

South Australia

Aboriginal Lands Trust Regulations 2014

under the *Aboriginal Lands Trust Act 2013*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Aboriginal Lands Trust Regulations 2014*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

Act means the *Aboriginal Lands Trust Act 2013*;

alcoholic liquor means any beverage that at 20° Celsius contains more than 1.15% alcohol by volume and includes any substance that consists of, contains, or may be converted to, such a beverage;

Davenport Community means the whole of the land contained in Certificate of Title Register Book Volume 6235 Folio 786 and Certificate of Title Register Book Volume 5854 Folio 168;

Davenport Community dry zone means the land comprising the Davenport Community, other than land comprising an excluded area;

entertainment area, of the Davenport Community Hall, means the area consisting of—

- (a) to the extent that the grounds of the hall are fenced—the area within the fence line; and
- (b) to the extent that the grounds of the hall are not fenced—any area located within 50 metres of any part of the hall,

including, to avoid doubt, the area in which the fire pit is situated;

excluded area—the following areas are excluded from the Davenport Community dry zone:

- (a) all residential property on the Davenport Community, other than any residential property that is abandoned or derelict;
- (b) the Wami Kata Old Folks Home and the fenced grounds on which the home is situated;
- (c) the Davenport Community Hall, and the entertainment area of the hall, during any period that the hall is being used for an organised event;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession;

pharmacist means a person registered as a pharmacist under the law of this State;

police officer includes a special constable appointed under the *Police Act 1998* (other than a special constable whose powers under these regulations are limited by the Commissioner of Police in accordance with that Act);

regulated substance means petrol;

residential property means premises (including any yard of the premises) that are the subject of a residential tenancy agreement that is in force;

Umoona Community means the whole of the land contained in Certificate of Title Register Book Volume 5581 Folio 257 and Certificate of Title Register Book Volume 5370 Folio 179;

Yalata Reserve means the whole of the land contained in Certificate of Title Register Book Volume 5834 Folio 851.

- (2) For the purposes of these regulations, a cask of alcoholic liquor will be taken to have been opened if the tap comprising part of the container is protruding through the external carton.

Part 2—Control of alcoholic liquor and regulated substances on Umoona Community

4—Prohibition of possession or consumption of alcoholic liquor on Umoona Community

- (1) A person must not, while he or she is on any part of Umoona Community, possess or consume alcoholic liquor.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) Subregulation (1) does not apply to—
- (a) the possession of alcoholic liquor by a person for the purposes of, or the consumption of alcoholic liquor by a person in the course of, a sacramental or other similar observance that takes place in the course of, or constitutes part of, a religious service; or
 - (b) the possession of alcoholic liquor by a medical practitioner or pharmacist for the purpose of sale or supply as a medicine or for specific medical reasons; or
 - (c) the possession or consumption by a person, as a medicine or for specific medical reasons, of alcoholic liquor that has been lawfully prescribed or administered by or pursuant to a direction of a medical practitioner or pharmacist.

5—Prohibition of sale or supply of alcoholic liquor on Umoona Community

- (1) A person must not, while he or she is on any part of Umoona Community, sell or supply alcoholic liquor to another person.

Note—

The maximum penalty for an offence against this regulation is \$2 000 or imprisonment for 6 months—see section 49(3) of the Act.

- (2) Subregulation (1) does not apply to—
- (a) the supply of alcoholic liquor by a person in the course of a sacramental or other similar observance that takes place in the course of, or constitutes part of, a religious service; or
 - (b) the sale or supply of alcoholic liquor as a medicine or for specific medical reasons by a medical practitioner or pharmacist.

6—Prohibition of inhalation, consumption, possession, sale or supply of regulated substances on Umoona Community

- (1) A person must not, while he or she is on any part of Umoona Community—
- (a) inhale or consume a regulated substance; or
 - (b) possess a regulated substance for the purpose of inhalation or consumption.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A person must not, while he or she is on any part of Umoona Community, sell or supply a regulated substance to another person knowing or there being reasonable grounds for suspecting that the other person intends to—
- (a) use the regulated substance for the purpose of inhalation or consumption; or
 - (b) sell or supply the regulated substance for the purpose of inhalation or consumption.

Note—

The maximum penalty for an offence against this subregulation is \$2 000 or imprisonment for 6 months—see section 49(3) of the Act.

7—Confiscation of alcoholic liquor and regulated substances

Where a police officer reasonably suspects that a contravention of regulation 4(1), 5(1) or 6 has occurred, he or she may confiscate any alcoholic liquor or regulated substance to which the suspected contravention relates.

Part 3—Control of alcoholic liquor and regulated substances on Yalata Reserve

8—Prohibition of possession or consumption of alcoholic liquor on Yalata Reserve

- (1) A person must not, while he or she is on any part of Yalata Reserve, possess or consume alcoholic liquor.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) Subregulation (1) does not apply to—
 - (a) the possession of alcoholic liquor by a person for the purposes of, or the consumption of alcoholic liquor by a person in the course of, a sacramental or other similar observance that takes place in the course of, or constitutes part of, a religious service; or
 - (b) the possession of alcoholic liquor by a medical practitioner or pharmacist for the purpose of sale or supply as a medicine or for specific medical reasons; or
 - (c) the possession or consumption by a person, as a medicine or for specific medical reasons, of alcoholic liquor that has been lawfully prescribed or administered by or pursuant to a direction of a medical practitioner or pharmacist.

9—Prohibition of sale or supply of alcoholic liquor on Yalata Reserve

- (1) A person must not, while he or she is on any part of Yalata Reserve, sell or supply alcoholic liquor to another person.

Note—

The maximum penalty for an offence against this regulation is \$2 000 or imprisonment for 6 months—see section 49(3) of the Act.

- (2) Subregulation (1) does not apply to—
 - (a) the supply of alcoholic liquor by a person in the course of a sacramental or other similar observance that takes place in the course of, or constitutes part of, a religious service; or
 - (b) the sale or supply of alcoholic liquor as a medicine or for specific medical reasons by a medical practitioner or pharmacist.

10—Prohibition of inhalation, consumption, possession, sale or supply of regulated substances on Yalata Reserve

- (1) A person must not, while he or she is on any part of Yalata Reserve—
 - (a) inhale or consume a regulated substance; or
 - (b) possess a regulated substance for the purpose of inhalation or consumption.
Maximum penalty: \$1 250.
Expiation fee: \$160.

- (2) A person must not, while he or she is on any part of Yalata Reserve, sell or supply a regulated substance to another person knowing or there being reasonable grounds for suspecting that the other person intends to—
- (a) use the regulated substance for the purpose of inhalation or consumption; or
 - (b) sell or supply the regulated substance for the purpose of inhalation or consumption.

Note—

The maximum penalty for an offence against this subregulation is \$2 000 or imprisonment for 6 months—see section 49(3) of the Act.

11—Confiscation of alcoholic liquor and regulated substances

Where a police officer reasonably suspects that a contravention of regulation 8(1), 9(1) or 10 has occurred, he or she may confiscate any alcoholic liquor or regulated substance to which the suspected contravention relates.

Part 3A—Control of alcoholic liquor on Davenport Community

Division 1—Acknowledgement of Davenport community and purpose of Part

11A—Acknowledgement of Davenport community and purpose of Part

- (1) This Part is a result of the initiative of the members of the Davenport community.
- (2) The main purpose of this Part is to support the Davenport community's vision of a safe, responsible and respectful community in which alcohol-related harm is reduced.

Division 2—Possession and consumption of liquor prohibited

11B—Prohibition of possession or consumption of alcoholic liquor in Davenport Community dry zone

- (1) A person must not, while in any part of the Davenport Community dry zone, possess or consume alcoholic liquor.

Note—

The penalties for an offence against this subregulation are set out in subregulation (3)(c).

- (2) However, subregulation (1) does not apply to the possession or consumption of alcoholic liquor in the following circumstances:
 - (a) the possession of alcoholic liquor by a person who is genuinely passing through the Davenport Community dry zone, or who is passing through the dry zone to enter or leave an excluded area within the dry zone, where—
 - (i) the alcoholic liquor is in the original container in which it was purchased; and
 - (ii) the container has not been opened;
 - (b) the possession of alcoholic liquor by a person who is genuinely supplying the alcoholic liquor to a person in the circumstances contemplated by regulation 11C(2)(a), where—

- (i) the alcoholic liquor is in the original container in which it was purchased; and
 - (ii) the container has not been opened;
 - (c) the possession of alcoholic liquor by a health professional (being alcoholic liquor genuinely used for medical purposes);
 - (d) the possession or consumption of alcoholic liquor by a person to whom the alcoholic liquor was lawfully sold, supplied or administered by a health professional for medical purposes.
- (3) The following provisions apply to the sentencing of a person for an offence against subregulation (1) (and, in such a case, the measures set out in this regulation will, for all purposes, be taken to amount to the sentencing of the person for the contravention):
- (a) the primary purpose of a sentence under this regulation is to effect the rehabilitation, and an improvement in the health and wellbeing, of the person without imposing additional financial burdens on the person or their family;
 - (b) a custodial sentence or monetary fine must not be imposed on the person;
 - (c) the sentences that may be imposed by the court under this regulation are as follows:
 - (i) the court may discharge the person without penalty;
 - (ii) the court may caution the person;
 - (iii) the court may make such of the following orders as the court considers appropriate:
 - (A) an order, made with the consent of the person, that the person undertake a specified drug or alcohol screening or assessment;
 - (B) an order imposing on the person community service to be undertaken within the Davenport Community;
 - (C) an order barring the person from remaining on, or re-entering, the Davenport Community during the period specified in the order;
 - (D) such other orders as the court considers appropriate, having regard to paragraph (a);
 - (d) the court may sentence the person without requiring the person to attend court in person.
- (4) Before sentencing a person for an offence against subregulation (1), the court may, if the court considers it appropriate to do so—
- (a) convene a sentencing conference; and
 - (b) take into consideration views expressed at the conference.
- (5) The following persons are entitled to attend a sentencing conference convened under this regulation:
- (a) the defendant and, if the defendant is a child, the defendant's parent or guardian;

- (b) the defendant's legal representative (if any);
- (c) a person regarded by the defendant, and accepted within the Davenport Community, as an Aboriginal Elder, or as a Respected Person within the Davenport Community;
- (d) a representative of the Davenport Community;
- (e) a representative of an approved screening organisation who has previously screened the defendant under Division 5;
- (f) a representative of a program provider who has provided, or is to provide, drug or alcohol services to the defendant;
- (g) the prosecutor,

and the court may invite such other persons as the court considers appropriate to attend the conference.

- (6) The court may determine the procedures of a sentencing conference.
- (7) A person who, without reasonable excuse, refuses or fails to comply with an order of a court under subregulation (3)(c)(iii) is guilty of a contempt of the court.
- (8) In this regulation—

approved screening organisation has the same meaning as in Division 5.

Division 3—Sale or supply of alcoholic liquor prohibited

11C—Prohibition of sale or supply of alcoholic liquor in Davenport Community dry zone

- (1) A person must not, while in any part of the Davenport Community dry zone, sell or supply alcoholic liquor to another person.

Note—

The maximum penalty for an offence against this regulation is \$2 000 or imprisonment for 6 months—see section 49(3) of the Act.

- (2) However, subregulation (1) does not apply to—
 - (a) the supply of alcoholic liquor to a person who is 18 years of age or more in the Davenport Community dry zone where—
 - (i) the person is, by reason of age, illness or other infirmity, unable to obtain alcoholic liquor in person; and
 - (ii) the supply occurs at the request of the person; and
 - (iii) the person supplying the alcoholic liquor does not make a profit in relation to doing so; or
 - (b) the sale or supply of alcoholic liquor by a health professional (being alcoholic liquor genuinely used for medical purposes).

Division 4—Confiscation of alcoholic liquor

11D—Confiscation of alcoholic liquor

If a police officer reasonably suspects that a contravention of this Part has occurred, the officer may confiscate any alcoholic liquor to which the suspected contravention relates.

Division 5—Referrals of certain persons misusing alcohol for screening

11E—Interpretation

In this Division—

approved screening organisation means a person or body declared by a Davenport Community Alcohol Screening MOU to be an approved screening organisation for the purposes of this Division (being a person or body who delivers health and wellbeing services or programs wholly or partly funded by the State or the Commonwealth);

Davenport Community Alcohol Screening MOU, in respect of a particular approved screening organisation, means a memorandum of understanding between SA Police and the approved screening organisation relating to referrals for screening under this Division, as in force from time to time.

11F—Police officer may refer person to approved screening organisation for screening

- (1) If a police officer reasonably suspects that—
 - (a) a person has committed an offence against regulation 11B; and
 - (b) the person may be at risk due to the misuse of alcoholic liquor,the police officer may refer the person to an approved screening organisation for screening in accordance with this regulation.
- (2) A police officer refers a person to an approved screening organisation for screening by giving the person a written notice (a **referral notice**) in accordance with the Davenport Community Alcohol Screening MOU in respect of the approved screening organisation.
- (3) A copy of the referral notice must be forwarded to the approved screening organisation to which the person is referred (including, without limiting this regulation, by email or other electronic means).

11G—Interaction with Division 2

A referral of a person to an approved screening organisation under regulation 11F relating to an alleged offence against regulation 11B operates as a stay of proceedings (if any) for the alleged offence.

11H—Confidentiality

A person who is, or has been, engaged in duties related to the operation or administration of this Division must not disclose personal information relating to a person referred for screening under this Division obtained in the course of those duties, unless the disclosure is made—

- (a) for the purposes of the administration, operation or enforcement of this Division; or
- (b) as authorised or required by any Act or law; or
- (c) with the consent of the person to whom the information relates.

Maximum penalty: \$1 250.

Part 4—Miscellaneous

12—Vacation of office—prescribed offences

For the purposes of section 14(4)(d) of the Act, an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935* is a prescribed offence.

13—Register of Trust Land

- (1) For the purposes of section 42(2) of the Act, the Register must include the following information in relation to each piece of Trust Land:
 - (a) details of the certificate or certificates of title for the land, including—
 - (i) the Volume and Folio numbers; and
 - (ii) the description of the land; and
 - (iii) any registered interests or charges; and
 - (iv) any other interest or instrument noted against the land;
 - (b) details of all known interests held in relation to the land that are not registered or noted on the certificate or certificates of title, which must include a description of the land the subject of the interest;
 - (c) details of any development authorisation granted under the *Development Act 1993* or the *Planning, Development and Infrastructure Act 2016* that affects the piece of Trust Land, including—
 - (i) the name of the applicant in respect of the development authorisation; and
 - (ii) the number of the development authorisation; and
 - (iii) the relevant authority that granted the development authorisation; and
 - (iv) the date the development authorisation was granted; and
 - (v) the location and nature of the proposed development.
- (2) If a lease or licence exists in relation to Trust Land, the following details of the lease or licence must be included in the Register under subregulation (1):
 - (a) the name and contact details of the lessee or licensee;

- (b) a description of the land the subject of the lease or licence;
- (c) the commencement date;
- (d) the expiry date;
- (e) the purpose for which the lease or licence is held.

14—Fees

For the purposes of the Act and these regulations, the fees set out in Schedule 1 are prescribed.

15—References to Ministerial consent in continued leases and licences

- (1) Pursuant to section 69(2) of the Act, a provision of a lease or licence continued by Schedule 1 clause 10 of the Act referring to the need for the written consent of a Minister to be obtained before land subject to the lease or licence can be encumbered, mortgaged, sublet or assigned, or before the lessee or licensee can part with possession of the land, is void and of no effect.
- (2) Pursuant to section 69(4) of the Act, subregulation (1) will, in respect of a particular lease or licence continued by Schedule 1 clause 10 of the Act, be taken to take effect on the day that the lease or licence was granted.

Schedule 1—Fees

Maximum fee for a copy of part of the Register

\$1.60 per page

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Aboriginal Lands Trust Regulations 2014* revoked the following:

Aboriginal Lands Trust (Umoona Community) Regulations 2007

Aboriginal Lands Trust (Yalata Reserve) Regulations 2005

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2014	32	<i>Gazette 6.2.2014 p558</i>	1.7.2014: r 2
2018	221	<i>Gazette 18.10.2018 p3823</i>	18.10.2018: r 2
2024	64	<i>Gazette 4.7.2024 p2023</i>	15.11.2024: r 2

Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>18.10.2018</i>
r 3		
r 3(1)	r 3 redesignated as r 3(1) by 64/2024 r 3(3)	15.11.2024
Davenport Community	inserted by 64/2024 r 3(1)	15.11.2024
Davenport Community dry zone	inserted by 64/2024 r 3(1)	15.11.2024
entertainment area	inserted by 64/2024 r 3(1)	15.11.2024
excluded area	inserted by 64/2024 r 3(1)	15.11.2024

residential property	inserted by 64/2024 r 3(2)	15.11.2024
r 3(2)	inserted by 64/2024 r 3(3)	15.11.2024
Pt 3A	inserted by 64/2024 r 4	15.11.2024
Pt 4		
r 13		
r 13(1)	varied by 221/2018 r 4	18.10.2018
r 15	inserted by 221/2018 r 5	18.10.2018
Sch 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	18.10.2018

Historical versions

18.10.2018