

South Australia

Wilderness Protection Act 1992

An Act to provide for the protection of wilderness and the restoration of land to its condition before European colonisation; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Wilderness Protection Act 1992*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

Aboriginal means of, or pertaining to, the people who inhabited Australia before European colonisation;

Aboriginal object has the same meaning as in the *Aboriginal Heritage Act 1988*;

Aboriginal organisation means an association, body or group comprised, or substantially comprised, of Aboriginal persons having as its principal objects the furtherance of interests of Aboriginal people;

Aboriginal site has the same meaning as in the *Aboriginal Heritage Act 1988*;

Aboriginal tradition means Aboriginal traditions, observances, customs or beliefs and includes traditions, observances, customs and beliefs that have evolved or developed from that tradition since European colonisation;

the Chief Executive Officer means the person for the time being holding, or acting in, the office of Chief Executive Officer of the Department;

Crown land means—

- (a) unalienated land of the Crown; or
- (b) land held by a Minister, agent or instrumentality of the Crown on behalf of the Crown;

Department means the administrative unit of the Public Service charged with the administration of this Act;

the Director means the person for the time being holding, or acting in, the office of Director of National Parks and Wildlife;

the Environment, Resources and Development Committee means the committee of that name established by the *Parliamentary Committees Act 1991*;

land includes submerged land and includes an estate or interest in land;

land acquired by the Minister means land that the Minister has acquired for the purposes of this Act and includes land that the Minister proposes to acquire for those purposes and in relation to which he or she has served a notice of intention to acquire the land under the *Land Acquisition Act 1969*;

management in relation to land includes the restoration of the land and its ecosystems to their condition before European colonisation;

mining Act means the *Mining Act 1971*, the *Petroleum Act 2000*, the *Petroleum (Submerged Lands) Act 1982* or the *Offshore Minerals Act 2000*;

mining tenement means a mineral claim, lease, licence, permit or other authority granted under a mining Act and includes rights of entry, prospecting, exploration or mining in relation to an area of land declared to be a private mine under the *Mining Act 1971*;

the Minister means the Minister in whom the administration of the National Parks Act is vested for the time being;

modern technology includes all forms of human technology except Aboriginal technology;

the National Parks Act means the *National Parks and Wildlife Act 1972*;

native plant has the same meaning as in the National Parks Act;

owner of land means—

- (a) in relation to land alienated from the Crown by grant in fee simple—the holder of the fee simple;

- (b) in relation to land held under Crown lease or licence—the lessee or licensee;
- (c) in relation to land held under an agreement to purchase from the Crown—the person entitled to the benefit of the agreement;

public notice means notice published in the Gazette;

reserve means a reserve constituted under the National Parks Act;

vehicle includes—

- (a) a caravan or trailer;
- (b) an aircraft;
- (c) a ship, boat or vessel;

warden means a person for the time being holding the office of warden under this Act;

wilderness means land that meets the wilderness criteria;

the Wilderness Advisory Committee or **the Committee** means the Wilderness Advisory Committee established by this Act;

the wilderness code of management or **the code of management** means the wilderness code of management adopted by the Minister under Part 2 Division 3;

the wilderness criteria—see subsection (2);

wilderness protection area or **area** means land constituted as a wilderness protection area under this Act;

wilderness protection zone or **zone** means land constituted as a wilderness protection zone under this Act;

wildlife means all native plants and animals indigenous to Australia existing apart from cultivation or domestication;

Wildlife Conservation Fund means the Wildlife Conservation Fund established by section 11 of the National Parks Act.

- (2) The following are the criteria for determining whether or not land should be regarded as wilderness:
 - (a) the land and its ecosystems must not have been affected, or must have been affected to only a minor extent, by modern technology;
 - (b) the land and its ecosystems must not have been seriously affected by exotic animals or plants or other exotic organisms.

4—Act binds the Crown

This Act binds the Crown not only in right of the State but also, so far as the legislative power of the State permits, in all its other capacities.

Part 2—Administration

Division 1—Ministerial powers and duties

5—Power of acquisition

The Minister may, subject to and in accordance with the *Land Acquisition Act 1969*, acquire land for the purposes of this Act.

6—Delegation

- (1) Subject to subsection (4), the Minister may delegate to the Chief Executive Officer, the Director or any other person any of the Minister's powers under this Act.
- (2) The Chief Executive Officer may, with the Minister's consent, delegate to the Director or any other person any of the powers delegated to the Chief Executive Officer.
- (3) The Director may delegate to any person any of the Director's powers under this Act, including, with the consent of the person who has delegated the power, a power delegated to the Director under this section.
- (4) The Minister cannot delegate the power to acquire land for the purposes of this Act.
- (5) A delegation under this section—
 - (a) must be in writing;
 - (b) may be expressed as a delegation to the person from time to time holding, or performing the duties of, a specified position in the Public Service of the State.
- (6) A delegation under this section may be revoked at will by the delegator and does not prevent the exercise of any power by the delegator.

7—Annual report

- (1) The Minister must cause a report to be prepared annually setting out the following information:
 - (a) the names and locations of the wilderness protection areas and wilderness protection zones constituted under this Act and the extent to which the wilderness criteria are met by each area and zone; and
 - (b) the name or some other identification of the former reserves or parts of reserves that have been constituted as wilderness protection areas or zones; and
 - (c) the extent of mining operations in wilderness protection zones; and
 - (d) information as to the management of wilderness protection areas and zones and particulars of any activities to restore land and its ecosystems to their condition before European colonisation; and
 - (e) a list of management plans adopted under this Act; and
 - (f) the portions (if any) of wilderness protection areas or zones that the Minister has declared to be prohibited areas and the reasons for making those declarations; and

- (g) an account of money received and expended in relation to the management of wilderness protection areas and wilderness protection zones; and
 - (h) in the case of wilderness protection zones, an account of the royalties (if any) received in respect of the mining tenements in force in those zones and the money expended in administering those mining tenements by an administrative unit of the Public Service.
- (2) The report must include a copy of the Wilderness Code of Management in force under Division 3.
- (3) The Minister must—
 - (a) cause copies of the report to be laid before both Houses of Parliament; and
 - (b) provide a copy of the report to the Minister responsible for the administration of the *Mining Act 1971*; and
 - (c) by public notice specify an address at which copies of the report can be inspected or purchased by members of the public.

Division 2—The Wilderness Advisory Committee

8—Wilderness Advisory Committee

- (1) The Wilderness Advisory Committee is established.
- (2) The Committee consists of the Director and four other members appointed by the Governor on the nomination of the Minister—
 - (a) one of whom has qualifications or experience in a field of science that is relevant to the conservation of ecosystems and to the relationship of wildlife with its environment;
 - (b) one of whom has been nominated by the Minister from a panel of three persons selected by the Wilderness Society SA Branch Incorporated;
 - (c) two of whom have wide experience in the management or recreational use of wilderness.
- (3) A member appointed by the Governor will be appointed for such term (not exceeding two years) and on such conditions as the Governor thinks fit.
- (4) The Governor may appoint suitable persons to be deputies of the members of the Committee appointed by the Governor and a deputy of a member must be appointed in the same manner as the member and have the qualifications (if any) required by this Act for the appointment of the member.
- (5) The deputy of a member may act as a member of the Committee in the absence, or during a temporary vacancy in the office, of the member.
- (6) The office of a member appointed by the Governor becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is removed from office by the Governor on the ground of—

- (i) mental or physical incapacity to carry out official duties satisfactorily; or
- (ii) neglect of duty; or
- (iii) misconduct.

9—Procedures at meetings of the Committee

- (1) A meeting will be chaired by the presiding member (appointed by the Governor) or, in his or her absence, by the deputy of the presiding member or, in the absence of both of them by a member chosen by those present.
- (2) Subject to subsection (3), the Committee may act despite vacancies in its membership.
- (3) Four members constitute a quorum at a meeting of the Committee.
- (4) A decision in which a majority of the members present at a meeting concur is a decision of the Committee but if the Committee is equally divided the decision of the person presiding at the meeting is the decision of the Committee.
- (5) Subject to this Act, the Committee may determine its own procedures.
- (6) The Committee must keep minutes of its proceedings.

10—Allowances and expenses

The members of the Committee are entitled to allowances and expenses determined by the Minister.

11—Functions of the Committee

- (1) The functions of the Committee are as follows:
 - (a) to assess all land in the State to identify those parts of the State that meet the wilderness criteria to a sufficient extent to justify protection under this Act or that warrant restoration to a condition that justifies such protection; and
 - (b) at the request of a member of the public to assess the extent to which land specified in the request meets the wilderness criteria; and
 - (c) to report to the Minister on the results of its assessments under paragraphs (a) and (b) and to make recommendations to the Minister as to what land in the State should be constituted as wilderness protection areas or wilderness protection zones; and
 - (d) to make recommendations to the Minister in relation to the management of wilderness protection areas and zones generally or in relation to a particular wilderness protection area or zone; and
 - (e) to commission research into the effect of mining, grazing and other forms of primary production and tourism on wilderness and its wildlife and to advise the Minister of the findings of the research; and
 - (f) to increase understanding in the community of the significance of wilderness; and
 - (g) to assist the Minister in relation to the preparation of the annual report under Division 1; and
 - (h) functions assigned to the Committee by other provisions of this Act.

- (2) The Committee must make the assessment under subsection (1)(a) and report to the Minister under subsection (1)(c) as soon as practicable after the commencement of this Act.

Division 3—Wilderness code of management

12—Wilderness code of management

- (1) The Wilderness Advisory Committee must, as soon as practicable after the commencement of this Act, in consultation with the Director, prepare a draft code of management of wilderness protection areas and wilderness protection zones for submission to the Minister.
- (2) The code must set out policies that should be implemented in the management of wilderness protection areas and zones in relation to the following:
 - (a) the preservation of wildlife and ecosystems;
 - (b) the restoration of land and its ecosystems to their condition before European colonisation and the protection of land and its ecosystems from the effects of modern technology and exotic animals and plants and other exotic organisms;
 - (c) the preservation of Aboriginal sites and Aboriginal objects;
 - (d) the preservation of historic sites and objects and structures of historic or scientific interest;
 - (e) the preservation of features of geographical, natural or scenic interest;
 - (f) the destruction of dangerous weeds and the eradication or control of noxious weeds and exotic plants;
 - (g) the control of vermin and exotic animals and other exotic organisms;
 - (h) the control and eradication of disease of animals and vegetation;
 - (i) the prevention and suppression of bush fires and other hazards;
 - (j) the conduct of firefighting and other emergency operations;
 - (k) the conduct of scientific research;
 - (l) education of the public as to the significance of wilderness protection areas and zones;
 - (m) use of wilderness protection areas and zones by members of the public;
 - (n) hunting in wilderness protection areas and wilderness protection zones by Aboriginal people;
 - (o) the entry into and use of wilderness protection areas and zones by Aboriginal people to observe Aboriginal tradition.
- (3) On receipt of the draft code of management, the Minister must give public notice specifying—
 - (a) an address at which copies of the draft code may be inspected or purchased; and
 - (b) an address to which submissions in connection with the draft code may be forwarded.

- (4) Any person may within three months after publication of the notice, or such longer period as may be specified in the notice, make submissions to the Minister in connection with the draft code of management.
- (5) The Minister must provide the Environment, Resources and Development Committee with copies of all submissions made under subsection (4) and must make copies of those submissions available for public inspection or purchase (except for submissions made in confidence) and for that purpose the Minister must, by public notice, specify the place or places at which the copies are available.
- (6) After expiration of the period allowed for making submissions the Minister must refer the submissions made in relation to the code to the Wilderness Advisory Committee for its comments.
- (7) The Committee must, within three months of the referral, provide the Minister with its comments.
- (8) The Minister may—
 - (a) adopt a draft code of management—
 - (i) without alteration; or
 - (ii) with such alterations as the Minister thinks reasonable in view of the submissions made pursuant to subsection (4) or comments made by the Wilderness Advisory Committee; or
 - (b) refer the draft code of management back to the Wilderness Advisory Committee for further advice.
- (9) The Minister must give public notice of the adoption of a code of management.
- (10) The Director must, upon the application of any member of the public and payment of the prescribed fee, provide that person with a copy of the code of management adopted under this section.
- (11) The code of management may be varied or revoked and replaced at any time in accordance with the procedures set out in this section.

Division 4—Appointment and powers of wardens

13—Appointment of wardens

- (1) The Minister may, by instrument in writing, appoint any person who has prescribed qualifications to be a warden under this Act.
- (2) A warden will be appointed for a term specified in the instrument of appointment.
- (3) The Minister may, in the instrument of appointment, authorise the warden to exercise his or her powers in respect of the whole, or any specified portion, of the State.
- (4) Where the authority of a warden is limited by the instrument of appointment or by this section to any specified portion of the State, the powers conferred on the warden under this Act are exercisable only within that portion of the State.
- (5) Every person appointed and holding office as a warden under the National Parks Act is a warden for the purposes of this Act and may exercise his or her powers as a warden throughout the State or in that part of the State to which his or her powers are limited under the National Parks Act.

- (6) Every police officer is, while holding office as such, a warden competent to exercise powers as such in any part of the State.
- (7) Where a mining tenement is in force in relation to a wilderness protection zone, a person who has authority to exercise powers in relation to the mining tenement by virtue of being an authorised person or inspector under the *Mining Act 1971*, an authorised officer under the *Petroleum Act 2000*, an inspector under the *Petroleum (Submerged Lands) Act 1982* or an inspector under the *Offshore Minerals Act 2000*, is a warden competent to exercise powers as such in relation to the wilderness protection zone in relation to which the mining tenement is in force.
- (8) A warden must, while acting as such, carry an identity card issued by the Minister under this Act or the National Parks Act or, if the warden is a police officer, the officer's warrant card, and the warden must produce the card for inspection by the person against whom the warden proposes to exercise any of the powers conferred by this Act.

14—Assistance to wardens

- (1) A warden may request any suitable person to assist the warden in the exercise of powers under this Act.
- (2) A person, while assisting a warden in response to a request for assistance by the warden, has the powers of a warden.

15—Powers of entry and search

- (1) If a warden suspects on reasonable grounds that an offence against this Act or the National Parks Act is being, has been, or is about to be committed, the warden may—
 - (a) enter and search any premises or vehicle connected with the suspected offence;
 - (b) require the person suspected of committing, having committed, or being about to commit the offence to state his or her full name and usual place of residence;
 - (c) ask any person any question relating to the suspected offence;
 - (d) in order to facilitate a search of a vehicle or to ask questions of any person in, or on, a vehicle, give—
 - (i) directions to a person in, on, or in charge of, the vehicle to stop the vehicle or to move it to a particular place;
 - (ii) such other directions as the warden thinks fit;
 - (e) if the suspect is in a wilderness protection area or wilderness protection zone or is on land acquired by the Minister—order him or her off the wilderness protection area or zone or other land for a stated period (not exceeding 24 hours).
- (2) Subject to subsection (3), a person who fails to answer a question asked by a warden under subsection (1) to the best of his or her knowledge, information or belief is guilty of an offence.

Maximum penalty: \$2 500.

- (3) A person is not obliged to answer a question if the answer would tend to incriminate him or her of an offence.
- (4) If a warden suspects on reasonable grounds that a name or place of residence stated pursuant to this section is false, the warden may require the person to produce evidence of his or her full name or usual place of residence.
- (5) For the purpose of entering and searching premises or a vehicle, a warden may break into the premises or vehicle, or anything on the premises or in the vehicle, using so much force as is necessary for that purpose—
 - (a) if authorised by warrant under subsection (6); or
 - (b) if the warden has reason to believe that urgent action is necessary in the circumstances of the particular case.
- (6) A justice may, if satisfied on the application of a warden that there is proper ground for the issue of a warrant, issue a warrant authorising the warden to break into and search premises or a vehicle or anything on the premises or in the vehicle.
- (7) A person who contravenes, or fails to comply with, a direction, requirement or order of a warden under this section is guilty of an offence.
Maximum penalty: \$2 500.
- (8) A warden, or a person assisting a warden, who—
 - (a) addresses offensive language to any other person; or
 - (b) without lawful authority, or a reasonable belief as to lawful authority, hinders or obstructs, or uses or threatens to use force in relation to, any other person,is guilty of an offence.
Maximum penalty: \$2 500.

16—Prevention of certain activities

- (1) Where a person is undertaking or, in the opinion of a warden, is about to undertake an activity in, or adjacent to, a wilderness protection area or wilderness protection zone or on, or adjacent to, land acquired by the Minister and, in the opinion of the warden, the activity constitutes, or will constitute, an offence against this Act or the National Parks Act or will result in the commission of such an offence if it continues, the warden may direct the person to stop the activity or not to undertake it.
- (2) A direction under subsection (1) may be made orally, in writing or in any other convenient manner and remains in force for five days.
- (3) As soon as practicable after giving a direction the warden must make a written report to the Minister—
 - (a) describing the activity and its location; and
 - (b) stating the name and address (if known) of the person to whom the direction was given; and
 - (c) stating the date and time at which it was given; and
 - (d) providing any other information required by the Minister.
- (4) When a direction under subsection (1) expires the direction cannot be renewed by a further direction given under that subsection.

- (5) Where a person is undertaking or has undertaken an activity in, or adjacent to, a wilderness protection area or wilderness protection zone or on, or adjacent to, land acquired by the Minister or the Minister has reason to believe that a person is likely to undertake such an activity and, in the opinion of the Minister, the activity constitutes, or will constitute an offence against this Act or the National Parks Act or will result in the commission of such an offence if it continues, the Minister may, by notice in writing, direct the person to stop the activity or not to undertake it.
- (6) The notice must—
 - (a) state the Minister's reasons for giving the direction; and
 - (b) state that any interested person may make submissions to the Minister with respect to the direction; and
 - (c) set out the penalty for failure to comply with the direction.
- (7) The notice must be served on the person to whom it is addressed—
 - (a) personally or by post; or
 - (b) if the whereabouts of the person are unknown—by publication of the notice in a newspaper circulating generally throughout the State.
- (8) The Minister must—
 - (a) give proper consideration to any submissions made with respect to the direction;
 - (b) if satisfied (whether on the basis of such submissions or otherwise) that the direction should be revoked or modified, revoke or modify the direction accordingly.
- (9) A person who contravenes or fails to comply with a direction of the Minister or a warden under this section is guilty of an offence.
Maximum penalty: \$5 000.

17—Forfeiture

- (1) An object is liable to confiscation under this section if it has been used in the commission of an offence or it furnishes evidence of the commission of an offence.
- (2) A vehicle is liable to confiscation under subsection (1) only in relation to an offence that is punishable by imprisonment.
- (3) If a warden suspects on reasonable grounds that an object is liable to confiscation under this section, the warden may seize the object.
- (4) Where an object is seized under subsection (3), the following provisions apply:
 - (a) if proceedings for an offence in relation to the object seized are not commenced within three months of the date of seizure, the object must be returned to the owner;
 - (b) if such proceedings are commenced against the owner of the object within three months of the date of seizure and the owner is, in the course of those proceedings, convicted of such an offence—
 - (i) the court may order that the object be forfeited to the Crown; and

- (ii) where the object is an animal, carcass, egg or plant and the prosecutor applies for its forfeiture—the court must order that the object be forfeited to the Crown;
 - (c) the object must be returned to the owner of the object if—
 - (i) in the circumstances referred to in paragraph (b), the owner is not convicted or the court does not make an order for forfeiture; or
 - (ii) in any other circumstances, the object is no longer required to furnish evidence of the commission of an offence;
 - (d) an object forfeited to the Crown may be sold or disposed of as the Minister thinks fit and, if sold, the proceeds of sale must be paid into the Wildlife Conservation Fund.
- (5) Despite subsection (4) if the Minister is unable, after reasonable inquiry, to ascertain the whereabouts of a person to whom an object is to be returned under subsection (4), the object may be sold or disposed of as the Minister thinks fit and, if sold, the proceeds of sale must be paid into the Wildlife Conservation Fund.

- (6) In this section—

convicted includes found guilty without a conviction being recorded;

object includes—

- (a) an animal, carcass or egg;
- (b) a plant;
- (c) a vehicle;
- (d) a cage or container;
- (e) a firearm or a trap, net, snare or other device for taking, or facilitating the taking of, animals;
- (f) poison or other substance;
- (g) a document or record;

offence means an offence against this Act and includes an offence against the National Parks Act that is committed in, or adjacent to, a wilderness protection area, wilderness protection zone or on land acquired by the Minister;

owner in relation to an object seized under this section means either or both of the following persons:

- (a) a person who has legal title to the object;
- (b) a person who was, immediately before seizure of the object, legally in possession or control of the object.

18—Hindering of wardens etc

- (1) A person must not hinder a warden, or a person assisting a warden, in the exercise of powers or functions under this Act.

Maximum penalty: \$5 000.

- (2) A person must not use abusive, threatening or insulting language to a warden, or a person assisting a warden, in the exercise of powers or functions under this Act.
Maximum penalty: \$5 000.
- (3) A person must not assault a warden, or a person assisting a warden, in the exercise of powers or functions under this Act.
Maximum penalty: \$10 000 or imprisonment for 2 years.

19—Power of arrest

- (1) A warden may, without warrant, arrest a person—
 - (a) who fails to comply with a direction, requirement or order of a warden or the Minister under this Act; or
 - (b) who hinders a warden or a person assisting a warden in the exercise of powers or functions under this Act.
- (2) Where a warden arrests a person under this section, the warden must, as soon as possible, take the person, or have the person taken, to the nearest police station at which facilities are continuously available for the care and custody of the person arrested.

20—False representation

A person must not, by words or conduct, falsely represent that he or she is a warden.
Maximum penalty: \$2 500 or imprisonment for 3 months.

Part 3—Wilderness protection areas and wilderness protection zones

Division 1—Constitution of wilderness protection areas and zones

22—Constitution of wilderness protection areas and wilderness protection zones

- (1) The Governor may, by proclamation made on the recommendation of the Minister—
 - (a) constitute as a wilderness protection area or a wilderness protection zone—
 - (i) a reserve, or part of a reserve or any other Crown land;
 - (ii) any other land if the proclamation is made with the consent of the owner of the land and of all other persons who have an interest in the land registered under the *Real Property Act 1886*; and
 - (b) assign a name to the wilderness protection area or zone so constituted.
- (2) The Governor may, on the recommendation of the Minister, by subsequent proclamation—
 - (a) abolish a wilderness protection area or wilderness protection zone constituted under this section; or
 - (b) alter the boundaries of a wilderness protection area or wilderness protection zone constituted under this section; or

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- (c) alter the name of a wilderness protection area or wilderness protection zone constituted under this section.
- (3) A proclamation must not be made under subsection (2)(a) or (b) by virtue of which any land ceases to be, or to be included in, a wilderness protection area or wilderness protection zone unless—
- (a) the proclamation is made in pursuance of a resolution passed by both Houses of Parliament; or
 - (b) in the case of land comprising the whole or part of a wilderness protection zone—the proclamation constitutes the land as a wilderness protection area or part of a wilderness protection area.
- (4) Notice of a motion for a resolution under subsection (3)(a)—
- (a) must not be given until the Minister has notified the Environment, Resources and Development Committee in writing of the proposed abolition, or alteration in the boundaries, of the wilderness protection area or zone; and
 - (b) must be given at least 14 sitting days before the resolution is passed.
- (5) Where, in the opinion of the Minister, land should be constituted as a wilderness protection area or a wilderness protection zone under this section—
- (a) —
 - (i) because it meets the wilderness criteria to a sufficient extent to justify its protection as wilderness under this Act; or
 - (ii) to enable it to be restored to a condition that justifies its protection as wilderness under this Act; or
 - (b) in order to provide a buffer zone to protect land of a kind referred to in paragraph (a); or
 - (c) to enable the adoption of convenient boundaries for a wilderness protection area or wilderness protection zone,
- the Minister may recommend to the Governor that he or she constitute the land as a wilderness protection area or wilderness protection zone under subsection (1) or alter the boundaries of an existing wilderness protection area or zone by adding the land to the area or zone under subsection (2).
- (6) Before making a recommendation under subsection (5), the Minister must comply with the following requirements:
- (a) if, in the Minister's opinion, an Aboriginal organisation has a particular interest in the land to which the proposal relates, the Minister must consult that organisation in relation to the proposal;
 - (b) if the Wilderness Advisory Committee has not provided the Minister with a report setting out its views in relation to the proposal and to the future management of the land the Minister must obtain such a report from the Committee;
 - (c) the Minister must by public notice—
 - (i) identify the land to which the proposal relates and set out the Minister's reasons for the proposal; and

- (ii) set out the text of the Committee's report; and
 - (iii) invite interested persons to make submissions to the Minister in relation to the proposal within a period of three months following publication of the notice;
 - (d) the Minister must give a copy of the notice to the Environment, Resources and Development Committee, the South Australian National Parks and Wildlife Council and to the holder of a mining tenement (if any) in force in respect of the land;
 - (e) the Minister must make copies of all submissions made in response to the notice available for public inspection or purchase (except for submissions made in confidence) and for that purpose the Minister must, by public notice, give notice of the place or places at which the copies are available;
 - (f) the Minister must refer all submissions made in response to the notice to the Wilderness Advisory Committee for comment and must before making a recommendation to the Governor consider all submissions and the comments of the Committee;
 - (g) if the Minister decides to defer, or not to proceed with, the proposal he or she must give public notice setting out the reasons for the decision.
- (7) Upon constitution of a reserve, or part of a reserve, as a wilderness protection area or wilderness protection zone the land ceases to be a reserve, or part of a reserve, under the National Parks Act.

23—Constitution of area or zone with consent of indenture holder

- (1) Subject to subsection (2), the Governor may, by proclamation under this Part, constitute land as a wilderness protection area or zone in contravention of an indenture Act or an indenture.
- (2) The Governor must not make a proclamation of a kind referred to in subsection (1) that would affect the rights of a party under an indenture Act or an indenture without the consent of the party.
- (3) In order to obtain the consent of a party under subsection (2) the Governor may, by regulation, authorise the party to undertake an act or activity that would otherwise be unlawful under this Act.
- (4) In this section—

Indenture means an indenture, or other instrument, ratified by an indenture Act;

Indenture Act means the—

Broken Hill Proprietary Company's Indenture Act 1937

Broken Hill Proprietary Company's Steel Works Indenture Act 1958

Cooper Basin (Ratification) Act 1975

Roxby Downs (Indenture Ratification) Act 1982

or

Stony Point (Liquids Project) Ratification Act 1981.

24—Alteration of boundaries of wilderness protection areas and zones

- (1) The Governor may, by regulation made on the recommendation of the Minister, alter the boundaries of a wilderness protection area or wilderness protection zone for the purpose of making, or allowing for the making of, minor alterations or additions to a public road that intersects, or is adjacent to, the wilderness protection area or zone.
- (2) At least three months before making a recommendation to the Governor, the Minister must give public notice—
 - (a) specifying the place or places at which a plan showing the proposed alterations is available for inspection; and
 - (b) inviting interested persons to make written submissions to the Minister in relation to the proposal.
- (4) The Minister must give consideration to any submissions made in response to an invitation under subsection (2).
- (5) The Minister must not make a recommendation if the Minister is satisfied that the proposed alteration would—
 - (a) significantly prejudice the implementation of the policies set out in the wilderness code of management so far as they are relevant to that wilderness protection area or wilderness protection zone; or
 - (b) be contrary to the plan of management prepared in relation to that wilderness protection area or wilderness protection zone.

24A—Native title

- (1) The constitution of a wilderness protection area or a wilderness protection zone by proclamation under this Part on or after 1 January 1994 is subject to native title existing when the proclamation was made.
- (2) The addition of land to a wilderness protection area or a wilderness protection zone by proclamation or regulation under this Part on or after 1 January 1994 is subject to native title existing when the proclamation or regulation was made.

Division 2—Prohibition of activities in wilderness protection areas and zones

25—Prohibition of mining operations in wilderness protection areas and zones

- (1) Subject to subsection (3), rights of entry, prospecting, exploration, or mining cannot be acquired or exercised pursuant to a mining Act in respect of land constituting a wilderness protection area or wilderness protection zone.
- (2) Rights of entry, prospecting, exploration or mining cannot be acquired pursuant to a mining Act in respect of land in respect of which the Minister has published a notice under section 22(6)(c) until the land is constituted as a wilderness protection zone or the Minister gives public notice under section 22(6)(g) that he or she has decided not to proceed with the proposal to constitute the land as a wilderness protection area or zone.

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Part 3—Wilderness protection areas and wilderness protection zones

Division 2—Prohibition of activities in wilderness protection areas and zones

- (3) The Governor may, by proclamation, declare that subject to any conditions specified in the proclamation rights of entry, prospecting, exploration, or mining may be acquired and exercised in respect of land constituting a wilderness protection zone.
- (4) The Governor may, by proclamation, vary or revoke a proclamation under subsection (3).
- (5) A proclamation must not be made under subsection (3) unless—
 - (a) the proclamation—
 - (i) is made—
 - (A) for the purpose of enabling the holder of a mining tenement that was in force immediately before constitution of the land as a wilderness protection zone to continue to exercise rights of entry, prospecting, exploration or mining under the tenement; or
 - (B) to enable the holder to acquire and exercise such rights under another tenement granted under the same mining Act; or
 - (C) to enable a subsequent holder of a mining tenement referred to in subsubparagraph (A) or (B) to exercise rights of entry, prospecting, exploration or mining under the tenement; or
 - (D) to enable a subsequent holder of such a mining tenement to acquire and exercise such rights under another tenement granted under the same mining Act; and
 - (ii) is made simultaneously with the proclamation constituting the land as, or adding the land to, a wilderness protection zone; or
 - (b) the proclamation is made in pursuance of a resolution passed by both Houses of Parliament.
- (6) A proclamation under subsection (4) that removes or reduces restrictions on the acquisition or exercise of rights of entry, prospecting, exploration or mining must not be made unless the proclamation is made in pursuance of a resolution passed by both Houses of Parliament.
- (7) A proclamation under subsection (4) that increases existing restrictions or imposes new restrictions on the acquisition or exercise of rights of entry, prospecting, exploration or mining must not be made unless—
 - (a) the Minister responsible for the administration of the *Mining Act 1971* and the holder of the mining tenement concerned have been given at least three months to make submissions to the Minister on the proposal; and
 - (b) the Minister has considered the submissions (if any) made under paragraph (a).
- (8) Notice of a motion for a resolution under subsection (5)(b) or (6)—
 - (a) must not be given until the Minister has notified the Environment, Resources and Development Committee in writing of the proposal; and
 - (b) must be given at least 14 sitting days before the resolution is passed.

- (9) A person who contravenes or fails to comply with a condition of a proclamation under this section is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 4 years or both.

- (10) The Minister must, at intervals of not more than five years—
- (a) assess the effects of mining operations on each wilderness protection zone constituted under this Act; and
 - (b) prepare a report setting out the Minister's conclusions following the assessment and any action that should be taken as a result of the assessment; and
 - (c) cause copies of the report to be laid before both Houses of Parliament.

26—Prohibition of other activities

- (1) The following activities are prohibited in wilderness protection areas and wilderness protection zones:

- (a) the grazing of stock and all other forms of primary production;
- (b) the construction or erection of roads, tracks, buildings or structures (except those that are specifically authorised by the plan of management of the wilderness protection area or zone).

- (2) Subsection (1) is subject to the right of a person to exercise rights of entry, prospecting, exploration or mining pursuant to a mining tenement and a proclamation under this Division.

- (3) A person who undertakes an activity in contravention of subsection (1) is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 4 years or both.

- (4) A person must not, without the approval in writing of the Director, bring an animal into a wilderness protection area or wilderness protection zone or permit an animal to enter a wilderness protection area or zone.

Maximum penalty: \$20 000 or imprisonment for 4 years or both.

- (5) A person must not undertake any of the following activities in a wilderness protection area or wilderness protection zone except in accordance with a licence granted by the Director:

- (a) taking groups of people on sight seeing or scientific expeditions;
- (b) filming for commercial purposes;
- (c) conducting tours for fee or reward;
- (d) conducting surfing, fishing or any other kind of competition;
- (e) selling or hiring goods or offering goods for sale or hire;
- (f) providing, or offering to provide, any service for fee or reward;
- (g) conducting scientific experiments;

- (h) an activity of any kind for the purpose of fundraising or making a profit.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (6) A licence granted by the Director under subsection (5)—
 - (a) may be subject to such conditions as the Director thinks fit and specifies in the licence; and
 - (b) may be varied or revoked by the Director as the Director thinks fit; and
 - (c) cannot be transferred or otherwise dealt with except with the consent of the Director.

27—Wilful damage to wilderness protection area or zone or to property of Minister

- (1) A person who intentionally and without lawful authority—
 - (a) destroys or damages any part of a wilderness protection area, wilderness protection zone or land acquired by the Minister; or
 - (b) destroys or damages native plants in a wilderness protection area or zone or on land acquired by the Minister; or
 - (c) damages or destroys any property of the Minister in a wilderness protection area or zone or on land acquired by the Minister,

is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 4 years or both.

- (2) Upon convicting a person of an offence against this section, the court may order the convicted person to pay to the Minister such sum as the court thinks just by way of compensation.

Division 3—Control and management of wilderness protection areas and zones

28—Control and administration of wilderness protection areas and zones

- (1) The Minister has the control and administration of all wilderness protection areas and wilderness protection zones.
- (2) Subject to subsections (3) and (4), all leases and licences granted in respect of land become void upon constitution of the land as a wilderness protection area or zone.
- (3) A mining tenement in force in respect of land immediately before the constitution of the land as a wilderness protection zone remains in force if the rights of entry, prospecting, exploration or mining under the tenement are preserved by a proclamation made simultaneously with the proclamation constituting the land as a wilderness protection zone.
- (4) A lease or licence in force in respect of land immediately before the constitution of the land as a wilderness protection area or zone, remains in force if the lease or licence is preserved by the proclamation constituting the land as a wilderness protection area or zone.

- (5) A proclamation must not preserve a lease or licence under subsection (4) unless the Governor has considered whether the lease or licence by its operation will cause, or contribute to, a reduction in the degree to which the land meets the wilderness criteria.
- (6) A lease or licence preserved under subsection (4) continues in force—
 - (a) for the remainder of its term or, if a term is specified in the proclamation, for that term; and
 - (b) subject to any modification specified in the proclamation; and
 - (c) as if it had been entered into by the Minister under this section.
- (7) Despite any other Act or law, the Minister may—
 - (a) renew a lease or licence preserved under subsection (4) on terms and conditions that are substantially the same as the terms and conditions of the preserved lease or licence; or
 - (b) if the term of a lease or licence preserved under subsection (4), or a lease or licence renewed under paragraph (a), has expired—grant a new lease or licence in respect of the same land for purposes, and on terms and conditions, that are substantially the same as the preserved lease or licence.
- (8) A lease or licence cannot be transferred or otherwise dealt with except with the consent of the Minister.
- (9) The Minister may direct that money paid under a lease or licence be paid to a Trust established under the National Parks Act.

29—Management of wilderness protection areas and zones

- (1) Subject to subsection (2), all wilderness protection areas and wilderness protection zones are under the management of the Director.
- (2) The Director must observe any direction of the Minister or the Chief Executive Officer relating to the management of wilderness protection areas and wilderness protection zones generally or any particular wilderness protection area or zone.

30—Implementation of code of management

Before the Minister has adopted a plan of management in relation to a wilderness protection area or zone, the Minister, the Chief Executive Officer and the Director must, as far as practicable in the management of that area or zone, implement the policies set out in the wilderness code of management so far as they are relevant to that area or zone.

31—Plans of management

- (1) As soon as practicable after the constitution of a wilderness protection area or zone, the Minister must prepare a plan of management in relation to the area or zone.
- (2) Before preparing a plan of management the Minister must, by public notice, invite interested persons to make written submissions to the Minister (within a period of not less than three months following publication of the notice) as to matters that should be addressed by the plan of management and the Minister must consider all submissions made in response to the advertisement when preparing the plan of management.

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Part 3—Wilderness protection areas and wilderness protection zones

Division 3—Control and management of wilderness protection areas and zones

- (3) If the plan of management will relate to a wilderness protection zone, the Minister must give a copy of the notice to the Minister responsible for the administration of the *Mining Act 1971*.
- (4) The Minister must make copies of all submissions made under subsection (2) available for public inspection or purchase (except for submissions made in confidence) and for that purpose the Minister must, by public notice, give notice of the place or places at which the copies are available.
- (5) The plan of management must—
 - (a) as far as practicable implement the policies set out in the wilderness code of management so far as they are relevant to the wilderness protection area or wilderness protection zone; and
 - (b) set forth proposals of the Minister in relation to the management of the wilderness protection area or wilderness protection zone; and
 - (c) set forth any other proposals by which the Minister proposes to accomplish the objectives of this Act in relation to the wilderness protection area or zone.
- (6) When a plan of management has been prepared, the Minister must give public notice of that fact.
- (7) The notice must—
 - (a) specify an address at which copies of the plan of management may be inspected or purchased; and
 - (b) specify an address to which submissions in connection with the plan may be forwarded.
- (9) Any person may within three months after publication of the notice, or such longer period as is specified in the notice, make submissions to the Minister in connection with the plan of management.
- (10) The Minister must make copies of all submissions made under subsection (9) available for public inspection or purchase (except for submissions made in confidence) and for that purpose the Minister must, by public notice, give notice of the place or places at which the copies are available.
- (11) After expiration of the period allowed for making submissions the Minister must refer the proposed plan together with copies of all submissions made in relation to it to the Wilderness Advisory Committee for its comments.
- (12) The Committee must, within three months after the referral, provide the Minister with its comments.
- (13) The Minister may—
 - (a) adopt the plan of management—
 - (i) without alteration; or
 - (ii) with such alterations as the Minister thinks reasonable in view of the submissions made pursuant to subsection (9) or comments made by the Wilderness Advisory Committee;
 - (b) may refer the plan of management back to the Wilderness Advisory Committee for further advice.

- (14) The Minister must give public notice of the adoption of a plan of management.
- (15) The Director must, upon the application of any person and payment of the prescribed fee, furnish that person with a copy of a plan of management adopted under this section.
- (16) A plan of management may be varied or revoked and replaced at any time in accordance with the procedures set out in this section.

32—Implementation of plan of management

Where the Minister has adopted a plan of management in relation to a wilderness protection area or wilderness protection zone—

- (a) the provisions of the plan must be carried out in relation to that area or zone; and
- (b) operations must not be undertaken in relation to that area or zone unless those operations are in accordance with the plan of management.

33—Prohibited areas

- (1) Where the Minister is satisfied that it is necessary for the purpose of protecting human life or conserving wildlife the Minister may, by public notice, declare any portion of a wilderness protection area or wilderness protection zone to be a prohibited area.
- (2) A notice published under subsection (1) must state the grounds upon which the declaration is made.
- (3) A person must not be within a prohibited area unless authorised to enter the area by a permit issued by the Minister under this section.

Maximum penalty: \$2 500.

- (4) The Minister may, on appropriate terms and conditions, issue to any person a permit to be within a prohibited area.
- (5) The Minister may, by public notice, vary or revoke a notice under subsection (1).
- (6) The Minister must not publish a notice under subsection (1) or vary a notice under subsection (5) in relation to a wilderness protection zone without first consulting the Minister responsible for the administration of the *Mining Act 1971* and the holder of the mining tenement (if any) in force in relation to the zone and considering his or her views.
- (7) A permit issued by the Minister under this section is not transferable.

Division 4—Co-management of wilderness protection areas and zones

33A—Co-management of wilderness protection areas or zones

- (1) A co-management agreement may be entered into for a wilderness protection area or wilderness protection zone in the same way as a co-management agreement may be entered into for a park or reserve under the National Parks Act.

- (2) A co-management board for a wilderness protection area or wilderness protection zone that is subject to a co-management agreement (a ***co-managed wilderness protection area or zone***) may be established by the Governor by regulation in the same way as a co-management board may be established for a park or reserve under the National Parks Act.
- (3) Part 3 Division 6A of the National Parks Act (together with any definitions contained in the Act of terms used in that Division) applies as if it forms part of this Division, subject to the following modifications:
 - (a) the objects of the Division are to be read as if they included an additional object of providing, as far as practicable, for the restoration of land and its ecosystems to their condition before European colonisation and the protection of land and its ecosystems from the effects of modern technology and exotic animals and plants and other exotic organisms;
 - (b) a reference to a park or reserve is to be read as a reference to a wilderness protection area or zone;
 - (c) a reference to the Minister is to be read as a reference to the Minister responsible for the administration of this Act;
 - (d) a reference to a plan of management for a park or reserve is to be read as a reference to a plan of management for a wilderness protection area or zone under this Act;
 - (e) a reference to a warden is to be read as a reference to a warden under this Act;
 - (f) any other modifications prescribed by the regulations.
- (4) Whether the Minister or a co-management board has control of a co-managed wilderness protection area or zone is to be determined, despite section 28(1), in the same way as for a co-managed park or reserve under the National Parks Act.
- (5) Whether the Director or a co-management board has the management of a co-managed wilderness protection area or zone is to be determined, despite section 29(1), in the same way as for a co-managed park or reserve under the National Parks Act.
- (6) In its application in relation to land that is, or is to be, constituted as a co-managed wilderness protection area or zone, this Act is to be read subject to the following modifications:
 - (a) a proclamation under Part 3 Division 1 or 2 in respect of Aboriginal-owned land (within the meaning of the National Parks Act) may only be made—
 - (i) in the case of a proclamation constituting Aboriginal-owned land as a wilderness protection area or wilderness protection zone—
 - (A) if there is a co-management agreement providing for the establishment of the area or zone; and
 - (B) a co-management board for the area or zone has been, or is to be, established; and
 - (C) any conditions specified in the co-management agreement for the making of the proclamation have, in the opinion of the Minister, been met; and

- (ii) in any case—if the registered proprietor agrees to the making of the proclamation;
- (b) section 22(6) does not apply in relation to a co-managed wilderness protection area or zone comprised of Aboriginal-owned land and, in such a case, the Minister must instead comply with the following requirements before making a recommendation under section 22(5):
 - (i) if the Wilderness Advisory Committee has not provided the Minister with a report setting out its views in relation to the proposal and to the future management of the land—the Minister must obtain such a report from the Committee;
 - (ii) the Minister must provide a copy of the Committee's report to the owner of the land to which the proposal relates;
 - (iii) the Minister must invite the owner of the land to make submissions to the Minister in relation to the Committee's report;
 - (iv) the Minister must refer all submissions made in response to the invitation to the Wilderness Advisory Committee for comment and must, before making a recommendation to the Governor, consider all submissions and the comments of the Committee;
 - (v) if the Minister decides to defer, or not to proceed with, the proposal—the Minister must give notice to the owner of the land setting out the reasons for the decision;
- (c) a reference in section 26 to the Director is to be read as a reference to the Director or the co-management board according to whether the Director or the board has responsibility for the management of the land to which the relevant approval or licence relates;
- (d) a reference in section 28(6), (7) and (8) to the Minister is to be read as a reference to the Minister or the co-management board according to whether the Minister or the board has control of the relevant land;
- (e) section 28(9) does not apply in relation to a co-managed wilderness protection area or zone comprised of Aboriginal-owned land and, in such a case, money payable under a lease or licence in respect of the area or zone is payable to the co-management board for the area or zone;
- (f) any direction given to the Director under section 29(2) must be consistent with the co-management agreement for the area or zone;
- (g) if a co-management board is responsible for the management of the area or zone, the board must comply with section 30 in the same way as the Director must comply with that section;
- (h) if the Director is responsible for the management of the area or zone, the Director must seek or consider the advice of an advisory committee (the **co-management committee** for the area or zone) as set out in the co-management agreement;
- (i) the area or zone must be managed in accordance with the co-management agreement for the area or zone;

- (j) the co-management board or co-management committee for the area or zone must be involved in the preparation, review, adoption or amendment of a plan of management for the area or zone in the same way as a co-management board or co-management committee is involved in the preparation, review, adoption or amendment of a plan of management for a park or reserve under the National Parks Act;
- (k) except in an emergency, the Minister may only make a notice under section 33—
 - (i) in relation to an area or zone for which there is a co-management board—if the board has agreed to the making of the notice; or
 - (ii) in relation to an area or zone for which there is a co-management committee—if the committee has been consulted about the making of the notice;
- (l) the Minister may, at the request of the co-management board or co-management committee for the area or zone, exempt members of the relevant Aboriginal group from a restriction applying under section 33 to the area or zone;
- (m) a reference in section 38A to the Director is to be read as a reference to the Director or the co-management board according to whether the Director or the board has responsibility for management of the area to which the fees fixed under that section relate;
- (n) section 38A(3) does not apply in relation to an area or zone comprised of Aboriginal-owned land, and in such a case, fees fixed under section 38A(1) are payable to the co-management board for the area or zone.

Part 4—Civil enforcement proceedings

34—Jurisdiction of the Court

- (1) Where a person contravenes or fails to comply with a provision of this Act, the Director or any other person may apply to a District Court for an order under this section.
- (2) The application may be made in the absence of the respondent and, if the Court is satisfied on the application that the respondent has a case to answer, it will issue a summons requiring the respondent to appear before the Court to show cause why an order should not be made under this section.
- (3) If—
 - (a) after hearing—
 - (i) the applicant and the respondent; and
 - (ii) any other person who has, in the opinion of the Court, a proper interest in the subject matter of the proceedings and desires to be heard in the proceedings,

the Court is satisfied, on the balance of probabilities, that the respondent to the application has contravened or failed to comply with a provision of this Act; or

- (b) the respondent fails to appear in response to the summons or, having appeared, does not avail himself or herself of an opportunity to be heard, the Court may, by order—
 - (c) require the respondent to refrain, either temporarily or permanently, from the act, or course of action, that constitutes the contravention of, or failure to comply with, this Act;
 - (d) require the respondent to pay the Director's costs in making good the contravention or default.
- (4) If, upon an application under this section or before the determination of the proceedings commenced by the application, the Court is satisfied that, in order to preserve the rights or interests of parties to the proceedings or for any other reason, it is desirable to make an interim order under this section, the Court may make such an order.
- (5) An interim order—
 - (a) may be made in the absence of the respondent; and
 - (b) will be made subject to such conditions as the Court thinks fit; and
 - (c) will not operate after the proceedings in which it is made are finally determined.
- (6) A person who contravenes, or fails to comply with, an order or an interim order, under this section is (without prejudice to any liability for contempt of the order) guilty of an offence.
Maximum penalty: \$20 000.
- (7) The Court may make such orders in relation to the costs of proceedings under this section as it thinks just.

35—Commencement of proceedings

- (1) Proceedings under this Part may be commenced within two years after the date of the alleged contravention of, or failure to comply with, a provision of this Act or, with the authorisation of the Director of Public Prosecutions, at any later time.
- (2) The Director of Public Prosecutions may authorise proceedings under this Part within six months following the authorisation if, in the Director's opinion, the application could not have been made within the time specified in subsection (1) because of lack of evidence.
- (3) A document that purports to be an authorisation signed by the Director of Public Prosecutions under subsection (2) must be accepted in legal proceedings, in the absence of proof to the contrary, as proof of authorisation under that subsection.

36—Appeals

- (1) An appeal lies against—
 - (a) an order of a District Court made in the exercise of the jurisdiction conferred by this Part; or
 - (b) a decision by a District Court not to make an order under this Part, to the Supreme Court.

- (2) An appeal under this section must be instituted within 30 days of the date of the decision or order subject to appeal, or such longer period as may be allowed by the Supreme Court.

Part 5—Miscellaneous

37—Evidentiary provisions

- (1) In civil enforcement proceedings under this Act or in proceedings for an offence against this Act, an allegation that a place referred to in the application, complaint or information is, or was at a specified time, a wilderness protection area or wilderness protection zone or is, or was at a specified time, situated within a wilderness protection area or zone will be accepted as proved in the absence of proof to the contrary.
- (2) Where in civil enforcement proceedings under this Act or in proceedings for an offence against this Act, any question arises as to whether the respondent or defendant was duly authorised pursuant to this Act, the National Parks Act or any other Act to undertake the action the subject of the proceedings, the onus of proving the authorisation lies upon the respondent or defendant.
- (3) In civil enforcement proceedings under this Act or in proceedings for an offence against this Act, an allegation that a particular person is, or was at a time specified in the application, complaint or information, a warden will be accepted as proved in the absence of proof to the contrary.

38—Time for prosecution of summary offences

- (1) Subject to subsection (2), a complaint for a summary offence against this Act cannot be laid after the expiration of two years after the commission of the offence.
- (2) The Director of Public Prosecutions may authorise the laying of a complaint within six months following the authorisation if, in the Director's opinion, the complaint could not have been laid within the time specified in subsection (1) because of lack of evidence.
- (3) A document that purports to be an authorisation signed by the Director of Public Prosecutions under subsection (2) must be accepted in legal proceedings, in the absence of proof to the contrary, as proof of authorisation under that subsection.

38A—Entrance fees etc for wilderness protection areas or zones

- (1) Fees for entrance to wilderness protection areas or zones, fees for camping or other accommodation in wilderness protection areas or zones, fees for activities authorised by a licence or permit, or permission granted under the regulations and fees for the use of facilities and services provided in wilderness protection areas or zones may be fixed by the Director with the approval of the Minister.
- (2) The Director may waive or refund the whole or part of a fee.
- (3) A fee payable under subsection (1) must be paid to the Trust established for the area or zone under the National Parks Act.

39—Financial provision

- (1) Subject to this Act, the money required for the purposes of this Act will be paid out of money provided by Parliament for those purposes.
- (2) A penalty payable in respect of an offence against this Act must be paid into the Wildlife Conservation Fund.

40—General defence

It is a defence to a charge of an offence against this Act if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

41—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) confer powers, authorities, duties and obligations upon the Minister, the Chief Executive Officer, the Director, wardens or any officers appointed under this Act, that may be necessary or expedient for the enforcement of this Act; and
 - (b) regulate the use and enjoyment of wilderness protection areas or zones; and
 - (c) provide for the safety of persons in wilderness protection areas or zones; and
 - (d) establish standards of conduct to which those who may resort to wilderness protection areas or zones must conform while in the areas or zones; and
 - (e) provide for the removal of trespassers from wilderness protection areas or zones; and
 - (f) restrict or prohibit access to wilderness protection areas or zones or any portions of wilderness protection areas or zones; and
 - (g) provide for the preservation and protection of natural features of wilderness protection areas or zones; and
 - (h) provide for the protection, conservation and management of animals and plants in wilderness protection areas or zones; and
 - (i) regulate, restrict or prohibit the taking of animals and plants into wilderness protection areas or zones or the removal of animals and plants from wilderness protection areas or zones; and
 - (j) regulate, restrict or prohibit the removal of wood, mulch or other dead vegetation from wilderness protection areas or zones; and
 - (k) provide for the impounding, removal, destruction, or disposal of animals found straying upon wilderness protection areas or zones; and
 - (l) regulate, restrict or prohibit the taking of firearms or other devices into, or the use of firearms or other devices in, a wilderness protection area or zone; and
 - (m) provide for the collection of scientific specimens and the pursuit of research in wilderness protection areas or zones; and

- (n) reserve the whole or any portion of wilderness protection areas or wilderness protection zones for a separate or exclusive use prescribed by the regulations; and
 - (o) restrict or prohibit access to wilderness protection areas or zones or to any portion of a wilderness protection area or zone by any person or class of persons; and
 - (p) regulate, restrict or prohibit the use of roads or tracks in wilderness protection areas or wilderness protection zones; and
 - (q) regulate, restrict or prohibit the use of motor vehicles or other vehicles in wilderness protection areas or zones; and
 - (r) empower the Director to fix one or more speed limits for vehicles driven within a wilderness protection area or zone or any part of a wilderness protection area or zone; and
 - (s) provide for the impounding, removal or disposal of any vehicle or property found in a wilderness protection area or zone in contravention of a regulation; and
 - (t) prescribe fees in relation to the administration of this Act and in particular prescribe, and provide for the collection or recovery of, charges or entrance fees to be made of persons entering or desiring to enter a wilderness protection area or zone or desiring to use facilities provided in a wilderness protection area or zone; and
 - (u) regulate, restrict or prohibit the parking of vehicles in a wilderness protection area or zone; and
 - (v) regulate, restrict or prohibit camping within a wilderness protection area or zone; and
 - (w) provide for the protection and preservation of buildings, structures, signs and other improvements in wilderness protection areas or zones; and
 - (x) exempt, conditionally or unconditionally, Aboriginal people generally, or Aboriginal people of a specified class, from all or any of the provisions of this Act in order to enable the observance of Aboriginal tradition in the wilderness protection area or wilderness protection zone specified in the regulations; and
 - (y) prescribe penalties, recoverable summarily, for breach of, or non-compliance with, any regulation; and
 - (z) fix expiation fees for alleged offences against the regulations.
- (3) Any fees prescribed under this Act may be differential, varying according to any factor stated in the regulation.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (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.

Legislation amended by principal Act

The *Wilderness Protection Act 1992* amended the following:

National Parks and Wildlife Act 1972

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1992	28	<i>Wilderness Protection Act 1992</i>	21.5.1992	25.6.1992 (<i>Gazette</i> 18.6.1992 p1756)
1996	13	<i>National Parks and Wildlife (Miscellaneous) Amendment Act 1996</i>	24.4.1996	23.5.1996 (<i>Gazette</i> 23.5.1996 p2534)
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 44)—3.2.1997 (<i>Gazette</i> 19.12.1996 p1923)
2000	11	<i>Offshore Minerals Act 2000</i>	4.5.2000	4.5.2002 (s 7(5) <i>Acts Interpretation Act 1915</i>)
2005	20	<i>Statutes Amendment (Environment and Conservation Portfolio) Act 2005</i>	9.6.2005	Pt 9 (ss 41—51) & Sch 7—23.6.2005 (<i>Gazette</i> 23.6.2005 p1901)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 164 (s 369)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2011	11	<i>Statutes Amendment (Personal Property Securities) Act 2011</i>	14.4.2011	Pt 26 (ss 66 & 67)—16.6.2011 (<i>Gazette</i> 16.6.2011 p2610)
2013	6	<i>Wilderness Protection (Miscellaneous) Amendment Act 2013</i>	28.3.2013	Pt 2 (ss 4—7) & Sch 1—16.5.2013 (<i>Gazette</i> 16.5.2013 p1541)

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	23.6.2005
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	23.6.2005
s 3		
s 3(1)		
<i>the Department</i>	<i>deleted by 20/2005 s 41(1)</i>	23.6.2005
Department	substituted by 20/2005 s 41(1)	23.6.2005
mining Act	amended by 11/2000 Sch 2	4.5.2002
	amended by 20/2005 Sch 7	23.6.2005
<i>the Natural Resources Management Standing Committee</i>	<i>deleted by 20/2005 s 41(2)</i>	23.6.2005
Pt 2		
s 6		
s 6(3)	substituted by 20/2005 s 42	23.6.2005
s 7		
s 7(1)	amended by 20/2005 s 43(1)	23.6.2005
s 7(3)	amended by 20/2005 s 43(2)	23.6.2005
s 8		
s 8(2)	amended by 20/2005 s 44	23.6.2005
s 9		
s 9(2)	amended by 20/2005 Sch 7	23.6.2005
s 12		
s 12(3)	substituted by 20/2005 s 45(1)	23.6.2005
s 12(5)	amended by 20/2005 s 45(2)	23.6.2005
s 13		
s 13(6)	amended by 20/2005 Sch 7	23.6.2005
s 13(7)	amended by 11/2000 Sch 2	4.5.2002
	amended by 20/2005 Sch 7	23.6.2005
s 13(8)	amended by 20/2005 Sch 7	23.6.2005
s 15		
s 15(2), (7) and (8)	amended by 6/2013 Sch 1	16.5.2013
s 16		
s 16(9)	amended by 6/2013 Sch 1	16.5.2013
s 17		

s 17(5)	amended by 20/2005 Sch 7	23.6.2005
s 18		
s 18(1)—(3)	amended by 6/2013 Sch 1	16.5.2013
s 20	amended by 6/2013 Sch 1	16.5.2013
s 21	<i>deleted by 84/2009 s 369</i>	<i>1.2.2010</i>
Pt 3		
Pt 3 Div 1		
s 22		
s 22(6)	amended by 13/1996 s 30	23.5.1996
	amended by 20/2005 s 46	23.6.2005
s 24		
s 24(3)	<i>deleted by 20/2005 s 47</i>	<i>23.6.2005</i>
s 24A	inserted by 20/2005 s 48	23.6.2005
Pt 3 Div 2		
s 25		
s 25(7)	amended by 20/2005 s 49	23.6.2005
s 25(9)	amended by 6/2013 Sch 1	16.5.2013
s 26		
s 26(3) and (4)	amended by 6/2013 Sch 1	16.5.2013
s 26(5) and (6)	inserted by 6/2013 s 4	16.5.2013
s 27		
s 27(1)	amended by 6/2013 Sch 1	16.5.2013
Pt 3 Div 3		
s 28		
s 28(2)	amended by 6/2013 s 5(1)	16.5.2013
s 28(4)	substituted by 6/2013 s 5(2)	16.5.2013
s 28(5)	inserted by 11/2011 s 66	16.6.2011
	substituted by 6/2013 s 5(2)	16.5.2013
s 28(6)—(9)	inserted by 6/2013 s 5(2)	16.5.2013
s 31		
s 31(3)	substituted by 20/2005 s 50(1)	23.6.2005
s 31(8)	<i>deleted by 20/2005 s 50(2)</i>	<i>23.6.2005</i>
s 33		
s 33(3)	amended by 6/2013 Sch 1	16.5.2013
s 33(6)	amended by 20/2005 s 51	23.6.2005
s 33(7)	inserted by 11/2011 s 67	16.6.2011
Pt 3 Div 4	inserted by 6/2013 s 6	16.5.2013
Pt 4		
s 34		
s 34(6)	amended by 6/2013 Sch 1	16.5.2013
Pt 5		
s 38A	inserted by 6/2013 s 7	16.5.2013
s 41		

s 41(2)	amended by 34/1996 s 4 (Sch cl 44)	3.2.1997
<i>Sch</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	23.6.2005

Transitional etc provisions associated with Act or amendments

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

5—Transitional provision

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

Historical versions

Reprint No 1—23.5.1996

Reprint No 2—3.2.1997

4.5.2002

23.6.2005

1.2.2010

16.6.2011