

Authorised Version

Water (Recreational Area) Regulations 2023

S.R. No. 86/2023

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
Part 1—Preliminary	1
1 Objectives	1
2 Authorising provision	2
3 Commencement	3
4 Definitions	3
5 Application of these Regulations to members of traditional owner groups	8
Part 2—Management plans	10
6 Managing Authority must prepare a management plan	10
7 Objectives of a management plan	10
8 Contents of a management plan	11
9 Traditional owner rights to be considered in preparing management plan	12
10 Consultation for management plan	13
11 Publishing a management plan	14
12 Managing Authority to manage recreational area in accordance with management plan	14
13 Review of management plan and preparation of new plan	14
Part 3—Determinations and permits	15
Division 1—Determinations	15
14 Determination to set aside recreational area	15
Division 2—Permits	16
15 Application for permit	16
16 Issue of permit	17
17 Permit to be in possession of holder at all times	17
18 Application for variation or cancellation of permit	18
19 Cancellation of permit by a managing Authority with immediate effect	18
20 Cancellation or variation of permit by a managing Authority with notice	19
21 Offence not to comply with terms and conditions of a permit	21

<i>Regulation</i>	<i>Page</i>
Part 4—Access to recreational area	22
22 Entry into recreational area	22
23 Offence to enter recreational area not open for public access	22
24 Temporary closure of recreational area	23
25 Period of temporary closure determination	24
26 Contents of temporary closure determination	25
27 Publication of temporary closure determination	25
28 Revocation of temporary closure determination	26
29 Offence to enter a temporarily closed recreational area	26
30 Setting aside areas where access is prohibited or restricted	26
31 Period of prohibited access determination or restricted access determination	27
32 Determination to restrict access to recreational area	28
33 Contents of prohibited access determination or restricted access determination	28
34 Consultation before determining to prohibit or restrict access to a recreational area	29
35 Revocation of prohibited access determination or restricted access determination	29
36 Offence to enter prohibited access area or restricted access area	30
37 Direction to leave a recreational area	30
Part 5—Use of recreational areas	33
Division 1—Miscellaneous	33
38 Possession and use of restricted items	33
39 Person must not cause nuisance	34
40 Person must not endanger another person	35
41 Operating sound producing devices	35
Division 2—Fires in a recreational area	36
42 Lighting or maintaining fires	36
43 Using a barbecue or public fireplace	36
44 Lighting or maintaining a campfire	37
45 Direction to extinguish fire	38
Part 6—Conservation and protection of flora, fauna and habitat	39
46 Protection of fauna and habitat	39
47 Protection of flora and other vegetation	40
48 Collection of firewood	41
49 Introducing vegetation	41
50 Interfering with rocks	41
51 Digging or removal of material	42

<i>Regulation</i>	<i>Page</i>
Part 7—Animals in a recreational area	43
Division 1—General	43
52 Assistance animals in a recreational area	43
53 Animals in transit through a recreational area	43
54 Animals other than dogs, horses and livestock	43
55 No animals permitted in waterways	44
Division 2—Dogs	44
56 Dogs in a recreational area	44
57 Hunting dogs in recreational area	45
58 Conditions on bringing dogs into a recreational area	45
59 Direction in relation to dog in recreational area	46
Division 3—Horses and livestock	46
60 Horses in recreational area	46
61 Direction in relation to horse in recreational area	47
62 Livestock in recreational area	47
63 Direction in relation to livestock in recreational area	48
Part 8—Recreation and amenity	49
Division 1—Buildings and structures	49
64 Erection or installation of structures in a recreational area	49
65 Entry, occupation and use of buildings and structures in a recreational area	51
66 Damaging or destroying buildings and structures in a recreational area	51
67 Playground equipment in a recreational area	52
Division 2—Organised activities and events	52
68 Organised events in a recreational area	52
69 Commercial activities in a recreational area	53
70 Commercial recordings in a recreational area	54
71 Advertising and promoting in a recreational area	54
Division 3—Recreational activities	55
72 Fishing in a recreational area	55
73 Swimming in a recreational area	56
Division 4—Camping	57
74 Camping in a recreational area	57
75 Conditions on camping in a recreational area	57
Division 5—Hygiene	58
76 Hygiene	58
77 Portable toilets	59

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<i>Regulation</i>	<i>Page</i>
78 Use of soap and detergents	60
Part 9—Vehicles, vessels and aircraft in recreational areas	61
Division 1—General matters relating to vehicles, vessels and aircraft	61
79 Vehicles, vessels and aircraft in recreational areas	61
80 Discharge from aircraft, vehicles and vessels	61
81 Refuelling vehicles and vessels	62
82 Managing Authority may make determination in relation to vehicles and vessels in recreational area	62
83 Authorised water officer may give direction in relation to speed	63
Division 2—Vehicles in recreational areas	63
84 Parking of vehicles in recreational area	63
85 Direction in relation to vehicle in recreational area	64
Division 3—Vessels in recreational areas	64
86 Anchoring, berthing or operating of vessels in recreational area	64
87 Direction in relation to vessel in recreational area	65
88 Unsafe vessels	65
89 Conditions on use of vessel in recreational area	66
90 Sinking and salvaging objects on water	67
91 Vessel causing obstruction	67
92 Operation of a houseboat	67
93 Operation of a vessel that has toilet facilities	67
94 Camping on a vessel	68
Division 4—Aircraft in recreational areas	68
95 Use of aircraft in recreational area	68
Part 10—Removal and disposal of vehicles, vessels and other things	70
96 Offence to leave unattended vehicles or other things	70
97 Direction to move vehicle, vessel or other thing	70
98 Removal or disposal of vehicle or other thing if direction not complied with	72
99 Disposal of a vehicle or other thing left unattended	72
100 Disposal of perishable goods	73
Part 11—Infringements	74
101 Infringements	74
Schedule 1—Infringements	75

<i>Regulation</i>	<i>Page</i>
Endnotes	79

Authorised Version

STATUTORY RULES 2023

S.R. No. 86/2023

Water Act 1989

Water (Recreational Area) Regulations 2023

The Governor in Council makes the following Regulations:

Dated: 15 August 2023

Responsible Minister:

HARRIET SHING
Minister for Water

SAMUAL WALLACE
Clerk of the Executive Council

Part 1—Preliminary

1 Objectives

- (1) The objectives of these Regulations are—
 - (a) to provide for the control, management and use of recreational areas under the control and management of an Authority; and
 - (b) to prescribe water infringement offences and infringement penalties for the purposes of the **Water Act 1989**.
- (2) For the purposes of subregulation (1)(a), the control, management and use of recreational areas includes—
 - (a) the protection of the land, services and facilities in recreational areas; and

- (b) the protection and maintenance of water quality in waterways in recreational areas; and
- (c) the conservation and preservation of flora, fauna and habitat in recreational areas, including the biodiversity of that flora, fauna and habitat; and
- (d) the protection of the health and safety of visitors to recreational areas; and
- (e) the promotion of the enjoyment and recreation of visitors to recreational areas; and
- (f) the protection and promotion of Aboriginal cultural heritage and Aboriginal intangible heritage in recreational areas; and
- (g) the protection and promotion of any other heritage features in recreational areas; and
- (h) the facilitation of the participation of traditional owner groups in the management of recreational areas, including in accordance with any agreements under the **Traditional Owner Settlement Act 2010** that apply to recreational areas; and
- (i) ensuring that recreational areas are managed and used in a way that respects and upholds the rights and aspirations of traditional owner groups who have a connection to the recreational areas.

2 Authorising provision

These Regulations are made under section 324 of the **Water Act 1989**.

Note

See also section 122ZA of the **Water Act 1989**, which provides for the Minister to determine land to be a recreational area under the management and control of an Authority.

3 Commencement

These Regulations come into operation on 19 August 2023.

4 Definitions

(1) In these Regulations—

Aboriginal cultural heritage has the same meaning as in the **Aboriginal Heritage Act 2006**;

Aboriginal intangible heritage has the same meaning as in the **Aboriginal Heritage Act 2006**;

agreed activity has the same meaning as in section 79 of the **Traditional Owner Settlement Act 2010**;

animal means any animal except any human or fish, whether vertebrate or invertebrate, in any stage of biological development;

assistance animal has the same meaning as in the Disability Discrimination Act 1992 of the Commonwealth;

assistance dog has the same meaning as in the **Equal Opportunity Act 2010**;

barbecue means any device or appliance that—

(a) is designed and manufactured for cooking or heating; and

(b) uses solid, liquid or gaseous fuel;

camp means to use or have present in a recreational area any of the following for accommodation purposes, whether occupied or not—

(a) a tent, sleeping bag, swag, tarpaulin or any other form of shelter or temporary structure;

- (b) a vehicle, vessel or any other form of movable accommodation, whether or not it is in a condition that enables it to be moved;

campfire means a fire that is lit or maintained for the purpose of preparing meals or providing personal comfort;

campground means an area within a recreational area which has been set aside by the managing Authority as an area in which camping is permitted;

Chief Health Officer has the same meaning as in the **Public Health and Wellbeing Act 2008**;

emergency has the same meaning as in the **Emergency Management Act 2013**;

express permission has the meaning given by subregulation (2);

fauna has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

fire restriction, in relation to a recreational area, means any of the following—

- (a) a period declared under section 4 of the **Country Fire Authority Act 1958** to be a fire danger period in respect of that area;
- (b) a declaration of total fire ban under section 40 of the **Country Fire Authority Act 1958** in respect of that area;

firearm has the same meaning as in the **Firearms Act 1996**;

firewood has the same meaning as in the **Forests Act 1958**;

fish has the same meaning as in the **Fisheries Act 1995**;

flora has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

hunt has the same meaning as in the **Wildlife Act 1975**;

management plan means a plan prepared in accordance with Part 2;

managing Authority, in relation to land which is determined to be a recreational area, means the Authority that is specified in the determination as having management and control of that recreational area;

pontoon means a structure that—

- (a) floats on a waterway; and
- (b) is connected to the bed of a waterway by a cable, chain or rope; and
- (c) does not have a motor;

Examples

A platform for entering the water for swimming, mooring a vessel, or supporting an irrigation pump or infrastructure.

prohibited access area means an area set aside under regulation 30(1)(a);

prohibited access determination means a determination to set aside an area under regulation 30(1)(a);

properly constructed fireplace means a fireplace that is constructed of stone, metal, concrete or any other non-flammable material so as to contain the perimeter of any fire lit or maintained within the fireplace;

public fireplace means a properly constructed fireplace provided for public use;

remotely piloted aircraft means an RPA within the meaning of the Civil Aviation Safety Regulations 1998 of the Commonwealth;

restricted access area means an area set aside under regulation 30(1)(b);

restricted access determination means a determination to set aside an area under regulation 30(1)(b);

restricted item means any of the following—

- (a) any poison;
- (b) a firearm;
- (c) a bow, catapult, spear, spear gun or other similar weapon;
- (d) a trap, snare, net or other similar item of equipment;

sound producing device means a device that has a primary function of producing or amplifying sound;

temporary closure determination means a determination under regulation 24(1);

the Act means the **Water Act 1989**;

toxic shot has the same meaning as in the Wildlife (Game) Regulations 2012;

traditional owner group agreement means an agreement under Part 6 of the **Traditional Owner Settlement Act 2010**;

unsafe vessel has the same meaning as in the **Marine Safety Act 2010**;

vehicle means a conveyance that is designed to be propelled or drawn by any means whether or not capable of being so propelled or drawn, and includes a bicycle or other pedal-powered vehicle, trailer, tram-car and air-cushion vehicle, but does not include the following—

- (a) a non-motorised wheelchair or other non-motorised device designed or used for the conveyance of a person with a disability or an injury;
- (b) a motorised wheelchair;
- (c) a pram, stroller or other non-motorised device designed or used for the conveyance of a child;
- (d) railway locomotive or railway rolling stock;

vessel has the same meaning as in the **Marine Safety Act 2010**;

waste has the same meaning as in the **Environment Protection Act 2017**.

- (2) In these Regulations, a person has ***express permission*** to do a thing in a recreational area if that person is permitted to do that thing in the recreational area by any of the following—
- (a) a lease, licence or permit granted or issued under the Act to the person by the managing Authority for that recreational area;
 - (b) a contract or other agreement entered into under the Act between the person and the managing Authority for that recreational area;

- (c) any other authorisation given to the person under the Act by the managing Authority for that recreational area;
- (d) a permit issued to the person under these Regulations by the managing Authority for that recreational area.

5 Application of these Regulations to members of traditional owner groups

- (1) If a traditional owner group entity has entered into a traditional owner group agreement, any of these regulations (other than a regulation specified in subregulation (2)) that provide for an offence to carry out an agreed activity under that agreement do not apply to a member of a traditional owner group—
 - (a) who is bound by the agreement; and
 - (b) who carries out the agreed activity to which the offence relates in accordance with the agreement and on land to which the agreement applies.
- (2) For the purposes of subregulation (1), the following regulations are specified—
 - (a) regulation 38(3);
 - (b) regulation 40;
 - (c) regulation 42(1) and (3);
 - (d) regulation 55(1);
 - (e) regulation 58(1), (2), (3) and (4);
 - (f) regulation 66(1);
 - (g) regulation 67;
 - (h) regulation 73(1) and (2);
 - (i) regulation 75(1), (3) and (4);
 - (j) regulation 76(1);

Water (Recreational Area) Regulations 2023
S.R. No. 86/2023

Part 1—Preliminary

- (k) regulation 77(1), (3) and (4);
- (l) regulation 78(1);
- (m) regulation 80;
- (n) regulation 86(1);
- (o) regulation 88;
- (p) regulation 89(1), (2), (3), (4), (5) and (6);
- (q) regulation 92;
- (r) regulation 93(1);
- (s) regulation 95(1), (2) and (3);
- (t) regulation 97(5).

Part 2—Management plans

6 Managing Authority must prepare a management plan

- (1) The managing Authority for a recreational area must prepare a management plan for that area within 24 months of the later of—
 - (a) the commencement of these Regulations; or
 - (b) the making of a determination under section 122ZA of the Act that the relevant land is a recreational area under the control and management of that Authority.
- (2) The managing Authority for a recreational area may apply a management plan prepared by the managing Authority for that area to any other recreational areas under the control and management of that Authority.
- (3) A management plan comes into operation on the date specified in the management plan.

7 Objectives of a management plan

The objectives of a management plan for a recreational area are—

- (a) to protect the land, services and facilities in the area; and
- (b) to protect and maintain water quality in waterways in the area; and
- (c) to conserve and preserve flora, fauna and habitat in the area, including the biodiversity of that flora, fauna and habitat; and
- (d) to protect the health and safety of visitors to the area; and
- (e) to promote the enjoyment and recreation of visitors to the area; and

- (f) to protect and promote Aboriginal cultural heritage and Aboriginal intangible heritage in the area; and
- (g) to protect and promote any other heritage features in the area; and
- (h) to facilitate the participation of traditional owner groups in the management of that area, including in accordance with any agreements under the **Traditional Owner Settlement Act 2010** that apply to the area; and
- (i) to ensure that the area is managed and used in a way that respects and upholds the rights and aspirations of traditional owner groups who have a connection to the area.

8 Contents of a management plan

- (1) A management plan for a recreational area must—
 - (a) specify measures for managing the recreational area that promote the objectives of the management plan; and
 - (b) specify procedures for monitoring the effectiveness of those measures in promoting the objectives of the management plan.
- (2) A management plan for a recreational area may specify measures for managing the recreational area that are agreed between the managing Authority for that area and a traditional owner group for that area, including any of the following—
 - (a) measures for implementing traditional owner rights recognised in any recognition and settlement agreement within the meaning of the **Traditional Owner Settlement Act 2010** that applies to the recreational area;

- (b) measures for implementing rights under any traditional owner group agreement, other agreement under the **Traditional Owner Settlement Act 2010** or determination of native title that applies to the recreational area;
- (c) measures for facilitating the participation of the traditional owner group in the joint management of the recreational area;
- (d) measures for facilitating the exercise of rights by members of the traditional owner group in the recreational area in accordance with any agreement under the **Traditional Owner Settlement Act 2010** or any determination of native title;
- (e) procedures for the managing Authority to consult and engage with the traditional owner group in the management of the area and enforcement of these Regulations.

9 Traditional owner rights to be considered in preparing management plan

In preparing a management plan for a recreational area, the managing Authority for that area must have regard to the following—

- (a) any recognition and settlement agreement that applies to land to which the management plan will apply;

Note

A recognition and settlement agreement may include other agreements within the meaning of the **Traditional Owner Settlement Act 2010**. See Part 2 of that Act.

- (b) any Aboriginal cultural heritage land management agreement within the meaning of the **Aboriginal Heritage Act 2006** that is recorded on the Victorian Aboriginal

- Heritage Register under section 145 of that Act and that applies to land to which the management plan will apply;
- (c) any determination of native title that applies to land to which the management plan will apply;
 - (d) any plan which a traditional owner group for the recreational area has prepared in relation to land to which the management plan will apply.

Example

A Country Plan.

10 Consultation for management plan

In preparing a management plan for a recreational area, the managing Authority for that area must consult with the following—

- (a) if any land in the recreational area is owned by a public statutory body, that public statutory body;
- (b) if any land in the recreational area is Crown land, the Minister responsible for that land;
- (c) if there is a specified Aboriginal party for an area that is wholly or partly within the recreational area, a representative of that specified Aboriginal party;
- (d) if the managing Authority considers that the interests of any other person, community group or public statutory body are likely to be affected by the management plan, that person, community group or public statutory body.

11 Publishing a management plan

As soon as practicable after the managing Authority for a recreational area prepares a management plan for that area, the Authority must—

- (a) give a copy of the management plan to the Secretary to the Department; and
- (b) publish the management plan on the managing Authority's Internet site.

12 Managing Authority to manage recreational area in accordance with management plan

The managing Authority for a recreational area must manage that area in accordance with the management plan prepared for that area.

13 Review of management plan and preparation of new plan

- (1) The managing Authority for a recreational area must review the management plan for that area within 10 years after that management plan comes into operation.
- (2) The managing Authority for a recreational area may review the management plan for that area at any other time the managing Authority considers appropriate.
- (3) After the managing Authority for a recreational area reviews the management plan for that area under subregulation (1) or (2), the managing Authority may prepare a new management plan for that area.

Part 3—Determinations and permits

Division 1—Determinations

14 Determination to set aside recreational area

- (1) If the managing Authority for a recreational area sets aside an area within that recreational area under a regulation specified in subregulation (2), the Authority must—
 - (a) publish the determination on the Authority's Internet site; and
 - (b) as far as practicable, display signs or notices setting out the details of the determination in or near the entrance to the recreational area; and
 - (c) make the determination available for inspection during business hours at the office of the Authority.
- (2) For the purposes of subregulation (1), the following regulations are specified—
 - (a) subregulation (3);
 - (b) regulation 30(1);
 - (c) regulation 41(3);
 - (d) regulation 43(3);
 - (e) regulation 44(2);
 - (f) regulation 48(2);
 - (g) regulation 49(3);
 - (h) regulation 56(3);
 - (i) regulation 60(3);
 - (j) regulation 62(2);
 - (k) regulation 72(2);
 - (l) regulation 73(3);

- (m) regulation 74(3);
 - (n) regulation 77(5);
 - (o) regulation 78(3);
 - (p) regulation 79(3);
 - (q) regulation 81(3);
 - (r) regulation 84(4);
 - (s) regulation 86(2);
 - (t) regulation 95(5).
- (3) The managing Authority for a recreational area may set aside an area within that recreational area as an area in which an activity that is not otherwise specified in these Regulations is permitted, restricted or prohibited if—
- (a) the Authority considers that it is necessary; and
 - (b) the setting aside of that area for that activity is consistent with the management plan for that recreational area, including the objectives of that plan and the measures and procedures specified in that plan.

Division 2—Permits

15 Application for permit

A person may apply to the managing Authority of a recreational area for a permit to enter and use the recreational area or an area within a recreational area—

- (a) for a specified purpose; and
- (b) for a specified period.

16 Issue of permit

- (1) The managing Authority of a recreational area may issue a permit to a person to enter and use the recreational area or an area within the recreational area—
 - (a) for the purpose specified in the permit; and
 - (b) for the period specified in the permit; and
 - (c) subject to the terms and conditions specified in the permit.
- (2) For the purposes of subregulation (1)(a), the specified purpose for which the permit is issued may be—
 - (a) a purpose specified in these Regulations; or
 - (b) any other purpose the managing Authority of the recreational area considers appropriate in the circumstances.
- (3) The managing Authority of a recreational area must not issue a permit to a person to enter and use the recreational area for a specified purpose and specified period if entry and use of the recreational area for that purpose and period would be inconsistent with the objectives of these Regulations or the management plan for the recreational area.
- (4) A permit issued under subregulation (1) must be in writing.

17 Permit to be in possession of holder at all times

The holder of a permit issued under these Regulations must—

- (a) keep the permit in the holder's possession while engaging in an activity or accessing an area within a recreational area as authorised by the permit; and

- (b) produce the permit for inspection if requested to produce the permit by an authorised water officer of the managing Authority issuing the permit.

18 Application for variation or cancellation of permit

- (1) The holder of a permit issued under these Regulations may apply to the managing Authority for the recreational area to which the permit relates to vary or cancel the permit.
- (2) Upon receipt of an application under subregulation (1), the managing Authority may—
 - (a) vary the permit, subject to such conditions as the managing Authority considers appropriate; or
 - (b) cancel the permit; or
 - (c) refuse to vary or cancel the permit.

19 Cancellation of permit by a managing Authority with immediate effect

- (1) The managing Authority for a recreational area, on its own initiative, may immediately cancel a permit issued by that managing Authority under these Regulations if the managing Authority is satisfied that the cancellation is necessary for any of the following reasons—
 - (a) a flood, a fire, a natural disaster or any other emergency is occurring or is anticipated to occur in the recreational area;
 - (b) to protect or maintain water quality in any waterway in the recreational area;
 - (c) to carry out maintenance or other works on infrastructure in the recreational area;
 - (d) to prevent or mitigate any risk to public health or safety in the recreational area;

- (e) there is a hazard in the recreational area;
 - (f) to protect Aboriginal cultural heritage or Aboriginal intangible heritage in the recreational area;
 - (g) to protect heritage features in the recreational area;
 - (h) the holder of the permit has—
 - (i) contravened the conditions of the permit; or
 - (ii) contravened these Regulations.
- (2) As soon as practicable after cancelling a permit under subregulation (1), the managing Authority must give written notice of the cancellation to the holder of the permit.

20 Cancellation or variation of permit by a managing Authority with notice

- (1) The managing Authority of a recreational area, on its own initiative, may vary or cancel a permit issued by that managing Authority under these Regulations if—
- (a) the holder of the permit has—
 - (i) contravened the conditions of the permit; or
 - (ii) contravened these Regulations; or
 - (b) entry into and use of the recreational area for the purpose and period specified in the permit is detrimental to, or likely to interfere with, any of the following—
 - (i) the management of the recreational area;
 - (ii) the protection of water quality in any waterway in the recreational area;

- (iii) the protection of Aboriginal cultural heritage or Aboriginal intangible heritage in the recreational area;
 - (iv) the protection of heritage features in the recreational area;
 - (v) the maintenance or protection of infrastructure in the recreational area;
 - (vi) the natural environment or features of the recreational area;
 - (vii) visitors to the recreational area; or
- (c) the managing Authority considers the variation or cancellation appropriate for the purposes of managing the recreational area in accordance with the management plan for the recreational area.
- (2) Before varying or cancelling a permit under subregulation (1), a managing Authority must—
- (a) give written notice of the proposal to vary or cancel the permit to the holder of that permit; and
 - (b) allow the holder of the permit an opportunity to make either oral or written submissions about the proposed variation or cancellation within the period specified in the notice; and
 - (c) have regard to any submission made by the holder of the permit within the period specified in the notice.
- (3) For the purposes of subregulation (2)(b), the specified period must not be less than 14 days after the date the notice is given to the permit holder.

- (4) Within 7 days after determining to vary or cancel a permit under this regulation, a managing Authority must give written notice of the determination to the holder of that permit.
- (5) The variation or cancellation of a permit under this regulation comes into effect on the date specified in the notice of the determination.

21 Offence not to comply with terms and conditions of a permit

The holder of a permit issued under these Regulations must comply with any terms and conditions of that permit.

Penalty: 20 penalty units.

Part 4—Access to recreational area

22 Entry into recreational area

- (1) The managing Authority for a recreational area may determine that the recreational area, or part of that recreational area, is open for public access for any of the following—
 - (a) a specified period;
 - (b) specified hours of the day.
- (2) As soon as practicable after the managing Authority for a recreational area makes a determination under subregulation (1), the Authority must—
 - (a) publish the determination on the Authority's Internet site; and
 - (b) as far as practicable, display signs or notices setting out details of the determination in a prominent position in or near the entrance to the recreational area; and
 - (c) make the determination available for inspection during business hours at the office of the Authority.

23 Offence to enter recreational area not open for public access

- (1) A person must not enter into a recreational area, or part of a recreational area, that is subject to a determination under regulation 22 unless the person—
 - (a) enters the area during the period or hours that the area is open for public access; or
 - (b) has express permission to enter the area at any other time.

Penalty: 20 penalty units.

- (2) The managing Authority for a recreational area that is subject to a determination under regulation 22 may issue a permit to a person to enter the area at any time during which the area is closed for public access.

24 Temporary closure of recreational area

- (1) The managing Authority for a recreational area may determine to close the recreational area, or part of that recreational area, temporarily to the public.
- (2) The managing Authority for a recreational area must not make a temporary closure determination unless the managing Authority is satisfied that the determination is necessary for any of the following reasons—
- (a) a flood, a fire, a natural disaster or any other emergency is occurring or is anticipated to occur in the recreational area;
 - (b) to protect or maintain water quality in any waterway in the recreational area;
 - (c) to carry out maintenance or other works on infrastructure in the recreational area;
 - (d) to prevent or mitigate any risk to public health or safety in the recreational area, including if—
 - (i) a state of emergency is declared under section 198 of the **Public Health and Wellbeing Act 2008**; or
 - (ii) a pandemic declaration is made under section 165AB of the **Public Health and Wellbeing Act 2008**; or
 - (iii) there is a hazard in the recreational area;

- (e) for the preservation, protection or management of any of the following within the recreational area—
 - (i) environmental features;
 - (ii) historical features;
 - (iii) Aboriginal cultural heritage;
 - (iv) Aboriginal intangible heritage.
- (3) In making a temporary closure determination for the reasons referred to in subregulation (2)(d), the managing Authority for a recreational area must have regard to—
 - (a) any direction of an authorised officer under section 165B, 165BA, 190 or 200 of the **Public Health and Wellbeing Act 2008** that the managing Authority considers relevant to protecting public health in the recreational area; and
 - (b) any recommendation made by, or current advice of, the Chief Health Officer, the Department of Health or the Minister responsible for the administration of the **Public Health and Wellbeing Act 2008** that the managing Authority considers relevant to any serious risk to public health in the recreational area; and
 - (c) any other matter that the managing Authority considers relevant.

25 Period of temporary closure determination

- (1) In making a temporary closure determination for a recreational area, the managing Authority for that area must determine the period during which the recreational area, or part of that recreational area, is closed to the public.

- (2) The period determined under subregulation (1) must not exceed 28 days.

26 Contents of temporary closure determination

- (1) A temporary closure determination must specify—
- (a) the period during which the recreational area, or part of that recreational area, is closed to the public; and
 - (b) the reasons for the determination; and
 - (c) the recreational area, or the part of that recreational area, to which the determination applies.
- (2) A temporary closure determination may specify that a person may apply to the managing Authority for the recreational area for a permit to access the closed area.

27 Publication of temporary closure determination

As soon as practicable after the managing Authority for a recreational area makes a temporary closure determination, the managing Authority must—

- (a) publish the determination on the managing Authority's Internet site; and
- (b) as far as practicable, display signs or notices setting out details of the determination in a prominent position in or near the entrance to the recreational area; and
- (c) make the determination available for inspection during business hours at the office of the managing Authority.

28 Revocation of temporary closure determination

- (1) The managing Authority for a recreational area must revoke a temporary closure determination made by the Authority for that area if the Authority is satisfied that the determination is no longer necessary.
- (2) As soon as practicable after a managing Authority revokes a temporary closure determination, the managing Authority must—
 - (a) publish notice of the revocation on the managing Authority's Internet site; and
 - (b) remove the signs or notices referred to in regulation 27(b).

29 Offence to enter a temporarily closed recreational area

- (1) A person must not enter or remain in a recreational area, or part of a recreational area, that is subject to a temporary closure determination unless the person has express permission to enter or remain in the area.

Penalty: 20 penalty units.

- (2) The managing Authority for a recreational area that is subject to a temporary closure determination may issue a permit to a person to enter and remain in the area.

30 Setting aside areas where access is prohibited or restricted

- (1) The managing Authority for a recreational area may set aside an area within that recreational area—
 - (a) as an area to which access is prohibited; or
 - (b) as an area to which access is restricted.

- (2) The managing Authority for a recreational area must not make a prohibited access determination or restricted access determination unless the managing Authority is satisfied that the determination is necessary—
- (a) to implement measures or procedures specified in a management plan for the area; or
 - (b) to protect or maintain the land, services, works or facilities in the area; or
 - (c) to protect or maintain water quality in any waterway in the area; or
 - (d) to protect Aboriginal cultural heritage or Aboriginal intangible heritage in the area; or
 - (e) to provide for the health, safety, enjoyment or recreation of visitors to the area; or
 - (f) to prevent or mitigate a risk to public health or safety in the area; or
 - (g) to protect, restore or enhance biodiversity in the area, including the conservation of flora, fauna and habitat in the area.

31 Period of prohibited access determination or restricted access determination

- (1) In making a prohibited access determination for a recreational area, the managing Authority for that area must determine the period during which access to that area is prohibited.
- (2) In making a restricted access determination for a recreational area, the managing Authority for that area must determine the period during which access to that area is restricted.
- (3) A period determined under subregulation (1) or (2) may specify that access to the area is prohibited or restricted for—

- (a) the whole of that period; or
- (b) specified hours or specified days during that period.

32 Determination to restrict access to recreational area

In making a restricted access determination for a recreational area, the managing Authority for that area may—

- (a) restrict the class of vehicle or vessel that is permitted in the restricted access area; or
- (b) restrict the number of persons who may enter the restricted access area; or
- (c) restrict the class of activities that may be undertaken by persons in the restricted access area; or
- (d) impose any other restrictions the managing Authority considers necessary for the purposes specified in regulation 30(2).

33 Contents of prohibited access determination or restricted access determination

A prohibited access determination or restricted access determination must specify—

- (a) the reasons for the determination; and
- (b) the prohibited access area or restricted access area to which the determination applies; and
- (c) the period during which the determination applies, including whether the determination applies for specified hours or specified days during that period; and
- (d) for a restricted access determination, any restrictions imposed under that determination.

34 Consultation before determining to prohibit or restrict access to a recreational area

As soon as practicable before the managing Authority for a recreational area makes a prohibited access determination or restricted access determination, other than a determination made for the purpose specified in regulation 30(2)(a), the managing Authority must consult with—

- (a) if any land in the area proposed to be set aside is owned by another public statutory body, that public statutory body; and
- (b) if any land in the area proposed to be set aside is Crown land, the Minister responsible for that land; and
- (c) if there is a specified Aboriginal party for an area that is wholly or partly within the area proposed to be set aside, a representative of that specified Aboriginal party; and
- (d) if the managing Authority considers that the interests of any other person, community group or public statutory body are likely to be affected by the determination, that person, community group or public statutory body.

35 Revocation of prohibited access determination or restricted access determination

- (1) The managing Authority for a recreational area must revoke a prohibited access determination or restricted access determination made by the managing Authority for that area if—
 - (a) the managing Authority is satisfied that the determination is no longer necessary; or
 - (b) the managing Authority prepares a new management plan for that area.

- (2) As soon as practicable after a managing Authority revokes a prohibited access determination or restricted access determination, the managing Authority must—
- (a) publish notice of the revocation on the Authority's Internet site; and
 - (b) remove any signs or notices referred to in regulation 14(1)(b).

36 Offence to enter prohibited access area or restricted access area

- (1) A person must not enter or remain in a prohibited access area unless the person has express permission to enter or remain in the prohibited access area.

Penalty: 20 penalty units.

- (2) A person must not enter or remain in a restricted access area unless the person—
- (a) enters or remains in the area in accordance with the restricted access determination that applies to that area; or
 - (b) has express permission to enter or remain in the restricted access area.

Penalty: 20 penalty units.

37 Direction to leave a recreational area

- (1) An authorised water officer may direct a person to leave a recreational area, or a part of the recreational area, in any of the following circumstances—
- (a) in an emergency;
 - (b) to protect or maintain water quality in any waterway in the recreational area;

- (c) to prevent or mitigate any risk to public health or safety in the recreational area, including if—
 - (i) a state of emergency is declared under section 198 of the **Public Health and Wellbeing Act 2008**; or
 - (ii) a pandemic declaration is made under section 165AB of the **Public Health and Wellbeing Act 2008**; or
 - (iii) there is a hazard in the recreational area;
- (d) to protect Aboriginal cultural heritage or Aboriginal intangible heritage in the recreational area;
- (e) to preserve, protect or manage any environmental or heritage features within the recreational area;
- (f) if a temporary closure determination applies to the area and the authorised water officer reasonably believes that the person has entered or remained in the area in contravention of regulation 29(1);
- (g) if the area is a prohibited access area and the authorised water officer reasonably believes that the person has entered or remained in the area in contravention of regulation 36(1);
- (h) if the area is a restricted access area and the authorised water officer reasonably believes that the person has entered or remained in the area in contravention of regulation 36(2);

Water (Recreational Area) Regulations 2023
S.R. No. 86/2023

Part 4—Access to recreational area

- (i) if the authorised water officer reasonably believes that the person has contravened any other provision in these Regulations relating to the use of a recreational area.
- (2) A person given a direction under subregulation (1) must comply with that direction.

Penalty: 20 penalty units.

Part 5—Use of recreational areas

Division 1—Miscellaneous

38 Possession and use of restricted items

- (1) A person must not possess a restricted item in a recreational area unless—
- (a) the person is permitted to do so under subregulation (4); or
 - (b) the restricted item—
 - (i) is concealed in a vehicle or vessel that is owned or controlled by the person; and
 - (ii) in the case of a firearm, the ammunition is removed from the firearm.

Penalty: 20 penalty units.

- (2) A person must not use a restricted item in a recreational area unless the person is permitted to do so under subregulation (4).

Penalty: 20 penalty units.

- (3) A person must not possess or use toxic shot in a recreational area.

Penalty: 20 penalty units.

- (4) A person may possess or use a restricted item in a recreational area if—

- (a) the person—
 - (i) has a licence or permit under the **Firearms Act 1996** or the **Wildlife Act 1975** to possess or use the restricted item; and

- (ii) is hunting in an area set aside for the purpose of hunting under the **Wildlife Act 1975** by the managing Authority for the recreational area; or
 - (b) the restricted item is a net designed for the purpose of fishing and the person is using that net to fish; or
 - (c) the person has express permission to possess or use the restricted item.
- (5) The managing Authority for a recreational area may issue a permit to a person to possess or use a restricted item in the recreational area.

39 Person must not cause nuisance

- (1) A person who is in a recreational area must not behave in a manner that causes or is likely to cause a nuisance to any other person unless the person is permitted to do so under subregulation (2).
Penalty: 20 penalty units.
- (2) A person who is in a recreational area may behave in a manner that causes or is likely to cause a nuisance to any other person if the person—
 - (a) is acting under and in accordance with any permit or licence issued or granted to the person under the **Firearms Act 1996**, the **Fisheries Act 1995**, the **Flora and Fauna Guarantee Act 1988** or the **Wildlife Act 1975**, or any other authorisation given under those Acts; or
 - (b) has express permission to behave in a manner that causes or is likely to cause a nuisance to any other person.

40 Person must not endanger another person

A person who is in a recreational area must not behave in a manner that is likely to endanger any person.

Penalty: 20 penalty units.

41 Operating sound producing devices

- (1) A person must not operate a sound producing device or any other equipment in a recreational area unless the person is permitted to do so under subregulation (2).

Penalty: 10 penalty units.

- (2) A person may operate a sound producing device or any other equipment in a recreational area if—
- (a) the device or equipment is operated in a manner that does not cause a disturbance to any person or animal; or
 - (b) the person operates the device or equipment in an area within the recreational area that has been set aside as an area where a person may operate the sound producing device or other equipment; or
 - (c) the person has express permission to operate the device or equipment.
- (3) The managing Authority for a recreational area may set aside an area within that recreational area as an area in which a person may operate a sound producing device or any other equipment specified by the Authority.
- (4) The managing Authority for a recreational area may issue a permit to a person to operate a sound producing device or any other equipment in the recreational area.

Division 2—Fires in a recreational area

42 Lighting or maintaining fires

- (1) A person must not light or maintain a fire in a recreational area if a fire restriction is in force for that area.

Penalty: 20 penalty units.

- (2) A person must not light or maintain a fire in a recreational area during a period in which there is no fire restriction in force for that area unless the person—

- (a) lights or maintains the fire in a barbecue in accordance with regulation 43(1); or
- (b) lights or maintains the fire in a public fireplace in accordance with regulation 43(2); or
- (c) lights or maintains a campfire in accordance with regulation 44(1); or
- (d) has express permission to light or maintain the fire.

Penalty: 20 penalty units.

- (3) A person who lights or maintains a fire in a recreational area must not leave the fire unattended.

Penalty: 20 penalty units.

43 Using a barbecue or public fireplace

- (1) For the purposes of regulation 42(2)(a), a person may light or maintain a fire in a barbecue in a recreational area if—

- (a) the person is in an area within the recreational area that has been set aside as an area in which the lighting and maintaining of a fire in a barbecue is permitted; and

- (b) the fuel used to light or maintain the fire is fuel that the barbecue is designed and manufactured to use; and
 - (c) the barbecue is placed in a stable position; and
 - (d) the person ensures that the fire is contained in the barbecue.
- (2) For the purposes of regulation 42(2)(b), a person may light or maintain a fire in a public fireplace in a recreational area if the person—
- (a) is in an area within the recreational area that has been set aside as an area in which the lighting and maintaining of a fire in a public fireplace is permitted; and
 - (b) ensures that the fire is contained in the public fireplace.
- (3) The managing Authority for a recreational area may set aside an area within that recreational area as an area in which a person may light or maintain—
- (a) a fire in a barbecue during a period in which there is no fire restriction in force for the recreational area; or
 - (b) a fire in a public fireplace during a period in which there is no fire restriction in force for the recreational area.

44 Lighting or maintaining a campfire

- (1) For the purposes of regulation 42(2)(c), a person may light or maintain a campfire in a recreational area if the person—
- (a) is in an area within the recreational area that has been set aside as an area in which the lighting and maintaining of a campfire is permitted; and
-

- (b) uses a properly constructed fireplace or a trench that is at least 30 centimetres deep; and
- (c) ensures that—
 - (i) the ground and air space within a distance of 3 metres from the outer perimeter and uppermost point of the campfire are clear of flammable material; and
 - (ii) the campfire does not occupy an area that exceeds 1 square metre; and
 - (iii) the size of the campfire and quantity of fuel used are the minimum necessary for the purpose of the campfire.
- (2) The managing Authority for a recreational area may set aside an area within that recreational area as an area in which a person may light or maintain a campfire during a period in which there is no fire restriction in force for the recreational area.

45 Direction to extinguish fire

- (1) An authorised water officer may direct a person who has lit or maintained a fire in a recreational area to extinguish that fire—
 - (a) immediately; or
 - (b) before leaving the recreational area.
- (2) A person who is given a direction under subregulation (1) must comply with that direction.

Penalty: 20 penalty units.

Part 6—Conservation and protection of flora, fauna and habitat

46 Protection of fauna and habitat

- (1) A person must not disturb, remove or cause any harm to fauna in a recreational area unless permitted to do so under subregulation (5).
Penalty: 20 penalty units.
- (2) A person must not disturb, remove or cause any harm to the habitat of fauna in a recreational area unless permitted to do so under subregulation (5).
Penalty: 20 penalty units.
- (3) A person must not offer food or any object as food to fauna in a recreational area unless permitted to do so under subregulation (5).
Penalty: 20 penalty units.
- (4) For the purposes of subregulation (1) or (2), to cause any harm to fauna or the habitat of fauna includes doing any of the following—
 - (a) harassing, hunting, capturing, killing or injuring fauna;
 - (b) causing physical injury to fauna;
 - (c) tampering with fauna or the habitat of fauna;
 - (d) setting fauna or the habitat of fauna alight;
 - (e) causing any other damage to fauna or the habitat of fauna.
- (5) A person may do any thing referred to in subregulation (1), (2) or (3) if the person—
 - (a) is acting under and in accordance with a permit, licence or authority issued or granted under any of the following—
 - (i) the **Firearms Act 1996**;

- (ii) the **Fisheries Act 1995**;
 - (iii) the **Flora and Fauna Guarantee Act 1988**;
 - (iv) the **Wildlife Act 1975**; or
- (b) has express permission to do that thing in the recreational area.

47 Protection of flora and other vegetation

- (1) A person must not move, remove or cause any damage to flora or any other vegetation in a recreational area unless permitted to do so under subregulation (2).

Penalty: 20 penalty units.

- (2) A person may move, remove or cause damage to flora or other vegetation in a recreational area if the person—
- (a) has a permit or licence to do so granted under the **Flora and Fauna Guarantee Act 1988**; or
 - (b) is undertaking timber harvesting operations in accordance with—
 - (i) a permit issued by the managing Authority for the recreational area; or
 - (ii) a licence or permit granted by the Minister under section 52 of the **Forests Act 1958**; or
 - (c) has express permission to move, remove or cause damage to flora or other vegetation in the recreational area; or
 - (d) is collecting firewood in accordance with regulation 48.

48 Collection of firewood

- (1) A person may collect firewood in a recreational area—
 - (a) to light or maintain a fire in the recreational area in accordance with regulation 42; and
 - (b) in an area in which the collection of firewood is permitted.
- (2) The managing Authority of a recreational area may set aside an area in the recreational area where the collection of firewood is permitted.

49 Introducing vegetation

- (1) A person must not bring any plant or seed or any part of a plant or seed into a recreational area unless permitted to do under subregulation (2).

Penalty: 20 penalty units.

- (2) A person may bring any of the following into a recreational area—
 - (a) a vessel, fishing rod, walking stick or other manufactured dead wooden object;
 - (b) firewood into an area where the bringing in of firewood is permitted;
 - (c) plants or seeds for the purposes of consumption.
- (3) The managing Authority of a recreational area may set aside an area in the recreational area where a person may bring firewood.

50 Interfering with rocks

- (1) A person must not damage, destroy or remove a rock in a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (2) For the purposes of subregulation (1), damaging or destroying a rock includes tampering with the rock or altering or defacing the rock.
- (3) A person may damage, destroy or remove a rock in a recreational area if the person has express permission to damage or destroy rocks in, or remove rocks from, the recreational area.

51 Digging or removal of material

- (1) A person must not dig into or remove the ground or ground cover from a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (2) A person must not bring any ground or ground cover into a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (3) A person may dig into or remove the ground or ground cover from a recreational area, or bring any ground or ground cover into a recreational area, if the person—

- (a) has express permission to do that thing in the recreational area; or

- (b) is acting in accordance with regulation 76(3).

Part 7—Animals in a recreational area

Division 1—General

52 Assistance animals in a recreational area

Despite anything to the contrary in this Part, a person may bring an animal into a recreational area if the animal is—

- (a) an assistance animal; or
- (b) in training as an assistance animal.

53 Animals in transit through a recreational area

Despite anything to the contrary in this Part, a person may bring an animal into a recreational area if—

- (a) the animal is confined in a vehicle or vessel; and
- (b) the vehicle or vessel is in transit through the recreational area; and
- (c) the vehicle or vessel is travelling along a route accessible to the public.

54 Animals other than dogs, horses and livestock

- (1) A person must not bring an animal other than a dog, a horse or livestock into a recreational area, or allow any such animal to enter into and remain in a recreational area, unless permitted to do so under subregulation (2).

Penalty: 20 penalty units.

- (2) A person may bring an animal other than a dog, a horse or livestock into a recreational area if—
 - (a) the person is using the animal as bait for fishing; or
 - (b) the person has express permission to bring the animal into the recreational area.

- (3) The managing Authority for a recreational area may issue a permit to a person to bring an animal other than a dog, a horse or livestock into, or allow any such animal to enter and remain in, a recreational area.

55 No animals permitted in waterways

- (1) A person who is permitted under this Part to bring an animal into a recreational area, or to allow an animal to enter and remain in a recreational area, must not allow the animal to enter a waterway in the recreational area.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply to livestock that are permitted—
- (a) to be in the recreational area under a licence granted by the managing Authority for the recreational area; and
 - (b) to enter a waterway under the terms of the licence.

Division 2—Dogs

56 Dogs in a recreational area

- (1) A person must not bring a dog into an area within a recreational area set aside by the managing Authority of the recreational area as an area where dogs are prohibited, unless the person is permitted to do so under subregulation (2).

Penalty: 20 penalty units.

- (2) A person may bring a dog into an area within a recreational area where dogs are prohibited if the person has express permission to bring a dog into that area.

- (3) The managing Authority for a recreational area may set aside an area in the recreational area where dogs are prohibited.
- (4) The managing Authority for a recreational area may issue a permit to a person to bring a dog into an area within the recreational area where dogs are prohibited.

57 Hunting dogs in recreational area

Despite anything to the contrary in regulations 56 and 58, a person may bring a dog into a recreational area if the person is using the dog for hunting in accordance with the **Wildlife Act 1975**.

58 Conditions on bringing dogs into a recreational area

- (1) A person who brings a dog into a recreational area must restrain the dog on a leash at all times.

Penalty: 20 penalty units.

- (2) A person who brings a dog into a recreational area must keep the dog under the person's immediate control at all times.

Penalty: 20 penalty units.

- (3) A person who brings a dog into a recreational area must not allow the dog to disturb or damage any person or property or other animal or natural object.

Penalty: 20 penalty units.

- (4) A person who brings a dog into a recreational area must pick up and remove from the recreational area any faeces deposited by the dog in the recreational area.

Penalty: 20 penalty units.

59 Direction in relation to dog in recreational area

- (1) An authorised water officer may direct a person to remove a dog from a recreational area if the authorised water officer reasonably believes that the person—
 - (a) is contravening regulation 55(1) or 58(1), (2), (3) or (4); or
 - (b) in the case of a person who has express permission to bring a dog into the recreational area, is not complying with a condition of the express permission.
- (2) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

Division 3—Horses and livestock

60 Horses in recreational area

- (1) A person must not bring a horse into a recreational area, or allow a horse to enter or remain in a recreational area, unless—
 - (a) the horse is in an area set aside by the managing Authority as an area where horses are permitted; or
 - (b) the person has express permission to bring a horse into that area.

Penalty: 20 penalty units.

- (2) A person who brings a horse into a recreational area must keep the horse under the person's immediate control at all times.

Penalty: 20 penalty units.

- (3) The managing Authority for a recreational area may set aside an area in the recreational area where horses are permitted.
- (4) The managing Authority for a recreational area may issue a permit to a person to bring a horse into, or allow a horse to enter and remain in, a recreational area.

61 Direction in relation to horse in recreational area

- (1) An authorised water officer may direct a person to remove a horse from a recreational area if the authorised water officer reasonably believes that the person—
 - (a) is contravening regulation 60(1) or (2); or
 - (b) in the case of a person who has express permission to bring the horse into the recreational area, is not complying with a condition of the express permission.
- (2) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

62 Livestock in recreational area

- (1) A person must not bring livestock into, or allow livestock to enter and remain in, a recreational area unless—
 - (a) the livestock is in an area set aside by the managing Authority as an area where livestock is permitted; or
 - (b) the person has express permission to bring livestock into the recreational area.

Penalty: 20 penalty units.

- (2) The managing Authority for a recreational area may set aside an area in the recreational area where livestock is permitted.
- (3) The managing Authority for a recreational area may issue a permit to a person to bring livestock into, or allow livestock to enter and remain in, a recreational area.

63 Direction in relation to livestock in recreational area

- (1) An authorised water officer may direct a person to remove livestock from a recreational area if the authorised water officer reasonably believes that the person—
 - (a) is contravening regulation 62(1); or
 - (b) in the case of a person who has express permission to bring livestock into the recreational area, is not complying with a condition of the express permission.
- (2) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

Part 8—Recreation and amenity

Division 1—Buildings and structures

64 Erection or installation of structures in a recreational area

- (1) A person must not erect or install a temporary or permanent structure in a recreational area unless permitted to do so under subregulation (3), (4) or (5).

Penalty: 10 penalty units.

- (2) For the purposes of subregulation (1), a temporary or permanent structure includes any of the following—
- (a) a fixed installation;
 - (b) a marquee;
 - (c) a building;
 - (d) an inflatable castle or a similar inflatable device;
 - (e) a boat ramp, jetty, floating jetty, slalom course, ski jump or any other fixed or floating construction that is not a vessel;
 - (f) an object that blocks or limits the passage of boats;
 - (g) a blind, hide or tree stand.
- (3) A person may erect or install a temporary or permanent structure in a recreational area if—
- (a) the size of the structure is less than 12 square metres; and
 - (b) the structure is—
 - (i) for protection from the sun, wind or rain; and

- (ii) erected or installed during specified hours in which the area is open for public access and removed before the closing of the area on the same day; and
 - (c) a person is present in the area for the entire period during which the structure is erected or installed.
- (4) A person may erect or install a temporary structure in a recreational area if the temporary structure is—
 - (a) a commercially produced jetty or screw-in mooring; and
 - (b) for the purpose of launching, landing or mooring a vessel; and
 - (c) erected or installed during specified hours in which the area is open for public access and removed before the closing of the area on the same day.
- (5) A person may erect or install a temporary or permanent structure in a recreational area if—
 - (a) the structure is for the purpose of camping in accordance with Division 4 of this Part; or
 - (b) the person has express permission to erect or install the temporary or permanent structure in the recreational area.
- (6) The managing Authority for a recreational area may issue a permit to a person to erect or install a temporary or permanent structure in the recreational area.

65 Entry, occupation and use of buildings and structures in a recreational area

- (1) A person must not enter, occupy or use a building or structure in a recreational area unless permitted to do so under subregulation (2).

Penalty: 10 penalty units.

- (2) A person may enter, occupy or use a building or structure in a recreational area if—
- (a) the building or structure is provided for public use and the person's entry, occupation or use of the building is consistent with the purpose for which it is provided; or
 - (b) the person is obtaining shelter or protection in an emergency; or
 - (c) the person has express permission to enter, occupy or use the building or structure in the recreational area.
- (3) The managing Authority for a recreational area may issue a permit to a person to enter, occupy or use a building or structure in the recreational area.

66 Damaging or destroying buildings and structures in a recreational area

- (1) A person must not damage or destroy a temporary or permanent building or structure in a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (2) For the purposes of subregulation (1), damage or destroy includes committing arson, graffiti or otherwise tampering with, altering or defacing the building or structure.

- (3) A person may damage or destroy a temporary or permanent building or structure in a recreational area if the person—
 - (a) is disassembling, uninstalling or removing a building or structure that was erected or installed by that person; or
 - (b) has express permission to damage or destroy the building or structure in the recreational area.
- (4) The managing Authority for a recreational area may issue a permit to a person to damage or destroy a temporary or permanent building or structure in the recreational area.

67 Playground equipment in a recreational area

A person must not use playground equipment in a recreational area in a manner that causes injury to any person.

Penalty: 20 penalty units.

Division 2—Organised activities and events

68 Organised events in a recreational area

- (1) A person must not conduct any of the following events in a recreational area unless permitted to do so under subregulation (2)—
 - (a) an organised entertainment, sporting or recreational event or show;
 - (b) a rally;
 - (c) an organised boating event or regatta;
 - (d) a festival, tour, fete or public meeting;
 - (e) a demonstration, training class or other event;
 - (f) a wedding or celebration of civil union ceremony or event;

(g) a private function for 30 or more persons.

Penalty: 20 penalty units.

- (2) A person may conduct an event specified in subregulation (1) in a recreational area if the person has express permission to conduct the event in the recreational area.
- (3) The managing Authority for a recreational area may issue a permit to a person to conduct an event in the recreational area.

69 Commercial activities in a recreational area

- (1) A person must not conduct a commercial activity in a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (2) For the purposes of subregulation (1), a commercial activity includes any of the following—
 - (a) hiring, selling or trading any item or service for profit;
 - (b) offering to hire, sell or trade any item or service for profit;
 - (c) conducting any form of instruction for reward.
- (3) A person may conduct a commercial activity in a recreational area if the person has express permission to conduct the commercial activity in the recreational area.
- (4) The managing Authority for a recreational area may issue a permit to a person to conduct a commercial activity in the recreational area.

70 Commercial recordings in a recreational area

- (1) A person must not make a commercial recording in a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (2) For the purposes of subregulation (1), a commercial recording includes doing any of the following for profit—

- (a) making a film or video;
- (b) making an audio recording;
- (c) transmitting a radio broadcast;
- (d) taking photographs.

- (3) A person may make a commercial recording in a recreational area if the person—

- (a) is acting in accordance with any permit issued under the **Filming Approval Act 2014**; or
- (b) has express permission to make the commercial recording in the recreational area.

- (4) The managing Authority for a recreational area may issue a permit to a person to make a commercial recording in the recreational area.

71 Advertising and promoting in a recreational area

- (1) A person must not solicit money or collect money in a recreational area unless permitted to do so under subregulation (5).

Penalty: 10 penalty units.

- (2) A person must not erect a sign for the purpose of advertising in a recreational area unless permitted to do so under subregulation (5).

Penalty: 10 penalty units.

- (3) A person must not hand out or disseminate any advertising or commercial or promotional material, including a pamphlet or handbill, in a recreational area unless permitted to do so under subregulation (5).

Penalty: 10 penalty units.

- (4) A person must not deliver an address in a recreational area unless permitted to do so under subregulation (5).

Penalty: 10 penalty units.

- (5) A person may do any thing referred to in subregulation (1), (2), (3) or (4) if the person has express permission to do that thing in the recreational area.

- (6) The managing Authority for a recreational area may issue a permit to a person to do any of the following in a recreational area—

- (a) solicit money or collect money;
- (b) erect a sign for the purpose of advertising;
- (c) hand out or disseminate any advertising or commercial or promotional material;
- (d) deliver an address.

Division 3—Recreational activities

72 Fishing in a recreational area

- (1) A person must not fish in an area within a recreational area where fishing is prohibited.

Penalty: 20 penalty units.

- (2) The managing Authority for a recreational area may set aside an area within the recreational area where fishing is prohibited—

- (a) to implement measures or procedures specified in a management plan for the area; or
 - (b) for any other reason the managing Authority considers necessary.
- (3) Before setting aside an area under subregulation (2)(b), the managing Authority must consult with—
- (a) if any land in the area proposed to be set aside is owned by another public statutory body, that public statutory body; and
 - (b) if any land in the area proposed to be set aside is Crown land, the Minister responsible for that land; and
 - (c) if there is a specified Aboriginal party for an area that is wholly or partly within the area proposed to be set aside, a representative of that specified Aboriginal party; and
 - (d) if the managing Authority considers that the interests of any other person, community group or public statutory body are likely to be affected by the determination, that person, community group or public statutory body.

73 Swimming in a recreational area

- (1) A person must not swim in any area within a recreational area in which swimming is prohibited.
Penalty: 20 penalty units.
- (2) A person must not swim within 50 metres of a launching ramp when a vessel is on or near the launching ramp.
Penalty: 20 penalty units.

- (3) The managing Authority for a recreational area may set aside an area within the recreational area in which swimming is prohibited.

Division 4—Camping

74 Camping in a recreational area

- (1) A person must not camp in a recreational area unless the person is permitted to do so under subregulation (2).

Penalty: 10 penalty units.

- (2) A person may camp in a recreational area if—
- (a) the person is camping in an area set aside by the managing Authority as an area in which camping is permitted; or
 - (b) the person is camping on a vessel in accordance with regulation 94; or
 - (c) the person has express permission to camp in the recreational area.
- (3) A managing Authority of a recreational area may set aside an area in the recreational area in which camping is permitted.
- (4) The managing Authority for a recreational area may issue a permit to a person to camp in the recreational area.

75 Conditions on camping in a recreational area

- (1) A person who is permitted under regulation 74(2) to camp in a recreational area, other than a person who is camping on a vessel, must camp—
- (a) at least 20 metres—
 - (i) from any waterway; and
 - (ii) landward of the full supply level of a storage; or

- (b) as otherwise specified by the managing Authority for that area in a sign erected at the campground.

Penalty: 20 penalty units.

- (2) A person who camps at a site in a campground, other than a person who has express permission to camp in the recreational area, must not camp for more than—

- (a) the period specified by the managing Authority for the recreational area; or
(b) if no period is specified, 7 consecutive days.

Penalty: 10 penalty units.

- (3) A person who camps on a site in a campground must maintain the site and the surrounding area in a clean and tidy condition.

Penalty: 20 penalty units.

- (4) A person who camps on a site in a campground must clear all waste and personal property and equipment from the site and the surrounding area on vacating the site.

Penalty: 20 penalty units.

Division 5—Hygiene

76 Hygiene

- (1) A person must not deposit faeces in a recreational area except in accordance with subregulation (2) or (3).

Penalty: 20 penalty units.

- (2) A person may deposit faeces in toilet facilities provided in a recreational area.
(3) If no toilet facilities are provided in a recreational area, a person may bury faeces at a depth of 20 centimetres in the ground—

- (a) in a location that is 100 metres or more—
 - (i) from any waterway; and
 - (ii) landward of the full supply level of a storage; or
- (b) as otherwise specified by the managing Authority for that area.

77 Portable toilets

- (1) A person must not use a portable toilet in a recreational area except in accordance with subregulation (2).
Penalty: 20 penalty units.
- (2) A person may use a portable toilet in a recreational area if the portable toilet is located—
 - (a) more than 100 metres—
 - (i) from any waterway; and
 - (ii) landward of the full supply level of a storage; or
 - (b) in any area set aside by the managing Authority for that area as an area where a portable toilet facility may be used; or
 - (c) on a houseboat.
- (3) A person who uses a portable toilet in a recreational area must—
 - (a) dispose of its contents in a waste facility; or
 - (b) remove the contents from the recreational area.
Penalty: 20 penalty units.
- (4) A person must not leave a portable toilet in a recreational area.
Penalty: 20 penalty units.

- (5) A managing Authority for a recreational area may set aside an area within that recreational area where a portable toilet facility is permitted.

78 Use of soap and detergents

- (1) A person must not use or dispose of any soap, detergent or similar substance in a recreational area except in accordance with subregulation (2).

Penalty: 20 penalty units.

- (2) A person may use or dispose of any soap, detergent or similar substance in a recreational area if the person is—
- (a) more than 50 metres—
 - (i) from any waterway; and
 - (ii) landward of the full supply level of a storage; or
 - (b) in any area set aside by the managing Authority as an area where soap, detergent or a similar substance may be used; or
 - (c) on a houseboat.
- (3) A managing Authority for a recreational area may set aside an area within that recreational area as an area where soap, detergent or a similar substance may be used.

Part 9—Vehicles, vessels and aircraft in recreational areas

Division 1—General matters relating to vehicles, vessels and aircraft

79 Vehicles, vessels and aircraft in recreational areas

- (1) A person who is in charge of a vehicle, vessel or aircraft must not cause the vehicle, vessel or aircraft to enter a recreational area unless permitted to do so under subregulation (2).

Penalty: 10 penalty units.

- (2) A person who is in charge of a vehicle, vessel or aircraft may cause the vehicle, vessel or aircraft to enter a recreational area if—
- (a) the vehicle, vessel or aircraft is in an area that has been set aside by the managing Authority as an area where vehicles, vessels or aircraft are permitted; or
 - (b) the person has express permission to cause the vehicle, vessel or aircraft to enter the recreational area.
- (3) The managing Authority for a recreational area may set aside an area within the recreational area where vehicles, vessels or aircraft are permitted.

80 Discharge from aircraft, vehicles and vessels

A person must not discharge or discard from an aircraft, vehicle or vessel any of the following in a recreational area—

- (a) petrol;
- (b) engine oil;
- (c) any other flammable liquid.

Penalty: 20 penalty units.

81 Refuelling vehicles and vessels

- (1) A person must not refuel a vehicle or vessel in a recreational area except in accordance with subregulation (2).

Penalty: 20 penalty units.

- (2) A person may refuel a vehicle or vessel in a recreational area—
- (a) once every 24 hours from a single, portable fuel container of up to 25 litres in capacity; or
 - (b) at a refuelling facility; or
 - (c) in an area set aside by the managing Authority for the recreational area as an area where the refuelling of a vehicle or vessel is permitted; or
 - (d) if the person has express permission to refuel a vehicle or vessel in the recreational area.
- (3) The managing Authority for a recreational area may set aside an area within the recreational area where the refuelling of a vehicle or vessel is permitted.

82 Managing Authority may make determination in relation to vehicles and vessels in recreational area

The managing Authority for a recreational area may determine—

- (a) the maximum speed at which a vehicle or vessel or class of vehicle or vessel may be operated in the recreational area; or
- (b) any other matter relating to the operation of a vehicle or vessel or class of vehicle or vessel in the recreational area.

83 Authorised water officer may give direction in relation to speed

- (1) An authorised water officer may direct a person who is operating a vehicle or vessel in a recreational area to operate the vehicle or vessel at a speed that does not exceed the maximum speed determined by the managing Authority for the recreational area.
- (2) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

Division 2—Vehicles in recreational areas

84 Parking of vehicles in recreational area

- (1) A person must not park a vehicle in a recreational area unless—
 - (a) the vehicle is parked in an area that has been set aside by the managing Authority for the recreational area as an area where the parking of a vehicle of that class is permitted; or
 - (b) the vehicle is parked immediately adjacent to a road in accordance with subregulation (3).

Penalty: 10 penalty units.

- (2) A person must not park a vehicle in a recreational area in contravention of any sign or notice erected by the managing Authority for the recreational area.

Penalty: 10 penalty units.

- (3) A person who parks a vehicle immediately adjacent to a road in a recreational area must ensure that the vehicle does not—

- (a) obstruct other vehicles from using the road;
or
 - (b) damage any flora or fauna; or
 - (c) damage any natural feature; or
 - (d) damage Aboriginal cultural heritage or
Aboriginal intangible heritage; or
 - (e) damage any heritage values, place or object.
- (4) The managing Authority for a recreational area may set aside an area within the recreational area where a person is permitted to park a vehicle or class of vehicle.

85 Direction in relation to vehicle in recreational area

- (1) An authorised water officer may direct a person to move a vehicle under the control of that person if the authorised water officer reasonably believes that the vehicle is parked in contravention of regulation 84(1) or (2).
- (2) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

Division 3—Vessels in recreational areas

86 Anchoring, berthing or operating of vessels in recreational area

- (1) A person must not anchor, berth or operate a vessel in a recreational area unless the vessel is anchored, berthed or operated—
 - (a) in an area that has been set aside by the managing Authority for the recreational area as an area where the anchoring, berthing or operating of that vessel or class of vessel is permitted; and

- (b) in accordance with any sign or notice erected by the managing Authority for that recreational area; and
- (c) at a time or during a period when a vessel is permitted to be anchored, berthed or operated in that area.

Penalty: 20 penalty units.

- (2) The managing Authority for a recreational area may set aside an area within the recreational area where a person is permitted to anchor, berth or operate a vessel or class of vessel—
 - (a) at any time; or
 - (b) at a specified time; or
 - (c) during a specified period.

87 Direction in relation to vessel in recreational area

- (1) An authorised water officer may direct a person to move a vessel under the control of that person if the authorised water officer reasonably believes that the vessel is anchored or berthed in contravention of regulation 86(1).
- (2) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

88 Unsafe vessels

A person must not launch, land, load, unload, moor, anchor, operate or leave an unsafe vessel in a recreational area unless the person is removing the vessel from the recreational area.

Penalty: 20 penalty units.

89 Conditions on use of vessel in recreational area

- (1) A person must not anchor, berth or operate a vessel in a recreational area in a manner that endangers any person.

Penalty: 20 penalty units.

- (2) A person must not anchor, berth or operate a vessel in a recreational area in a manner that causes damage to property.

Penalty: 20 penalty units.

- (3) A person must not anchor, berth or operate a vessel in a recreational area in a manner that obstructs access to infrastructure or built assets in the recreational area or hinders the operations or works of the managing Authority for that area, or its servants or agents.

Penalty: 20 penalty units.

- (4) A person must not anchor, berth or operate a vessel in a recreational area in a manner that affects the protection and maintenance of water quality in any waterway in the area.

Penalty: 20 penalty units.

- (5) A person must not anchor, berth or operate a vessel in a recreational area in a manner that poses a risk to the protection of Aboriginal cultural heritage or Aboriginal intangible heritage in the area.

Penalty: 20 penalty units.

- (6) A person must not anchor, berth or operate a vessel in a recreational area in a manner that obstructs another vessel.

Penalty: 20 penalty units.

90 Sinking and salvaging objects on water

- (1) A person must not sink or scuttle any vessel, jetty or pontoon in a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (2) A person must not carry out the salvage of any sunken vessel, jetty or pontoon in a recreational area unless permitted to do so under subregulation (3).

Penalty: 20 penalty units.

- (3) A person may sink or scuttle a vessel, jetty or pontoon, or carry out the salvage of a sunken vessel, jetty or pontoon, in a recreational area if the person has express permission to do so.

91 Vessel causing obstruction

A person must not obstruct the launching or retrieval of a vessel from a launching ramp in a recreational area.

Penalty: 20 penalty units.

92 Operation of a houseboat

A person must not anchor, berth or operate a houseboat in a recreational area other than the Lake Eildon Recreational Area.

Penalty: 20 penalty units.

93 Operation of a vessel that has toilet facilities

- (1) A person must not anchor, berth or operate a vessel with toilet facilities in a recreational area unless permitted to do so under subregulation (2).

Penalty: 20 penalty units.

- (2) A person may anchor, berth or operate a vessel with toilet facilities in a recreational area if—

- (a) the vessel is a houseboat; or

(b) the vessel—

- (i) has a portable toilet designed for shore-based disposal; and
- (ii) is in an area set aside by the managing Authority as an area where portable toilet facilities are permitted.

94 Camping on a vessel

A person must not camp overnight on a vessel in a recreational area unless the person has express permission to camp overnight on the vessel in the recreational area.

Penalty: 20 penalty units.

Division 4—Aircraft in recreational areas

95 Use of aircraft in recreational area

- (1) A person must not launch an aircraft or a remotely piloted aircraft in a recreational area unless permitted to do so under subregulation (4).

Penalty: 20 penalty units.

- (2) A person must not land an aircraft or a remotely piloted aircraft in a recreational area unless permitted to do so under subregulation (4).

Penalty: 20 penalty units.

- (3) A person must not deliver any thing to a recreational area by an aircraft or a remotely piloted aircraft unless permitted to do so under subregulation (4).

Penalty: 20 penalty units.

- (4) A person may launch or land an aircraft or a remotely piloted aircraft, or deliver a thing by an aircraft or a remotely piloted aircraft, in a recreational area if the person—

- (a) is in an area set aside by the managing Authority for the recreational area as an area where a person is permitted to do so; or
 - (b) has express permission to launch or land an aircraft or a remotely piloted aircraft, or deliver a thing by an aircraft or a remotely piloted aircraft, in the recreational area.
- (5) A managing Authority for a recreational area may set aside an area within that recreational area where a person is permitted to do any of the following—
- (a) launch an aircraft or a remotely piloted aircraft;
 - (b) land an aircraft or a remotely piloted aircraft;
 - (c) deliver a thing by aircraft or remotely piloted aircraft.

Part 10—Removal and disposal of vehicles, vessels and other things

96 Offence to leave unattended vehicles or other things

A person must not leave unattended any vehicle, vessel or other thing in a recreational area.

Penalty: 20 penalty units.

97 Direction to move vehicle, vessel or other thing

- (1) If reasonably satisfied as to a matter specified in subregulation (2), an authorised water officer may direct a person—
 - (a) to move a vehicle, vessel or other thing within a recreational area; or
 - (b) to remove a vehicle, vessel or other thing from a recreational area.
- (2) For the purposes of subregulation (1), the specified matters are that the vehicle, vessel or other thing—
 - (a) has been left unattended; or
 - (b) is causing an obstruction; or
 - (c) is causing a risk or damage to any of the following—
 - (i) the health or safety of any person;
 - (ii) the recreational area;
 - (iii) buildings, facilities or other property within the recreational area;
 - (iv) the water quality of any waterway in the recreational area;
 - (v) Aboriginal cultural heritage or Aboriginal intangible heritage;
 - (vi) the use of a waterway in the recreational area;

Part 10—Removal and disposal of vehicles, vessels and other things

- (vii) the natural environment;
- (viii) a heritage feature, place or object; or
- (d) is hindering or obstructing public access to the recreational area; or
- (e) is not complying with the conditions of an express permission; or
- (f) in the case of a vessel—
 - (i) is an unsafe vessel; or
 - (ii) is sinking or partially submerged or has sunk.
- (3) A direction given under subregulation (1) must be in writing and given to—
 - (a) in the case of a vehicle or vessel, the owner of the vehicle or vessel; or
 - (b) in the case of any other thing, the owner of the thing or the person responsible for the thing.
- (4) A direction given under subregulation (1) must specify—
 - (a) the manner in which the vehicle, vessel or other thing is to be moved or removed; and
 - (b) the time by which the vehicle, vessel or other thing is to be moved or removed.
- (5) A person who is given a direction under subregulation (1) must immediately comply with that direction.

Penalty: 20 penalty units.

98 Removal or disposal of vehicle or other thing if direction not complied with

- (1) An authorised water officer may move or dispose of a vehicle, vessel or other thing if—
 - (a) a direction has been given to a person under regulation 97(1) in relation to that vessel, vehicle or other thing; and
 - (b) the person has not complied with that direction within the time specified in the direction.
- (2) A managing Authority who moves a vehicle, vessel or any other thing under subregulation (1) may move the vehicle, vessel or other thing to a place located within or outside of the recreational area for storage.
- (3) A managing Authority who takes any action under this regulation must keep a written record of that action.
- (4) A person must not remove or interfere with a vehicle, vessel or any other thing stored under subregulation (2) unless the person has the permission of the managing Authority.

Penalty: 20 penalty units.

99 Disposal of a vehicle or other thing left unattended

- (1) An authorised water officer may dispose of a vehicle, vessel or any other thing (other than perishable goods) by sale, destruction, appropriation or any other means if—
 - (a) the vehicle or other thing has been left unattended in the recreational area for at least 28 consecutive days; and
 - (b) the managing Authority for the recreational area, after making reasonable enquiries, is unable to identify or locate the owner of or

person responsible for the vehicle, vessel or other thing; and

(c) the vehicle, vessel or other thing is of low value.

(2) A managing Authority who takes any action under this regulation must keep a written record of that action.

100 Disposal of perishable goods

A managing Authority for a recreational area may dispose of perishable goods that are left in the recreational area if the Authority—

(a) after making all reasonable enquiries, is unable to identify or locate the owner of, or person responsible for, the goods; and

(b) the goods have been abandoned and are perishable.

Part 11—Infringements

101 Infringements

- (1) For the purposes of section 324(1)(ua) of the Act, an offence against a provision set out in Column 2 of the Table in Schedule 1 is a prescribed water infringement offence for which an infringement notice may be served.
- (2) For the purposes of section 324(1)(ub) of the Act, the infringement penalty prescribed in respect of a water infringement offence is the amount specified in Column 3 of the Table in Schedule 1 opposite that infringement offence as set out in Column 2 of that Table.

Water (Recreational Area) Regulations 2023
S.R. No. 86/2023

Schedule 1—Infringements

Schedule 1—Infringements

		Regulation 101
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Prescribed Infringement Offence</i>	<i>Infringement Penalty</i>
1	An offence against regulation 21	2 penalty units
2	An offence against regulation 23(1)	2 penalty units
3	An offence against regulation 29(1)	2 penalty units
4	An offence against regulation 36(1)	3 penalty units
5	An offence against regulation 36(2)	3 penalty units
6	An offence against regulation 37(2)	2 penalty units
7	An offence against regulation 38(1)	2 penalty units
8	An offence against regulation 38(2)	2 penalty units
9	An offence against regulation 38(3)	2 penalty units
10	An offence against regulation 39(1)	2 penalty units
11	An offence against regulation 41(1)	1·5 penalty units
12	An offence against regulation 42(1)	3 penalty units
13	An offence against regulation 42(2)	3 penalty units
14	An offence against regulation 42(3)	3 penalty units
15	An offence against regulation 45(2)	3 penalty units
16	An offence against regulation 46(1)	2 penalty units
17	An offence against regulation 46(2)	2 penalty units
18	An offence against regulation 46(3)	2 penalty units
19	An offence against regulation 47(1)	2 penalty units
20	An offence against regulation 49(1)	2 penalty units
21	An offence against regulation 50(1)	2 penalty units
22	An offence against regulation 51(1)	2 penalty units
23	An offence against regulation 51(2)	2 penalty units
24	An offence against regulation 54(1)	2 penalty units
25	An offence against regulation 55(1)	2 penalty units

Authorised by the Chief Parliamentary Counsel

Water (Recreational Area) Regulations 2023
S.R. No. 86/2023

Schedule 1—Infringements

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Prescribed Infringement Offence</i>	<i>Infringement Penalty</i>
26	An offence against regulation 56(1)	2 penalty units
27	An offence against regulation 58(1)	2 penalty units
28	An offence against regulation 58(2)	2 penalty units
29	An offence against regulation 58(3)	2 penalty units
30	An offence against regulation 58(4)	2 penalty units
31	An offence against regulation 59(2)	2 penalty units
32	An offence against regulation 60(1)	2 penalty units
33	An offence against regulation 60(2)	2 penalty units
34	An offence against regulation 61(2)	2 penalty units
35	An offence against regulation 62(1)	2 penalty units
36	An offence against regulation 63(2)	2 penalty units
37	An offence against regulation 64(1)	0.5 penalty units
38	An offence against regulation 65(1)	0.5 penalty units
39	An offence against regulation 66(1)	5 penalty units
40	An offence against regulation 67	5 penalty units
41	An offence against regulation 68(1)	2 penalty units
42	An offence against regulation 69(1)	2 penalty units
43	An offence against regulation 70(1)	1 penalty unit
44	An offence against regulation 71(1)	0.5 penalty units
45	An offence against regulation 71(2)	0.5 penalty units
46	An offence against regulation 71(3)	0.5 penalty units
47	An offence against regulation 71(4)	0.5 penalty units
48	An offence against regulation 72(1)	2 penalty units
49	An offence against regulation 73(1)	2 penalty units

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Water (Recreational Area) Regulations 2023
S.R. No. 86/2023

Schedule 1—Infringements

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Prescribed Infringement Offence</i>	<i>Infringement Penalty</i>
50	An offence against regulation 73(2)	2 penalty units
51	An offence against regulation 74(1)	1 penalty unit
52	An offence against regulation 75(1)	2 penalty units
53	An offence against regulation 75(2)	1 penalty unit
54	An offence against regulation 75(3)	1.25 penalty units
55	An offence against regulation 75(4)	1.25 penalty units
56	An offence against regulation 76(1)	2 penalty units
57	An offence against regulation 77(1)	0.6 penalty units
58	An offence against regulation 77(3)	2 penalty units
59	An offence against regulation 77(4)	2 penalty units
60	An offence against regulation 78(1)	2 penalty units
61	An offence against regulation 79(1)	1 penalty unit
62	An offence against regulation 80	2 penalty units
63	An offence against regulation 81(1)	2 penalty units
64	An offence against regulation 83(2)	1 penalty unit
65	An offence against regulation 84(1)	0.5 penalty units
66	An offence against regulation 84(2)	0.5 penalty units
67	An offence against regulation 86(1)	2 penalty units
68	An offence against regulation 87(2)	2 penalty units
69	An offence against regulation 88	2 penalty units
70	An offence against regulation 89(1)	2 penalty units
71	An offence against regulation 89(2)	2 penalty units
72	An offence against regulation 89(3)	2 penalty units
73	An offence against regulation 89(4)	2 penalty units
74	An offence against regulation 89(5)	2 penalty units

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Water (Recreational Area) Regulations 2023
S.R. No. 86/2023

Schedule 1—Infringements

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Prescribed Infringement Offence</i>	<i>Infringement Penalty</i>
75	An offence against regulation 89(6)	2 penalty units
76	An offence against regulation 90(1)	2 penalty units
77	An offence against regulation 90(2)	2 penalty units
78	An offence against regulation 91	2 penalty units
79	An offence against regulation 92	2 penalty units
80	An offence against regulation 93(1)	2 penalty units
81	An offence against regulation 94	2 penalty units
82	An offence against regulation 96	2 penalty units
83	An offence against regulation 97(5)	2 penalty units
84	An offence against regulation 98(4)	2 penalty units

Endnotes

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2023 is \$192.31. The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.