish is deposited in a receptacle or place set aside for that purpose in the reserve.

19—Abandoned property

- (1) Any vehicle or personal property abandoned or left unattended for more than 24 hours in a forest reserve may be seized and impounded by a forest warden.
- (2) The Corporation 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 the vehicle or personal property before returning the vehicle or personal property to the owner.
- (3) If, at the expiration of 1 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 Corporation the cost of seizing, impounding and keeping the vehicle or personal property, the Corporation may sell or otherwise dispose of the vehicle or personal property.
- (4) If the owner of any vehicle or personal property seized or impounded under this regulation is unknown or cannot be contacted, the Corporation may, after the expiration of 1 month after the vehicle or personal property has been seized or impounded, sell or otherwise dispose of the vehicle or personal property.

20—Bringing horses or other animals into reserves

- (1) A person must not, without lawful authority—
 - (a) cause or permit a horse of which the person has care and control to enter or remain in a forest reserve; or
 - (b) lead or ride a horse in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person must not, without lawful authority, cause or permit any other animal of which the person has care and control to enter or remain in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) Subregulation (2) does not apply in the case of a forest reserve other than a native forest reserve if—
 - (a) the animal is a pet animal; and
 - (b) the animal is, at all times while in the reserve, under the person's effective control or the effective control of some other person.

21—Seizure, disposal of animals

- (1) If an unprotected animal is in a forest reserve and—
 - (a) is not under the control of any person; and
 - (b) is not in the reserve pursuant to a permit or other authority, or a lease, licence, easement or other interest, granted by the Corporation,

a forest warden or any other person authorised by the Corporation 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 forest warden or other person authorised by the Corporation knows, or has reason to believe, that a person claims ownership of an animal in a forest reserve, 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 reserve 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 this regulation are a debt due by the owner of the animal to the Corporation.
- (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.

22—Disorderly behaviour etc

A person must not, in a forest reserve—

- (a) cause a disturbance or behave in a disorderly, offensive or indecent manner; or
- (b) use offensive or indecent language; or
- (c) wilfully obstruct, disturb, interrupt or annoy any other person engaged in the proper use of the reserve; or
- (d) throw, roll or discharge a stone, substance or missile so as to endanger any person or animal in the reserve; or
- (e) 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 reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

23—Other activities that must be authorised

A person must not, without lawful authority—

- (a) take a photograph, or make a film or other audio or video recording, for commercial purposes in a forest reserve; or
- (b) conduct a tour in a forest reserve for fee or reward or organise such a tour; or
- (c) conduct any athletic, horse riding, fishing, cycling or other kind of competition in a forest reserve or organise such a competition; or
- (d) sell or hire goods, or offer goods for sale or hire, in a forest reserve; or
- (e) provide, or offer to provide, any service in a forest reserve for fee or reward; or
- (f) conduct a motor vehicle race, rally, speed trial or similar event in a forest reserve or organise such an event; or

- (g) conduct scientific experiments in a forest reserve; or
- (h) keep bees in a forest reserve; or
- (i) undertake any activity in a forest reserve for the purpose of fund raising or making a profit; or
- (j) use or cause to be used any loud speaker or similar device or other noisy equipment in a forest reserve; or
- (k) construct or erect any booth, marquee or other structure in a forest reserve; or
- (l) organise or cause to be organised, or attend or participate in, a public meeting, demonstration or gathering in a forest reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

24—Compliance with notices and signs

A person must not, without lawful authority, contravene or fail to comply with a direction by the Corporation regulating or prohibiting—

- (a) the driving or parking of a vehicle in a forest reserve or part of a forest reserve; or
- (b) access to a forest reserve or part of a forest reserve; or
- (c) the conduct of an activity in a forest reserve or part of a forest reserve,

that is specified in a notice or sign displayed in the reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

Part 4—Permits

25—Permits

- (1) Subject to these regulations, the Corporation may issue a permit authorising an act or activity in a forest reserve that would, if undertaken without lawful authority, constitute an offence under these regulations.
- (2) A permit must be in writing in a form determined by the Corporation.
- (3) An application for a permit—
 - (a) must be made in the manner and form determined by the Corporation; and
 - (b) must be accompanied by the fee (if any) specified by or under these regulations for a permit of the relevant class.
- (4) A permit may be issued applying to a group of persons named in the permit on the application of 1 member of the group.
- (5) A permit may be issued subject to such conditions as are specified in the permit.
- (6) Without limiting the conditions to which a permit may be subject, those conditions may include 1 or more of the following:
 - (a) a condition that only persons licensed or otherwise qualified to engage in an activity to which the permit relates may engage in that activity;

- (b) a condition specifying the area to which the permit relates;
 - (c) a condition restricting a person to whom the permit applies to the use of a specified type of vehicle, boat, aircraft, camping equipment, firearm or trapping device in undertaking an activity to which the permit relates;
 - (d) a condition requiring the restoration of a forest reserve or portion of a forest reserve to a condition similar to that which existed prior to the conduct of the activity to which the permit relates;
 - (e) a condition requiring a person to whom the permit applies to lodge with the Corporation a financial assurance in accordance with regulation 28.
- (7) A permit—
- (a) comes into force on the day fixed in the permit for its commencement or, if no day is fixed, on the day on which it is issued; and
 - (b) expires on the day fixed in the permit for its expiry (being a day not more than 12 months from the day of commencement) or, if no expiry day is fixed, on the expiration of 12 months after the day on which it came into force.
- (8) A person must not contravene or fail to comply with a condition of a permit applying to the person.
Maximum penalty: \$750.
Expiation fee: \$105.
- (9) A permit may—
- (a) if a person to whom the permit applies contravenes or fails to comply with a condition of the permit—be varied or revoked by the Corporation by instrument in writing served personally or by post—
 - (i) on the person to whom the permit was issued; or
 - (ii) on the person who contravened or failed to comply with the condition; or
 - (b) if, in the opinion of the Corporation, it is necessary or desirable to do so for the purpose of protecting a forest reserve or anything in a forest reserve—be varied or revoked by the Corporation by instrument in writing served personally or by post on the person to whom the permit was issued.
- (10) A person whose application for a permit is refused must, on request, be refunded an amount equal to the fee that accompanied the application.
- (11) Subject to regulation 26, a person to whom a permit under these regulations applies must carry the permit or ensure that it is readily available for production at all times while the person is acting pursuant to the permit in a forest reserve.
Maximum penalty: \$750.
Expiation fee: \$105.

26—Display of certain permits in vehicles

- (1) If a permit authorises the driver or passengers of a motor vehicle (other than a motor bike)—
- (a) to enter or remain in a forest reserve; or

- (b) to drive the vehicle in a forest reserve; or
- (c) to camp overnight in a forest reserve,

a person to whom the permit applies must, when acting pursuant to the permit in a forest reserve, ensure that the permit is displayed in the vehicle in accordance with this regulation while the vehicle is in the reserve.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) It is a defence to a charge of an offence against subregulation (1) for the defendant to prove that he or she took all reasonable steps to comply with the subregulation.
- (3) A permit is displayed in a motor vehicle in accordance with this regulation only if—
 - (a) it is displayed on the inside of the windscreen on the side of the vehicle opposite to the driver's position so that it is facing outwards from the vehicle and can easily be seen and read by a person standing beside the vehicle; or
 - (b) where because of the design or size of the vehicle the permit cannot be displayed or seen and read in the manner referred to in paragraph (a)—it is displayed in another prominent position in the vehicle, facing outwards from the vehicle, so that it can easily be seen and read by a person standing beside the vehicle.

27—Fees

- (1) Subject to this regulation, if a permit authorises an act or activity described in an item in Schedule 1 that would, if undertaken without lawful authority, constitute an offence under the regulation referred to in the item, the fee specified in the item is payable in respect of that permit.
- (2) If a permit authorises more than 1 act or activity described in Schedule 1, the specified fee for each act or activity authorised is payable (except in the case of acts or activities that relate to the same regulation).
- (3) If a permit—
 - (a) authorises an act or activity (whether or not an act or activity described in Schedule 1) that would, if undertaken without lawful authority, constitute an offence under these regulations; and
 - (b) is issued for the purposes of the conduct of a commercial or scientific activity or an organised sporting, political or other event,such fee (if any) as is determined by the Corporation is payable in respect of that permit.
- (4) The fee for a permit may be waived if the Corporation is satisfied that it is appropriate to do so having regard to—
 - (a) the purposes for which the permit is sought; or
 - (b) the limited financial means of the applicant.
- (5) If the Corporation is satisfied that a permit has been lost or destroyed, the Corporation may, on payment of the appropriate fee specified in Schedule 1, issue a replacement permit.

28—Payment of bond etc

- (1) Subject to this regulation, the Corporation may, by condition of a permit, require a person to whom a permit applies to lodge with the Corporation a financial assurance in the form of a bond (supported by security approved by the Corporation) or a specified pecuniary sum, the discharge or repayment of which is conditional on compliance with the conditions of the permit.
- (2) The amount of the bond or pecuniary sum required must not exceed the amount that in the opinion of the Corporation is the likely cost of taking action to rectify any damage or detriment to the forest reserve or the operation of the forest reserve that might result from a failure to comply with the conditions of the permit.
- (3) The Corporation may not require the lodgement of a bond or pecuniary sum unless satisfied that such a condition is justified in view of the risk of rectification being required if conditions of the permit are not complied with.
- (4) After the expiry or revocation of a permit, the Corporation must, if the conditions of the permit have been complied with—
 - (a) discharge any bond lodged pursuant to the permit; or
 - (b) on application by a person who lodged a pecuniary sum pursuant to the permit, repay that sum together with any interest that has accrued on that sum.
- (5) If the conditions of a permit are not complied with, the Corporation may, where a bond or pecuniary sum has been lodged with the Corporation pursuant to the permit—
 - (a) determine that the whole or part of the amount of the bond or pecuniary sum (and interest, if any) is forfeited to the Corporation; and
 - (b) apply any money so forfeited in payment for or towards the costs, expenses, loss or damage incurred by the Corporation as a result of the failure to comply with the permit conditions; and
 - (c) in the case of a pecuniary sum, repay on application by the person by whom the sum was lodged any portion of the sum (or interest) that remains.

Part 5—Miscellaneous

29—False or misleading statements

- (1) A person must not make a statement that is false or misleading in a material particular in, or in connection with, an application for a permit under these regulations.
Maximum penalty: \$750.
- (2) It is a defence to a charge of an offence against subregulation (1) for the defendant to prove that he or she believed on reasonable grounds that the statement was true.

30—Offence to return if required to leave forest reserve

If a forest warden, in accordance with the Act, requires a person to leave a forest reserve, the person must not re-enter the reserve for a period of at least 48 hours (or such lesser period as the warden may specify) after so leaving.

Maximum penalty: \$750.

Expiation fee: \$105.

Schedule 1—Fees

1—Camping permit

For a permit authorising camping in a forest reserve overnight, or entering, or remaining in, a forest reserve at night (regulation 7)—

- | | | |
|-------|---|---|
| (a) | person travelling in a motor vehicle (other than a motor bike) with 4 other persons or less (per motor vehicle) | \$10 per night |
| (b) | all other persons— | |
| (i) | per child, senior or pensioner | \$2 per night
\$6 per week
\$30 per year |
| (ii) | per adult (other than senior or pensioner) | \$5 per night
\$10 per week
\$50 per year |
| (iii) | per family | \$20 per week
\$100 per year |

2—Vehicle permit

For a permit authorising the riding or driving of a vehicle in a forest reserve (regulation 10) (per vehicle) \$20 per week

3—Boating permit

For a permit authorising the use of a boat on a body of water in a forest reserve (regulation 11) (per boat) \$6 per week

4—Aircraft permit

For a permit authorising the use of an aircraft in a forest reserve (regulation 12) (per aircraft) \$50 per day

5—Fossicking permit

For a permit authorising fossicking for minerals in a forest reserve, or the removal of soil, minerals or similar material from a forest reserve (regulation 17)—

- | | | |
|-----|--|---|
| (a) | per child, senior or pensioner | \$2 per day
\$6 per week
\$30 per year |
| (b) | per adult (other than senior or pensioner) | \$5 per day
\$10 per week
\$50 per year |
| (c) | per family | \$20 per week
\$100 per year |

6—Horse riding permit

For a permit authorising causing or permitting a horse to enter or remain in, or leading or riding a horse in, a forest reserve (regulation 20)—

(a) per child, senior or pensioner	\$2 per day
	\$6 per week
	\$30 per year
(b) per adult (other than senior or pensioner)	\$5 per day
	\$10 per week
	\$50 per year
(c) per family	\$20 per week
	\$100 per year

7—Replacement permit

For a replacement permit	\$3
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Schedule 2—Revocation and transitional provisions

Part 1—Preliminary

1—Interpretation

In this Schedule—

revoked regulations means the *Forestry Regulations 2005*.

Part 2—Revocation of regulations

2—Revocation of *Forestry Regulations 2005*

The *Forestry Regulations 2005* (*Gazette 1.9.2005 p3219*) are revoked.

Part 3—Transitional provision

3—Transitional provision

A permit authorising an act or activity that was in force under the revoked regulations immediately before the commencement of this clause will be taken to be a permit authorising that act or activity issued under these regulations (and will, subject to these regulations, expire on the date on which it would have expired under the revoked regulations).

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- 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
2013	48	<i>Gazette 30.5.2013 p2080</i>	30.9.2013: r 2
2013	187	<i>Gazette 18.7.2013 p3099</i>	30.9.2013 immediately after 48/2013: r 2