

South Australia

Natural Resources Management (General) Regulations 2005

under the *Natural Resources Management Act 2004*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Natural Resources Management (General) Regulations 2005*.

3—Interpretation

(1) In these regulations—

Act means the *Natural Resources Management Act 2004*;

donation means a gift for no consideration;

environmental donations licence means a water licence—

(a) that relates to water in the River Murray prescribed watercourse; and

(b) that is subject to conditions to the effect—

(i) that any allocation endorsed on the licence may only be used for an environmental purpose in a manner accredited by the South Australian Murray Darling Basin Natural Resources Management Board; and

(ii) that the holder of the licence is accredited by the South Australian Murray Darling Basin Natural Resources Management Board to receive, transfer or use donations of water for environmental purposes recognised by the board for the purposes of these regulations.

(2) The South Australian Murray Darling Basin Natural Resources Management Board must, in deciding whether to issue an accreditation for the purposes of a water licence being recognised as an environmental donations licence, apply any criteria determined by the Minister.

Part 2—Legislative definitions

4—Definition of animal

(1) The following classes of animals are excluded from the definition of *animal* in section 3(1) of the Act:

(a) fish;

- (b) invertebrates.
- (2) Subregulation (1) only applies for the purposes of Chapter 8 of the Act.
- (3) In this regulation—

fish has the same meaning as in the *Fisheries Act 1982*.

5—Definition of animal-proof fence

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, the requirements set out in Schedule 1 are prescribed for fences of the kind specified in that Schedule.

6—Definition of Mount Lofty Ranges Watershed

For the purposes of the definition of *Mount Lofty Ranges Watershed* in section 3(1) of the Act, the area identified as the *Mount Lofty Ranges Watershed* in General Registry Plan No 001/2005 is prescribed.

7—Definition of plant

- (1) The following classes of vegetation or material are excluded from the definition of *plant* in section 3(1) of the Act:
 - (a) non-living processed timber, food or medicinal products;
 - (b) bacteria, fungi, algae and micro-organisms.
- (2) Subregulation (1) only applies for the purposes of Chapter 8 of the Act.

Part 3—NRM Council and NRM authorities

8—NRM Council—Aboriginal Advisory Committee

- (1) The NRM Council must establish an *Aboriginal Advisory Committee*.
- (2) The Minister may determine in relation to the committee—
 - (a) the criteria for membership; and
 - (b) the terms and conditions under which a member is appointed; and
 - (c) the term of office of a member.
- (3) The function of the committee is to provide advice to the NRM Council on matters that may be relevant to Aboriginal issues arising under the Act.
- (4) The committee may provide advice at the request of the NRM Council, or on its own initiative.

9—Regional NRM boards—Annual reports

The annual report of a regional NRM board under section 38 of the Act must include the following information:

- (a) the rate of remuneration of each employee of the board appointed under section 34(3) of the Act for the financial year to which the report relates and where such an employee receives a package including a non-monetary component, the total value of the package and the value of each of the monetary and non-monetary components; and

- (b) the amount of superannuation contributions by the board in the relevant financial year in respect of each employee under paragraph (a); and
- (c) the number of meetings (if any) that each member of the board has failed to attend during the relevant year and the reason given by the member for the failure; and
- (d) the persons or bodies to whom or to which the board has delegated functions or powers under section 36 of the Act and the nature of the functions or powers delegated to each person or body; and
- (e) the nature of any functions or powers delegated to the board under the Act or any other Act and the person who delegated the function or power.

Part 4—NRM plans

10—Regional NRM plans—prescribed information or material

- (1) This regulation sets out the information that a plan must include under section 75(3)(a) of the Act.
- (2) For the purposes of section 75(3)(a)(i) of the Act:
 - (a) a description of each of the following (from a regional perspective):
 - (i) soils;
 - (ii) water resources;
 - (iii) geological features and landscapes;
 - (iv) native vegetation, native animals and other native organisms;
 - (v) ecosystems;
 - (vi) other significant natural resources,identifying the geographical distribution of these natural resources and the extent of each on a regional scale, providing sufficient qualitative information to show the main or distinctive features of each category of natural resource and highlighting any natural resources of particular significance;
 - (b) a description of any catchment, wetland, estuarine or marine systems;
 - (c) a description of how the natural resources and other elements identified under paragraphs (a) and (b) interrelate;
 - (d) a description of any significant deficiencies in the information that is available to the board with respect to the natural resources within the region, and the board's proposals to address this situation.
- (3) For the purposes of section 75(3)(a)(ii) of the Act:
 - (a) an assessment of the state and condition of the natural resources within the region (from a regional perspective);
 - (b) a description of the factors affecting the state and condition of those natural resources and information on other factors that may affect those natural resources in the future, including any risks of damage to, or degradation of, the natural resources within the region;

- (c) information on any trends in the state and condition of natural resources within the region;
 - (d) information on any programs that are being undertaken to monitor or evaluate the state and condition of natural resources within the region, and any proposals to improve the level of monitoring and evaluation;
 - (e) a description of programs to improve the state and condition of natural resources or, if relevant, to halt or reduce any rate of decline;
 - (f) a description of the primary and other economic production systems occurring in the region and the impact any changes to production methodology or systems may have on the natural resources;
 - (g) a description of any significant deficiencies in the information that is available to the board with respect to the state or condition of the natural resources within the region, and the board's proposals to address this situation.
- (4) For the purposes of section 75(3)(a)(iii) of the Act:
- (a) a broad evaluation of the significance of the natural resources of the region from an environmental, social and economic perspective;
 - (b) an evaluation of relevant environmental, social, economic and practical considerations in connection with setting priorities for natural resources management within the region;
 - (c) information on any steps or programs that will achieve a combination of outcomes from an environmental, social or economic perspective;
 - (d) a description of any significant deficiencies in the methods used to address any issues associated with natural resources management, and the board's proposals to address this situation.
- (5) For the purposes of section 75(3)(a)(iv) of the Act:
- (a) an assessment of the risks posed to natural resources within the region from pest species of animals or plants, and a ranking of these risks according to priorities;
 - (b) a description of the projects that are being undertaken, or are proposed to be undertaken, to address or manage the risks identified under paragraph (a), or to reduce the impact of any pest species of animals or plants;
 - (c) a description of any projects or programs that are in place, or that are proposed to be in place, to prevent, or to address, the presence of any animals or plants that may cause a risk, or that are otherwise subject to control, under this Act.

11—Concept statements and public consultation

- (1) For the purposes of section 78(8) of the Act, a concept statement and the results of any relevant investigations must be made available to the public—
- (a) at the principal office of the Department; and
 - (b) on the Department's website.

- (1a) For the purposes of section 79(6)(a)(x) of the Act, the Minister to whom administration of the *Waterworks Act 1932* is committed is prescribed.
- (2) For the purposes of section 79(8) of the Act, the period of 2 months is prescribed.

Part 5—Management and protection of water resources

12—Rate at which drinking water may be taken

The rate of 100 litres per day is prescribed for the purposes of section 124(6) of the Act.

13—Water affecting activities—section 127(3)(f)

- (1) An activity specified under Schedule 2 is prescribed as an activity under section 127(3)(f) of the Act.
- (2) Pursuant to section 126(2)(d) of the Act, the Minister is prescribed as the authority from whom a permit is required in the case of an activity within the ambit of subregulation (1).

14—Activities subject to operation of NRM plans—section 127(5)(k)

Using water in the course of carrying on a business in an NRM region at a rate that exceeds the rate prescribed by the relevant water allocation plan is, if the water has been brought from a water resource in some other part of the region specified in the plan by means of a pipe or channel, prescribed as an activity under section 127(5)(k) of the Act.

15—Expiation fees—section 127(6)

For the purposes of the imposition of an expiation fee under section 127(6) of the Act, any condition of a licence is prescribed.

16—Prescribed date—section 134(1)

For the purposes of section 134(1) of the Act, the prescribed date is 2 July 1997.

17—Notice to be given by relevant authority under section 136 or 159

- (1) The notices referred to in section 136(2) and 159(2) of the Act that are to be given to persons specified in the relevant water allocation plan must be given by the relevant authority in accordance with section 208 of the Act.
- (2) The notices referred to in sections 136(2) and 159(2) of the Act that are to be given to the public generally must be given by publication in a newspaper circulating generally throughout the State.
- (3) The notice must—
 - (a) set out relevant particulars of the application; and
 - (b) identify the land that will be affected by the grant or refusal of the application; and
 - (c) include an address at which a copy of the application can be inspected during normal business hours; and
 - (d) set out the text of regulation 18.

18—Requirements as to representations under section 136(3) or 159(3)

Representations under section 136(3) or 159(3) of the Act must—

- (a) be in writing; and
- (b) be made within 20 business days after the notice referred to in regulation 17 is given to the person making the representations or, in the case of a member of the public, within 20 days after the publication of the notice in a newspaper under regulation 17(2)); and
- (c) state the name and address of the person making the representations; and
- (d) if 2 or more persons make the same representations, nominate one of them to represent the others for procedural purposes; and
- (e) state whether or not the person making the representation wishes to appear before the relevant authority to be heard in support of the representations.

19—Time for response by applicant

- (1) 10 business days is prescribed for the purposes of section 136(5) and 159(5) as the period within which the applicant may respond to representations.
- (2) The period referred to in subregulation (1) may be increased by the relevant authority if, in its opinion in the circumstances of a particular case, that period is too short.

20—Well drillers' licences—prescribed conditions

The following conditions are prescribed under section 139(3) of the Act in relation to well drillers' licences:

- (a) the licensee must keep such records as the Chief Officer directs in such manner and for such period as the Chief Officer directs;
- (b) the licensee must, at the direction of the Chief Officer or an authorised officer, produce records referred to in paragraph (a) to the Chief Officer or the authorised officer for inspection or copying;
- (c) the licensee must not, in pursuance of the licence, commence an activity that requires a permit under the Act unless the licensee has sighted the permit;
- (d) the licensee must, at the direction of the Chief Officer or an authorised officer, take samples of water or other material from a well being drilled by the licensee and must submit the samples to the Chief Officer or the authorised officer for inspection and analysis;
- (e) the licensee must comply with directions given by the Chief Officer in relation to the drilling, plugging, backfilling or sealing of a well or to the repair, replacement or alteration of the casing, lining or screen of a well if those directions are given to the licensee by the Chief Officer or published in the Gazette;
- (f) the licensee must comply with the permit authorising the work that he or she is performing.

21—The Water Well Drilling Committee

- (1) The Water Well Drilling Committee must consist of at least 4 members appointed by the Minister of whom—
 - (a) 1 must be a hydrogeologist; and
 - (b) 1 must be a person who has extensive experience in designing wells; and
 - (c) 1 must be a person who has extensive experience as a well driller who has been selected by the Minister from a panel submitted by the South Australian branch of the Australian Drilling Industry Association; and
 - (d) 1 must be a person who has extensive experience in well drilling and who is not a public sector employee.
- (2) Any additional members appointed by the Minister must be persons who have knowledge or experience that will be of value to the committee in carrying out its functions.
- (3) The Minister may appoint suitable persons to be deputies to the members of the committee and a deputy to a member must be appointed in the same manner as the member was appointed and must have the same qualifications for membership of the committee.
- (4) A deputy may, in the absence of a member, act as a member of the committee.
- (5) The Minister must appoint a member (the *presiding member*) to preside at meetings of the committee and another member (the *deputy presiding member*) to preside at meetings of the committee in the absence of the presiding member.
- (6) The committee has the following functions in addition to the functions prescribed by section 140(3)(a) of the Act:
 - (a) to advise the Chief Officer in relation to each application for the grant of a well driller's licence;
 - (b) to advise the Chief Officer, at his or her request, in relation to the use of any machinery or equipment pursuant to a well driller's licence;
 - (c) to advise the Minister and the NRM Council in relation to the operation of the Act and these regulations;
 - (d) functions that are delegated to it by the Minister.

22—Sale of water allocations by Minister

- (1) The following provisions apply in relation to the sale by the Minister of a water allocation by public auction:
 - (a) the Minister must, by notice published in a newspaper circulating generally throughout the State, give at least 14 days notice of the time and place at which the auction will be held; and
 - (b) the Minister may refuse to sell an allocation if bidding for the allocation does not reach the reserve price fixed by the Minister.
- (2) The sale of a water allocation, whether by public auction or tender or by private contract, is subject to the Minister being prepared to endorse the allocation in accordance with the Act on a water licence held by the purchaser.

22A—Requirement as to grant or refusal of approval to transfer— section 160(1)(d)

- (1) For the purposes of section 160(1)(d) of the Act, it is a requirement that an application for a prescribed transfer during the 2006/2007 financial year must be lodged with the Minister between 1 July 2006 and 30 April 2007 (both dates inclusive).
- (2) In this regulation—
prescribed transfer means a transfer, for the balance of the 2006/2007 financial year, or for some other limited period, of the whole or part of the water allocation of a licence under an Interstate Water Entitlements Transfer Scheme, such that the water will be assigned to a licence or other authority, or otherwise give rise to any form of entitlement, under a corresponding law of another jurisdiction.

Part 5A—Water conservation

Division 1—Water restrictions

22B—Restriction on use of River Murray water

- (1) Pursuant to section 233 of the Act, if water is used for a purpose listed in column 1 of the table in Schedule 5, that use must not be other than in accordance with column 2 of the table.
- (2) A person must not use water in contravention of subregulation (1).
Maximum penalty:
 - (a) in the case of a body corporate—\$10 000;
 - (b) in the case of a natural person—\$5 000.Expiation fee: \$315.
- (3) Nothing in this regulation derogates from a restriction on the use of water imposed under the Act or by a notice by the South Australian Water Corporation under the *Waterworks Act 1932*.
- (4) In this regulation—
water means water taken from the River Murray prescribed watercourse in accordance with the Act.

Division 2—Licence conditions—water conservation

22C—Licence conditions

- (1) This regulation applies to any water licence authorising the taking of water from the River Murray prescribed watercourse that falls within any class of licences determined by the Minister from time to time, by notice in the Gazette, as being within the ambit of this regulation.
- (2) For the purposes of section 146(6)(d) of the Act, it is a condition of a licence to which this regulation applies that the licensee must prepare and submit to the Minister for approval a draft water efficiency plan in accordance with Schedule 6.

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- (3) A licensee who fails to comply with a condition of his or her licence under subregulation (2) is guilty of an offence.
- Maximum penalty:
- (a) in the case of a body corporate—\$10 000;
 - (b) in the case of a natural person—\$5 000.
- Expiation fee: \$315.
- (4) The Minister may—
- (a) approve a draft water efficiency plan submitted by a licensee under this regulation without alteration or with such alteration as the Minister thinks fit; or
 - (b) refer the draft water efficiency plan back to the licensee for further consideration in accordance with any requirement determined by the Minister.
- (5) A licensee who fails to comply with a requirement imposed under subregulation (4)(b) is guilty of an offence.
- Maximum penalty:
- (a) in the case of a body corporate—\$10 000;
 - (b) in the case of a natural person—\$5 000.
- Expiation fee: \$315.
- (6) Before making any alterations to the draft water efficiency plan, the Minister must consult with the licensee who submitted the plan.
- (7) A licensee may submit to the Minister for approval a substitute water efficiency plan, or a variation of a water efficiency plan, at any time while that water efficiency plan is in force.
- (8) If the Minister approves a draft water efficiency plan, a draft substitute water efficiency plan or a draft variation of a water efficiency plan, the Minister must, by notice in writing given within 14 days after approving the plan or variation, advise the licensee who submitted the plan or variation—
- (a) that the Minister has approved the plan or variation (as the case requires); and
 - (b) the day on which the plan or variation (as the case requires) was approved.
- (9) A water efficiency plan approved under this regulation is in force from the day on which the Minister gives notice under subregulation (8), and expires—
- (a) on the fifth anniversary of that day; or
 - (b) on such earlier day as may be specified by the Minister by notice in writing given to the licensee who submitted the plan.
- (10) A substitute water efficiency plan, or an amendment to a water efficiency plan, is in force from the day on which the Minister gives notice under subregulation (8) and expires on the same day as the original water efficiency plan.
- (11) Pursuant to section 232 of the Act, section 127(6)(b) of the Act does not apply in relation to a breach of a licence condition imposed by this regulation.

Part 6—Control of plants and animals

Division 1—Sale of contaminated items

23—Sale of produce or goods carrying plants

- (1) For the purposes of assisting to prevent the sale of any animal, plant, soil, vehicle, farming implement or other produce, goods, material or other thing carrying a prescribed plant in contravention of section 177(2), the person making the sale may provide to the purchaser a declaration in the form set out in Schedule 3.
- (2) A person must not make a statement that is false or misleading in a material particular in a declaration provided under subregulation (1).

Maximum penalty: \$5 000.

- (3) In subregulation (1)—

prescribed plant means a plant to which subsection (2) of section 177 of the Act applies that is not of a class to which subsection (1) of section 178 of the Act applies.

24—Sale of contaminated items

For the purposes of subsection (1) of section 178, a fully completed copy of a form specified under subsection (3) must be handed to the purchaser by (or on behalf of) the person making the sale.

Division 2—Control measures

25—Interpretation

In this Division—

Flinders Ranges means the control area declared by the Minister under section 174(1)(b)(i) in relation to goats in the Flinders Ranges;

off-shore islands—

- (a) in relation to deer—means the control area declared by the Minister under section 174(1)(b)(i) in relation to deer on islands (other than Kangaroo Island) off the coast of the State;
- (b) in relation to goats—means the control area declared by the Minister under section 174(1)(b)(i) in relation to goats on islands off the coast of the State.

26—Prescribed measures for control of deer and goats (other than on off-shore islands etc)

- (1) For the purposes of section 182(3) of the Act, the measures set out in this regulation are prescribed in relation to—
 - (a) deer in all parts of the State (other than on off-shore islands); and
 - (b) goats in all parts of the State (other than in the Flinders Ranges or on off-shore islands).

- (2) A deer or goat on land owned or occupied by the owner of the deer or goat, or on land with the consent of the owner or occupier of the land, must be—
 - (a) secured or confined; and
 - (b) permanently identified,in a manner determined by the Chief Officer.
- (3) Subject to subregulation (4) and regulation 28, a deer or goat on land without the consent of the owner or occupier of the land must—
 - (a) be captured and removed from the land within 6 weeks after capture; or
 - (b) be destroyed.
- (4) An owner of land is not required to capture a deer or goat if, by reason of the terrain inhabited by the deer or goat or any other circumstance, capture is impossible.
- (5) Subject to subregulation (6), a deer or goat (whether captured under subregulation (3) or not) may be released with a radio transmitter or other tracking device attached for the purpose of locating other deer or goats, as the case requires.
- (6) A deer or goat must not be released under this regulation except with the written approval of the Chief Officer and in accordance with the conditions (if any) to which the approval is subject.

27—Prescribed measures for control of deer and goats on off-shore islands and goats in the Flinders Ranges

- (1) For the purposes of section 182(3) of the Act, the measures set out in this regulation are prescribed in relation to—
 - (a) deer on off-shore islands; and
 - (b) goats in the Flinders Ranges and on off-shore islands.
- (2) Subject to subregulation (3) and regulation 28, a deer or goat must—
 - (a) be captured and removed from the land within 6 weeks after capture; or
 - (b) be destroyed.
- (3) An owner of land is not required to capture a deer or goat if, by reason of the terrain inhabited by the deer or any other circumstance, capture is impossible.
- (4) Subject to subregulation (5), a deer or goat (whether captured under subregulation (2) or not) may be released with a radio transmitter or other tracking device attached for the purpose of locating other deer or goats, as the case requires.
- (5) A deer or goat must not be released under this regulation except with the written approval of the Chief Officer and in accordance with the conditions (if any) to which the approval is subject.

28—Additional measures in relation to deer and goats

- (1) A person taking measures for the control or destruction of deer on land pursuant to the Act and these regulations must not destroy, sell or otherwise dispose of the deer if—
 - (a) the deer bears a clearly visible ear tag at least 6 cm wide and 5 cm high; and

- (b) the person has received notification (either orally or in writing) from a deer keeper that deer have escaped from land where deer are kept by the deer keeper; and
 - (c) less than 48 hours have elapsed since that notification was received.
- (2) A person taking measures for the control or destruction of goats on land pursuant to the Act and these regulations must not, knowing or having reason to believe that another person claims ownership of the goats, destroy the goats or sell or otherwise dispose of them to any other person unless—
 - (a) written notice has been served on the person who claims, or is believed to claim, ownership of the goats requiring that person to remove the goats from the land within a period specified in the notice (being a period not less than—
 - (i) if the notice is served personally—48 hours; or
 - (ii) if the notice is served by post or by publication in a newspaper—7 days commencing at the time of posting or publication); and
 - (b) the period specified in the notice has expired; and
 - (c) not more than 90 days have elapsed since the expiry of the period specified in the notice.
- (3) A notice under subregulation (2) 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) In this regulation—

deer keeper means a person registered as a deer keeper under the *Livestock Regulations 1998*.

Division 3—Permits

29—Permits

For the purposes of section 188(8)(b) of the Act, the following amounts are prescribed:

- (a) in the case of a natural person—\$1 250;
- (b) in the case of a body corporate—\$12 500.

Part 7—Exemptions

30—Movement of animals and plants

- (1) An authorised officer is exempt from the operation of section 175 of the Act while acting in the course of official duties.

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- (2) A person is exempt from the operation of section 175(1), (2)(a) and (3)(a) of the Act in respect of a plant that—
 - (a) is being carried by wool that is being transported or moved to a place where it is to be cleaned; or
 - (b) is being carried by grain that is being transported or moved to a place where it is to be milled.
 - (3) A person is exempt from the operation of section 175(2)(b) and (3)(b) in respect of—
 - (a) wool carrying a plant of a class to which section 175(2) or (3) of the Act applies if the wool is being transported or moved on a public road to a place where it is to be cleaned; or
 - (b) grain carrying a plant of a class to which section 175(2) or (3) of the Act applies if the grain is being transported or moved on a public road to a place where it is to be milled.
 - (4) A person is exempt from section 175(1), (2) and (3) of the Act in respect of a plant declared under the *Biological Control Act 1986* to be a target organism for the purposes of that Act if the person is participating in a community programme to rear and release an agent organism (within the meaning of that Act) for the control of that target organism.

31—Sale of wool or grain carrying plants

A person who sells wool or grain carrying a plant of a class to which section 177(2) of the Act applies is exempt from that section if, at the time of the sale, the person believes on reasonable grounds that the purchaser will remove, or arrange for the removal of, that plant from the wool or grain before any re-sale of the wool or grain.

32—Release of animals

- (1) A person is exempt from section 179(1) of the Act in respect of the release of an animal of a class to which that subsection applies in a control area for that class of animals if the Chief Officer has approved that release for the purposes of research relating to the control of animals of that class.
- (2) An approval under subregulation (1)—
 - (a) must be given to the person by notice in writing;
 - (b) may be given subject to such conditions as the Chief Officer thinks fit and specifies in the notice.
- (3) The Chief Officer may, by notice in writing, vary or revoke an approval under this regulation.

33—Destruction or control of animals or plants

An NRM group or regional NRM board is exempt from the operation of section 182(7) of the Act in respect of a plant declared under the *Biological Control Act 1986* to be a target organism for the purposes of that Act if the NRM group or regional NRM board (as the case requires) is participating in a community program to rear and release an agent organism (within the meaning of that Act) for the control of that target organism.

Part 8—Miscellaneous

34—Requirement to provide information to Minister

- (1) SA Water and all other persons who provide reticulated water supply or sewerage services and all persons who provide water drainage services must, at the request of the Minister, provide the Minister with the following information:
 - (a) the location of the infrastructure used by the person to provide those services; and
 - (b) the materials used in the construction of the infrastructure; and
 - (c) the capacity of the infrastructure; and
 - (d) in the case of SA Water or any other person who provides reticulated water supply services—
 - (i) the source, volume and quality of the water flowing into reservoirs and other storage facilities used by SA Water or other person; and
 - (ii) the volume and quality of water held in storage; and
 - (iii) the volume of water lost to evaporation or leakage from storage facilities; and
 - (iv) the volume and quality of water discharged from storage facilities for supply to consumers or for any other purpose; and
 - (e) in the case of SA Water or any other person who provides sewerage or other water drainage services—
 - (i) the volume and quality of the water in the sewerage or water drainage system; and
 - (ii) the volume and quality of water discharged from the sewerage or water drainage system;
 - (f) such other information as the Minister thinks fit.
- (2) Section 10(3) of the Act applies to the kinds of information referred to in subregulation (1) including information requested by the Minister under subregulation (1)(f).

35—Assignment of responsibility for infrastructure—section 43(3)

- (1) An agreement under section 43 of the Act must—
 - (a) be in writing; and
 - (b) describe the infrastructure with reasonable particularity; and
 - (c) set out the responsibilities that are being assigned to the relevant person; and
 - (d) comply with any instruction issued by the Registrar-General for the purposes of subsection (5) of that section.
- (2) Subregulation (1) does not limit or affect the ability to include other provisions, terms or conditions in an agreement under section 43 of the Act.

36—Reimbursement of expenses—section 69(12)

- (1) An application for reimbursement under section 69(12) of the Act must—
 - (a) be made to the Department in writing; and
 - (b) include reasonable details concerning the costs or expenses that have been incurred; and
 - (c) comply with any other requirement determined by the Chief Officer.
- (2) The reimbursement must be made by cheque furnished to the person personally or by post sent to an address provided by the person as part of the application.
- (3) The reimbursement should be made within 20 business days after a valid application is received under subregulation (1).

37—Applications for warrants—sections 32 and 69

- (1) The grounds for an application for a warrant under section 32 or 69 of the Act made personally must be verified by affidavit.
- (2) If an application for a warrant is made under section 32 or 69 of the Act by telephone—
 - (a) the applicant must inform the magistrate of the applicant's name and identify the position that he or she holds for the purposes of the Act, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
 - (b) the applicant must inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought; and
 - (c) if it appears to the magistrate from the information given by the applicant that there are reasonable grounds to issue a warrant (taking into account the requirements of the Act), the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
 - (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant; and
 - (e) the warrant is taken to have been issued, and comes into force, when signed by the magistrate; and
 - (f) the magistrate must inform the applicant of the terms of the warrant; and
 - (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (3) A magistrate by whom a warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

38—Provision of information sheets

Pursuant to subsection (16) of section 69 of the Act, subsection (14) of that section will not apply where an authorised officer is undertaking the investigation of an offence (or a suspected or alleged offence) under the Act and the authorised officer has determined that the investigation would be jeopardised if the authorised officer were to provide a copy of an information sheet at that time.

39—Review of notice to prepare an action plan

An application under section 123(3) or 183(3) of the Act must be made in writing and must set out clearly the grounds on which the applicant seeks the review.

40—Service of notices or other documents

If a notice or other document is to be served on, or given to, a person under section 208(1)(d) of the Act, the person acting under that section must—

- (a) seal the notice or document in a clear wrapper that is reasonably waterproof; and
- (b) fix the notice or document, as wrapped, to a conspicuous part of the land (including by fixing it to a post and then by fixing the post into the ground in a conspicuous place on the land).

41—Exemption of part of State from certain provisions of the Act

Pursuant to section 232 of the Act, the following provisions of the Act do not apply in relation to the part of the State extending seawards from the low water mark:

- (a) Chapter 6;
- (b) sections 181 to 186 (inclusive);
- (c) Chapter 9 Part 1.

41A—Correction of certain errors

Pursuant to section 232 of the Act, section 125(5), (6) and (7) of the Act does not apply in relation to the variation of a regulation under section 125(1) or (2) that is being made in order to address an incorrect reference to a plan deposited in the General Registry Office, or to correct some other form of error.

42—Fees

- (1) The fees set out in Schedule 4 are payable as prescribed in that Schedule.
- (2) The Minister may, on application or on the Minister's own initiative, in the Minister's discretion, waive payment of the whole or a part of a fee.
- (3) In addition, the following are exempt from the relevant fees under Schedule 4:
 - (a) an application for an environmental donations licence (where the applicant has already obtained the necessary accreditation from the South Australian Murray Darling Basin Natural Resources Management Board);
 - (b) an application made by the holder of a water licence, and granted by the Minister, to vary the conditions endorsed on the licence so that the licence will become an environmental donations licence;

- (c) an application to transfer a water licence (either absolutely or for a limited period) where the South Australian Murray Darling Basin Natural Resources Management Board is satisfied that the transfer constitutes the donation of the licence in order to establish an environmental donations licence (and where the board is satisfied that an accreditation should be issued);
- (d) an application to transfer the whole or a part of the water allocation of a licence to an environmental donations licence (either absolutely or for a limited period) (and to make any variation to a licence on the transfer of the allocation) where the South Australian Murray Darling Basin Natural Resources Management Board is satisfied that the transfer constitutes the donation of the water allocation.

42A—Tagged interstate water trades

If—

- (a) a transfer of part of a water allocation of a licence is being undertaken under an Interstate Water Entitlements Transfer Scheme, or the variation of a water licence on the allocation of water under an Interstate Water Entitlements Transfer Scheme is required; and
- (b) the transfer or variation is (or is anticipated to be) part of a series of transfers of allocation (including a series of 2) to occur during the same financial year between a licence under this Act and an entitlement under a corresponding law of another jurisdiction (being a transfer to or from the licence under this Act); and
- (c) the licence under this Act and the entitlement under the corresponding law are held by the same person; and
- (d) the scheme under which the transfer of allocation is occurring is supported by an intergovernmental agreement that, under a determination of the Minister, is recognised for the purposes of this regulation,

then—

- (e) a fee is payable under Schedule 4 in relation to an application with respect to the first transfer or variation of licence (as the case may be); but
- (f) no application is required (and no fee is payable) in relation to a second or subsequent transfer or variation in the series during the balance of the financial year, but not so as to derogate from any other requirement under the Act to provide information, or a notice or other document or instrument, in connection with the provision, delivery or receipt of water (or an entitlement to water).

43—Notice of meetings

- (1) A notice under clause 3(2) of Schedule 1 of the Act must be given—
 - (a) in the case of a notice given by the NRM Council—by publication of a notice in a newspaper circulating generally throughout the State;
 - (b) in the case of a regional NRM board or an NRM group—by publication of a notice in a newspaper circulating in the local area.

- (2) The requirement to give notice is dispensed with if—
- (a) the relevant meeting is being held with less than 14 days notice to the members of the relevant prescribed body; or
 - (b) the only matters on the agenda for the relevant meeting relate to the receipt, consideration or consideration of information or a matter or matters listed in clause 3(6) of Schedule 1 and the presiding member of the prescribed body, or his or her delegate, has determined that there is a reasonable likelihood that the prescribed body will close the whole of the meeting to the public.

44—Transitional provisions—ERD Court commissioners

A commissioner of the ERD Court designated as a person who has expertise in the use, conservation or management of water resources will be taken to have been specifically designated as a person who has expertise in fields that are relevant to the jurisdiction conferred on the Court by the Act.

45—Transitional provisions—Declaration of prescribed water resources

- (1) A regulation within the ambit of Schedule 4 clause 54(2) of the Act (including such a regulation in force by virtue of the operation of Schedule 3 of the *Water Resources Act 1997*) may be varied or revoked by a regulation under section 125 of the Act.
- (2) A reference in any regulation under subregulation (1) to a provision or part of the *Water Resources Act 1990* or the *Water Resources Act 1997* will be construed and have effect as if it were a reference to the corresponding provision or part of the *Natural Resources Management Act 2004*.
- (3) Any notice published under section 8 of the *Water Resources Act 1997* before the commencement of this regulation will continue to have force and effect for the purposes of the *Natural Resources Management Act 2004* (and any related process may be continued under the *Natural Resources Management Act 2004*).

46—Transitional provisions—Penrice Exemption

- (1) The *Water Resources (Penrice Exemption) Regulations 1997* will continue in force and effect as if they were regulations made under section 232 of the Act (with any necessary modifications).
- (2) Without limiting subregulation (1), a reference in the *Water Resources (Penrice Exemption) Regulations 1997* to a provision or part of the *Water Resources Act 1997* or the *Water Resources Regulations 1997* will be construed and have effect as if it were a reference to the corresponding provision or part of the *Natural Resources Management Act 2004* or these regulations (as the case requires).

Schedule 1—Prescribed requirements for animal-proof fences

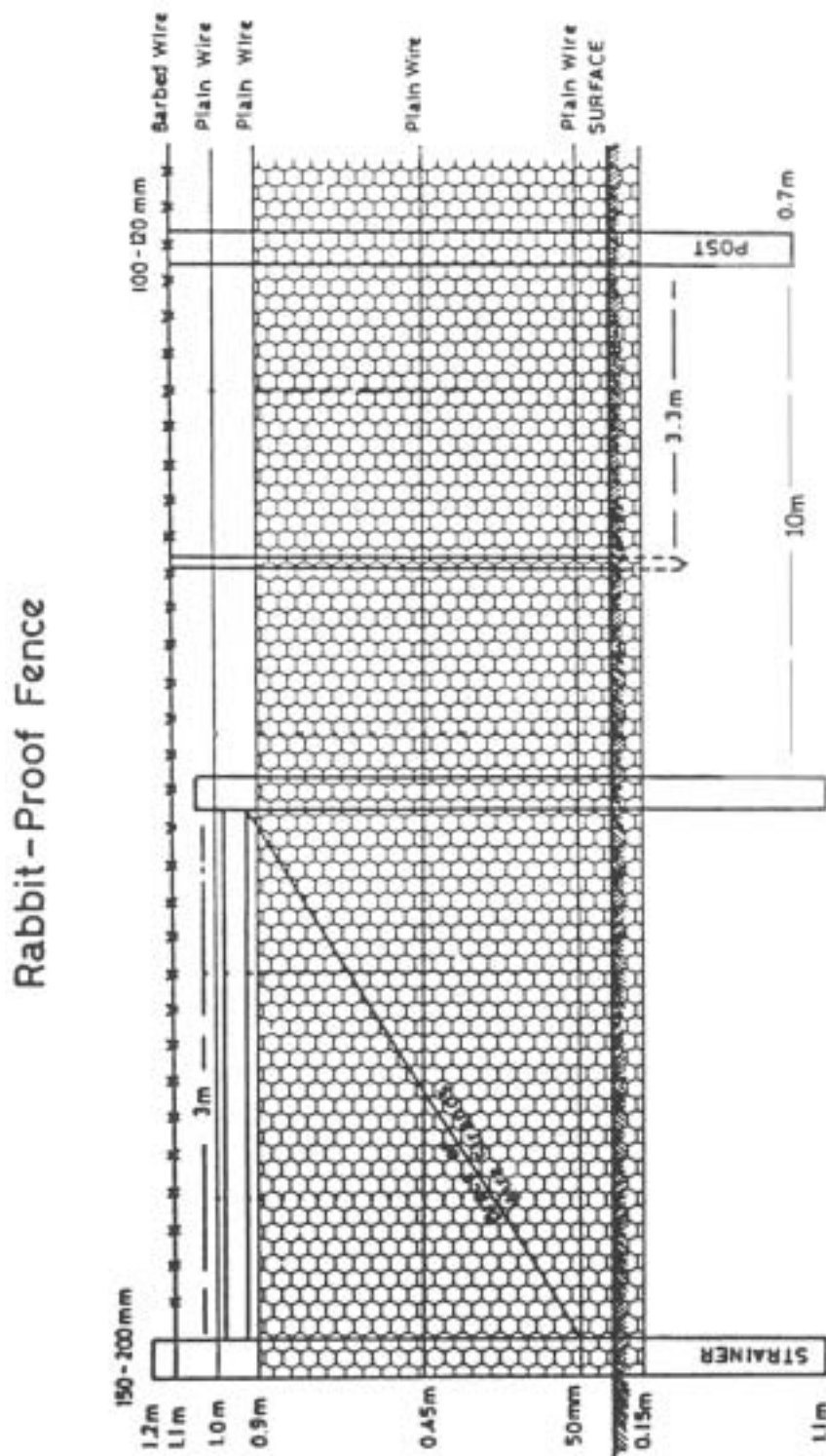
1—Prescribed requirements for dog-proof fences

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, a dog-proof fence is a fence that consists of—

- (a) strainers that—
 - (i) are not less than 150mm in diameter; and

- (ii) are placed 100m apart, 0.85m under the ground and protrude 1.55m above the ground; and
- (b) posts that are placed 5m apart, 0.3m under the ground and protrude 1.5m above the ground; and
- (c) wire netting that—
 - (i) has a gauge of 1.8mm; and
 - (ii) has a width of 1.8m; and
 - (iii) has a maximum mesh of 100mm; and
 - (iv) is erected on the outside of the fence so that 1.5m of the netting is above the ground with a ground lap of 0.3m that is held in place and secured by means of a 0.3m x 25mm x 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 galvanised wire well strained and the wire and wire netting secured to the pin by not less than 2.5mm gauge galvanised wire; and
- (d) 4 plain wires—
 - (i) each of which is made of galvanised iron and is not less than 2.5mm in diameter; and
 - (ii) that are placed at 50mm, 0.5m, 1.0m and 1.5m intervals above the ground and secured at equal intervals to each 5m panel securing the netting to the 3 bottom wires at not more than 0.75m intervals and to the top wire at not more than 0.5m intervals.

- (i) are not less than 150mm in diameter and not more than 200mm in diameter; and
 - (ii) are placed 150m apart, 1.1m under the ground and protrude 1.2m above the ground; and
- (b) posts that—
 - (i) are at least 100mm in diameter but not more than 120mm in diameter; and
 - (ii) are placed 10m apart, 0.7m in the ground and protrude 1.1m above the ground; and
- (c) droppers at 3.3m intervals between the posts; and
- (d) 4 plain fence wires—
 - (i) each of which is 2.4mm in diameter; and
 - (ii) that are placed at intervals of 50mm, 0.45m, 0.9m and 1.0m above the ground; and
- (e) 1 barbed wire that is placed 1.1m above the ground; and
- (f) wire netting that—
 - (i) has a gauge of at least 1.4mm; and
 - (ii) has a width of 1.05m; and
 - (iii) has a maximum mesh of 30mm; and
 - (iv) 150mm of which is placed under the ground and 0.9m of which protrudes above the ground; and
 - (v) is secured to the lower 3 plain fence wires with galvanised tie iron 1.44mm in diameter and not more than 0.5m apart on the highest of the 3 wires and not more than 0.75m apart on the lower 2 wires; and
- (g) struts on the corner strainers that are either—
 - (i) single diagonal struts (on which are placed barriers to prevent the entry of rabbits if the struts are placed outside the netting); or
 - (ii) double post and brace rail struts.



Schedule 2—Water affecting activities

1—Prescribed commercial forestry activities

- (1) Subject to subclause (3), establishing or expanding a commercial forest in an area referred to in subclause (4) is specified under this Schedule.

- (2) For the purposes of subclause (1), the expansion of a commercial forest will be taken to include a situation where there is to be an increase in the land that is to be planted with trees for the purposes of a commercial forest.
- (3) Subclause (1) does not apply if—
 - (a) the commercial forest is situated, or to be situated, on a farm; and
 - (b) the total area of the commercial forest does not exceed, or will not exceed, 10% of the total area of land within the farm that is available for farm purposes.
- (4) The following are the areas for the purposes of subclause (1):
 - (a) the whole of the area of the District Council of Grant;
 - (b) the whole of the area of The District Council of Robe;
 - (c) the whole of the area of the Wattle Range Council;
 - (d) that part of the area of the Naracoorte Lucindale Council comprising the Hundreds of Fox, Coles, Townsend, Conmurra, Joyce, Spence, Robertson, Naracoorte, Jessie and Joanna;
 - (e) that part of the area of the Kingston District Council comprising the Hundreds of Mount Benson and Bowaka.

- (5) In this clause—

commercial forest means a forest plantation where the forest vegetation is grown or maintained so that it can be harvested or used for commercial purposes (including through the commercial exploitation of the carbon absorption capacity of the forest vegetation);

farm means a place being used solely or predominantly for the business of agriculture, pasturage, horticulture, viticulture, animal farming or any other business consisting of the cultivation of soils, the gathering in of crops or the rearing of livestock, other than where the sole or predominant use is commercial forestry.

Schedule 3—Declaration concerning produce or goods carrying plants

Natural Resources Management Act 2004
section 177

Produce/Goods Contamination Declaration (SA)

This vendor declaration applies to any animal, plant, soil, vehicle, farming implement or other produce, goods, material or other thing offered for sale.

Description of item or material	Quantity	Consigned to (name/address)

A plant, as defined under the Act, includes the seeds or other propagules of that plant. It does not include material incapable of growth, such as seasoned timber.

Declaration 1

To the best of my knowledge, the items or material offered for sale are free from contamination by any plant declared under the *Natural Resources Management Act 2004* to be a plant to which section 177 of that Act applies.

Declaration 2 (Delete if not applicable)

However, I am aware that the items or material offered for sale are contaminated with the following plant declared under the *Natural Resources Management Act 2004* to be a plant to which section 178 of that Act applies:

.....

The following must be completed and signed by the vendor or his/her agent:

I, of¹
..... Telephone:

declare that the information I have provided in this Declaration is true and accurate to the best of my knowledge.

Signed Date

¹ Insert full contact address

Schedule 4—Fees

- | | | |
|---|--|---------|
| 1 | Application for a permit under Chapter 7 of the Act, other than an application for a permit to drill a well or to undertake work on a well | \$43.25 |
|---|--|---------|

2	Application for a permit to drill a well or to undertake work on a well	\$67.00 plus a technical assessment fee of an amount not exceeding \$135.00 determined by the Minister after taking into account any advice from his or her department about the costs associated with assessing the application
3	Maximum fee under section 138 of the Act	\$1.35 per page
4	Application for a well driller's licence—	
	(a) for a new licence	\$201.00
	(b) for the renewal of a licence	\$103.00
5	Application for the variation of a well driller's licence	\$153.00
6	Application for a water licence	\$179.00
7	Maximum fee under section 149 of the Act	\$1.35 per page
8	Application to transfer a water licence	\$335.00 plus a technical assessment fee of \$225.00
9	Application to vary a water licence on transfer of an allocation	\$335.00 plus a technical assessment fee of \$225.00
10	Additional fee where Minister directs an assessment by an expert under section 151(6) or 158(2) of the Act (and the expenses of the assessment are to be paid by the applicant in addition to this fee)	\$148.00
11	Application to vary a licence for any other reason	\$335.00 plus a technical assessment fee of \$225.00
12	Application for a permit under section 188 of the Act—	
	(a) in relation to a Category 1 or Category 2 animal	\$279.00
	(b) in relation to a Category 1 or Category 2 plant	\$78.00
	(c) in relation to a Category 3 animal or plant	\$78.00
13	Maximum fee for a copy of an annual report under the Act	\$1.35 per page
14	Maximum fee for a copy of a submission under section 42 of the Act	\$1.35 per page
15	Maximum fee for a copy of the State NRM Plan or any amendments to the State NRM Plan	\$1.35 per page
16	Maximum fee for a copy of a document under section 83 of the Act	\$1.35 per page
17	Maximum fee for a copy of an agenda or minutes under Schedule 1 of the Act	\$1.35 per page
18	Application for notation on NRM Register or for the removal of a notation	\$6.95
19	Fee for providing information required by the <i>Land and Business (Sale and Conveyancing) Act 1994</i>	\$20.10

Schedule 5—Water restrictions

Purpose	Water restrictions
Gardens and lawns	Watering cans and buckets may be used at any time to water outdoor trees, shrubs and plants (other than lawns).
Hard surfaces	Water must not be used to wash paved or concreted areas, decking, walls or roofs of a building at any time unless it is necessary to do so to protect public health, ensure safety of people using the area, ensure the health and welfare of animals using the area or in case of accident, fire or other emergency. Windows may be cleaned from a bucket filled directly from a tap.
Fountains and ponds	A fountain, pond or water feature that does not recycle water must not be operated and must not be topped up unless it supports fish. The level of water in a fountain, pond or water feature that recycles water may be topped up only with water from a hand held hose or bucket. Fountains, ponds and water features must not be refilled after emptying.
Swimming pools and spas	Existing pools and spas must not be refilled from empty. The level of water in a swimming pool or spa that has been previously filled with water may be topped up or maintained only with water from a hand held hose or bucket. New pools or spas may be filled only with written authority from the Department of Water, Land and Biodiversity Conservation. Written authority will not be granted unless there is proof a cover has been purchased to prevent water loss through evaporation. Children’s wading pools must not be filled with more than 250 litres of water.
Washing cars and boats	Water must not be used to wash a vehicle except by means of a commercial car wash or a bucket filled directly from a tap. Hoses are not to be used. Boat owners are permitted to flush out motors and rinse off metal parts to prevent corrosion.
Building development/construction activities	Water must not be used for dust suppression and compaction unless it is applied from a hand held hose fitted with a trigger nozzle or directly from a motor vehicle designed and approved to carry/deposit water.
Commercial nurseries and garden centres	Hand held hoses fitted with a trigger nozzle, watering cans, buckets and drip-watering systems may be used at any time to water plants in commercial nurseries and garden centres. Sprinkler systems may be used between the hours of 8 p.m. and 8 a.m. On days when the maximum temperature is forecast to exceed 30 degrees sprinkler systems may also be used between the hours of 1 p.m. and 2 p.m.

Purpose	Water restrictions
Caravan and camping sites	<p><i>October-March</i></p> <p>Grassed sites that have been damaged by cars, caravans and/or tents may be watered with a sprinkler for not more than 30 minutes on the day the area is vacated. If grassed areas are not being used then they may be watered with a sprinkler no more than once per week, for no more than 30 minutes at any time.</p> <p><i>April-September</i></p> <p>Grassed sites that have been damaged by cars, caravans and tents may be watered with a sprinkler no more than once per week at any time for no more than 30 minutes at any time.</p>

Schedule 6—Water efficiency plans

1—Preparation of water efficiency plans

A draft water efficiency plan must be prepared and submitted to the Minister for approval—

- (a) in the case of a new water efficiency plan—not later than the date specified by the Minister by notice in the Gazette; or
- (b) in the case of a water efficiency plan that is to replace an expiring plan—not later than the day on which the existing water efficiency plan expires.

2—Contents of water efficiency plans

A draft water efficiency plan must include the following information:

- (a) a description of the licensee's current water usage;
- (b) a list of water savings measures (expressed in terms of water saved, cost effectiveness and potential benefits) that the licensee proposes to implement in the 5 year period following approval of the water efficiency plan (including initial set up costs and annual costs for each measure and time frames for implementation);
- (c) any other information required by the Minister by notice in the Gazette, or by notice in writing given to the licensee.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- 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 these regulations (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 regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2005	152	<i>Gazette 30.6.2005 p2208</i>	1.7.2005: r 2
2005	244	<i>Gazette 24.11.2005 p4021</i>	24.11.2005: r 2
2006	83	<i>Gazette 15.6.2006 p1710</i>	1.7.2006: r 2
2006	271	<i>Gazette 14.12.2006 p4385</i>	14.12.2006: r 2
2007	41	<i>Gazette 26.4.2007 p1366</i>	26.4.2007: r 2
2007	160	<i>Gazette 7.6.2007 p2565</i>	1.7.2007: r 2
2007	189	<i>Gazette 28.6.2007 p2901</i>	28.6.2007: r 2
2007	191	<i>Gazette 28.6.2007 p2905</i>	1.7.2007: r 2
2007	197	<i>Gazette 5.7.2007 p2987</i>	5.7.2007: r 2
2008	121	<i>Gazette 5.6.2008 p2105</i>	1.7.2008: r 2
2009	29	<i>Gazette 2.4.2009 p1299</i>	2.4.2009: r 2
2009	127	<i>Gazette 4.6.2009 p2583</i>	1.7.2009: r 2
2009	176	<i>Gazette 11.6.2009 p2797</i>	1.7.2009: r 2
2009	195	<i>Gazette 25.6.2009 p3039</i>	1.7.2009: r 2

Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	24.11.2005
r 3		
r 3(1)	r 3 redesignated as r 3(1) by 244/2005 r 4(2)	24.11.2005
donation	inserted by 244/2005 r 4(1)	24.11.2005

environmental donations licence	inserted by 244/2005 r 4(1)	24.11.2005
r 3(2)	inserted by 244/2005 r 4(2)	24.11.2005
Pt 4		
r 11		
r 11(1a)	inserted by 29/2009 r 4(1)	2.4.2009
r 11(2)	varied by 29/2009 r 4(2)	2.4.2009
Pt 5		
r 22A	inserted by 41/2007 r 4	26.4.2007
Pt 5A	inserted by 191/2007 r 4	1.7.2007
Pt 8		
r 41A	inserted by 197/2007 r 4	5.7.2007
r 42		
r 42(3)	inserted by 244/2005 r 5	24.11.2005
r 42A	inserted by 271/2006 r 4	14.12.2006
	varied by 189/2007 r 4(1)—(3)	28.6.2007
Sch 4	substituted by 83/2006 r 4	1.7.2006
	substituted by 160/2007 r 4	1.7.2007
	substituted by 121/2008 r 4	1.7.2008
Schs 5 and 6	inserted by 191/2007 r 5	1.7.2007

Historical versions

24.11.2005
 1.7.2006
 14.12.2006
 26.4.2007
 28.6.2007 (electronic only)
 1.7.2007
 5.7.2007
 1.7.2008