

Queensland



*Land Act 1994*

# LAND REGULATION 1995

**Reprinted as in force on 9 April 1999  
(includes amendments up to SL No. 22 of 1999)**

**Reprint No. 2B**

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This regulation is reprinted as at 9 April 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



## LAND REGULATION 1995

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# LAND REGULATION 1995

[as amended by all amendments that commenced on or before 9 April 1999]

## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Land Regulation 1995*.

### Commencement

2. This regulation commences on 1 July 1995.

### Definitions

2A. In this regulation—

“**local guidelines**”, for an area, means guidelines for broadscale tree clearing applying to the area that have been approved by the Minister under section 272<sup>1</sup> of the Act.

“**recognised management practice**”, for a matter, means a management practice accepted generally as an appropriate management practice for the matter.

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<sup>1</sup> Section 272 (Local guidelines for broadscale tree clearing)

## **PART 2—RESERVES AND DEEDS OF GRANT IN TRUST**

### *Division 1—Guidelines for trustee permits*

#### **Purpose of division**

3. This division prescribes, for section 60(2)<sup>2</sup> of the Act, the guidelines with which a trustee permit must not be inconsistent.

#### **Guidelines for trustee permits—Act, s 60(2)**

4. A trustee permit for the use of all or part of trust land—

- (a) must state that the Minister or the trustee must give the permittee 28 days notice of the Minister's or the trustee's intention to cancel the permit; and
- (b) must not be issued for a continuous period of longer than—
  - (i) if the Minister has given approval for a period of more than 3 months—3 years; or
  - (ii) if subparagraph (i) does not apply—3 months; and
- (c) may not be issued for a part of the trust land that is the subject of a trustee lease; and
- (d) must not allow the construction of structural improvements; and
- (e) may allow the modification or use of existing structural improvements; and
- (f) if there is a management plan for the trust land under section 48<sup>3</sup> of the Act—must be consistent with the management plan; and
- (g) must state that it is a condition of the trustee permit that the permittee holds the permit so that the trust land may be used for

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<sup>2</sup> Section 60 (Trustee permits) of the Act

<sup>3</sup> Section 48 (Trustees to give information and allow inspection of records) of the Act

the community purpose for which it was dedicated or granted in trust without undue interruption or obstruction; and

- (h) must state the permittee's permitted use of the trust land; and
- (i) must not give a right—
  - (i) to renew the permit; or
  - (ii) to be given a more secure tenure over the trust land; and
- (j) must not allow the permittee to transfer, sublet or mortgage the permittee's right to use the trust land.

### *Division 2—Statutory bodies exemption*

#### **Statutory bodies to which rent expenditure limitation does not apply—Act, s 63(4)**

5. A port authority under the *Transport Infrastructure Act 1994*, is a prescribed statutory body for section 63(4)(b)<sup>4</sup> of the Act.

### *Division 3—Guidelines for trustee leases*

#### **Purpose of division**

5A. This division prescribes, for section 64(2)<sup>5</sup> of the Act, the guidelines with which a trustee lease must be consistent.

#### **Interpretation**

5B. In this division—

“**lease land**” means the part of trust land that is the subject of a trustee lease.

“**trustee lease**” means a lease of all or part of trust land.

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<sup>4</sup> Section 63 (Rent to be charged) of the Act

<sup>5</sup> Section 64 (Minister may dispense with approval) of the Act

**Establishing the circumstances of the trustee lease**

**5C.** A trustee lease must state—

- (a) that the lease is a lease given by the trustee of trust land; and
- (b) the document identification number for the written authority given by the Minister under section 64(1) of the Act, dispensing with the need to obtain the Minister's approval for trustee leases; and
- (c) the date on which the written authority mentioned in paragraph (b) took effect; and
- (d) the name of the trustee giving the lease of the trust land; and
- (e) the particulars of the gazette notice or notices under which the Minister appointed the trustees; and
- (f) the community purpose for which the trust land was dedicated as a reserve or granted in trust; and
- (g) the lot on plan description of the trust land; and
- (h) the area of the trust land; and
- (i) the particulars of the order in council or proclamation under which the trust land was dedicated as a reserve or granted in trust; and
- (j) if the order in council or proclamation mentioned in paragraph (i) has been amended the date on which and the page or pages at which the most recent amending order in council or proclamation was published in the gazette; and
- (k) if the lessee is only 1 person—the name of the person; and
- (l) if the lessee consists of 2 or more persons—
  - (i) the name of each person; and
  - (ii) whether the persons hold the lease as joint tenants or tenants in common and, if as tenants in common, each person's share; and
- (m) the term of the lease;<sup>6</sup> and

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<sup>6</sup> Under section 61 (Conditions on trustee leases and trustee permits) of the Act, a trustee lease must not be for more than 30 years.

- (n) when the term of the lease starts; and
- (o) whether the lease relates to all or part of the trust land; and
- (p) if the lease relates to part only of the trust land—
  - (i) the area of the lease land; and
  - (ii) the position of the lease land in relation to a location, marked on the boundary of the trust land, shown on the plan of the whole trust land to be attached to the lease document.

### **Establishing the uses of the lease land**

**5D.** A trustee lease must state—

- (a) the lessee's proposed use of the lease land; and
- (b) that it is a condition of the lease that the lessee holds the lease so that the trust land may be used for the community purpose for which it was dedicated or granted in trust without undue interruption or obstruction; and
- (c) if there is a management plan for the lease land under section 48<sup>7</sup> of the Act—that the uses of the land must be consistent with the management plan; and
- (d) the purposes for which the trustee or lessee may prohibit, or impose conditions on, access to the lease land by the public; and
- (e) that pedestrians may enter the lease land in daylight hours unless the lease land is being used by the lessee; and
- (f) the conditions on which activities on the lease land may be conducted; and
- (g) that the trustee, as lessor, reserves the right to permit a person or an entity other than the lessee to use the lease land for a purpose consistent with the community purposes for which the trust land was dedicated or granted in trust but in a way likely to cause as little disruption as practicable to the lessee's use of the land; and

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<sup>7</sup> Section 48 (Trustees to give information and allow inspection of records) of the Act

- (h) the conditions for the parking of motor vehicles on the lease land, including any prohibition of parking; and
- (i) that a person may clear a tree or allow a tree to be cleared on the lease land only under chapter 5, part 6<sup>8</sup> of the Act.

### **Establishing the rent for the trust land**

**5E.(1)** A trustee lease must state—

- (a) the amount of the starting rent for the lease, or the method by which the starting rent for the lease is to be calculated; and
- (b) the period for which the starting rent is payable; and
- (c) the amount or amounts of rent (other than the starting rent) payable by the lessee during the term of the lease or the method by which each amount of rent payable is to be calculated; and
- (d) the period for which each amount of rent mentioned in paragraph (c) is payable.

**(2)** In this section—

**“starting rent”**, for a lease, means the rent payable by the lessee under the lease at the start of the term of the lease.

### **Establishing obligations about improvements and maintenance of the lease land**

**5F.** A trustee lease must state—

- (a) any obligations the lessee has to fence the whole or part of the lease land; and
- (b) that the erection of high security fencing must be limited to the fencing of—
  - (i) an area adjacent to and around each structural improvement or sporting or recreational facility; and
  - (ii) any other area specifically authorised by the trustee to be

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<sup>8</sup> Chapter 5 (Matters affecting land holdings), part 6 (Tree management) of the Act



- fenced by high security fencing; and
- (c) if vehicular access to the lease land is to be limited—
    - (i) that the fencing of the lease land must not be greater than 1 m high; and
    - (ii) that the fencing must include gates and openings to allow pedestrian access to the lease land; and
  - (d) all of the following—
    - (i) whether, on termination of the lease, other than because of cancellation under the Act, the lessee has the right to remove the improvements constructed by the lessee on the lease land;
    - (ii) the period, which must be reasonable in the circumstances, within which the improvements may be removed;
    - (iii) the party taken to own any improvements that may be removed but are not removed; and
  - (e) that the lessee must keep the lease land, and the improvements on the lease land, in a sound, clean and sanitary condition; and
  - (f) that the lessee must—
    - (i) clear the lease land of noxious plants as soon as practicable after the term of the lease starts; and
    - (ii) keep the lease land free from noxious plants during the term of the lease.

### **Miscellaneous lease provisions**

#### **5G. A trustee lease—**

- (a) must require the trustee to take out and maintain a public liability insurance policy applying to the trust land complying with the following requirements—
  - (i) the policy must be in the name of the Minister, the trustee and the lessee for their respective liabilities;
  - (ii) the insurer under the policy must be authorised under the *Insurance Act 1973* (Cwlth) to carry on insurance business;

- (iii) the cover under the policy must include loss or damage to property and death of or injury to persons;
  - (iv) the cover under the policy must be for an amount considered appropriate by the trustee in the circumstances of the likely use of the trust land; and
- (b) must include an endorsement that is completed, signed and dated by the trustee and is in the following form or to the effect of the following form—

*(Insert: usual style of execution clause for trustee)*, being a trustee authorised by the Minister under instrument of authority number *(insert: number of authority)* dated *(insert: date of authority)* to dispense with the need to obtain the Minister's approval.

### **Certain matters to be drawn to lessee's attention**

**5H.** A trustee lease must include an information section in which the following is drawn to the lessee's attention—

- (a) that if the lease land is all or part of the land comprising a reserve and the Minister, by gazette notice, revokes the reserve under section 33<sup>9</sup> of the Act, the trustee lease is cancelled under section 34(1)<sup>10</sup> of the Act from the day the revocation is notified in the gazette;
- (b) that if the lease land is all or part of the land comprising a deed of grant in trust and the Governor in Council, by gazette notice, cancels the deed of grant in trust under section 38(1)<sup>11</sup> of the Act, the trustee lease is cancelled, under section 38(3) of the Act, from the day the cancellation is published in the gazette;
- (c) that under section 58(1)<sup>12</sup> of the Act, a transfer, mortgage or sublease of the lease requires the trustee's written approval;

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<sup>9</sup> Section 33 (Revocation of reserves) of the Act

<sup>10</sup> Section 34 (Revocation of reserve cancels appointments, leases and permits) of the Act

<sup>11</sup> Section 38 (Cancelling a deed of grant in trust) of the Act

<sup>12</sup> Section 58 (Other transactions a trustee may allow) of the Act

- (d) that under section 61(2)<sup>13</sup> of the Act, a trustee lease must not contain a covenant, agreement or condition—
  - (i) to renew the lease; or
  - (ii) to convert to another form of tenure (including freehold); or
  - (iii) to buy all or part of the lease land;
- (e) that under section 65(1)<sup>14</sup> of the Act, the trustee may cancel the lease if the lessee does not comply with the conditions of the lease;
- (f) that under section 65(2) of the Act, the Minister may cancel the lease if—
  - (i) the lessee does not comply with the conditions of the lease; or
  - (ii) the Minister is satisfied cancellation would be in the public interest;
- (g) that under section 65(3) of the Act, if the lease is cancelled no person has a right to a claim for compensation.

## **PART 2A—MODEL BY-LAWS FOR TRUST LAND**

### *Division 1—Model by-laws*

#### **Model by-laws—Act, s 56**

**5I.** For section 56<sup>15</sup> of the Act, the model by-laws prescribed for trust land are in schedules 7 to 11.

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<sup>13</sup> Section 61 (Conditions on trustee leases and trustee permits) of the Act

<sup>14</sup> Section 65 (Cancellation of a trustee lease or trustee permit) of the Act

<sup>15</sup> Section 56 (Model by-laws) of the Act

***Division 2—Adopting model by-laws*****Purpose of division**

**5J.** This division prescribes, for section 56(7) of the Act, the way for a trustee to adopt a model by-law.

**Definitions**

**5K.** In this division—

“**consultation period**” see section 5M(1).

“**trust land**” means the land for which—

- (a) the trustee has been appointed trustee; and
- (b) the model by-law is being adopted.

**Step 1—propose to adopt a model by-law**

**5L.(1)** The trustee may—

- (a) if the trustee consists of only 1 person—decide to propose to adopt a model by-law for the trust land; or
- (b) if the trustee consists of 2 or more persons—decide, by resolution, to propose to adopt a model by-law for the trust land.

**(2)** If a decision is made under subsection (1)(a), the trustee must record the decision in the books for recording trust business.

**(3)** If a decision is made under subsection (1)(b), the trustee must record the resolution in the minutes book kept for recording trust business.

**Step 2—consult with public about proposed adoption**

**5M.(1)** The trustee must consult with the public about the proposed adoption of the model by-law for at least 21 days (the “**consultation period**”).

**(2)** The consultation period begins on the day when the notice mentioned in subsection (3) is first published under subsection (3)(a).

- (3) A notice about the proposed adoption of the model by-law—
- (a) must be published at least once in a newspaper circulating generally in the area in which the trust land is situated; and
  - (b) if the trustee considers publication in the way mentioned in paragraph (a) may not adequately bring the notice to the attention of the public—must be displayed in a conspicuous place on the trust land to which the public has ready access, for all or part of the consultation period.
- (4) The notice must state the following—
- (a) the name of the trustee proposing to adopt the model by-law;
  - (b) the property description for the trust land;
  - (c) that the trustee proposes to adopt a model by-law;
  - (d) the name of the model by-law;
  - (e) the purposes and general effect of the model by-law;
  - (f) the length of the consultation period and the first and last days of the period;
  - (g) that a copy of the model by-law may be inspected on or before the last day of the consultation period, and where it may be inspected;
  - (h) that a copy of the model by-law may be purchased on or before the last day of the consultation period, where it may be purchased and the cost of purchase;
  - (i) that a written submission by any person supporting or objecting to the proposed model by-law may be made and may be given to the trustee at the address shown on the notice on or before the last day of the consultation period.

### **Step 3—give public access to model by-law proposed to be adopted**

**5N.(1)** On the first day of the consultation period and until the end of the last day of the consultation period a copy of the model by-law must be open for inspection at the location stated in the notice about the proposed adoption of the model by-law.

- (2) Copies of the model by-law must be available for purchase at a price

of no more than the cost to the trustee of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

#### **Step 4—consider all written submissions**

**50.(1)** The trustee must consider every submission properly made to the trustee.

(2) A submission is properly made to the trustee if—

- (a) it is the written submission of a person about the proposed adoption of the model by-law; and
- (b) it states—
  - (i) the grounds of the submission; and
  - (ii) the facts and circumstances relied on in support of the grounds; and
- (c) it is given to the trustee on or before the last day of the consultation period.

#### **Step 5—decide whether to proceed with adopting model by-law**

**5P.(1)** After considering every submission properly made to the trustee, the trustee must decide whether to proceed with the adoption of the model by-law.

(2) However, if the trustee consists of 2 or more persons, the trustee must make the decision by resolution.

(3) If the trustee consists of only 1 person, the decision whether to proceed must be recorded in the books for recording trust business.

(4) If the trustee consists of 2 or more persons, the resolution for the decision whether to proceed must be recorded in the minutes book kept for recording trust business.

(5) The trustee must start again at step 1 if the trustee decides not to proceed with the adoption of the model by-law but later proposes to adopt the model by-law.

**Step 6—adoption of model by-law proposed to be adopted**

**5Q.(1)** This section applies if the trustee decides to proceed with the adoption of the model by-law proposed to be adopted.

(2) The trustee must decide to adopt the model by-law.

(3) However, if the trustee consists of 2 or more persons, the trustee must make the decision by resolution.

(4) If the trustee consists of only 1 person, the decision to adopt the model by-law must be recorded in the books for recording trust business.

(5) If the trustee consists of 2 or more persons, the resolution for the decision to adopt the model by-law must be recorded in the minutes book kept for recording trust business.

(6) As soon as practicable after adopting the model by-law, the trustee must—

- (a) give a copy of the decision or resolution, and a copy of the model by-law, to the Minister; and
- (b) publish a notice about the adoption of the model by-law at least once in a newspaper circulating generally in the area in which the trust land is situated; and
- (c) if the trustee considers publication in the way mentioned in paragraph (b) may not adequately bring the notice to the attention of the public—must be displayed in a conspicuous place on the trust land to which the public has ready access, for a period of at least 7 days.

(7) The notice must state the following—

- (a) the name of the trustee adopting the model by-law;
- (b) the property description of the trust land;
- (c) the name of the model by-law adopted;
- (d) the purposes and general effect of the model by-law;
- (e) that a copy of the model by-law is to be given to the Minister;
- (f) that the trustee is to arrange for the adoption of the model by-law to be published in the gazette.

**Step 7—give public notice of adopted model by-law**

**5R.(1)** As soon as practicable after the trustee gives the Minister a copy of the model by-law under section 5Q(6)(a), the trustee must arrange for the adoption of the model by-law to be published in the gazette.

**(2)** The model by-law takes effect for the trust land—

- (a) on the day its adoption is published in the gazette; or
- (b) if a later day is stated in the gazette for the model by-law to take effect—on the stated day.

**PART 3—MAKING LAND AVAILABLE****How ballot must be conducted—Act, s 119**

**6.(1)** For section 119 of the Act, this section prescribes the way a ballot must be conducted.

**(2)** Applications for inclusion in a ballot must be numbered consecutively in the order they are received.

**(3)** A list of all applicants and their application numbers must be—

- (a) sent to each applicant with information about the time and place the ballot is to be conducted; and
- (b) publicly displayed at the ballot.

**(4)** The chief executive must conduct the ballot.

**(5)** The chief executive must appoint an independent observer who is not an applicant, a relative or close associate of an applicant or an officer of the department.

**(6)** The chief executive must provide—

- (a) sufficient numbered marbles or other similar things (“**marbles**”) with the numbers 6 and 9 underlined; and
- (b) separate containers for units, tens, hundreds, thousands and so on as necessary for the number of applications received.



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(7) Each container must contain the number of marbles (numbered from 0 to 9) necessary for the number of applications received.

(8) The marbles and containers must be available for inspection, by any person attending the ballot, before each draw.

(9) The chief executive must draw a marble from each container.

(10) The number on each marble must be announced as it is drawn and the number confirmed by the independent observer.

(11) If the complete number drawn does not have a corresponding application according to the published list, all marbles must be replaced and another draw conducted.

(12) If the complete number drawn has a corresponding application number, the applicant for the application is the winner of the draw.

(13) Immediately after each draw—

- (a) both the chief executive and the independent observer must inspect the containers to confirm that the correct number of marbles remains; and
- (b) the containers and the remaining marbles must be made available for inspection by any person attending the ballot.

(14) If the containers do not contain the correct number of marbles, the draw is invalid and must be conducted again.

(15) Within 7 days after the ballot, the chief executive must—

- (a) notify the winner of the ballot of the result; and
- (b) publish the result of the ballot in a newspaper circulating in the locality of the draw.

(16) If more than 1 parcel of land is to be made available by ballot, the marbles must be replaced in the containers and a separate draw conducted for each parcel.

(17) Unless the sale notice mentions that an applicant may win more than 1 parcel of land in a ballot, the name of an applicant who has been successful in a draw must be removed from the list of applicants before another draw is conducted.

## **PART 4—RENTS**

### **Meaning of “lease”**

7. In this part—

“lease” means lease, licence or permit.

### **Categories of leases for rent assessment—Act s 182**

8. For section 182(1) of the Act, the following categories of leases are prescribed—

- (a) category 1—grazing and agriculture;
- (b) category 2—intensive (non-broadhectare) primary production;
- (c) category 3.1—residential and rural residential;
- (ca) category 3.2—private (non-commercial) uses;
- (d) category 4—commercial and industrial;
- (e) category 5—industrial (DTSBI);
- (f) category 6—charitable and non-commercial community service organisations;
- (g) category 7—communications sites;
- (h) category 8.1—public utilities;
- (ha) category 8.2—government held tenures;
- (i) category 9.1—tourism (mainland);
- (j) category 9.2—tourism (island);
- (k) category 10.1—sporting and recreation (gaming—Gaming Machine Act);
- (l) category 10.2—sporting and recreation (liquor—Liquor Act, but not gaming);
- (m) category 10.3—sporting and recreation (non-gaming, non-liquor).

### Category 1 leases

**9.(1)** A lease is a category 1 lease if, under its conditions it may be used primarily for, and it is being used primarily for, grazing or broadhectare agriculture.

**(2)** In addition, a lease for grazing purposes over a state forest or a reserve is a category 1 lease.

### Category 2 leases

**10.(1)** A lease is a category 2 lease if it is not a category 1 lease or a category 3 lease and, under its conditions may be used for, and it is being used for, intensive (non-broadhectare) primary production.

**(2)** In subsection (1)—

**“intensive (non-broadhectare) primary production”** includes the growing of cane, coffee, tea, tobacco, fruit, vegetables, flowers and other horticultural products, viticulture, the farming of pigs and poultry, the farming of cattle in feedlots and aquaculture, including oyster farming.

### Category 3.1 and 3.2 leases

**11.(1)** A lease is a category 3.1 lease if, under its conditions it may be used solely for, and it is being used solely for, a single dwelling house.

**(2)** A lease that would be a category 1 lease or a category 2 lease is a category 3.1 lease if—

- (a) it is located close to a city, township or closely settled area; and
- (b) a dwelling house is, or under the lease, could be, erected on it; and
- (c) its market value would be based on its value as land able to be used for residential purposes.

**(3)** A special lease for grazing purposes, issued under the repealed Act, is a category 3.1 lease if—

- (a) a dwelling house is, or under the lease could be, erected on the land; and
- (b) the lease is not a category 1 lease.

**(4)** A lease is a category 3.2 lease, if—

- (a) under its conditions the lease may be used and is being used for, private, non-commercial purposes; and
- (b) the lease does not fulfil the requirements for another category.

*Examples of private, non-commercial purposes—*

Storage of a motor vehicle, boat or equipment, owned or leased by the lessee, and used only for the private and non-commercial purposes of the lessee.

### **Category 4 leases**

**12.** A lease is a category 4 lease only if—

- (a) under its conditions the lease may be used for, and it is being used for, commercial, industrial or business purposes; and
- (b) the lease does not fulfil the requirements for another category.

### **Category 5 leases**

**13.** A lease over land located at a place ordinarily known as a DTSBI industrial estate is a category 5 lease.

### **Category 6 leases**

**14.(1)** A lease is a category 6 lease only if—

- (a) the lessee is—
  - (i) a charitable organisation or non-commercial community service organisation; and
  - (ii) an organisation whose constitution does not permit its profits to be distributed to its members; and
  - (iii) not a sporting or recreational organisation; and
- (b) the lease is used for providing—
  - (i) services that are charitable in nature; or
  - (ii) services that are non-commercial in nature and are aimed at improving community welfare or safety; and

- (c) the lease does not fulfil the requirements for another category.

*Examples of services under paragraph (b)(ii)—*

Services provided by surf lifesaving clubs (without full club liquor or gaming licences), scouts and guides associations and volunteer emergency service organisations including, for example, marine rescue and coast guard organisations.

- (2)** Despite subsection (1), a lease is also a category 6 lease if—

- (a) the lease is held by the State or a local government for a non-commercial community organisation; and
- (b) the lease is used by the organisation for providing community services, on a non-commercial basis, aimed to improve community welfare or safety; and
- (c) the lease does not fulfil the requirements for another category.

*Examples of organisations under paragraph (a)—*

Rural Fire Brigades and the State Emergency Service.

### **Category 7 leases**

- 15.** A lease is a category 7 lease if—

- (a) under its conditions the lease may be used for, or it is being used for, the provision, relay or transmission of telephonic, television, radio or other electronic communication services for commercial, domestic, emergency or essential service activities; or
- (b) the lease is being used in conjunction with an activity mentioned in paragraph (a).

### **Category 8.1 and 8.2 leases**

**16.(1)** A lease is a category 8.1 lease only if its use provides benefit to the community or the public free of charge or at nominal cost.

- (2)** A lease is a category 8.2 lease if—

- (a) the lessee is a government leasing entity; and
- (b) the use of the lease is essential for the conduct of the lessee's core business.

*Examples of a lessee's core business—*

Operating hospitals, police stations, schools and offices and depots.

(3) In this section—

**“government company”** means a corporation incorporated under the Corporations Law all the stock or shares in the capital of which is or are beneficially owned by the State.

**“government leasing entity”** means—

- (a) the State or the Commonwealth; or
- (b) a Commonwealth or State authority, instrumentality or body corporate; or
- (c) a government company; or
- (d) a GOC; or
- (e) a local government.

### **Category 9.1 and 9.2 leases**

17. A lease is a category 9.1 or category 9.2 lease only if it is a lease for, or ancillary to, a major tourist facility or a major resort development.

### **Category 10.1, 10.2 and 10.3 leases**

18. A lease is a category 10.1, 10.2 or 10.3 lease, whether or not it fulfils the requirements for a different category, if—

- (a) the lessee is a sporting and recreational organisation; and
- (b) the lessee's constitution does not permit its profits to be distributed to its members; and
- (c) the lease is used for sporting and recreational purposes.

### **Rate for calculating rent for leases—Act, s 183**

19. For section 183(1) of the Act, the following rates are prescribed—

- (a) for a category 1 lease—0.8%;
- (b) for a category 2, 3.1 or 3.2 lease—3%;

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- (c) for a category 4 or 5 lease—
  - (i) if the lease started before 1 July 1997, with a prescribed rate of less than or equal to 4.6% for the rental period ending 30 June 1997—4.6% for the rental period commencing on 1 July 1997, and 5% on and from 1 July 1998; or
  - (ii) if the lease started before 1 July 1997, with a prescribed rate of more than 4.6% for the rental period ending 30 June 1997—5% on and from 1 July 1997; or
  - (iii) if the lease starts on or after 1 July 1997—5%;
- (d) for a category 6 lease—0.5%;
- (e) for a category 7 lease—5%;
- (f) for a category 8.1 lease—1%;
- (g) for a category 8.2 lease—5%;
- (h) for a category 9.1 lease—5%;
- (i) for a category 9.2 lease—4%;
- (j) for a category 10.1 lease—5%;
- (k) for a category 10.2 lease—3%;
- (l) for a category 10.3 lease—1%.

**Minimum rent for lease—Act, s 183**

**20.** For section 183(4) of the Act, the minimum rent for a lease is—

- (a) for a category 7 lease for—
  - (i) commercial use of a digital radio concentrator or VHF, UHF (narrow band) or HF aerials and masts—\$2 500; or
  - (ii) commercial use of UHF (broad band), a microwave relay station, a satellite communication earth station or a cable regeneration facility—\$5 000; or
  - (iii) emergency or essential services use of a facility mentioned in subparagraph (i) or (ii)—\$100; and

- (b) subject to paragraphs (c), (d) and (e), for a category 1, 2, 3.1, 3.2, 5, 8.1, 8.2, 9.1, 9.2, 10.1 or 10.2 lease—\$150; and
- (c) for a category 1, 2, 3.1, 3.2, 5, 8.1, 8.2, 9.1, 9.2, 10.1 or 10.2 lease, if the lease is a special lease taken under section 476 of the Act to be a term lease—\$75; and
- (d) for a category 1, 2, 3.1, 3.2, 5, 8.1, 8.2, 9.1, 9.2, 10.1 or 10.2 permit—\$75; and
- (e) for a category 1, 2, 3.1, 3.2, 5, 8.1, 8.2, 9.1, 9.2, 10.1 or 10.2 licence (other than a licence taken under section 480 of the Act to be a licence issued under the Act)—\$75; and
- (f) for a category 4 lease—\$100; and
- (g) for a category 6 or 10.3 lease—\$75.

### **Residential hardship concession criteria—Act, ss 187 and 459**

**21.** For section 187(1)(b) and 459(1)(b), the criteria prescribed are—

- (a) the lessee holds, or is entitled to hold, a Commonwealth concession card; or
- (b) the net value of the lease constitutes a significant proportion of the net value of all property owned by the lessee; or
- (c) the annual rent or instalment payable under the lease is a significant proportion of the lessee's annual income.

*Example for paragraph (a)—*

A pensioner health benefits card.

### **When rent is payable—Act, s 190**

**22.(1)** For section 190(1) of the Act, the time by which rent must be paid for a development lease issued under part 9, division 1 of the repealed Act is on or before 1 January of the calendar year for which the rent is payable.

**(2)** For section 190(1) of the Act, the time by which rent must be paid for a lease other than a lease mentioned in subsection (1) is on or before 1 September of the financial year for which the rent is payable.



**When instalments are payable—Act, s 190**

**23.(1)** For section 190(1) of the Act, this section prescribes the time by which instalments must be paid.

**(2)** The prescribed time for a pre-Wolfe freeholding lease that is one of the following leases is on or before 31 March of the calendar year for which the instalment is payable—

- (a) a perpetual lease selection issued under part 4, division 2 of the repealed Act;
- (b) an agricultural farm issued before 31 December 1991 under part 4, division 1 of the repealed Act;
- (c) a grazing homestead freeholding lease issued under part 4, division 5 of the repealed Act because the application for conversion was received before 5 February 1990;
- (d) an auction perpetual lease that is a perpetual country, suburban or town lease issued under part 7, division 2 of the repealed Act.

**(3)** The prescribed time for a pre-Wolfe freeholding lease is on or before the quarter day that is the anniversary of the quarter day on which the lease commenced, if the lease is a perpetual country, suburban or town lease that was taken to be, under part 7, division 3 of the repealed Act, a lease for a term of years subject to a covenant entitling the lessee to the issue of a deed of grant if an application was received—

- (a) before 5 February 1990; or
- (b) for leases issued under the *Industrial Development Act 1963*—before 3 October 1991.

**(3A)** An instalment payable by the prescribed time mentioned in subsection (3) is for the year ending on the day immediately before the quarter day on or before which the instalment is payable.

**(4)** The prescribed time for a pre-Wolfe freeholding lease that is a mining titles freeholding lease is on or before 31 December for the calendar year beginning on the following 1 January.

**(5)** The prescribed time for any other freeholding lease is on or before the anniversary of the day on which the lease started.

**(6)** An instalment payable by the prescribed time mentioned in

subsection (5) is for the year ending on the day immediately before the anniversary on or before which the instalment is payable.

### **Where rent and instalments are payable—Act, s 190**

**24.** For section 190(1) of the Act, the place at which rent and instalments must be paid is an office of the department or a place mentioned on the account setting out the rent or instalment payable.

## **PART 4A—TREE MANAGEMENT**

### **Land highly vulnerable to land degradation—Act, s 253**

**24B.(1)** This section declares, for section 253 of the Act, definition “**critical area**”, paragraph (a), land that is highly vulnerable to land degradation.

**(2)** The land declared is land that, if it were to be cleared, reasonably could be expected to be subject to—

- (a) soil erosion that could not be controlled by recognised management practices; or
- (b) the development of salinity; or
- (c) heavy regrowth or weed invasion that would be impractical to control by recognised management practices; or
- (d) mass movement by soil creep, earth flow, slumping, landslide or rock avalanche.

### **Land of high nature conservation value—Act, s 253**

**24C.(1)** This section declares, for section 253 of the Act, definition “**critical area**”, paragraph (a), land that is of high nature conservation value.

**(2)** The land declared is land that—

- (a) is the habitat of rare or threatened wildlife; or

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- (b) is within 40 m of a non-tidal watercourse or lake; or
- (c) is within 400 m of a point the highest astronomical tide reaches on a watercourse; or
- (d) is within 1 km of the high water mark at the coastline; or
- (e) is wetlands; or
- (f) has landscape values—
  - (i) identified in a planning scheme; or
  - (ii) if the land is covered by an application for a tree clearing permit—stated by the chief executive in a written notice given to the applicant.

(3) However, subsection (2)(b) does not apply to land supporting a tree that is cleared for a routine rural management purpose mentioned in section 24J(1)(a) or (b).<sup>16</sup>

(4) Also, subsection (2)(b) does not apply to land supporting a tree that—

- (a) is cleared for a routine rural management purpose mentioned in section 24J(1)(c) to (m); and
- (b) is situated more than 5 m from the watercourse or lake.

(5) For a repair for a routine rural management purpose mentioned in section 24J(1)(a) or (b), subsection (3) applies to a tree situated within 5 m of the watercourse or lake only if another tree that was situated within 5 m of the watercourse or lake has not already been cleared for the repair.

(6) In this section—

**“planning scheme”** see *Local Government (Planning and Environment) Act 1990*, section 1.4.<sup>17</sup>

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<sup>16</sup> Section 24J (Routine rural management purposes for which tree clearing permit not required—Act, s 269)

<sup>17</sup> *Local Government (Planning and Environment) Act 1990*, section 1.4—  
**“planning scheme”** means a scheme for town planning which conforms with section 2.1 and is approved by the Governor in Council.

**“rare wildlife”** has the meaning given by the *Nature Conservation Act 1992*.<sup>18</sup>

**“threatened wildlife”** has the meaning given by the *Nature Conservation Act 1992*.<sup>19</sup>

### **Areas moderately vulnerable to degradation—Act, s 253**

**24D.(1)** This section declares, for section 253 of the Act, definition **“environmentally sensitive area”**, paragraph (d), areas that are moderately vulnerable to degradation.

**(2)** An area declared is an area that, if it were to be cleared, reasonably could be expected to be subject to—

- (a) significant soil erosion; or
- (b) regrowth or weed invasion that would be difficult to control by recognised management practices; or
- (c) significant soil structural decline; or

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<sup>18</sup> The *Nature Conservation Act 1992*, section 7 defines rare wildlife as follows—  
‘**“rare wildlife”** means native wildlife that is prescribed under this Act as rare wildlife.’

The native wildlife prescribed as rare wildlife is specified in the *Nature Conservation (Wildlife) Regulation 1994*, schedule 4, parts 1 and 2.

<sup>19</sup> The *Nature Conservation Act 1992*, section 7 defines threatened wildlife as follows—  
‘**“threatened wildlife”** means native wildlife that is prescribed under this Act as—  
(a) presumed extinct wildlife; or  
(b) endangered wildlife; or  
(c) vulnerable wildlife.’

The *Nature Conservation (Wildlife) Regulation 1994* (the **“wildlife regulation”**) prescribes the wildlife for each of the classes.

The native wildlife prescribed as presumed extinct wildlife is specified in the wildlife regulation, schedule 1, parts 1 and 2.

The native wildlife prescribed as endangered wildlife is specified in the wildlife regulation, schedule 2, parts 1 and 2.

The native wildlife prescribed as vulnerable wildlife is specified in the wildlife regulation, schedule 3, parts 1 and 2.

- (d) another type of deterioration stated for the purpose in local guidelines applying to the area.

*Examples of areas for subsection (2)(a)—*

A sloping area, an area containing shallow-surface duplex soils and an area containing sodic soils.

### **Areas of nature conservation value—Act, s 253**

**24E.(1)** This section declares, for section 253 of the Act, definition “**environmentally sensitive area**”, paragraph (e), areas that are of nature conservation value.

**(2)** An area declared is an area that—

- (a) has significant value for native plants or animals; or
- (b) includes wetlands or a watercourse or lake, or is within the distance stated for the purpose in local guidelines applying to the area of wetlands or a watercourse of lake; or
- (c) includes remnant vegetation corridors.

### **Trustees who do not need tree clearing permit—Act, s 257**

**24F.(1)** For section 257(b) of the Act, the following trustees are prescribed—

- (a) a Minister;
- (b) a chief executive of a department;
- (c) a port authority;
- (d) an electricity entity;
- (e) for an authorised activity—
  - (i) a trustee of trust land (other than continued trust land) dedicated or granted for an approved community purpose; or
  - (ii) a trustee of continued trust land reserved or granted for an approved continued purpose.

**(2)** In this section—

“**approved community purpose**” means a purpose mentioned in

schedule 1, part 1.

**“approved continued purpose”** means a purpose mentioned in schedule 1, part 2.

**“authorised activity”** see section 24G.

**“continued trust land”** means land reserved and set apart, or granted in trust, under the repealed Act consisting of a reserve or deed of grant in trust taken to be a reserve or deed of grant in trust under the *Land Act 1994*.

**“electricity entity”** see *Electricity Act 1994*, section 22.<sup>20</sup>

**“port authority”** see *Transport Infrastructure Act 1994*, dictionary.<sup>21</sup>

### **Authorised activities**

**24G.(1)** This section establishes the meaning of **“authorised activity”** for section 24F(1)(e).

**(2)** An **“authorised activity”** is the clearing of a tree—

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<sup>20</sup> *Electricity Act 1994*, section 22—

**22.(1)** An **“electricity entity”** is an entity that is a participant in the electricity industry.

**(2)** The following entities are the participants in the electricity industry—

- (a) generation entities;
- (b) transmission entities;
- (c) distribution entities;
- (d) retail entities.

<sup>21</sup> *Transport Infrastructure Act 1994*, dictionary—

**“port authority”** means—

- (a) the Ports Corporation of Queensland; or
  - (b) the Port of Brisbane Corporation; or
  - (c) the Gladstone Port Authority; or
  - (d) a harbour board continued in existence by section 154 (Continuation of port authorities); or
  - (e) a port authority established under section 155 (Establishment of new port authority); or
  - (f) another body established under the *Government Owned Corporations Act 1993* and declared by regulation to be a port authority;
- but does not include a port authority that has been abolished under section 156 (Abolition of port authority).

- (a) to establish a firebreak around a building or valuable natural feature; or
- (b) to maintain an existing boundary fence, road or firebreak; or
- (c) in an emergency to ensure the safety of persons or property.

(3) If the Minister approves a code of practice about tree clearing developed by a trustee, an **“authorised activity”** for the trustee also includes the clearing of a tree in accordance with the code of practice.

(4) Despite subsection (2), the clearing of a tree with heritage or cultural value for a purpose mentioned in the subsection is an **“authorised activity”** only if the carrying out of the purpose could not reasonably have been achieved without clearing the tree.

(5) Despite subsection (3), the clearing of a tree with heritage or cultural value in accordance with a code of practice mentioned in the subsection is an **“authorised activity”** only if compliance with the code could not reasonably have been achieved without clearing the tree.

#### **Plants for which tree clearing permit not needed—Act, s 257**

**24H.** For section 257(e) of the Act, lantana (*Lantana camara*) is a plant for which a tree clearing permit is not needed.

#### **Routine management purposes for which tree clearing permit not required—Act, s 268**

**24I.** For section 268(1) of the Act, the following purposes are prescribed—

- (a) to establish a firebreak around a building or valuable natural feature;
- (b) to reduce combustible material by controlled burning;
- (c) to clear regrowth on a category 3.1, 3.2, 4, 5, 9.1 or 9.2 lease;<sup>22</sup>
- (d) to maintain an existing boundary fence, road or firebreak;

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<sup>22</sup> See section 8 for a description of the general purpose associated with each category of lease.

- (e) to maintain a garden or orchard;
- (f) to ensure the safety of persons or property in an emergency.

**Routine rural management purposes for which tree clearing permit not required—Act, s 269**

**24J.(1)** For section 269 of the Act, the following purposes are prescribed—

- (a) to obtain replacement fence posts for a fence needing immediate repair if the fence is—
  - (i) an internal fence on the lease; or
  - (ii) a boundary fence for the lease;
- (b) to obtain replacement yard rails or yard posts for a yard on the lease needing immediate repair;
- (c) to establish, within the permitted distance, reasonable access for fence maintenance purposes—
  - (i) on each side of an existing internal fence; or
  - (ii) on the inside of an existing boundary fence;
- (d) to establish, within the permitted distance, a firebreak—
  - (i) on each side of an existing internal fence; or
  - (ii) on the inside of an existing boundary fence; or
  - (iii) around an existing building, stockyard or watering facility;
- (e) to remove a risk a tree represents in relation to an existing internal or boundary fence if the risk arises because—
  - (i) the tree may, because of its condition, fall and is of a height that, if it were to fall, it may strike the fence; and
  - (ii) having regard to the tree's general size, the type of fence and other relevant factors, the tree would be likely, if it were to strike the fence, to cause significant damage to the fence;
- (f) to establish a new acceptable fenceline having a width not more than the permitted distance;



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- (g) to make and maintain a facility;
- (h) to make and maintain, within the permitted distance, a road giving access to a facility if the road is of reasonable proportions having regard to the frequency of use of the road and the type of facility;
- (i) to protect or maintain natural or lawfully established pasture by controlled burning aimed at—
  - (i) reducing combustible material; or
  - (ii) promoting regeneration of pasture; or
  - (iii) reducing unwanted woody regrowth;
- (j) to remove regrowth that has emerged after clearing under a permit issued after 31 December 1989;
- (k) to supply fodder if the clearing consists of the lopping of trees (other than sandalwood (*Santalum lanceolatum*));
- (l) to maintain a garden or orchard;
- (m) to ensure the safety of persons or property in an emergency.

(2) In this section—

**“acceptable fenceline”** means—

- (a) a fenceline that does not cross—
  - (i) a protected area; or
  - (ii) a classified vegetation type susceptible to adverse consequences; or
- (b) a fenceline it is not practical to establish without crossing a protected area but that crosses the area by the shortest possible route.

**“classified vegetation type”** means a vegetation type classified as being endangered or vulnerable in a broadscale tree clearing policy document approved by the Governor in Council under section 271<sup>23</sup> of the Act.

**“facility”** includes a building, yard and watering facility, but does not include a fence.

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<sup>23</sup> Section 271 (Approval of broadscale tree clearing policy)

**“part”**, of the State, means a part mentioned in schedule 1A, column 1 made up of the local government areas mentioned in column 2 of the schedule opposite the part.

**“permitted distance”**, for a purpose mentioned in subsection (1)(c), (d), (f) or (h) in relation to a lease, means the distance specified in schedule 1B, for the purpose, for the part of the State in which the lease is situated.

**“protected area”** means—

- (a) an area identified as a retention area or watercourse buffer in—
  - (i) a tree management plan included in a tree clearing permit; or
  - (ii) a condition to which a tree clearing permit is subject; or
  - (iii) local guidelines; or
- (b) an area that is a protected area under the *Nature Conservation Act 1992*.<sup>24</sup>

### **Trees for which permit exemption applies with conditions—Act, s 270**

**24K.** For section 270(1)(c) and (2) of the Act, the trees prescribed are the trees specified in schedule 1C.

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<sup>24</sup> The *Nature Conservation Act 1992*, section 7 defines protected area as follows—  
‘ **“protected area”** means a protected area of a class mentioned in section 14.’.

The classes of protected areas mentioned in the *Nature Conservation Act 1992*, section 14 are national parks (scientific), national parks, national parks (Aboriginal land), national parks (Torres Strait Islander land), conservation parks, resources reserves, nature refuges, coordinated conservation areas, wilderness areas, World Heritage management areas and international agreement areas.

## **PART 5—REGISTRATION AND DEALINGS**

### **Land for which register to be kept—Act, s 276**

**24L.(1)** Harbours corporation land is prescribed for section 276(f) of the Act.

**(2)** In this section—

“**continuing powers**” means powers mentioned in the *Harbours Act 1955*, section 64 or 196 as in force immediately before the commencement of the *Transport Infrastructure Act 1994*, section 232.

“**harbours corporation land**” means the land for which, under the *Transport Infrastructure Act 1994*, section 232(3) (including under a decision of the Governor in Council), the Minister, may exercise continuing powers for the State.

### **Number of executed copies of a document to be lodged—Act, s 290**

**25.** For section 290 of the Act, the prescribed number of executed copies of a document is—

- (a) if the document is for an easement affecting land in more than 1 register in the land registry—2 copies; and
- (b) if paragraph (a) does not apply—1 copy.

*Example of paragraph (a)—*

An easement burdening a lease and benefiting freehold land.

### **Persons who may witness execution of a document—Act, s 310**

**26.** For section 310(2)(b) of the Act, the following persons may witness execution of a document—

- (a) a notary public;
- (b) a justice of the peace;
- (c) a commissioner for declarations or for taking affidavits;
- (d) a lawyer;

- (e) a conveyancer;
- (f) a person approved by the registrar of titles under the *Land Title Act 1994*, section 161.

### **Guidelines for subletting without Minister's approval—Act s 333**

**27.** The following guidelines are prescribed for section 333(2) of the Act for a sublease of a lease—

- (a) the areas of both the lease and the sublease must be clearly identified in the sublease;
- (b) if the lease is mortgaged, the written consent of the mortgagee to the sublease must be endorsed on the sublease;
- (c) the lessee must ensure that—
  - (i) the purpose for which the sublease is granted is not inconsistent with the purpose for which the lease was granted;
  - (ii) the term of the sublease is less than the balance of the term of the lease.

## **PART 6—GENERAL**

### **Different periods for filing notice of appeal for particular decisions—Act, s 428**

**28.** For section 428(4) of the Act, 14 days is the period for decisions under the following sections of the Act—

- section 118(2)— to exclude a person from a ballot or tender
- section 160(3)—to refuse a renewal application
- section 168(5)—to refuse a conversion application
- section 322(5)—not to approve a transfer
- section 332(6)—not to approve a sublease.

**Exemption of documents from stamp duty—Act, s 448(2)(i)**

**29.** The following documents about something done under the Act are exempt from stamp duty under the *Stamp Act 1894*—

- (a) for stamp duty payable on the document as a lease or agreement for a lease—a lease, licence or permit issued by or on behalf of the State;
- (b) a surrender of land held in fee simple to the State.

**PART 7—CONTINUED RIGHTS AND TENURES****Discount applying for pre-Wolfe freeholding lease—Act, s 457**

**30.** For section 457(1)(d) of the Act, the discount applying if the remaining purchase price of a pre-Wolfe freeholding lease is paid in cash during a lease is the percentage of the purchase price specified in schedule 2, column 2 opposite the balance of the term of the lease in years in column 1.

**Minimum instalments—Act, ss 457, 462 and 466**

**31.** For sections 457(1)(e), 462(1)(d) and 466(1)(d) of the Act, the minimum instalments are—

- (a) for a residential lease—\$200; and
- (b) for any other lease—
  - (i) for instalments that pay out the purchase price of the land—\$500; and
  - (ii) for instalments that pay out the purchase price of commercial timber on the land—\$500.

**Interest rate for instalments under post-Wolfe freeholding lease—Act, s 462**

**32.** For section 462(1)(b) of the Act, the rate of interest applying to instalments under a post-Wolfe freeholding lease is—

- (a) for an auction purchase freehold issued under the repealed Act on or before 31 December 1991—the fixed rate applying at the time of issue; and
- (b) for a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 3 October 1991 for a special lease issued—
  - (i) under the repealed Act and the *Industrial Development Act 1963*, section 24; or
  - (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
  - (iii) subject to a condition about the freeholding of the lease—the fixed rate applying at the time of issue; and
- (c) for a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 5 February 1990 for any other special lease—the fixed rate applying at the time of issue; and
- (d) for any other post-Wolfe freeholding lease—6%.

**Interest rate for instalments under grazing homestead freeholding lease—Act, s 466**

**33.(1)** For section 466(1)(b) of the Act, the rate of interest applying to instalments under a grazing homestead freeholding lease is 6%.

**(2)** In this section—

**“grazing homestead freeholding lease”** means a grazing homestead freeholding lease (other than a pre-Wolfe freeholding lease) used for grazing or agricultural purposes.

**Discount applying for grazing homestead freeholding lease—Act, s 466**

**34.(1)** For section 466(1)(c) of the Act, the discount applying if the remaining purchase price of a grazing homestead freeholding lease is paid in cash during the lease is—

- (a) if, in the Minister's opinion, the lease has a higher value than for grazing or agriculture—no discount; and
- (b) if paragraph (a) does not apply—the percentage of the purchase price specified in schedule 3, column 2 opposite the balance of the term of the lease in years in column 1.

(2) In this section—

**“grazing homestead freeholding lease”** has the meaning given by section 33(2).

### **Discount for payment of purchase price on conversion of lease—Act, s 469**

**35.** For section 469(2) of the Act, the discount to which the lessee is entitled if the lessee elects to pay the purchase price by a single payment for conversion of a grazing homestead perpetual lease to freehold is the percentage of the purchase price specified in schedule 3, column 2 opposite the balance of the term of the lease in years specified in column 1.

### **When freeholding lease may not be subdivided—Act, s 489**

**36.** For section 489(3)(d) of the Act, the prescribed amount is—

- (a) if the lessee is receiving a hardship concession or the subdivision is for a family member only—the minimum instalment payable under the lease; and
- (b) if paragraph (a) does not apply—\$5 000.

## **PART 8—MISCELLANEOUS**

### **Interest rate prescribed**

**37.** The rate of interest prescribed for a section of the Act is the rate shown in schedule 4, column 2 opposite the section shown in column 1 to which the rate applies.

**Amount prescribed**

**38.** The amount prescribed for a section of the Act is the amount shown in schedule 5, column 2 opposite the section shown in column 1 to which the amount applies.

**Fees**

**39.** The fees payable under the Act are in schedule 6.

**PART 9—ARRANGEMENTS FOR MEETING  
MINIMUM INSTALMENTS—ACT, s 507****Application of pt 9**

**40.** This part applies to a lease if—

- (a) section 31 prescribes a minimum instalment (the “**section 31 instalment**”) for the lease; and
- (b) at the commencement of section 507(3) of the Act, the instalment payable under the lease (the “**lessee’s instalment**”) was less than the section 31 instalment.

**Operation of pt 9**

**41.(1)** This part prescribes arrangements for bringing the minimum instalment payable for a lease up to the level of the section 31 instalment.

**(2)** The minimum instalment payable for the lease is the amount determined by—

- (a) applying section 42 or 43 to the lease to find out the minimum instalment; and
- (b) if section 44 applies, making an adjustment increase under that section.

**(3)** For applying section 42 or 43—



“**x**” means the lessee’s instalment.

“**y**” means the section 31 instalment applying at the time section 42 or 43 is applied.

### **Residential leases**

**42.(1)** This section applies to a residential lease.

**(2)** If  $y - x$  is more than \$50 but less than or equal to \$100, the minimum instalment is, for the instalment payable on or after—

- 1 January 1997,  $x + \$50$
- 1 January 1998,  $y$ .

**(3)** If  $y - x$  is more than \$100 but less than or equal to \$150, the minimum instalment is, for the instalment payable on or after—

- 1 January 1997,  $x + \$50$
- 1 January 1998,  $x + \$100$
- 1 January 1999,  $y$ .

**(4)** If  $y - x$  is more than \$150, the minimum instalment is, for the instalment payable on or after—

- 1 January 1997,  $x + \frac{1}{3}(y - x)$
- 1 January 1998,  $x + \frac{2}{3}(y - x)$
- 1 January 1999,  $y$ .

### **Leases other than residential leases**

**43.(1)** This section applies to a lease other than a residential lease.

**(2)** If  $y - x$  is more than \$100 but less than or equal to \$200, the minimum instalment is, for the instalment payable on or after—

- 1 January 1997,  $x + \$100$
- 1 January 1998,  $y$ .

**(3)** If  $y - x$  is more than \$200 but less than or equal to \$300, the minimum instalment is, for the instalment payable on or after—

- 1 January 1997,  $x + \$100$
- 1 January 1998,  $x + \$200$
- 1 January 1999,  $y$ .

(4) If  $y - x$  is more than \$300, the minimum instalment is, for the instalment payable on or after—

- 1 January 1997,  $x + \frac{1}{3}(y - x)$
- 1 January 1998,  $x + \frac{2}{3}(y - x)$
- 1 January 1999,  $y$ .

#### **Adjustment increase for whole year reduced term**

**44.(1)** The minimum instalment determined under section 42 or 43 for a lease must be increased to the extent necessary to ensure that the reduced term for the lease is a whole number of years.

(2) Subsection (1) does not apply to a mining titles freeholding lease.

#### **Retention of original term for discount purposes**

**45.** For applying section 30 to a lease to which this part applies, the balance of the term is taken to be the balance that would have applied if the lessee's instalment had continued to apply.

**SCHEDULE 1****APPROVED PURPOSES FOR CERTAIN TREE  
CLEARING PURPOSES**

section 24F

**PART 1—APPROVED COMMUNITY PURPOSES**

Cemeteries, crematoriums and mortuaries

Navigational purposes

Parks and gardens

Public halls

Public toilet facilities

Showgrounds

Sport and recreation

**PART 2—APPROVED CONTINUED PURPOSES**

Aerodromes

Cemeteries, mortuaries and burial places

Exhibition and show grounds

Landing grounds for aircraft

Libraries

Memorials and memorial halls

Parking of vehicles

Parks, gardens and recreation grounds

Public halls

SCHEDULE 1 (continued)

Racecourses

War memorials and soldiers' memorial halls

Wharves, jetties, slips, quays and landing-places.

**SCHEDULE 1A****PARTS OF THE STATE**

section 24J

<b>Column 1</b>	<b>Column 2</b>
<b>Part</b>	<b>Local government areas making up part</b>
Part A	Beaudesert, Biggenden, Boonah, Brisbane, Bundaberg, Burnett, Caboolture, Caloundra, Cambooya, Chinchilla, Clifton, Cooloola, Crows Nest, Dalby, Eidsvold, Esk, Gatton, Gayndah, Gold Coast, Goondiwindi, Hervey Bay, Inglewood, Ipswich, Isis, Jondaryan, Kilcoy, Kilkivan, Kingaroy, Kolan, Laidley, Logan, Maroochy, Maryborough, Millmerran, Miriam Vale, Monto, Mundubbera, Murgon, Murilla, Nanango, Noosa, Perry, Pine Rivers, Pittsworth, Rosalie, Tara, Taroom, Tiaro, Toowoomba, Redcliffe, Redland, Stanthorpe, Waggamba, Wambo, Warwick, Wondai, Woocoo.
Part B	Aramac, Atherton, Aurukun, Balonne, Banana, Barcaldine, Barcoo, Bauhinia, Belyando, Bendemere, Blackall, Booringa, Boulia, Bowen, Broadsound, Bulloo, Bungil, Burdekin, Burke, Cairns, Calliope, Cardwell, Carpentaria, Charters Towers, Cloncurry, Cook, Croydon, Dalrymple, Diamantina, Douglas, Duaringa, Eacham, Emerald, Etheridge, Fitzroy, Flinders, Gladstone, Herberton, Hinchinbrook, Ilfracombe, Isisford, Jericho, Johnstone, Livingstone, Longreach, Mackay, Mareeba, McKinlay, Mirani, Mornington, Mount Morgan, Mount Isa, Murweh, Nebo, Paroo, Peak Downs, Quilpie, Richmond, Rockhampton, Roma, Sarina, Tambo, Thuringowa, Torres, Townsville, Warroo, Whitsunday, Winton.

**SCHEDULE 1B****PERMITTED DISTANCES FOR CERTAIN TREE  
CLEARING PURPOSES**

section 24J

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
Part of State	m	m
Part A	6	50
Part B	10	100

**Explanation of how this schedule applies****General application of columns 2 and 3**

Columns 2 and 3 specify maximum distances (in metres) for certain purposes mentioned in section 24(J)(1),<sup>25</sup> for the part of the State mentioned in column 1 opposite the distances.

**Specific application of column 2**

Column 2 specifies each relevant distance for each of the following purposes—

- the purpose mentioned in section 24J(1)(c) (access for fence maintenance)
- the purpose mentioned in section 24J(1)(d)(i) or (ii) (firebreak for fence)
- the purpose mentioned in section 24J(1)(f) (new fenceline)
- the purpose mentioned in section 24J(1)(h) (access road).

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<sup>25</sup> Section 24J (Routine rural management purposes for which tree clearing permit not required—Act, s 269)

## SCHEDULE 1B (continued)

**Specific application of column 3**

Column 3 specifies each relevant distance for the purpose mentioned in section 24J(1)(d)(iii) (firebreak for building, stockyard or watering facility).

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**SCHEDULE 1C**
**TREES FOR WHICH PERMIT EXEMPTION APPLIES  
WITH CONDITIONS**

section 24K

**PART 1—TREES OF ANY DIAMETER OVERBARK**

<b>Common name</b>	<b>Species</b>
Sandalwood	<i>Santalum lanceolatum</i>

**PART 2—TREES WITH A DIAMETER OVERBARK  
OF MORE THAN 39 CM WHEN MEASURED AT A  
POINT 1.3 M ABOVE THE GROUND**

<b>Common name</b>	<b>Species</b>
Blackbutt	<i>Eucalyptus pilularis</i>
Broad-leaved red ironbark	<i>Eucalyptus fibrosa ssp.fibrosa</i>
Caley's ironbark	<i>Eucalyptus caleyi</i>
Cooktown ironbark	<i>Erythrophleum chlorostachys</i>
Darwin stringybark	<i>Eucalyptus tetradonta</i>
Forest red gum	<i>Eucalyptus tereticornis</i>
Grey ironbark	<i>Eucalyptus drepanophylla</i>
Gympie messmate	<i>Eucalyptus cloeziana</i>
Lemon-scented gum	<i>Corymbia citriodora</i>
Melville Island bloodwood	<i>Corymbia nesophila</i>



## SCHEDULE 1C (continued)

Narrow-leaved red ironbark	<i>Eucalyptus crebra</i>
River red gum	<i>Eucalyptus camaldulensis</i>
Rose gum	<i>Eucalyptus grandis</i>
Spotted gum	<i>Corymbia citriodora</i>
Spotted gum	<i>Corymbia maculata</i>
Sydney blue gum	<i>Eucalyptus saligna</i>
Tallowwood	<i>Eucalyptus microcorys</i>
White mahogany	<i>Eucalyptus acmenoides</i>
White stringybark	<i>Eucalyptus eugenioides</i>
Yellow box	<i>Eucalyptus melliodora</i>

**PART 3—TREES WITH A DIAMETER OVERBARK  
OF MORE THAN 19 CM WHEN MEASURED AT A  
POINT 1.3 M ABOVE THE GROUND**

<b>Common name</b>	<b>Species</b>
White cypress pine	<i>Callitris glaucophylla</i> .

**SCHEDULE 2****DISCOUNT APPLYING TO PRE-WOLFE  
FREEHOLDING LEASE**

section 30

<b>Column 1</b> <b>Balance of term</b>	<b>Column 2</b> <b>%</b>	<b>Column 1</b> <b>Balance of term</b>	<b>Column 2</b> <b>%</b>
1 . . . . .	4.76	31 . . . . .	49.70
2 . . . . .	7.03	32 . . . . .	50.62
3 . . . . .	9.23	33 . . . . .	51.51
4 . . . . .	11.35	34 . . . . .	52.37
5 . . . . .	13.41	35 . . . . .	53.22
6 . . . . .	15.41	36 . . . . .	54.04
7 . . . . .	17.34	37 . . . . .	54.83
8 . . . . .	19.21	38 . . . . .	55.61
9 . . . . .	21.02	39 . . . . .	56.37
10 . . . . .	22.78	40 . . . . .	57.10
11 . . . . .	24.49	41 . . . . .	57.82
12 . . . . .	26.14	42 . . . . .	58.52
13 . . . . .	27.74	43 . . . . .	59.20
14 . . . . .	29.30	44 . . . . .	59.86
15 . . . . .	30.80	45 . . . . .	60.50
16 . . . . .	32.26	46 . . . . .	61.13
17 . . . . .	33.68	47 . . . . .	61.74
18 . . . . .	35.06	48 . . . . .	62.34
19 . . . . .	36.39	49 . . . . .	62.92
20 . . . . .	37.69	50 . . . . .	63.49
21 . . . . .	38.95	51 . . . . .	64.04
22 . . . . .	40.17	52 . . . . .	64.58
23 . . . . .	41.35	53 . . . . .	65.11
24 . . . . .	42.51	54 . . . . .	65.62
25 . . . . .	43.62	55 . . . . .	66.12
26 . . . . .	44.71	56 . . . . .	66.61
27 . . . . .	45.77	57 . . . . .	67.09
28 . . . . .	46.79	58 . . . . .	67.55
29 . . . . .	47.79	59 . . . . .	68.01
30 . . . . .	48.76	60 . . . . .	68.45

**SCHEDULE 3****DISCOUNT APPLYING TO GRAZING HOMESTEAD  
FREEHOLDING LEASE**

sections 34 and 35

<b>Column 1</b> <b>Balance of term</b>	<b>Column 2</b> <b>%</b>	<b>Column 1</b> <b>Balance of term</b>	<b>Column 2</b> <b>%</b>
1 .....	2.75	16 .....	17.74
2 .....	4.05	17 .....	18.45
3 .....	5.30	18 .....	19.14
4 .....	6.50	19 .....	19.79
5 .....	7.66	20 .....	20.41
6 .....	8.77	21 .....	21.01
7 .....	9.84	22 .....	21.58
8 .....	10.87	23 .....	22.13
9 .....	11.86	24 .....	22.66
10 .....	12.80	25 .....	23.16
11 .....	13.71	26 .....	23.64
12 .....	14.59	27 .....	24.10
13 .....	15.43	28 .....	24.54
14 .....	16.23	29 .....	24.96
15 .....	17.00	30 .....	25.36

**SCHEDULE 4****INTEREST RATES PRESCRIBED**

section 37

<b>Section of Act</b>	<b>Yearly interest rate prescribed</b>
section 184(4) and (5)	2%
section 192(4)	2% calculated on yearly rests
section 195(1)	8.5% calculated on yearly rests
section 500(1)	2% calculated on yearly rests
section 503I(2)	2% calculated on yearly rests

**SCHEDULE 5****AMOUNTS PRESCRIBED**

section 38

<b>Section of Act</b>	<b>Amount prescribed</b>
section 47(3)	\$2 500
section 184(7)	\$50
section 191(1)	\$50
section 499(2)(e)	\$110

## SCHEDULE 6

### FEES

		section 39
		\$
<b>1.</b>	Application for—	
	(a) conversion of a lease—	
	(i) of town land or suburban land . . . . .	77.00
	(ii) of any other land . . . . .	154.00
	(b) a lease or subdivision or amalgamation of a lease—	
	(i) of town land or suburban land . . . . .	77.00
	(ii) of any other land . . . . .	154.00
	(c) approval to transfer freehold land under s 174(1) of the Act . . . . .	77.00
	(d) removal of a covenant under s 174(4) of the Act . . . . .	77.00
	(e) correction of a deed of grant or deed of grant in trust under s 359 of the Act . . . . .	77.00
	(f) permit to occupy under s 177 of the Act . . . . .	77.00
	(g) opening a road under s 94 of the Act . . . . .	154.00
	(h) closing a road under s 98 of the Act . . . . .	154.00
	(i) exchange of land under s 18 of the Act . . . . .	154.00
	(j) correction of a title under s 358 of the Act . . . . .	154.00
	(k) purchase of a reservation in title under s 24 of the Act . . . . .	154.00
	(l) purchase of land . . . . .	154.00
<b>2.</b>	Depositing a survey plan in the land registry—	
	(i) for plan only . . . . .	100.00
	(ii) additional fee for each lot or easement . . . . .	15.00
<b>3.</b>	Requisition of survey content of plan . . . . .	50.00
<b>4.</b>	Lodging—	
	(a) a document changing the lessee of a lease or the licensee of a licence—	
	(i) for 1 lease or licence . . . . .	87.00
	(ii) for each additional lease or licence . . . . .	20.00

## SCHEDULE 6 (continued)

(b)	an enduring power of attorney to replace a power of attorney lodged before 3 September 1990 . . . . .	nil
(c)	a surrender of a lease, s 57 lease, road licence, occupation licence or permit to occupy . . . . .	nil
(d)	a standard terms document (s 318 of the Act) . . . . .	nil
(e)	any other document . . . . .	87.00
(f)	a document received through the post, courier or document exchange service—additional fee . . . . .	20.00
<b>5.</b>	Examination of a sketch plan that is part of a document . . . . .	25.00
<b>6.</b>	Requisition of a document lodged for registration . . . . .	25.00
<b>7.</b>	Issuing and registering a deed of grant, other than a deed of grant issued under s 358 of the Act, and issuing a lease, licence, permit to occupy or substitute document . . . . .	40.00
<b>8.</b>	Computer print-out of the current details of a lease, licence, permit to occupy or reserve—	
	(a) generated within an office of the land registry . . . . .	10.00
	(b) generated by external access . . . . .	8.00
<b>9.</b>	Computer print-out of the historical details of a lease or licence—	
	(a) generated within an office of the land registry . . . . .	15.00
	(b) generated by external access . . . . .	13.00
<b>10.</b>	Optical disk print-out of a lease, licence, permit to occupy or document . . . . .	20.00
<b>11.</b>	Search statement of unregistered dealing, registered dealing or administrative advice against a lease or licence . . . . .	2.00
<b>12.</b>	Investigative search of the register by an employee of the department (not including providing copies of documents)—for each hour or part of an hour . . . . .	40.00
<b>13.</b>	Sending by facsimile a copy of a document mentioned in item 8, 9 or 10—	
	(a) from an office of the land registry . . . . .	8.00
	(b) automatically from the digital library . . . . .	2.00
<b>14.</b>	Certifying a copy of a document mentioned in s 285 of the Act . . . . .	20.00
<b>15.</b>	Preparing an advertisement for—	
	(a) dispensing with production of a document under s 314 of the Act . . . . .	10.00

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 SCHEDULE 6 (continued)

	(b) issuing a substitute document under s 312 of the Act	10.00
<b>16.</b>	Notice of resumption under s 224 of the Act . . . . .	51.00
<b>17.</b>	Instrument resuming a lease or an easement over a lease—	
	(i) for 1 lease or easement . . . . .	102.50
	(ii) for each additional lease or easement . . . . .	51.00
<b>18.</b>	Instrument amending an instrument resuming a lease or an easement over a lease . . . . .	51.00



**SCHEDULE 7****MODEL BY-LAW ABOUT BUSINESS AND  
MANAGEMENT OF TRUST LAND**

section 5I

**TRUST LAND BUSINESS AND MANAGEMENT  
MODEL BY-LAW 1999****PART 1—PRELIMINARY****Short title**

1. This model by-law may be cited as the *Trust Land Business and Management Model By-law 1999*.

**Purpose**

2. The purposes of this model by-law are—
- (a) to provide for the conduct of the business and management of the trust; and
  - (b) to provide for the way in which officers are appointed; and
  - (c) to state the duties of the officers.

**Application**

3. This model by-law has effect only if there are 3 or more trust members.

## SCHEDULE 7 (continued)

**Definitions**

4. In this model by-law—

“**chairperson**” means the trust member appointed by the trust members as chairperson of the trust.

“**officer**” means the chairperson, secretary or treasurer of the trust.

“**secretary**” means the trust member appointed by the trust members as secretary of the trust.

“**treasurer**” means the trust member appointed by the trust members as treasurer of the trust.

“**trust**” means the trust under which the trustee holds the trust land.

“**trust land**” means the trust land in relation to which the trustee has adopted this model by-law.

“**trust members**” means the persons for the time being comprising the trustee.

## **PART 2—APPOINTMENT AND DUTIES OF OFFICERS**

### **Appointment of chairperson, secretary and treasurer of trust**

5.(1) The trust members may appoint—

- (a) 1 of the trust members as chairperson of the trust; and
- (b) 1 of the trust members as secretary of the trust; and
- (c) 1 of the trust members as treasurer of the trust.

(2) A person who held the office of chairperson, secretary or treasurer of the trust immediately before the commencement of this model by-law is taken to have been appointed to the corresponding office under this model by-law.

## SCHEDULE 7 (continued)

**Duration of appointment of chairperson, secretary and treasurer**

- 6.(1)** An officer holds office until the officer resigns from office.
- (2)** However, an officer—
- (a) may be removed from office by the trust members present at a meeting of the trust members called for the purpose; and
  - (b) ceases to hold office if the officer ceases to be a trust member.

**Duties of the secretary**

- 7.** The secretary must—
- (a) keep the books and documents relating to the management, other than the financial management, and business of the trust; and
  - (b) keep minutes of each meeting of the trustee; and
  - (c) perform the duties of treasurer if the treasurer is unable, because of illness or otherwise, to perform the treasurer's duties; and
  - (d) perform any other duties directed by the trust members to be performed by the secretary.

**Duties of the treasurer**

- 8.** The treasurer must—
- (a) keep the books of account and other documents relating to the financial management of the trust; and
  - (b) present to the trust members the books of account and other documents at the intervals required by the trust members, the intervals not to be more than 12 months; and
  - (c) bank money relating to the trust and held by the trust members; and
  - (d) pay accounts relating to the trust and payable by the trust members; and

## SCHEDULE 7 (continued)

- (e) perform other duties directed by the trust members to be performed by the treasurer.

**PART 3—PROCEEDINGS OF TRUST MEMBERS****Times and places of meetings for trust members**

**9.(1)** The trust members may hold their meetings when and where they decide.

**(2)** However, the trust members must meet at least once every 3 months.

**Chairperson to preside at meetings for trust members**

**10.(1)** The chairperson presides at all meetings of the trust members at which the chairperson is present.

**(2)** If the chairperson is absent, the trust member chosen by the trust members present at the meeting presides.

**Quorum at meetings**

**11.(1)** At a meeting of the trust members a quorum is at least half the number of trust members.

*Examples—*

1. If there are 4 trust members, a quorum is 2.
2. If there are 5 trust members, a quorum is 3.

**(2)** For deciding whether there is a quorum, a trust member who is present—

- (a) if paragraph (b) does not apply—is counted as 1; or
- (b) if the trust member also has the proxies of 1 or more absent trust members—is counted as 2.

**SCHEDULE 7 (continued)**

(3) However a meeting is not validly held unless at least 1 officer is present at the meeting.

**Voting at meetings**

**12.(1)** At a meeting of the trust members—

- (a) a question is decided by a majority of votes of the trust members who are present either in person or by proxy and who vote; and
- (b) each trust member has 1 vote on each question to be decided and, if the votes are equal, the trust member presiding has a casting vote.

(2) Without limiting subsection (1), if a quorum is present, a decision supported by a majority of the votes of the trust members present and voting is a decision of the trustee.

**Special meetings**

**13.(1)** The secretary must call a special meeting of the trust members on receiving a written request by the chairperson, or at least 2 trust members, to call the meeting.

(2) The secretary must give each trust member at least 24 hours written notice of—

- (a) the calling of a special meeting of the trust members; and
- (b) when and where the meeting is to be held; and
- (c) the nature of the business to be conducted at the meeting.

**SCHEDULE 8****MODEL BY-LAW ABOUT FINANCIAL  
MANAGEMENT OF TRUST LAND**

section 5I

**TRUST LAND FINANCIAL MANAGEMENT MODEL  
BY-LAW 1999****PART 1—GENERAL****Short title**

1. This model by-law may be cited as the *Trust Land Financial Management Model By-law 1999*.

**Purpose of by-law**

2. The purpose of this model by-law is to provide for the prudent financial management of the business of the trust.

**Definitions**

3. In this model by-law—

“**trust**” means the trust under which the trustee holds the trust land.

“**trust land**” means the trust land in relation to which the trustee has adopted this model by-law.

“**trust member**” means—

- (a) if the trustee consists of only 1 person for the time being—the person for the time being comprising the trustee; or

## SCHEDULE 8 (continued)

- (b) if the trustee consists of 2 or more persons for the time being—each person for the time being comprising the trustee.

**PART 2—FINANCIAL MANAGEMENT****Financial management by 1 trust member**

**4.(1)** This section applies if the trustee consists of only 1 trust member.

**(2)** The funds of the trust must be kept in an account (the “**trust land account**”), in the name by which the trustee is described, in a financial institution decided upon by the trust member.<sup>26</sup>

**(3)** The trust member must ensure that all moneys received for the trust are paid into the account as soon as practicable after it is received.

**(4)** All accounts presented for payment by the trust must be approved for payment by the trust by the trust member before they may be paid.

**(5)** An approval under subsection (4) must be recorded in the books or documents kept by the trust member relating to the financial management of the trust.

**(6)** All payments from the trust land account must be made by cheque signed by the trust member.

**Financial management by 2 or more trust members**

**5.(1)** This section applies if the trustee consists of 2 or more trust members.

**(2)** The funds of the trust must be kept in an account (the “**trust land account**”), in the name by which the trustee is described, in a financial institution decided upon by the trust members.

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<sup>26</sup> Under the *Acts Interpretation Act 1954*, section 36, “financial institution” means a bank, building society or credit union.

## SCHEDULE 8 (continued)

(3) The trust members must ensure that all amounts received for the trust are paid into the account as soon as practicable after the amounts are received.

(4) All accounts presented for payment by the trust must be approved for payment by the trust at a meeting of the trust members before they may be paid.

(5) An approval under subsection (4) must be recorded in the minutes of the meeting of the trust members.

(6) All payments from the trust land account must be made by cheque signed by at least 2 trust members.

**Public liability insurance**

6. The trustee must maintain, or take out and maintain, a public liability insurance policy applying to the trust land and complying with the following requirements—

- (a) the policy must be in the name of the Minister and the trustee for their respective liabilities;
- (b) the insurer under the policy must be authorised under the *Insurance Act 1973* (Cwlth) to carry on insurance business;
- (c) the cover under the policy must include loss of or damage to property and death of or injury to persons;
- (d) the cover under the policy must be for an amount considered appropriate by the trustee in the circumstances of the likely use of the trust land.



**SCHEDULE 9****MODEL BY-LAW ABOUT PROTECTION AND USE  
OF TRUST LAND**

section 5I

**TRUST LAND PROTECTION AND USE MODEL  
BY-LAW 1999****PART 1—GENERAL****Short title**

1. This model by-law may be cited as the *Trust Land Protection and Use Model By-law 1999*.

**Purpose of by-law**

2. The purposes of this model by-law are—
- (a) to protect the trust land, including buildings on the trust land; and
  - (b) to regulate use of the trust land.

**Application**

3. If part 3<sup>27</sup> applies to the trust land, section 14<sup>28</sup> does not apply to the trust land.

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<sup>27</sup> Part 3 (Navigational purposes)

<sup>28</sup> Section 14 (Vehicles on trust land)

## SCHEDULE 9 (continued)

**Definitions**

4. In this model by-law—

“**authority**”, of the trustee, includes a trustee permit.

“**drainage works**” includes the following—

- (a) underground stormwater drains;
- (b) culverts;
- (c) stormwater retention basins;
- (d) stormwater detention basins;
- (e) ponds;
- (f) channels.

“**motor vehicle**” has the same meaning as in the *Traffic Act 1949*.<sup>29</sup>

“**navigational equipment**” means a navigational aid, beacon or device.

“**regulatory notice**” means a notice erected or displayed under section 5(1).

“**trust land**” means the trust land in relation to which the trustee has adopted this model by-law.

“**vehicle**” includes a motor vehicle, trailer, bicycle, carriage, cart, wagon and any other means of transport or conveyance designed for movement upon wheels, whether or not the vehicle is for the time being capable of being operated or used in a normal way.

**Power of trustee to regulate use etc. of trust land by notices**

5.(1) The trustee may, consistently with the community purpose of the trust land, erect or display in relation to the trust land or a part of the trust

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<sup>29</sup> *Traffic Act 1949*, section 9 (Definitions)—

“**motor vehicle**” means any vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam, or any other mechanical power, and includes an articulated motor vehicle, B-double, moped, motor car, motorcycle, motor omnibus, motor truck, road train, specially constructed vehicle, tractor or traction engine, and a trailer attached to or drawn by a motor vehicle.

## SCHEDULE 9 (continued)

land notices for regulating or prohibiting—

- (a) the use of the trust land or the part of the trust land by persons; or
- (b) the driving on to or from the trust land of vehicles or vehicles included in a stated class of vehicles; or
- (c) the use in the trust land or the part of the trust land of vehicles or vehicles included in the stated class of vehicles; or
- (d) the bringing on to the trust land or part of the trust land of all animals or animals included in a stated class of animals.

(2) A regulatory notice—

- (a) may be erected or displayed on, or at or near the entrances to, the trust land or the part of the trust land to which the notice relates; and
- (b) must state or indicate a particular requirement or particular requirements to be complied with by persons entering, or on, the trust land or the part of the trust land.

**References to person acting on behalf of the trustee**

**6.(1)** In a provision of this by-law, a reference to a person acting on behalf of the trustee is a reference to a person chosen by the trustee to act on behalf of the trustee under the provision.

(2) A person chosen by the trustee to act on behalf of the trustee under a provision must be appropriately qualified to act on behalf of the trustee under the provision.

(3) In this section—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to act on behalf of the trustee.

## SCHEDULE 9 (continued)

**PART 2—GENERAL ACTIVITIES****Entry to trust land**

7. A person must not, other than under the authority of the trustee, drive a vehicle on to or from the trust land, unless—

- (a) a regulatory notice designates a gateway or opening as a place for vehicles to enter and leave the trust land; and
- (b) the person drives the vehicle through the gateway or opening.

Maximum penalty—5 penalty units.

**Behaviour**

8. A person must not—

- (a) act in a way or do anything that unreasonably disturbs, or is likely to disturb, another person's peaceful use of the trust land; or
- (b) other than under the authority of the trustee, display, distribute, drop, scatter or throw down a handbill, ticket, notice or any other kind of literature on the trust land.

Maximum penalty—5 penalty units.

**Lighting fires**

9.(1) A person must not, on the trust land, light, keep going or use a fire other than in a fireplace or barbecue supplied by the trustee for the use of fire.

Maximum penalty—5 penalty units.

(2) A person does not commit an offence under subsection (1) if—

- (a) the person lights or uses a fire in a barbecue, stove or other appliance specially constructed for containing a fire; and
- (b) the use of the barbecue, stove or other appliance is agreed to by a person acting on behalf of the trustee.

## SCHEDULE 9 (continued)

**Litter**

**10.(1)** A person must not put, or allow to be put, litter on the trust land.

Maximum penalty—10 penalty units.

**(2)** A person does not commit an offence under subsection (1) merely because the person—

- (a) puts litter in a receptacle installed on the trust land for receiving litter; or
- (b) as an incident of the person's enjoyment of the trust land, and for no longer than is reasonably necessary for the enjoyment, deposits litter on the trust land other than by depositing it in a receptacle mentioned in paragraph (a).

**(3)** In this section—

**“litter”** means garbage, refuse or rubbish, whether in a fluid or solid state, and includes anything that causes or contributes to the defacement of the place where it is.

**“put”** includes the following—

- (a) deposit;
- (b) drop;
- (c) leave;
- (d) place;
- (e) throw.

**Activities causing damage to trust land or improvements**

**11.(1)** A person must not, other than under the authority of the trustee, damage or interfere with—

- (a) soil, gardens or turf on the trust land; or
- (b) plants growing on the trust land; or
- (c) improvements, signs or equipment on the trust land.

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 SCHEDULE 9 (continued)

Maximum penalty—10 penalty units.

- (2) This section does not apply to damage of or interference with trees.<sup>30</sup>

### Trespass on closed areas

12.(1) This section applies—

- (a) if the trustee designates a part (the “**closed area**”) of the trust land, either permanently or only for particular periods, as closed to the public; and
- (b) regulatory notices clearly indicate—
  - (i) the closed area; and
  - (ii) whether the designation is permanent or, if not, the particular periods when the designation has effect.

(2) A person must not enter the closed area—

- (a) if the designation is, or is to the effect, that the closed area is permanently closed to the public—at any time; or
- (b) if the designation is, or is to the effect, that the closed area is closed to the public only during particular indicated periods—during the particular indicated periods.

Maximum penalty—10 penalty units.

*Examples of application of subsection (1)—*

1. The trustee decides to designate a part of the trust land as a closed area

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<sup>30</sup> Chapter 5 (Matters affecting land holdings) part 6 (Tree management) of the Act, section 255 (Tree clearing permit needed)—

### Tree clearing permit needed

255. A person must not—

- (a) clear a tree or allow a tree to be cleared on land other than under a tree clearing permit or under an exemption under division 3; or
- (b) contravene a condition of a tree clearing permit or exemption.

Maximum penalty—400 penalty units.

**SCHEDULE 9 (continued)**

for a particular period during which renovations are carried out to the trust land.

2. The trustee decides to designate a part of the trust land as a closed area permanently to protect an environmentally fragile or sensitive area.
3. The trust land is dedicated or granted in trust for navigational purposes and the trustee decides to designate a part of the trust land as a closed area permanently for 1 or more of the following reasons—
  - to protect navigational equipment on the trust land from damage;
  - to ensure navigational signals sent by or from navigational equipment on the trust land are not interrupted or obscured;
  - to protect the health and safety of the public by preventing people from coming too near to microwave, radar, laser or other navigational signals transmitted by or from navigational equipment on the trust land.
4. The trust land is dedicated or granted in trust for drainage and the trustee decides to designate a part of the trust land as a closed area permanently to protect—
  - the public from the dangers presented by water pumping equipment, stormwater drains or other drainage works;
  - the drainage works from damage;
  - to ensure the free flow of water to, across or from the trust land.

**Camping**

**13.** A person who camps on the trust land must not, other than under the authority of the trustee, camp on a part of the trust land unless the part is designated under a regulatory notice as an area for camping.

Maximum penalty—10 penalty units.

**Vehicles on trust land**

**14.(1)** A person must not drive a motor vehicle on the trust land unless the person is licensed to drive the vehicle under a law of the State about the use of vehicles on public roads.

Maximum penalty—5 penalty units.

## SCHEDULE 9 (continued)

(2) However, a person who is not licensed to drive a motor vehicle on public roads does not commit an offence under subsection (1) if the person drives the vehicle under the authority of the trustee and only on the trust land.

(3) A person must not, other than under the authority of the trustee, take a motor vehicle on to, or drive a motor vehicle on, the trust land unless the motor vehicle is registered under a law of the State about the use of vehicles on public roads.

Maximum penalty—5 penalty units.

(4) A person must not disobey a reasonable direction given by the trustee, or a person acting on behalf of the trustee, about the movement, operation, parking or use of a vehicle on the trust land.

Maximum penalty—5 penalty units.

(5) A person must not, other than under the authority of the trustee, drive or operate a vehicle on the trust land—

- (a) in a way, or at a place, if driving or operating the vehicle in the way or at the place could damage vegetation; or
- (b) to enter a place where a barrier or fence has been lawfully erected or placed to prevent the entry.

(6) A person must not drive or operate a motor cycle on the trust land—

- (a) if the driver or a passenger on the motor cycle is not wearing a safety helmet that—
  - (i) is of a standard required under the *Traffic Act 1949* to be worn by a person riding a motor cycle on a road; and
  - (ii) is securely fastened under the chin of the wearer using a chin strap attached to the safety helmet; or
- (b) if the front and rear wheels of the motor cycle do not stay in contact with the ground all the time the motor cycle is moving.

Maximum penalty—10 penalty units.

(7) A person must not park or stand a vehicle in a way, or at a place, on the trust land if parking or standing the vehicle in the way or at the place—



## SCHEDULE 9 (continued)

- (a) obstructs, to an unreasonable extent, the movement of a person or another vehicle; or
- (b) is likely to cause damage to the trust land.

Maximum penalty—5 penalty units.

**(8)** A person must not park or stand a vehicle in a way, or at a place, on the trust land if parking or standing the vehicle in the way or at the place is not in conformity with ground or surface markings clearly intended for ordering the parking and standing of vehicles.

Maximum penalty—5 penalty units.

**Protection of animals**

**15.** A person must not, other than under the authority of the trustee, in, on, under or above the trust land—

- (a) destroy, snare, shoot, injure, disturb, or interfere with an animal, fish, reptile or bird; or
- (b) destroy or interfere with a bird's nest.

Maximum penalty—5 penalty units.

**Prohibition of animals**

**16.** A person must not bring an animal on to the trust land if—

- (a) regulatory notices indicate, or are to the effect that, animals of that type are not permitted on the trust land; and
- (b) the notices are erected at all places reasonably necessary for informing the public of the prohibition, including, for example, the places of entry to and exit from the trust land.

Maximum penalty—5 penalty units.

**Control of animals**

**17.(1)** This section applies if—

## SCHEDULE 9 (continued)

- (a) regulatory notices indicate, or are to the effect that, a person may bring an animal on to, or keep an animal on, the trust land only on certain conditions; and
- (b) the notices are erected at reasonable places, including, for example, the places for entry to and exit from the trust land, necessary to inform the public of the conditions.

(2) A person who brings an animal on to, or keeps an animal on, the trust land must not contravene a condition, indicated on a regulatory notice, on which a person may bring an animal on to, or keep an animal on, the trust land.

Maximum penalty—5 penalty units.

*Example of a condition for subsection (1)—*

A regulatory notice might indicate that it is a condition of bringing a horse on to the trust land that the horse must at all times, when on the trust land, be under the control of a person or be securely tethered.

**Dogs**

**18.(1)** A person who has a dog in the person's charge on the trust land—

- (a) must, at all times the dog is on the trust land, effectively restrain the dog by means of a lead or leash; and
- (b) must not allow the dog to behave in a way that causes unreasonable noise, annoys another person or puts another person in danger; and
- (c) unless the dog is a guide dog—must not allow the dog to stay on the trust land overnight, other than in an area designated by a regulatory notice as an area where dogs may stay overnight.

Maximum penalty—5 penalty units.

(2) A person does not commit an offence under subsection (1)(a) or (c) if, in acting in a way that contravenes subsection (1)(a) or (c), the person is acting under the authority of the trustee.

## SCHEDULE 9 (continued)

(3) In this section—

“**guide dog**” see *Guide Dogs Act 1972*, section 3.<sup>31</sup>

**Selling things**

**19.** A person must not, other than under a trustee lease or the authority of the trustee, sell anything, or offer anything for sale on the trust land.<sup>32</sup>

Maximum penalty—5 penalty units.

**PART 3—NAVIGATIONAL PURPOSES****Application**

**20.** This part applies to the trust land if it is dedicated or granted in trust for navigational purposes.

**Vehicles on closed areas**

**21.(1)** This section applies—

- (a) if the trustee designates a part (the “**closed area**”) of the trust land, either permanently or only for particular times or periods, as closed to motor vehicles; and
- (b) regulatory notices clearly indicate—
  - (i) the closed area; and

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<sup>31</sup> *Guide Dogs Act 1972*, section 3—

“**guide dog**” means a dog trained at an approved institution and used as a guide dog by a blind person or as an aid by a deaf person.

<sup>32</sup> Under section 57 (Trustee leases) of the Act, a trustee may lease trust land. Under section 60 (Trustee permits) of the Act, a trustee may issue trustee permits for the trust land.

## SCHEDULE 9 (continued)

- (ii) whether the designation as a closed area is permanent or, if not, the times or periods when the designation has effect.

(2) A person must not drive, park or stand a motor vehicle in a closed area—

- (a) if the designation on the regulatory notices is, or is to the effect, that the closed area is permanently closed to motor vehicles—at any time; or
- (b) if the designation on the regulatory notices is, or is to the effect, that the closed area is closed to motor vehicles only at particular times or periods—at the particular times or periods when the designation has effect.

Maximum penalty—10 penalty units.

*Example of a closed area under subsection (1)(a)—*

The trustee decides to designate a part of the trust land as a closed area at night to ensure no lights on a motor vehicle in the closed area interfere with the effective operation of the navigational light signal from a navigational beacon on the trust land and arranges for regulatory notices to be erected on the trust land.

**Damage to or interference with navigational equipment**

**22.** A person must not damage or interfere with navigational equipment on the trust land.

Maximum penalty—10 penalty units.

**PART 4—DRAINAGE PURPOSES****Application**

**23.** This part applies to the trust land if it is dedicated or granted in trust for drainage.

## SCHEDULE 9 (continued)

**Damage to or interference with land or works**

**24.** A person must not damage or interfere with the surface of, or drainage works on or under, the trust land.

Maximum penalty—10 penalty units.

**SCHEDULE 10****MODEL BY-LAW ABOUT CONSUMPTION OF  
LIQUOR**

section 5I

**TRUST LAND LIQUOR CONSUMPTION MODEL  
BY-LAW 1999****PART 1—GENERAL****Short title**

1. This model by-law may be cited as the *Trust Land Consumption of Liquor Model By-law 1999*.

**Purpose of by-law**

2. The purpose of this by-law is to regulate the use of the trust land for the consumption of liquor.

**Definitions**

3. In this model by-law—

“**approval conditions**” see section 10.

“**approved place**” means a place subject to an approval in force under section 10.

“**designated place**” means a place subject to a designation in force under section 6.

## SCHEDULE 10 (continued)

“**liquor**” see the *Liquor Act 1992*, section 4B.<sup>33</sup>

“**trust land**” means the trust land in relation to which the trustee has adopted this model by-law, but does not include land or premises to which a licence or permit under the *Liquor Act 1992* relates.

**References to person acting on behalf of the trustee**

**4.(1)** In a provision of this by-law, a reference to a person acting on behalf of the trustee is a reference to a person chosen by the trustee to act on behalf of the trustee under the provision.

**(2)** A person chosen by the trustee to act on behalf of the trustee under a provision must be appropriately qualified to act on behalf of the trustee under the provision.

**(3)** In this section—

“**appropriately qualified**” includes having the qualifications, experience or standing appropriate to act on behalf of the trustee.

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<sup>33</sup> *Liquor Act 1992*, section 4B—

**Meaning of “liquor”**

**4B.(1)** “**Liquor**” is a spiritous or fermented fluid of an intoxicating nature intended for human consumption.

**(2)** “Liquor” also includes any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5 mL/L (0.5%) at 20°C.

**(3)** However, “liquor” does not include a fluid, that would otherwise be liquor, if it is used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible.

## SCHEDULE 10 (continued)

**PART 2—CONSUMPTION OF ALCOHOL****Consumption of liquor in certain places prohibited**

**5.(1)** A person must not consume liquor on the trust land other than at—

- (a) a designated place; or
- (b) an approved place.

Maximum penalty—5 penalty units.

**(2)** A person who consumes liquor on the trust land at a place that is not a designated place or approved place does not commit an offence under subsection (1) if—

- (a) the place was, but is no longer, a designated place; and
- (b) the trustee has not complied with section 8<sup>34</sup> for the revocation or amendment of the place's designation.

**PART 3—DESIGNATED PLACES FOR THE  
CONSUMPTION OF ALCOHOL****Trustee may designate trust land for liquor consumption**

**6.(1)** The trustee may designate all or part of the trust land as a place where liquor may be consumed.

**(2)** The trustee may state the period or times when the designation is to be in force.

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<sup>34</sup> Section 8 (Trustee must advertise revocation or amendment of designation and remove or change signs)



## SCHEDULE 10 (continued)

**Trustee must advertise designation and place signs**

**7.(1)** If the trustee designates a place under section 6, the trustee must advertise, or cause someone else to advertise, the designation in a newspaper circulating generally in the area in which the trust land is located.

**(2)** The advertisement must—

- (a) include a description of all, or the relevant part of, the trust land; and
- (b) state when the trust land or part of the trust land is a designated place.

**(3)** The trustee must also erect, or cause someone else to erect, signs—

- (a) sufficiently identifying the trust land or part of the trust land as a designated place; and
- (b) stating when the trust land or part of the trust land is a designated place.

**(4)** The trustee does not have to comply with subsections (1) and (2) if the designation is in force for 1 day or less.

**(5)** The trustee does not have to comply with subsections (1) to (3) if the designated place is adjacent to premises, on the trust land, used for the primary purpose of eating meals prepared, served and intended to be eaten on the premises.

**(6)** However, the written approval of the trustee for the use of the designated place mentioned in subsection (5) must be conspicuously displayed in the designated place.

**Trustee must advertise revocation or amendment of designation and remove or change signs**

**8.(1)** If the trustee revokes or amends a designation, the trustee must advertise, or cause someone else to advertise, the revocation or amendment in a newspaper circulating generally in the area in which the trust land is located.

**(2)** The advertisement must—

## SCHEDULE 10 (continued)

- (a) for the revocation of a designation—include a description of the designated place; and
  - (b) for an amendment changing the boundaries of a designated place—include a description of the designated place as changed; and
  - (c) for an amendment changing when the designation is in force—state the new period or times.
- (3) The trustee must also ensure—
- (a) for a revocation—that all signs identifying the place as a designated place are taken away; and
  - (b) for an amendment relating to the boundaries of the designated place—that signs sufficiently identify the place, as changed, as a designated place; and
  - (c) for an amendment relating to where the designation is in force—that signs identifying the designated place state the changed period or times.

## **PART 4—APPROVED PLACES FOR CONSUMPTION OF ALCOHOL**

### **Application for trustee consent as an approved place**

**9.(1)** A person may apply to the trustee to approve the trust land, or part of the trust land, as a place where liquor may be consumed.

- (2) The application must include or be accompanied by—
- (a) the name and address of the applicant; and
  - (b) an indication of whether the consent is sought in relation to all, or part only, of the trust land; and
  - (c) details of the activity of which the consumption of liquor forms part; and

## SCHEDULE 10 (continued)

- (d) the day on which, and the times during which, the activity is to be conducted; and
- (e) the number of persons likely to take part in the activity; and
- (f) other information the trustee may reasonably ask for.

**Approved places**

**10.(1)** The trustee may, on an application under section 9, approve the trust land, or part of the trust land, as a place where liquor may be consumed.

**(2)** The approval must be in writing and must state—

- (a) the name of the person (the **“approval holder”**) who applied for the approval to be made; and
- (b) when the approval has effect; and
- (c) if the approval relates to part only of the trust land—the part to which it relates.

**(3)** The approval of the trustee may be given on reasonable conditions (**“approval conditions”**).

**(4)** The approval holder must ensure the trustee’s written approval is made available for inspection, at the approved place, if asked for by the trustee or a person acting on behalf of the trustee.

**(5)** An approval under this section must not be in force for more than 24 hours.

**Directions about complying with approval conditions**

**11.** A person must not disobey a reasonable direction given by the trustee, or a person acting on behalf of the trustee, about complying with an approval condition.

Maximum penalty—5 penalty units.

**SCHEDULE 11****MODEL BY-LAW ABOUT CEMETERIES,  
CREMATORIUMS AND MORTUARIES**

section 5I

**TRUST LAND CEMETERIES, CREMATORIUMS AND  
MORTUARIES MODEL BY-LAW 1999****PART 1—GENERAL****Short title**

1. This model by-law may be cited as the *Trust Land Cemeteries, Crematoriums and Mortuaries Model By-Law 1999*.

**Purpose of by-law**

2. The purposes of this model by-law are—
- (a) to regulate the use of the trust land as a cemetery, crematorium or mortuary; and
  - (b) to protect the trust land, including buildings on the trust land.

**Definitions**

3. In this model by-law—
- “**authority**”, of the trustee, includes a trustee permit.
- “**dispose**”, for human remains, means—
- (a) to bury in a grave; or
  - (b) if the remains have been exhumed—to rebury in a grave; or

## SCHEDULE 11 (continued)

- (c) to place in a vault; or
- (d) to cremate; or
- (e) if the remains have been cremated—to place the cremated remains in a niche in, or scatter the cremated remains in, the grounds of the trust land.

**“grounds of the trust land”** means the part or parts of the trust land not occupied by buildings, but includes a columbarium on the trust land.

**“motor vehicle”** has the same meaning as in the *Traffic Act 1949*.<sup>35</sup>

**“regulatory notice”** means a notice mentioned in section 4.

**“trust”** means the trust under which the trustee holds the trust land.

**“trust land”** means the trust land in relation to which the trustee has adopted this model by-law, but only if it is dedicated or granted in trust for cemetery, crematorium and mortuary purposes.

**“vehicle”** includes a motor vehicle, trailer, bicycle, carriage, cart, wagon and any other means of transport or conveyance designed for movement upon wheels, whether or not the vehicle is for the time being capable of being operated or used in a normal manner.

### **Power of trustee to regulate use etc. of trust land by notices**

**4.(1)** The trustee may, consistent with the community purpose of the trust land, erect or display in relation to the trust land or a part of the trust land notices for regulating or prohibiting—

- (a) the use of the trust land or the part of the trust land by persons; or

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<sup>35</sup> *Traffic Act 1949*, section 9 (Definitions)—

**“motor vehicle”** means any vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam, or any other mechanical power, and includes an articulated motor vehicle, B-double, moped, motor car, motorcycle, motor omnibus, motor truck, road train, specially constructed vehicle, tractor or traction engine, and a trailer attached to or drawn by a motor vehicle.

## SCHEDULE 11 (continued)

- (b) the use in the trust land or the part of the trust land of vehicles or vehicles included in a stated class of vehicles; or
  - (c) the bringing on to the trust land or the part of the trust land of animals or animals included in a stated class of animals.
- (2) A regulatory notice—
- (a) may be erected or displayed within, or at or near the entrances to, the trust land or the part of the trust land to which the notice relates; and
  - (b) must state or indicate a particular requirement or particular requirements to be complied with by persons entering, or on, the trust land or the part of the trust land.

**References to person acting on behalf of trustee**

**5.(1)** In a provision of this by-law, a reference to a person acting on behalf of the trustee is a reference to a person chosen by the trustee to act on behalf of the trustee under the provision.

(2) A person chosen by the trustee to act on behalf of the trustee under a provision must be appropriately qualified to act on behalf of the trustee under the provision.

(3) In this section—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to act on behalf of the trustee.

**PART 2—GROUNDS OF THE TRUST LAND****Application**

**6.** This part applies if there is a cemetery or a crematorium on the trust land.

## SCHEDULE 11 (continued)

**No disposal of remains without approval of trustee**

**7.(1)** A person must not dispose of human remains in the trust land other than under an approval of the trustee.

Maximum penalty—10 penalty units.

**(2)** An application to the trustee for an approval must be accompanied by the documents or authorities necessary for the lawful disposal of human remains.

**(3)** An applicant seeking the approval of the trustee must apply to the trustee at least 24 hours before the proposed date for the disposal.

**Disturbance of remains**

**8.(1)** After a body has been disposed of by burial in a coffin in a grave, a person must not—

- (a) move or disturb the coffin; or
- (b) re-open the grave for a further burial until at least 1 year has elapsed.

**(2)** Despite subsection (1)(b), the trustee, or a person acting on behalf of the trustee, may authorise the re-opening of the grave for a further burial before 1 year has elapsed if—

- (a) the further burial is within 6 days after the immediately preceding burial; or
- (b) if paragraph (a) does not apply—the trustee reasonably considers, or a person acting on behalf of the trustee reasonably considers, that the re-opening of the grave is not likely to create a danger to public health.<sup>36</sup>

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<sup>36</sup> This by-law does not contain a provision for the trustee to authorise the exhumation of human remains. The necessary authority for the exhumation of human remains may be available under section 83 (Exhumations) of the Act and the *Coroners Act 1958*, section 17 (Exhumation).

## SCHEDULE 11 (continued)

**Standards for coffins, niches and vaults etc.**

**9.(1)** The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for a grave in the grounds of the trust land—

- (a) its length;
- (b) its breadth;
- (c) its depth;
- (d) the clearance between the sides of a coffin in the grave and the sides of the grave;
- (e) the distance between the top of a coffin in the grave and the surface of the ground.

**(2)** In deciding the depth of a grave under subsection (1)(c), the trustee must have regard to the number of bodies the trustee has approved, or may approve, to be buried in the grave.

**(3)** The trustee must take all reasonable steps to ensure the matters decided by the trustee under subsection (1) about a grave in the grounds of the trust land are complied with.

**(4)** The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for a receptacle for the cremated remains of a human body to be placed in a niche in the grounds of the trust land—

- (a) its length;
- (b) its breadth;
- (c) its depth;
- (d) the materials of which it is made.

**(5)** The trustee must take all reasonable steps to ensure the matters decided by the trustee under subsection (4) about a receptacle for the cremated remains of a human body are complied with.

**(6)** The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for a receptacle for the remains, other than cremated remains, of a human body, to be placed in a



## SCHEDULE 11 (continued)

vault in the grounds of the trust land—

- (a) its length;
- (b) its breadth;
- (c) its depth;
- (d) the materials of which it is made.

**(7)** The trustee must take all reasonable steps to ensure the matters decided by the trustee under subsection (6) about a receptacle for the remains of a human body not cremated are complied with.

**(8)** The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for the minimum specifications for the design and materials of construction of a vault in the grounds of the trust land—

- (a) its length;
- (b) its breadth;
- (c) its height;
- (d) the materials of which it is to be constructed.

**(9)** The trustee must take all reasonable steps to ensure the matters decided by the trustee under subsection (8) about a vault to be built in the grounds of the trust land are complied with.

**(10)** The trustee must decide the following matters for inscriptions on memorials, headstones or niches in the grounds of the trust land—

- (a) size;
- (b) placement;
- (c) style;
- (d) content.

**(11)** The trustee must take all reasonable steps to ensure the matters decided by the trustee under subsection (10) about inscriptions are complied with.

## SCHEDULE 11 (continued)

**Approval necessary for memorials**

**10.** A person must not build or install a memorial in the grounds of the trust land other than under the authority of the trustee, or a person acting on behalf of the trustee.

Maximum penalty—10 penalty units.

**Records for cemetery and crematorium to be kept by trustee**

**11.(1)** The trustee, or a person acting on behalf of the trustee, must keep a record of—

- (a) the name of each person whose remains have been—
  - (i) buried in the grounds of the trust land; or
  - (ii) cremated on the trust land; or
  - (iii) cremated and scattered in, or placed in a niche in, the grounds of the trust land; and
- (b) when the remains of each person were disposed of; and
- (c) if the remains of a person were cremated and the cremated remains have not been scattered in the grounds of the trust land or taken away from the trust land—the particular place where the cremated remains of the person have been placed in the grounds of the trust land; and
- (d) if a person's remains have been buried in the grounds of the trust land—the location of the grave; and
- (e) any dealing with the remains of a person after they have been buried or placed in the grounds of the trust land.

**(2)** A matter is not required to be recorded under subsection (1) if it is included in the register kept under section 79<sup>37</sup> of the Act.

**(3)** The trustee must make a record kept under subsection (1) available

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<sup>37</sup> Section 79 (Cemetery registers) of the Act

## SCHEDULE 11 (continued)

for public inspection at all reasonable times.<sup>38</sup>

(4) If the trust is wound up, the record must be sent to the State archivist and held for public access.<sup>39</sup>

**Animals**

**12.(1)** A person must not, other than under the authority of the trustee, bring an animal on to the trust land.

Maximum penalty—5 penalty units.

(2) A person does not commit an offence under subsection (1) if the animal brought on to the trust land is for the ceremonial purposes associated with a funeral.

(3) A person must not, other than under the authority of the trustee, ride, or drive a vehicle drawn by, an animal other than on a formed roadway on the trust land.

Maximum penalty—5 penalty units.

(4) In this section—

“**animal**” does not include a dog.

**Dogs**

**13.(1)** A person who has a dog in the person’s charge on the trust land—

- (a) must, at all times the dog is on the trust land, effectively restrain the dog by means of a lead or leash; and
- (b) must not allow the dog to behave in a way that causes unreasonable noise, annoys another person or puts another person in danger.

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<sup>38</sup> Under section 79 (Cemetery registers) of the Act, this is also a requirement for a register of burials.

<sup>39</sup> Section 79 (Cemetery registers) of the Act provides for the same procedure to be followed for a register of burials.

## SCHEDULE 11 (continued)

Maximum penalty—5 penalty units.

(2) A person does not commit an offence under subsection (1)(a) if, in acting in the way mentioned in subsection (1), the person is acting under the authority of the trustee.

**Interference with funeral or commemorative services**

14. A person must not interrupt or interfere with a funeral or commemorative service lawfully conducted on the trust land.

Maximum penalty—10 penalty units.

**Interference with grave etc.**

15. A person must not, other than under the authority of the trustee, interfere with a grave, vault, niche or memorial, or with flowers or tokens on a grave, vault, niche or memorial.

Maximum penalty—10 penalty units.

**Behaviour**

16. A person must not, other than under the authority of the trustee—

- (a) act in a way or do anything that unreasonably disturbs, or is likely to unreasonably disturb, another person's peaceful use of the trust land; or
- (b) display, distribute, drop, scatter or throw down a handbill, ticket, notice or any other literature of any kind on the trust land.

Maximum penalty—10 penalty units.

**Vehicles to be used on formed roadways only**

17. Other than under the authority of the trustee, a person must not drive, or permit to be driven, a vehicle on the trust land other than on a formed roadway.

Maximum penalty—5 penalty units.

## SCHEDULE 11 (continued)

**Activities causing damage to trust land or improvements**

**18.(1)** A person must not, other than under the authority of the trustee, damage or interfere with—

- (a) soil, gardens or turf on the trust land; or
- (b) plants growing on the trust land; or
- (c) improvements, signs or equipment on the trust land.

Maximum penalty—10 penalty units.

**(2)** This section does not apply to damage of or interference with trees.<sup>40</sup>

**Selling things**

**19.** A person must not, other than under the authority of the trustee, sell anything, or offer anything for sale on the trust land.

Maximum penalty—5 penalty units.

**Firearms**

**20.(1)** A person must not, other than under the authority of the trustee, discharge a firearm on the trust land.

Maximum penalty—5 penalty units.

**(2)** A person does not commit an offence under subsection (1) if the person discharges a firearm as part of a military funeral.

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<sup>40</sup> Chapter 5 (Matters affecting land holdings) Part 6 (Tree management) of the Act, section 255 (Tree clearing permit needed)—

**Tree clearing permit needed**

**255.** A person must not—

- (a) clear a tree or allow a tree to be cleared on land other than under a tree clearing permit or under an exemption under division 3; or
- (b) contravene a condition of a tree clearing permit or exemption.

Maximum penalty—400 penalty units.

## SCHEDULE 11 (continued)

**Grounds of the trust land open to public at certain times**

**21.(1)** This section applies if—

- (a) regulatory notices indicate when the grounds of the trust land are open to the public; and
- (b) the notices are erected at reasonable places for informing the public, including, for example, at the places for entry to and exit from the trust land.

**(2)** Other than under the authority of the trustee, a person must not enter, or remain on, the grounds of the trust land when the trust land is not open to the public.

Maximum penalty—10 penalty units.

**Placement of flowers and tokens on graves etc.**

**22.(1)** This section applies if—

- (a) regulatory notices indicate flowers and tokens may be placed on graves, vaults, niches or memorials in the grounds of the trust land only in accordance with the conditions stated in the notice; and
- (b) the notices are erected at reasonable places for informing the public, including, for example, at the places for entry to and exit from the trust land.

**(2)** Other than under the authority of the trustee, a person must not place flowers or tokens on graves, vaults, niches or memorials in a way contravening a condition mentioned in subsection (1)(a).

Maximum penalty—5 penalty units.

## SCHEDULE 11 (continued)

**PART 3—MORTUARY****Application**

**23.** This part applies if there is a mortuary on the trust land.

**Mortuary records**

**24.(1)** The trustee, or a person acting on behalf of the trustee, must keep a record of all bodies delivered to the mortuary.

**(2)** The record must contain the following particulars for each body—

- (a) the date on which the body was delivered to the mortuary;
- (b) the person from whom the body was received;
- (c) the name, age and sex of the person whose body was delivered;
- (d) the date and place of death of the person whose body was delivered;
- (e) any post-mortem examination, or other medical procedure, carried out in the mortuary;
- (f) the date on which the body was taken from the mortuary;
- (g) the person by whom the body was taken from the mortuary.

**(3)** If the trust is wound up, the register must be sent to the State archivist.

**Authority necessary to enter mortuary**

**25.** A person must not enter, or remain in, the mortuary other than under the authority of the trustee or a person authorised to act on behalf of the trustee.

Maximum penalty—10 penalty units.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 April 1999. Future amendments of the Land Regulation 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered



## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to SL No. 224 of 1995	2 August 1995
1A	to SL No. 124 of 1996	1 October 1996
2	to SL No. 410 of 1997	1 December 1997
2A	to SL No. 173 of 1998	14 July 1998

## 5 List of legislation

### **Land Regulation 1995 SL No. 186**

made by the Governor in Council on 8 June 1995  
notfd gaz 9 June 1995 pp 1165–71  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 1995 (see s 2)  
exp 1 September 2005 (see SIA s 54)

as amended by—

### **Lands Legislation (Fees) Amendment Regulation (No. 1) 1995 SL No. 224 pts 1, 3**

notfd gaz 28 July 1995 pp 1768–9  
ss 1–2 commenced on date of notification  
ss 5–6 commenced 1 August 1995 (see s 2)

### **Land Amendment Regulation (No. 1) 1995 SL No. 385**

notfd gaz 15 December 1995 pp 1560–5  
commenced on date of notification

### **Land Amendment Regulation (No. 1) 1996 SL No. 124**

notfd gaz 7 June 1996 pp 902–5  
ss 1–2 commenced on notification  
remaining provisions commenced on 1 July 1996 (see s 2)

### **Land Amendment Regulation (No. 1) 1997 SL No. 188**

notfd gaz 27 June 1997 pp 1004–1010  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 1997 (see s 2)

### **Land Legislation Amendment Regulation (No. 1) 1997 SL No. 214 pts 1–2**

notfd gaz 11 July 1997 pp 1229–30  
ss 1–2 commenced on date of notification  
remaining provisions commenced 13 July 1997 (see s 2 and 1997 SL No. 210)

**Land Amendment Regulation (No. 2) 1997 SL No. 356**

notfd gaz 24 October 1997 pp 786–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 November 1997 (see s 2 and 1997 SL No. 355)

**Land Amendment Regulation (No. 3) 1997 SL No. 410**

notfd gaz 28 November pp 1408–10

s 4 commenced 1 July 1997 (see s 2)

remaining provisions commenced on date of notification

**Land Amendment Regulation (No. 1) 1998 SL No. 173**

notfd gaz 22 May 1998 pp 509–14

ss 1–2 commenced on date of notification

remaining provisions commenced 1 June 1998 (see s 2)

**Land Amendment Regulation (No. 1) 1999 SL No. 22**

notfd gaz 12 March 1999 pp 1030–1

commenced on date of notification

## 6 List of annotations

**Definitions**

s 2A ins 1997 SL No. 356 s 4

**PART 2—RESERVES AND DEEDS OF GRANT IN TRUST**

pt 2 (ss 3–5R) sub 1999 SL No. 22 s 3

**Categories of leases for rent assessment—Act, s 182**

s 8 amd 1997 SL No. 188 s 4

**Category 2 leases**

s 10 amd 1997 SL No. 188 s 5

**Category 3.1 and 3.2 leases**

prov hdg sub 1997 SL No. 188 s 6(1)

s 11 amd 1997 SL No. 188 s 6(2)–(3)

**Category 5 leases**

s 13 amd 1997 SL No. 188 s 7

**Category 6 leases**

s 14 amd 1997 SL No. 188 s 8

**Category 8.1 and 8.2 leases**

prov hdg sub 1997 SL No. 188 s 9(1)

s 16 amd 1997 SL No. 188 s 9(2)–(3)

**Rate for calculating rent for leases—Act, s 183**

s 19 sub 1997 SL No. 188 s 10

**Minimum rent for lease—Act, s 183**

s 20 amd 1997 SL No. 188 s 11; 1997 SL No. 410 s 4

**When instalments are payable—Act, s 190**

s 23      amd 1995 SL No. 385 s 3

**Land for which register to be kept—Act, s 276**s 24A      ins 1995 SL No. 385 s 4  
            om 1997 SL No. 410 s 6**PART 4A—TREE MANAGEMENT**

pt hdg      ins 1997 SL No. 356 s 5

**Land highly vulnerable to land degradation—Act, s 253**

s 24B      ins 1997 SL No. 356 s 5

**Land of high nature conservation value—Act, s 253**

s 24C      ins 1997 SL No. 356 s 5

**Areas moderately vulnerable to degradation—Act, s 253**

s 24D      ins 1997 SL No. 356 s 5

**Areas of nature conservation value—Act, s 253**

s 24E      ins 1997 SL No. 356 s 5

**Trustees who do not need tree clearing permit—Act, s 257**s 24F      ins 1997 SL No. 356 s 5  
            amd 1997 SL No. 410 s 7**Authorised activities**

s 24G      ins 1997 SL No. 356 s 5

**Plants for which tree clearing permit not needed—Act, s 257**

s 24H      ins 1997 SL No. 356 s 5

**Routine management purposes for which tree clearing permit not required—Act, s 268**

s 24I      ins 1997 SL No. 356 s 5

**Routine rural management purposes for which tree clearing permit not required—Act, s 269**s 24J      ins 1997 SL No. 356 s 5  
            amd 1997 SL No. 410 s 8**Trees for which permit exemption applies with conditions—Act, s 270**s 24K      ins 1997 SL No. 356 s 5  
            amd 1997 SL No. 410 s 9**PART 5—REGISTRATION AND DEALINGS**pt hdg      prev pt 5 hdg om 1997 SL No. 410 s 5  
            pres pt 5 hdg ins 1997 SL No. 410 s 10**Land for which register to be kept—Act, s 276**

s 24L      ins 1997 SL No. 410 s 10

**Guidelines for subletting without Minister's approval—Act s 333**

s 27      sub 1995 SL No. 385 s 5

**Interest rate for instalments under post-Wolfe freeholding lease—Act, s 462**

s 32      amd 1997 SL No. 410 s 11; 1998 SL No. 173 s 4

**Interest rate for instalments under grazing homestead freeholding lease—Act, s 466**

s 33 amd 1997 SL No. 410 s 12; 1998 SL No. 173 s 5

**PART 9—ARRANGEMENTS FOR MEETING MINIMUM  
INSTALMENTS—ACT, s 507**

pt hdg ins 1995 SL No. 385 s 6

**Application of pt 9**

s 40 ins 1995 SL No. 385 s 6

**Operation of pt 9**

s 41 ins 1995 SL No. 385 s 6

**Residential leases**

s 42 ins 1995 SL No. 385 s 6  
amd 1997 SL No. 188 s 12

**Leases other than residential leases**

s 43 ins 1995 SL No. 385 s 6  
amd 1997 SL No. 188 s 12

**Adjustment increase for whole year reduced term**

s 44 ins 1995 SL No. 385 s 6

**Retention of original term for discount purposes**

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**SCHEDULE 1C—TREES FOR WHICH PERMIT EXEMPTION APPLIES  
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**SCHEDULE 2—DISCOUNT APPLYING TO PRE-WOLFE FREEHOLDING  
LEASE**

amd 1997 SL No. 410 s 14

**SCHEDULE 4—INTEREST RATES PRESCRIBED**

sub 1997 SL No. 410 s 15; 1998 SL No. 173 s 6

**SCHEDULE 6—FEES**

sub 1995 SL No. 224 s 6; 1997 SL No. 214 s 4  
amd 1997 SL No. 410 s 16

**SCHEDULE 7—MODEL BY-LAW ABOUT BUSINESS AND MANAGEMENT  
OF TRUST LAND**

ins 1999 SL No. 22 s 4

**SCHEDULE 8—MODEL BY-LAW ABOUT FINANCIAL MANAGEMENT OF  
TRUST LAND**

ins 1999 SL No. 22 s 4

**SCHEDULE 9—MODEL BY-LAW ABOUT PROTECTION AND USE OF  
TRUST LAND**

ins 1999 SL No. 22 s 4

**SCHEDULE 10—MODEL BY-LAW ABOUT CONSUMPTION OF LIQUOR**

ins 1999 SL No. 22 s 4

**SCHEDULE 11—MODEL BY-LAW ABOUT CEMETERIES,  
CREMATORIUMS AND MORTUARIES**

ins 1999 SL No. 22 s 4