



Woomera Prohibited Area Rule 2014

I, David Johnston, Minister for Defence, with the agreement of the Minister for Industry, make the following rule.

Dated: 25 August 2014

David Johnston
Minister for Defence

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Part 1—Preliminary

1 Name of rule

This rule is the *Woomera Prohibited Area Rule 2014*.

2 Commencement

This rule commences on the day after it is registered.

3 Authority

This rule is made under subsection 72TP(1) of the *Defence Act 1903*.

4 Definitions

In this rule:

acquires a controlling interest has the meaning given by subsection 36(3).

Act means the *Defence Act 1903*.

amber zone 1 has the meaning given by paragraph 6(b).

amber zone 2 has the meaning given by paragraph 6(c).

approved form means a form approved under section 30.

approved person means a person who is approved by the Secretary under section 32.

authorised officer means a person appointed under section 43 to issue infringement notices.

covered: a permission ***covers*** a place in the Woomera Prohibited Area if it permits a person to be at the place.

defence activities means the testing of war materiel.

demerit cancellation notice means a notice under section 54.

demerit suspension notice means a notice under section 51 or 52.

escorted person has the meaning given by subsection 35(1).

exclusion period, in relation to a zone, means a period determined by the Minister under subsection 8(1) for the zone.

green zone has the meaning given by paragraph 6(d).

holder, in relation to a permit, means the person to whom the permit was issued.

infringement notice means an infringement notice issued under section 44.

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permit application requirements has the meaning given by subsection 13(2).

permit renewal application requirements has the meaning given by subsection 22(2).

prescribed condition means a condition of a permit that is prescribed under section 42.

red zone has the meaning given by paragraph 6(a).

register means the demerits points register kept under section 58.

Secretary means the Secretary of the Department.

unmanned aerial vehicle means a powered aerial vehicle that:

- (a) does not carry a human operator; and
- (b) uses aerodynamic forces to provide lift; and
- (c) can fly autonomously or be piloted remotely.

zone means a zone mentioned in section 6.

Part 2—The Woomera Prohibited Area

5 The Woomera Prohibited Area

The area in South Australia that is delineated on the plan deposited in the General Registry Office at Adelaide and numbered GP 249/1989 is prescribed as the Woomera Prohibited Area.

6 Zones within the Woomera Prohibited Area

The following zones are prescribed within the Woomera Prohibited Area:

- (a) the **red zone**, being the area described as “Defence continuous use zone” on DMITRE Plan Number 204192-001 (the **plan**);
- (b) **amber zone 1**, being the area described as “Defence periodic use zone 1” on the plan;
- (c) **amber zone 2**, being the area described as “Defence periodic use zone 2” on the plan;
- (d) the **green zone**, being the area described as “Defence infrequent zone” on the plan.

Note: DMITRE Plan Number 204192-001 could in 2014 be viewed on the South Australian Resources Information Geoserver (<https://sarigbasis.pir.sa.gov.au/WebtopEW/ws/plans/sarig1/image/DDD/204192-001>).

7 No permits for red zone

The Minister must not issue a permit that provides permission for a person to be in the red zone.

8 Exclusion periods

- (1) The Minister may, by legislative instrument, determine the following exclusion periods for a financial year:
 - (a) for amber zone 1—up to 20 periods of up to 7 days each;
 - (b) for amber zone 2—up to 10 periods of up to 7 days each;
 - (c) for the green zone—up to 8 periods of up to 7 days each.
- (2) An exclusion period for a zone may commence immediately after the end of a previous exclusion period for the zone.
- (3) If an exclusion period for a zone does not commence immediately after the end of a previous exclusion period for the zone, there must be a break of at least:
 - (a) for amber zone 1 or amber zone 2—6 weeks between the periods; and
 - (b) for the green zone—3 months between the periods.
- (4) An exclusion period may apply to a part of a zone and, if it does so:
 - (a) the period has effect for the purposes of paragraphs (1)(a), (b) and (c) as if it were a period for the zone; and

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- (b) a reference in any other provision of this rule to an exclusion period for a zone is to be read as a reference to an exclusion period for that part of the zone.

9 Notice of exclusion periods

- (1) The Minister must give the holder of a permit written notice of an exclusion period for a zone covered by the permit.
- (2) The notice must be given:
 - (a) subject to paragraph (b), within the following periods (the *notification period*):
 - (i) if the permit covers amber zone 1 or amber zone 2—at least 3 months before the beginning of the financial year in which the exclusion period begins;
 - (ii) if the permit covers the green zone and is for resource production purposes—at least 6 months before the exclusion period begins;
 - (iii) if the permit covers the green zone and is not for resource production purposes—at least 21 days before the exclusion period begins; or
 - (b) if the permit is issued at any time after the commencement of the notification period—when the permit is issued.

10 Permits do not provide permission during exclusion periods

A permit does not provide permission for a person to be at a place in a zone during an exclusion period for the zone.

Note: Minister's permission could be given for a person to be at a place in a zone during an exclusion period for the zone: see Part 5.

Part 3—Standing permissions

11 Standing permission to use certain roads and railways

- (1) A person travelling on any of the following (the *access route*) has permission to do so in the Woomera Prohibited Area:
 - (a) the Tarcoola to Darwin railway line;
 - (b) the Stuart Highway;
 - (c) the William Creek Road;
 - (d) the Lake Cadibarrawirracanna Road;
 - (e) the Olympic Dam-Pimba Road.
- (2) The permission is subject to the condition that the person must not deviate from the access route.
- (3) The Minister may, by legislative instrument, suspend the permission if the Minister is satisfied that it is necessary for:
 - (a) the security of defence activities; or
 - (b) the safety of persons in the Woomera Prohibited Area.
- (4) If the Minister suspends the permission, the Minister must:
 - (a) set up access control points on an access route mentioned in paragraphs (1)(b) to (e) to prevent use of the access route by persons who could otherwise do so under the permission; and
 - (b) take reasonable steps to inform such persons of the suspension.

12 Standing permission to be in Woomera Village Standing Permission Area

- (1) A person has permission to be in an area in the Woomera Prohibited Area that is identified as the Woomera Village Standing Permission Area in Part 1 of Schedule 1.

Note: Part 2 of Schedule 1 sets out a simplified map illustrating the Woomera Village Standing Permission Area.
- (2) The Minister may, by legislative instrument, suspend the permission if the Minister is satisfied that it is necessary for:
 - (a) the security of defence activities; or
 - (b) the safety of persons in the Woomera Prohibited Area.
- (3) If the Minister suspends the permission, the Minister must:
 - (a) set up access control points to prevent entry of persons into the Woomera Village Standing Permission Area; and
 - (b) take reasonable steps to inform persons of the suspension.

Part 4—Permits

Division 1—Issuing permits

13 Application for permit

- (1) A person (the *applicant*) may apply to the Minister for a permit that provides permission for a person or class of persons to be at places in the Woomera Prohibited Area for one of the following purposes:
 - (a) resource production purposes;
 - (b) resource exploration purposes;
 - (c) opal mining and precious stone prospecting purposes;
 - (d) research purposes;
 - (e) tourism purposes;
 - (f) environmental purposes;
 - (g) other purposes.
- (2) The application must:
 - (a) be in the form approved by the Minister; and
 - (b) specify the purpose for which the permit is sought; and
 - (c) specify the activities proposed to be conducted under the permit; and
 - (d) specify the period for which the permit is sought; and
 - (e) include details of procedures to evacuate the Woomera Prohibited Area if an evacuation is required; and
 - (f) include any other information required by the form; and
 - (g) be accompanied by any documents required by the form; and
 - (h) be signed by the applicant; and
 - (i) be lodged at a place or by a means specified in the form.

These are the *permit application requirements*.

14 If application does not comply

- (1) The Minister is not required to consider the application, or consider it further, if the application does not comply with the permit application requirements.
- (2) If the Minister decides not to consider the application, or consider it further, because the application does not comply with the permit application requirements, the Minister must give the applicant a written notice within 10 business days:
 - (a) stating that the application does not comply with the permit application requirements; and
 - (b) setting out the matters that must be dealt with for the application to so comply.
- (3) If the application does not comply with the permit application requirements within 30 business days after the notice is given (or such longer period as is specified in the notice or is approved by the Minister in writing upon the written request of the applicant), the application is taken to have been withdrawn.

15 Withdrawal of application

The applicant may withdraw the application at any time by written notice given to the Minister.

16 Request for additional information or documents

- (1) For the purposes of deciding the application, the Minister may, by writing, request the applicant to give the Minister such further information or documents that:
 - (a) the Minister considers necessary to enable the Minister to make a decision on the application; and
 - (b) are specified in the request.
- (2) If the applicant does not give the information or documents to the Minister within 20 business days after the request is given (or such longer period as is specified in the request or is approved by the Minister in writing upon the written request of the applicant), the application is taken to have been withdrawn.

17 Deciding the application

The Minister must issue the permit unless the Minister is satisfied that:

- (a) doing so would prejudice the security of defence activities; or
- (b) the applicant is unlikely to comply with the conditions of the permit.

18 Time for deciding the application

- (1) If the application complies with the permit application requirements, the Minister must give the applicant notice of the Minister's decision on the application within whichever of the following periods applies after the application is lodged:
 - (a) if the permit is for resource production purposes—25 business days;
 - (b) if the permit is for resource exploration purposes—25 business days;
 - (c) if the permit is for opal mining and precious stone prospecting purposes—10 business days;
 - (d) if the permit is for research purposes—20 business days;
 - (e) if the permit is for tourism purposes—10 business days;
 - (f) if the permit is for environmental purposes—10 business days;
 - (g) if the permit is for other purposes—10 business days.
- (2) If, during the period, the Minister requests further information or documents from the applicant, the period is extended by the time the applicant takes to comply with the request.

Note: If the applicant does not give the information or documents as requested by the Minister, the application is taken to have been withdrawn: see subsection 16(2).

19 Form of permit

If the permit is issued, it must specify the following:

- (a) the name of the applicant as the holder of the permit;

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- (b) if the holder is a body corporate—the body corporate’s ABN or ACN (if any);
- (c) the person or class of persons for whom the permit provides permission;
- (d) the places covered by the permit;
- (e) the purpose for which the permit is issued;
- (f) the activities permitted to be conducted under the permit;
- (g) the date the permit is issued and the date the permit comes into force;
- (h) the date the permit expires;
- (i) any conditions, in addition to the conditions specified in Division 3, to which the permit is subject.

20 Term of permit

- (1) The permit remains in force:
 - (a) for a permit for resource production purposes—for the period of not more than 10 years specified in the permit; or
 - (b) in any other case—for the period of not more than 7 years specified in the permit.
- (2) If the permit is suspended, the period for which it remains in force continues to run.
- (3) If the permit is issued on the basis of the holder holding an authority (however described) from the government of South Australia, the permit:
 - (a) if the authority expires or is cancelled—ceases to have effect, but only to the extent that it was issued on the basis of the authority; and
 - (b) if the authority is suspended for any period—is suspended for the same period as the authority is suspended, but only to the extent that the permit was issued on the basis of the authority.
- (4) The holder of a permit may, at any time, surrender the permit by:
 - (a) returning the permit to the Minister; and
 - (b) giving the Minister written notice that the permit is surrendered.
- (5) The surrender of the permit takes effect on the day on which subsection (4) is satisfied.

21 Variation of permit

- (1) If, after the permit is issued, the holder is issued with an authority (however described) from the government of South Australia that is applicable to the permit, the holder may apply to the Minister for the permit to be varied to take account of the authority.
- (2) The Minister may, by written notice, vary the permit for that purpose if:
 - (a) the holder of the permit:
 - (i) applies in accordance with the form (the *application form*) approved by the Minister; and
 - (ii) includes in the application form the information required by the application form; and

- (iii) provides the Minister with any documents required by the application form; and
 - (iv) signs the application form; and
 - (b) the Minister is satisfied that:
 - (i) varying the permit would not prejudice the security of defence activities; and
 - (ii) the holder is likely to comply with any conditions of the permit as varied.
- (3) A variation takes effect on the day on which the notice of the variation is given to the holder or such later day as is specified in the notice.
- (4) The Minister may, in writing, approve a form for the purposes of subparagraph (2)(a)(i).
- (5) A written notice is not a legislative instrument.

Division 2—Renewal of permits

22 Application for renewal

- (1) The holder of a permit (the *applicant*) may apply to the Minister for renewal of the permit.
- (2) The application must:
 - (a) be in the form approved by the Minister; and
 - (b) include the information required by the form; and
 - (c) be accompanied by any documents required by the form; and
 - (d) be signed by the applicant; and
 - (e) be lodged:
 - (i) not earlier than 12 months before the permit expires; and
 - (ii) at least 60 business days before the permit expires; and
 - (iii) at a place, or by a means, specified in the form.

These are the *permit renewal application requirements*.

- (3) The applicant may apply under subsection (1) even if the permit is suspended at the time the application is made.

23 If application does not comply

- (1) The Minister is not required to consider the application, or consider it further, if the application does not comply with the permit renewal application requirements.
- (2) If the Minister decides not to consider the application, or consider it further, because the application does not comply with the permit renewal application requirements, the Minister must give the applicant a written notice within 10 business days after the day the Minister makes the decision:
 - (a) stating that the application does not comply with the permit renewal application requirements; and
 - (b) setting out the matters that must be dealt with for the application to so comply.
- (3) If the application does not comply with the permit renewal application requirements within 30 business days after the notice is given (or such longer period as is specified in the notice or is approved by the Minister in writing upon the written request of the applicant), the application is taken to have been withdrawn.

24 Withdrawal of application

The applicant may withdraw the application at any time by written notice given to the Minister.

25 Request for additional information or documents

- (1) For the purposes of deciding the application, the Minister may, by writing, request the applicant to give the Minister such further information or documents as are specified in the request.
- (2) The application is taken to be withdrawn, if:
 - (a) within 20 business days after the request is given; or
 - (b) within such longer period as is specified in the request or is approved by the Minister in writing upon the written request of the applicant;the applicant does not:
 - (c) give the information or documents to the Minister; or
 - (d) satisfy the Minister that the information or documents cannot be provided.

26 Deciding the application

- (1) The Minister must renew the permit unless the Minister is satisfied that:
 - (a) doing so would prejudice the security of defence activities; or
 - (b) the applicant is unlikely to comply with the conditions of the permit.
- (2) The Minister must consult the applicant before refusing to renew the permit.

27 Time for deciding the application

- (1) If the application complies with the permit renewal application requirements at least 30 days before the permit expires, the Minister must give the applicant notice of the Minister's decision on the application within whichever of the following periods applies after the application is lodged:
 - (a) if the permit is for resource production purposes—25 business days;
 - (b) if the permit is for resource exploration purposes—25 business days;
 - (c) if the permit is for opal mining and precious stone prospecting purposes—10 business days;
 - (d) if the permit is for research purposes—20 business days;
 - (e) if the permit is for tourism purposes—10 business days;
 - (f) if the permit is for environmental purposes—10 business days;
 - (g) if the permit is for other purposes—10 business days.
- (2) If, during the period, the Minister requests further information or documents from the applicant, the period is extended by the time the applicant takes to comply with the request.

Note: If the applicant does not give the information or documents as requested by the Minister, the application is taken to have been withdrawn: see subsection 25(2).

28 Form of renewal

- (1) If the Minister renews the permit, the Minister must give the applicant a renewal notice.
- (2) The renewal notice must:
 - (a) set out any conditions to which the renewal is subject; and

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Division 2 Renewal of permits

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- (b) specify the day on which the renewal commences; and
- (c) specify the period of the renewal; and
- (d) be given to the applicant as soon as practicable.

Division 3—Conditions of permits

29 Conditions applying to all permits

- (1) A permit is subject to the conditions set out in this section.
- (2) The holder of the permit must:
 - (a) unless the Secretary is satisfied that exceptional circumstances exist—give the Secretary at least 10 business days' notice in the approved form before a person enters the Woomera Prohibited Area under the permit; and
 - (b) ensure that persons in the Woomera Prohibited Area under the permit are aware of the conditions to which the permit is subject; and
 - (c) take all reasonable steps to ensure:
 - (i) that persons in the Woomera Prohibited Area under the permit comply with the conditions of the permit; and
 - (ii) that persons who are subject to the holder's control are not at places in the Woomera Prohibited Area without permission to be at those places.
- (3) A person in the Woomera Prohibited Area under the permit must not:
 - (a) be at a place that is not covered by the permit; or
 - (b) be in a zone during an exclusion period for the zone; or
 - (c) carry out activities other than those for which the permit was issued; or
 - (d) intentionally remove, touch, interfere or tamper with, any Commonwealth equipment, material or installation; or
 - (e) enter any area:
 - (i) enclosed by the Commonwealth with wire or other material; or
 - (ii) protected by an APS employee or a person acting on behalf of the Commonwealth; or
 - (f) without the written approval of the Minister or in contravention of any conditions in the approval—have in his or her possession, or operate, an unmanned aerial vehicle; or
 - (g) erect a building or any other structure that is more than 7.5 metres high without the written approval of the Minister; or
 - (h) without the written approval of the Minister—have in his or her possession a firearm or explosives.
- (4) A person in the Woomera Prohibited Area under the permit must:
 - (a) have ready access to communications equipment in good working order in accordance with the permit; and
 - (b) if the person erects a building or any other structure approved by the Minister—notify the Minister as soon as practicable after the building or structure has been erected; and
 - (c) comply with all reasonable directions in relation to the Woomera Prohibited Area given to the person by:
 - (i) a member of the Defence Force; or
 - (ii) an APS employee in the Department; and

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- (d) inform the Secretary as soon as practicable if the person finds any war materiel; and
- (e) comply with all applicable laws of the Commonwealth and South Australia relating to safety, security, native title, heritage and culture.

Note: A person may be required to obtain separate permission under the *Maralinga Tjarutja Land Rights Act 1984* (SA) to enter the Maralinga Tjarutja lands and under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA) to enter the Anangu Pitjantjatjara Yankunytjatjara lands.

30 Secretary may approve form

The Secretary may, in writing, approve a form for the purposes of paragraph 29(2)(a).

31 Conditions applying to permits for resource production purposes or resource exploration purposes

- (1) A permit issued for resource production purposes or resource exploration purposes is subject to the conditions set out in this section.
- (2) The holder of the permit must take all reasonable steps to ensure:
 - (a) that each person who enters the Woomera Prohibited Area under the permit:
 - (i) is approved by the Secretary under section 32 as an approved person; or
 - (ii) is an escorted person; and
 - (b) that at all times during which the person is in the Woomera Prohibited Area under the permit, the person:
 - (i) complies with any applicable conditions specified in the approval or the permit; and
 - (ii) has in his or her possession written proof of the person's identity that includes a photograph of the person; and
 - (iii) if the person is an escorted person—is accompanied by an approved person.

32 Approved persons

- (1) The Secretary may, in writing, approve a person as an approved person if:
 - (a) the holder of the permit:
 - (i) applies in accordance with the form (the *application form*) approved by the Secretary; and
 - (ii) includes in the application form the information required by the application form; and
 - (iii) provides the Secretary with any documents required by the application form; and
 - (iv) signs the application form; and
 - (b) the Secretary is satisfied that:
 - (i) approving the person as an approved person would not prejudice the security of defence activities; and

- (ii) the person is likely to comply with the conditions of the permit and any conditions of the approval.
- (2) For the purposes of deciding the application, the Secretary may, by writing, request the holder to give the Secretary such further information or documents as are specified in the request.
- (3) If the holder does not give the information or documents to the Secretary within 20 business days after the request is given (or such longer period as is approved by the Secretary in writing upon the written request of the holder), the application is taken to have been withdrawn.

33 Deciding the application

- (1) If the holder complies with paragraph 32(1)(a), the Secretary must make a decision on the application within the period of 20 business days after receiving the application.
- (2) If, during the period, the Secretary requests further information or documents in relation to the application, the period is extended by the time the holder takes to comply with the request.

Note: If the holder does not give the information or documents as requested by the Secretary, the application is taken to have been withdrawn: see subsection 32(3).
- (3) The Secretary must give the holder written notice of the Secretary's decision as soon as practicable after making the decision.
- (4) If the Secretary approves a person as an approved person, the approval:
 - (a) remains in force for the period specified in the approval (which must not exceed 2 years); and
 - (b) is subject to any conditions specified in the approval.

34 Secretary may suspend or cancel an approval

The Secretary may, by written notice to the holder of a permit, suspend or cancel the approval of a person as an approved person if the Secretary considers it is necessary for the security of defence activities, including because the approved person has failed to comply with the conditions of the approval.

35 Escorted persons

- (1) A person is an *escorted person* only if, at any time before the person first enters a place in the Woomera Prohibited Area, the holder of a permit has given the Secretary written notification that complies with subsection (2) in respect of the person.
- (2) The notification must:
 - (a) be in the form approved by the Secretary; and
 - (b) include the name of the escorted person; and
 - (c) include the information required by the form; and
 - (d) be accompanied by any documents required by the form.

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- (3) It is a condition of the holder's permit that the holder must ensure that an escorted person is not in a place in the Woomera Prohibited Area for more than 5 days in total unless the holder has applied under section 32 for the person to be approved as an approved person.
- (4) A person ceases to be an escorted person:
 - (a) 2 years after the holder of the permit notifies the Secretary about the person in accordance with subsection (1); or
 - (b) if the person's status as an escorted person is sooner revoked under subsection (6)—on the day the Secretary gives the written notice of revocation to the holder; or
 - (c) if the person is sooner approved as an approved person—on the day the person is approved.
- (5) If a person ceases to be an escorted person as mentioned in paragraph (4)(a), the person becomes an escorted person again if the holder gives the Secretary a fresh notification in accordance with subsection (1).
- (6) The Secretary may, by written notice given to the holder, revoke a person's status as an escorted person if:
 - (a) the holder does not comply with subsection (3); or
 - (b) the Secretary considers it is necessary for the security of defence activities, including because the escorted person has failed to comply with any conditions that apply in relation to the person.

36 Conditions applying to permits issued to bodies corporate

- (1) A permit issued to a body corporate is subject to the conditions set out in this section.
- (2) The body corporate must notify the Minister in writing within 15 business days if a person (either alone or together with one or more other persons) acquires a controlling interest in the body corporate.
- (3) A person **acquires a controlling interest** in the body corporate if the person (either alone or together with one or more other persons):
 - (a) is in a position to cast, or control the casting of, 15% or more of the maximum number of votes that might be cast at a general meeting of the body corporate; or
 - (b) has the power to appoint or remove all, or a majority, of the directors of the body corporate; or
 - (c) has the authority to introduce and implement the financial and operating policies of the body corporate; or
 - (d) holds 15% or more of the issued share capital of the body corporate; or
 - (e) is in a position to cast, or control the casting of, a majority of the number of votes that might be cast at a meeting of the board of directors of the body corporate.
- (4) The body corporate must notify the Minister in writing within 15 business days if a new director is appointed to the board of directors of the body corporate.

37 Minister may include other conditions in permits etc. or impose later conditions

- (1) The Minister may issue, or renew, a permit subject to any other conditions the Minister considers appropriate for the purposes of:
 - (a) the security of defence activities; or
 - (b) ensuring that the holder of the permit complies with the conditions of the permit.
- (2) The conditions must be specified in the permit or in the instrument of renewal, as the case requires.
- (3) The Minister may, at any time after the permit is issued or renewed, by written notice given to the holder, impose further conditions for those purposes.
- (4) Without limiting subsections (1) and (3), conditions under those subsections may require the holder of a permit that is not a permit issued for resource production purposes or resource exploration purposes to comply with conditions set out in paragraph 29(3)(h).
- (5) A written notice under subsection (3) is not a legislative instrument.

Division 4—Cancelling a permit

38 Cancelling a permit

- (1) The Minister may, by written notice given to the holder of a permit, cancel a permit if the Minister considers it is necessary for the purposes of the defence of Australia.
- (2) Before the Minister cancels a permit, the Minister must:
 - (a) give the holder of the permit 30 days' written notice of the Minister's intention to cancel the permit and the ground or grounds on which the Minister intends to do so; and
 - (b) give the holder a reasonable opportunity to submit to the Minister any matters that the holder wishes the Minister to take into account in deciding whether to cancel the permit; and
 - (c) take into account any matters submitted by the holder under paragraph (b) and any action taken by the holder to address the Minister's concerns or to prevent the recurrence of similar circumstances.
- (3) This section does not limit Part 7.

Part 5—Minister's permission

39 Requests for Minister's permission

- (1) A person may request the Minister to give written permission for the person to be at places in the Woomera Prohibited Area for a specified purpose.
- (2) Unless the Minister agrees otherwise, the request must be made in writing.
- (3) The Minister must include contact details for delegates on the Department's website.

40 Giving Minister's permission

- (1) The Minister may give the written permission if the Minister is satisfied that:
 - (a) doing so would not prejudice the security of defence activities; and
 - (b) the person is likely to comply with any conditions to which the permission is subject; and
 - (c) it would be safe for the person to be in the Woomera Prohibited Area under the permission.
- (2) The Minister must notify the person of the Minister's decision orally or in writing.
- (3) If the Minister gives the permission and notifies the person orally, the Minister must, as soon as practicable, give the person the permission.
- (4) The permission is subject to the condition that the person must not carry out activities under the permission other than those for which the permission is given.
- (5) The permission must specify:
 - (a) the person by name; and
 - (b) the purpose for which the permission is given; and
 - (c) the activities for which the permission is given; and
 - (d) the places covered by the permission (including details of the access routes); and
 - (e) when the permission ceases to be in force; and
 - (f) any other conditions to which the permission is subject.
- (6) The Minister must keep a written record of all permissions given under this section.

Note: The permission may be suspended under section 72TH of the Act.

41 Cancelling Minister's permission

- (1) The Minister may, by written notice given to the holder of a permission, cancel a Minister's permission if the Minister considers it is necessary for the purposes of the defence of Australia.

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- (2) Before the Minister cancels a Minister's permission, the Minister must:
 - (a) give the holder of the permission 30 days' written notice of the Minister's intention to cancel the permission and the ground or grounds on which the Minister intends to do so; and
 - (b) give the holder of the permission a reasonable opportunity to submit to the Minister any matters that the holder of the permission wishes the Minister to take into account in deciding whether to cancel the permission; and
 - (c) take into account any matters submitted by the holder of the permission under paragraph (b) and any action taken by the holder to address the Minister's concerns or to prevent the recurrence of similar circumstances.
- (3) This section does not limit Part 7.

Part 6—Infringement notices

42 Prescribed conditions in relation to infringement notices

For the purposes of section 44, the following conditions are prescribed:

- (a) the conditions specified in subsections 29(2), (3) and (4);
- (b) the conditions specified in subsections 31(2), 35(3), 36(2) and 36(4);
- (c) the conditions specified in a permit under subsection 37(1) or imposed under subsection 37(2).

43 Secretary may appoint authorised officers

The Secretary may, by written instrument, appoint a member of the Defence Force or an APS employee in the Department to be an authorised officer for the purposes of this Part.

44 When an infringement notice may be given

- (1) If an authorised officer has reasonable grounds to believe that a person has contravened section 72TG of the Act by failing to comply with a prescribed condition, the authorised officer may give the person an infringement notice for the alleged contravention.
- (2) The infringement notice must be given within 12 months after the day on which the contravention is alleged to have taken place.
- (3) A single infringement notice must relate only to a single contravention of section 72TG of the Act, unless subsection (4) applies.
- (4) An authorised officer may give a person a single infringement notice relating to multiple contraventions of section 72TG of the Act if:
 - (a) the person is required to do a thing within a particular period or before a particular time; and
 - (b) the person fails or refuses to do that thing within that period or before that time; and
 - (c) the failure or refusal occurs on more than 1 day; and
 - (d) each contravention is constituted by the failure or refusal on one of those days.

Note: For continuing offences, see subsection 4K(2) of the *Crimes Act 1914*.

45 Matters to be included in an infringement notice

An infringement notice must:

- (a) be identified by a unique number; and
- (b) state the day on which it is given; and
- (c) state the name of the person to whom the notice is given; and

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- (d) state the name and contact details of the person who gave the notice, and that the person is an authorised officer for the purposes of issuing the infringement notice; and
- (e) give brief details of the alleged contravention, including:
 - (i) the provision that was allegedly contravened; and
 - (ii) the prescribed condition the person is alleged to have failed to comply with; and
 - (iii) the maximum penalty that a court could impose if the provision were contravened; and
 - (iv) the time (if known) and day of, and the place of, the alleged contravention; and
- (f) state the amount that is payable under the notice; and
- (g) give an explanation of how payment of the amount is to be made; and
- (h) state that, if the person to whom the notice is given pays the amount within 28 days after the day the notice is given, then (unless the notice is withdrawn), the person will not be liable to be prosecuted in a court for the alleged contravention; and
- (i) state that payment of the amount is not an admission of guilt or liability; and
- (j) state that demerit points may be incurred if the amount is paid or the person is convicted or found guilty of the alleged contravention; and
- (k) state that the person may apply to the Secretary to have the period in which to pay the amount extended; and
- (l) state that the person may choose not to pay the amount and, if the person does so, the person may be prosecuted in a court for the alleged contravention; and
- (m) set out how the notice can be withdrawn; and
- (n) state that if the notice is withdrawn the person may be prosecuted in a court for the alleged contravention; and
- (o) state that the person may make written representations to the Secretary seeking the withdrawal of the notice.

Note: An amount payable under an infringement notice in relation to an alleged offence must not exceed one-fifth of the maximum fine that a court could impose as a penalty for the offence: see subsection 72TP(4) of the Act.

46 Extension of time to pay amount

- (1) A person to whom an infringement notice has been given may apply to the Secretary for an extension of the period referred to in paragraph 45(1)(h).
- (2) If the application is made before the end of that period, the Secretary may, in writing, extend that period. The Secretary may do so before or after the end of that period.
- (3) If the Secretary extends that period, a reference in this Part, or in a notice or other instrument under this Part, to the period referred to in paragraph 45(1)(h) is taken to be a reference to that period so extended.
- (4) If the Secretary does not extend that period, a reference in this Part, or in a notice or other instrument under this Part, to the period referred to in paragraph 45(1)(h)

is taken to be a reference to the period that ends on the later of the following days:

- (a) the day that is the last day of the period referred to in paragraph 45(1)(h);
- (b) the day that is 7 days after the day the person was given notice of the Secretary's decision not to extend.

- (5) The Secretary may extend the period more than once under subsection (2).

47 Withdrawal of an infringement notice

Representations seeking withdrawal of notice

- (1) A person to whom an infringement notice has been given may make written representations to the Secretary seeking the withdrawal of the notice.

Withdrawal of notice

- (2) The Secretary may withdraw an infringement notice given to a person (whether or not the person has made written representations seeking the withdrawal).
- (3) When deciding whether or not to withdraw an infringement notice (the **relevant infringement notice**), the Secretary:
 - (a) must take into account any written representations seeking the withdrawal that were given by the person to the Secretary; and
 - (b) may take into account the following:
 - (i) whether a court has previously imposed a penalty on the person for a contravention of section 72TC, 72TG or 72TJ of the Act;
 - (ii) the circumstances of the alleged contravention;
 - (iii) whether the person has paid an amount, stated in an earlier infringement notice, for a contravention of section 72TG of the Act if the contravention is constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention in the relevant infringement notice;
 - (iv) any other matter the Secretary considers relevant.

Notice of withdrawal

- (4) Notice of the withdrawal of the infringement notice must be given to the person. The withdrawal notice must state:
 - (a) the person's name and address; and
 - (b) the day the infringement notice was given; and
 - (c) the identifying number of the infringement notice; and
 - (d) that the infringement notice is withdrawn; and
 - (e) that the person may be prosecuted in a court for the alleged contravention.

Refund of amount if infringement notice withdrawn

- (5) If:
 - (a) the Secretary withdraws the infringement notice; and
 - (b) the person has already paid the amount stated in the notice;

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the Commonwealth must refund to the person an amount equal to the amount paid.

48 Effect of payment of amount

- (1) If the person to whom an infringement notice is given for an alleged contravention of section 72TG of the Act pays the amount stated in the notice before the end of the period referred to in paragraph 45(1)(h):
 - (a) any liability of the person for the alleged contravention is discharged; and
 - (b) the person may not be prosecuted in a court for the alleged contravention; and
 - (c) the person is not regarded as having admitted guilt or liability for the alleged contravention; and
 - (d) the person is not regarded as having been convicted of the alleged offence; and
 - (e) demerit points may be incurred in accordance with Part 7.
- (2) Subsection (1) does not apply if the notice has been withdrawn.

49 Effect of this Part

This Part does not:

- (a) require an infringement notice to be given to a person for an alleged contravention of section 72TG of the Act; or
- (b) affect the liability of a person for an alleged contravention of section 72TG of the Act if:
 - (i) the person does not comply with an infringement notice given to the person for the contravention; or
 - (ii) an infringement notice is not given to the person for the contravention; or
 - (iii) an infringement notice is given to the person for the contravention and is subsequently withdrawn; or
- (c) prevent the giving of 2 or more infringement notices to a person for an alleged contravention of section 72TG of the Act; or
- (d) limit a court's discretion to determine the amount of a penalty to be imposed on a person who is found to have contravened section 72TG of the Act.

Part 7—Demerit points

Division 1—Preliminary

50 When demerit points are incurred

- (1) The holder of a permit incurs demerit points in relation to an offence against section 72TG of the Act if:
 - (a) the holder, or a person who is, or was, in the Woomera Prohibited Area under the permit, is given an infringement notice in relation to the offence and pays (in whole or in part) the penalty specified in the notice; or
 - (b) the holder, or a person who is, or was, in the Woomera Prohibited Area under the permit, is convicted or found guilty of the offence.
- (2) The number of demerit points incurred is as follows:
 - (a) if the offence involves a failure to comply with the condition specified in paragraph 29(4)(d)—1 demerit point;
 - (b) if the offence involves a failure to comply with the condition specified in subparagraph 31(2)(b)(ii)—2 demerit points;
 - (c) if the offence involves a failure to comply with a condition specified in paragraph 29(3)(a), (c), (g) or (h) or paragraph 29(4)(b)—4 demerit points;
 - (d) if the offence involves a failure to comply with a condition specified in paragraph 29(2)(a), (b) or (c), 29(3)(b), (d), (e) or (f), 29(4)(a), (c) or (e), 31(2)(a), subparagraph 31(2)(b)(i) or (iii) or section 35, 36 or 37—5 demerit points.
- (3) If:
 - (a) the Secretary withdraws an infringement notice given to the holder of a permit; and
 - (b) the holder has incurred demerit points as a result of the giving of the notice;the holder is, upon the withdrawal of the notice, taken never to have incurred the demerit points.

Division 2—Consequences of incurring demerit points

51 Demerit suspension notice

- (1) The Secretary must give the holder of a permit a demerit suspension notice under this section if:
 - (a) the holder incurs demerit points in relation to an offence against section 72TG of the Act; and
 - (b) taken together with demerit points incurred by the holder for offences committed by the holder, or a person under the permit, in the 12 months ending on the day the offence was committed, the holder has incurred at least 10 demerit points in relation to the same kind of permit; and
 - (c) the holder has not previously been given a demerit suspension notice in relation to the same kind of permit.
- (2) The effect of giving the notice is that:
 - (a) from the start date specified in the notice, the holder's permit is suspended for the suspension period; and
 - (b) the holder is not entitled to be issued a permit of the same kind, from the date of the notice until the end of the last day on which the permit is suspended as a result of the notice.
- (3) The suspension period for the permit is 90 days.

52 Second-time demerit suspension notice

- (1) The Secretary must give the holder of a permit a demerit suspension notice under this section if:
 - (a) the holder incurs demerit points in relation to an offence against section 72TG of the Act; and
 - (b) taken together with demerit points incurred by the holder for offences committed by the holder, or a person under the permit, in the 12 months ending on the day the offence was committed, the holder has incurred at least 10 demerit points in relation to the same kind of permit; and
 - (c) the holder has, in the period of 10 years ending on the day the offence was committed, been given a demerit suspension notice in relation to the same kind of permit.
- (2) The effect of giving the notice is that:
 - (a) from the start date specified in the notice, the holder's permit is suspended for the suspension period; and
 - (b) the holder is not entitled to be issued a permit of that kind, from the date of the notice until the end of the last day on which the permit is suspended as a result of the notice.
- (3) The suspension period for the permit is 120 days.

53 Details in a demerit suspension notice

A demerit suspension notice must state the following:

- (a) the date of the notice;
- (b) the start date, being the date that the suspension period begins (which must not be earlier than the 28th day after the date of the notice);
- (c) the suspension period;
- (d) the permit covered by the notice;
- (e) any other information the Secretary considers appropriate.

54 Demerit cancellation notice

- (1) The Secretary must give the holder of a permit a demerit cancellation notice if:
 - (a) the holder incurs demerit points in relation to an offence against section 72TG of the Act; and
 - (b) taken together with demerit points incurred by the holder for offences committed by the holder, or a person under the permit, in the 12 months ending on the day the offence was committed, the holder has incurred at least 5 demerit points in relation to the same kind of permit; and
 - (c) the holder has, in the period of 10 years ending on the day the offence was committed, been given at least 2 demerit suspension notices in relation to the same kind of permit.
- (2) The effect of giving the notice is that:
 - (a) from the start date specified in the notice, the holder's permit is cancelled; and
 - (b) the holder is not entitled to be issued a permit of that kind for 3 years from the date of the notice.

55 Details in a demerit cancellation notice

A demerit cancellation notice must state the following:

- (a) the date of the notice;
- (b) the start date, being the date that the cancellation begins (which must not be earlier than the 28th day after the date of the notice);
- (c) the period of disqualification mentioned in paragraph 54(2)(b);
- (d) the permit covered by the notice;
- (e) any other information the Secretary considers appropriate.

56 Expiry of demerit points

If the holder of a permit is given a demerit suspension notice or a demerit cancellation notice, all demerit points incurred by the holder that counted under subsection 51(1), 52(1) or 54(1) towards that suspension or cancellation are disregarded for the purposes of subsequent calculations of demerit points under those subsections.

Note: Demerit points incurred after the date of the notice but before the suspension or cancellation begins are not disregarded.

Division 3—Reinstatement of permit in special circumstances

57 Secretary may reinstate if satisfied that holder's livelihood depends on permit

- (1) A holder of a permit who has been given a demerit suspension notice or demerit cancellation notice may apply to the Secretary to have the permit reinstated.
- (2) Subsection (1) applies despite paragraphs 51(2)(b), 52(2)(b) and 54(2)(b).
- (3) If, and only if, the Secretary is satisfied that the suspension or cancellation would cause the holder severe financial hardship because, without the permit, the holder would not be able to earn a substantial proportion of the holder's income, the Secretary may:
 - (a) reinstate the permit; and
 - (b) impose on the permit such conditions as the Secretary considers appropriate in the circumstances.

Division 4—Administration of the demerit points scheme

58 Secretary must maintain a demerit points register

- (1) The Secretary must maintain a register that records details necessary for, or directly relevant to, the administration of this Part.
- (2) The Secretary must, if the Secretary becomes aware of it, correct any mistake, error or omission in the register.

59 Secretary may maintain other records

For the purposes of administering this Part, the Secretary may, in addition to the register, keep records of information obtained and actions taken under this Part.

60 Information to be included in register

If the holder of a permit incurs demerit points in relation to an offence against section 72TG of the Act, the Secretary must record in the register in relation to the holder:

- (a) the number of demerit points specified in subsection 50(2) in relation to the offence; and
- (b) the date the offence was committed; and
- (c) the kind of permit in relation to which the demerit points are incurred; and
- (d) if the infringement notice in respect of which the demerit points were incurred is withdrawn—the fact that the demerit points are taken never to have been incurred.

Part 8—Limits on amounts of compensation

61 Limits on amounts of compensation

- (1) For the purposes of section 72TL of the Act, the amount payable by the Commonwealth in respect of a claim by a person against the Commonwealth for loss or damage suffered in the Woomera Prohibited Area is limited to \$2 million.
- (2) Subsection (1) does not apply to loss or damage resulting in death or personal injury.

Part 9—Review of decisions

62 Review of decisions

Internal review

- (1) A person whose interests are affected by any of the following decisions may, by writing, apply to the Minister for a review of the decision:
 - (a) a decision under section 17 to issue, or to refuse to issue, a permit;
 - (b) a decision under subsection 21(2) to vary, or to refuse to vary, a permit;
 - (c) a decision under section 26 to renew, or to refuse to renew, a permit;
 - (d) a decision under section 32 to approve, or refuse to approve, a person as an approved person;
 - (e) a decision under section 34 to suspend or cancel an approval;
 - (f) a decision under subsection 35(6) to revoke a person's status as an escorted person;
 - (g) a decision under subsection 37(1) to issue, or renew, a permit subject to conditions (other than conditions specified in Division 3 of Part 4);
 - (h) a decision under subsection 37(3) to impose a condition after a permit is issued or renewed;
 - (i) a decision under section 38 to cancel a permit;
 - (j) a decision under section 41 to cancel a Minister's permission;
 - (k) a decision under section 46 to refuse to extend the period for paying an amount under an infringement notice;
 - (l) a decision under section 47 to refuse to withdraw an infringement notice;
 - (m) a decision under paragraph 57(3)(a) to reinstate, or to refuse to reinstate, a permit;
 - (n) a decision under paragraph 57(3)(b) to impose conditions on a permit that is reinstated under paragraph 57(3)(a).
- (2) On application for review of the decision, the Minister must:
 - (a) review the decision; and
 - (b) confirm, vary or revoke the decision.
- (3) Within 20 business days after receiving the application, the Minister must give the person written notice of the decision on the review.

AAT review

- (4) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister under subsection (2).

Part 10—Miscellaneous

63 Delegation by Minister

- (1) The Minister, by writing, may delegate to an APS employee who holds or performs the duties of an SES Band 2 position, or an equivalent or higher position, in the Department, the Minister's powers under section 62 to review decisions (other than a decision under section 38 or 41).
- (2) The Minister, by writing, may delegate his or her powers or functions under this rule (other than the Minister's powers or functions under section 62 to review decisions) to:
 - (a) an APS employee who holds or performs the duties of an Executive Level 1 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Navy who holds the rank of Commander or a higher rank; or
 - (c) an officer of the Army who holds the rank of Lieutenant-Colonel or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Wing Commander or a higher rank.
- (3) The Minister, by writing, may delegate to:
 - (a) an APS employee who holds or performs the duties of an APS6 position, or an equivalent or higher position in the Department; or
 - (b) an officer of the Navy who holds the rank of Commander or a higher rank; or
 - (c) an officer of the Army who holds the rank of Lieutenant-Colonel or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Wing Commander or a higher rank;the Minister's powers under the following provisions:
 - (e) section 17 (issuing a permit for a purpose mentioned in paragraph 13(1)(c) or (e));
 - (f) section 21 (varying a permit that has been issued for a purpose mentioned in paragraph 13(1)(c) or (e));
 - (g) section 26 (renewing a permit that has been issued for a purpose mentioned in paragraph 13(1)(c) or (e));
 - (h) paragraph 29(3)(h) (approval to possess a firearm or explosives);
 - (i) section 40 (giving written permission).

64 Delegation by Secretary

- (1) The Secretary, by writing, may delegate to an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department, the Secretary's powers:
 - (a) under subsection 32(1) to refuse to approve a person as an approved person; and

- (b) under section 34 to suspend or cancel the approval of a person as an approved person; and
 - (c) under subsection 35(6) to revoke a person's status as an escorted person.
- (2) The Secretary, by writing, may delegate his or her functions under this rule (other than a power or function mentioned in paragraphs (1)(a), (b) and (c)) to:
- (a) an APS employee who holds or performs the duties of an Executive Level 1 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Navy who holds the rank of Commander or a higher rank; or
 - (c) an officer of the Army who holds the rank of Lieutenant-Colonel or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Wing Commander or a higher rank.

Schedule 1—Woomera Village Standing Permission Area

Note: See subsection 12(1).

Part 1—Woomera Village Standing Permission Area

The Woomera Village Standing Permission Area is the area of land contained within and bounded by a line commencing at 672635mE, 6547940mN (Point 1); then to 674285mE, 6548470mN (Point 2); then to a point (Point 3) along the boundary of the Woomera Prohibited Area closest to 675375mE, 6549695mE; then south-easterly along that boundary to a point (Point 4) closest to 675500mE, 6549610mN; then to 674420mE, 6547605mN (Point 5); then to 674915mE, 6546620mN (Point 6); then to 674715mE, 6546220mN (Point 7); then to 673380mE, 6546110mN (Point 8); then to a point (Point 9) along the boundary of the Woomera Prohibited Area closest to 672850mE, 6544635mN; then north-westerly along that boundary to a point (Point 10) closest to 672650mE, 6544845mN; then to 673100mE, 6546075mN (Point 11); and then to the point of commencement.

Note: Unless otherwise stated, all lines are geodesics based on the Geocentric Datum of Australia 1994 (GDA94) as defined in Gazette No. GN35 of 6 September 1995. All coordinates are expressed in terms of the Map Grid of Australia 1994 (MGA94) Zone 53.

Part 2—Simplified map of Woomera Village Standing Permission Area

