



Fossicking Act 1994

Fossicking Regulation 2009

Current as at 1 July 2019

Reprint note

This is the last reprint before repeal. Repealed on 1 September 2019 by 2019 SL No. 172 s 38.

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Queensland

Fossicking Regulation 2009

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Fossicking Regulation 2009

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Fossicking Regulation 2009*.

2 Definitions

The dictionary in schedule 7 defines particular words used in this regulation.

3 Regulation does not affect landowner's rights

- (1) This regulation does not limit a right of an owner of land to use the land or to authorise another person to use the land for a purpose that, apart from this regulation, would be a lawful purpose.
- (2) Despite any other provision of this regulation, the carrying out of the use by the owner or other person is not an offence against this regulation.

Part 2 Designated fossicking land, fossicking areas and other land

4 Designated fossicking land

- (1) The land stated in schedule 2 is designated fossicking land with the name given to it in the schedule.
- (2) The area given for the land is the total area inside the boundaries of the land, even though some of the land may not be designated fossicking land because it is excluded from the designated fossicking land under the Act.

Note—

See expired sections 112 (Designated areas) and 118 (Application of s 20A of Acts Interpretation Act 1954) of the Act.

5 Fossicking areas

- (1) The land stated in schedule 3 is a fossicking area with the name given to it in the schedule.
- (2) The area given for the land is the total area inside the boundaries of the land, even though some of the land may not be part of the fossicking area because it is excluded from the fossicking area under the Act.

Note—

See expired sections 113 (Fossicking areas) and 118 (Application of s 20A of Acts Interpretation Act 1954) of the Act.

6 Prohibited camping land

The land stated in schedule 4 is prohibited camping land.

7 Regulated camping land

The land stated in schedule 5 is regulated camping land.

Part 3 Camping

8 Self-registration camping areas

- (1) The chief executive may erect or display on, or at or near an entrance to, regulated camping land, a notice (a *self-registration camping notice*) stating that the land, or a stated part of the land, is a self-registration camping area for a stated period.
- (2) The self-registration camping notice must state, in general terms, the procedures to be followed by persons intending to camp in the area.

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- (3) The self-registration camping notice must also state—
 - (a) how many people may camp in the area under a permit; and
 - (b) how long a person may camp in the area; and
 - (c) how many people may camp on a camp site in the area; and
 - (d) how many permits may apply to a camp site in the area; and
 - (e) the camping fee payable for camping in the area; and
 - (f) the penalty for camping in the area without a permit.
 - (4) The chief executive must make forms (*camping forms*) and a sealed, secure camping fee container available for use in an easily accessible and conspicuous position in the area.
 - (5) The camping form must—
 - (a) state the procedures a person using the form must follow; and
 - (b) include a detachable camping fee envelope and a form (a *self-registration form*) to be displayed at the person's camp site.

9 When permit is taken to have been granted

- (1) This section applies if a person follows the procedures stated on a camping form for a self-registration camping area.
- (2) The person, and anyone described in the camping form as accompanying the person, is taken to have been granted a permit for the area and period stated on the form.
- (3) However, the permit is not taken to have been granted—
 - (a) for more people than the number described in the camping form; or
 - (b) for more people than the number stated on the self-registration camping notice; or
 - (c) if the area is not a self-registration camping area; or

- (d) for longer than the longest period that a person may camp in the area; or
- (e) if the person paid the camping fee by cheque and the cheque is dishonoured; or
- (f) to the extent the person contravenes any other requirement stated on the self-registration camping notice for the area.

10 Display of permits and self-registration forms

- (1) A person camping under a permit, including a person to whom a permit is taken to have been granted, must, immediately after making camp, display the form by attaching it, in a conspicuous position—
 - (a) to the person's tent, caravan or other structure; or
 - (b) if paragraph (a) does not apply—to other camping equipment used by the person.

Maximum penalty—2 penalty units.

- (2) The person must take reasonable steps to ensure the permit or self-registration form remains displayed while the person camps under the permit or self-registration form.

Maximum penalty—2 penalty units.

- (3) A person, other than a person taken to have been granted a permit, must not attach a self-registration form to a tent, caravan, other structure, camping equipment or vehicle.

Maximum penalty—2 penalty units.

11 Interference with permits and self-registration forms

A person must not remove or interfere with a permit or self-registration form displayed at someone else's camp site.

Maximum penalty—2 penalty units.

Part 4 Control of activities on all land

12 Particular activities prohibited

- (1) A person fossicking under a licence or camping under a permit must not, unless the person has a reasonable excuse—
- (a) deface, destroy or injure a tree; or
 - (b) clear vegetation for a purpose other than digging the land cleared; or
 - (c) pollute a watercourse or a receptacle used for water storage; or
 - (d) dig in land in a way likely to cause a gully to form, or banks to collapse, on land around the land dug; or
 - (e) place material dug on a slope where water may wash it away; or
 - (f) interfere with improvements, a site of cultural heritage significance or domestic stock.

Maximum penalty—20 penalty units.

- (2) In this section—

clear, for vegetation, means remove, cut down, ringbark, push over, poison or destroy in any way including by burning, flooding or draining.

cultural heritage significance, of a site, means its aesthetic, architectural, historical, scientific, social or other significance, to the present generation or past or future generations.

13 Fossicking in a watercourse

- (1) This section applies to a person fossicking in a watercourse.
- (2) The person must not—
- (a) fossick within 40m of—
 - (i) a weir, bridge or other structure in or over the watercourse; or

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- (ii) a site of a pump used to pump water from the watercourse; or
- (b) if fossicking within 3m of the top or toe of a bank or in a bank slope may cause erosion or the collapse of the bank—fossick within 3m of the top or toe of the bank or in the bank’s slope; or
- (c) significantly interrupt, divert or stop the flow of water in the watercourse; or
- (d) cause significant stream turbidity more than 300m downstream from the person’s fossicking site; or
- (e) erect a structure in the watercourse.

Maximum penalty—20 penalty units.

- (3) A person digging in a watercourse must, before leaving the watercourse—
 - (a) refill the person’s fossicking site; and
 - (b) if there is material left over after refilling the site—put the left over material in a place in the watercourse where it is unlikely to affect significant stream flows or disturb the stream’s usual course at low flow.

Maximum penalty—20 penalty units.

14 Disposal of human wastes

A person fossicking under a licence or camping under a permit must dispose of human waste—

- (a) if there are facilities for disposing of human waste on the land—in the facilities; or
- (b) by burying it at least 20m from the nearest high bank of any watercourse and covering it with at least 20cm of soil.

Maximum penalty—5 penalty units.

15 Land to be left safe and tidy

- (1) A person who has stopped fossicking or camping on land must, immediately before leaving the land, make the person's fossicking or camp site safe for other fossickers, stock and the owner of the land, for example, by filling in any place dug by the person.

Maximum penalty—5 penalty units.

- (2) The person must also—
- (a) pull down the person's camping structures; and
 - (b) leave the site tidy and free from rubbish.

Maximum penalty—5 penalty units.

- (3) If there are no rubbish containers on the land, the person must take the person's rubbish away from the land.

Maximum penalty—5 penalty units.

Part 5 Control of activities on designated fossicking land and fossicking areas

16 Structures, dams and machinery

A person must not erect an enclosed structure, dam or pipeline, or install fixed machinery, on designated fossicking land or a fossicking area.

Maximum penalty—50 penalty units.

17 Roads, tracks etc.

A person must not mark out, bulldoze, grade or make a route, track or road on designated fossicking land or a fossicking area—

- (a) without the chief executive's or land manager's written approval; or

(b) in contravention of the conditions of the approval.

Maximum penalty—20 penalty units.

18 Use of vehicles

(1) This section applies to designated fossicking land and fossicking areas (*fossicking land*), but does not apply to a public road on the land.

(2) A person must not drive a vehicle on fossicking land unless—

(a) the vehicle is registered; and

(b) the person holds a licence to drive the vehicle under the *Transport Operations (Road Use Management) Act 1995* or a corresponding law.

Maximum penalty—5 penalty units.

(3) A person must not drive a vehicle on fossicking land—

(a) at more than 50km/h; or

(b) other than on a made track or road; or

(c) in a way that may—

(i) unreasonably inconvenience someone else on the land; or

(ii) endanger anyone on the land (including the driver); or

(iii) damage a road surface; or

(d) in a way that makes excessive noise.

Maximum penalty—5 penalty units.

19 Other prohibited conduct

A person on designated fossicking land or a fossicking area must not—

(a) use a weapon, trap or explosive on the land, unless the person has a reasonable excuse; or

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- (b) operate a generator, engine-driven equipment, radio or other electrical appliance in a way that may unreasonably annoy someone else on the land; or
 - (c) damage or destroy a wall, fence, building, barrier, sign, receptacle or other structure; or
 - (d) light a fire—
 - (i) in a place other than a cleared space with a radius of at least 2m or a properly built fireplace; or
 - (ii) if, under a sign erected on the land by the chief executive, a person must not light a fire on the land; or
 - (e) allow water, other than water the person brought onto the land, to run to waste; or
 - (f) if, under a sign erected on the land by the chief executive, a person must not bring a cat or dog onto the land—bring a cat or dog onto the land.

Maximum penalty—20 penalty units.

20 Display of advertisements

- (1) A person must not, without the chief executive's written approval, display an advertisement on a fossicking area, unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

- (2) It is a reasonable excuse for a person to display an advertisement if the advertisement is on a vehicle used for commercial purposes by a person visiting the land to fossick under a licence or to bring supplies to a person fossicking under a licence.

21 Other prohibited activities

A person on a fossicking area must not, without the chief executive's written approval—

- (a) set up or use a loudspeaker system; or

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- (b) hold or address a meeting, assembly or religious service;
or
- (c) give a musical performance; or
- (d) solicit donations; or
- (e) give out literature.

Maximum penalty—5 penalty units.

Part 6 Miners common

Division 1 Preliminary

22 Name and area of miners common

- (1) The name of the miners common is the ‘Rubyvale, Sapphire and Scrub Lead Miners Common’.
- (2) The miners common includes all unoccupied land within the designated fossicking land and fossicking areas stated in schedule 6.

23 Who is controller

The Central Highlands Regional Council is controller of the miners common.

24 Performing functions under this part

- (1) The controller may authorise its chief executive officer to do anything necessary to be done for the performance of its functions under this part.
- (2) In particular, the controller may authorise the chief executive officer to appoint a person the chief executive officer considers has the necessary training and experience to perform the controller’s functions.

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- (3) The chief executive officer may, in the appointment, impose conditions on the performance of the functions.

Division 2 Agistment

25 Approval needed

- (1) A person must not agist stock on the miners common unless the person—
- (a) is an individual who owns and lives on land in the Rubyvale–Sapphire area; and
 - (b) has the controller’s written approval (an *agistment approval*) to agist the stock.

Maximum penalty—20 penalty units.

- (2) An application for an agistment approval must be written and be accompanied by—
- (a) the prescribed fee; and
 - (b) documentary evidence of ownership of the stock to be agisted and any permission needed to keep the stock.

- (3) In this section—

Rubyvale–Sapphire area means land within the boundaries shown on plans mentioned in schedule 2 for the following designated fossicking land—

- Divide designated fossicking land
- Reward designated fossicking land
- Rubyvale designated fossicking land
- Sapphire designated fossicking land
- Scrub Lead designated fossicking land.

26 When agistment approval can not be given

- (1) The controller must not give an agistment approval to a minor.

[s 27]

- (2) Also, the controller must not give an agistment approval if—
 - (a) it allows a person to agist more than 20 head of stock on the miners common; or
 - (b) it increases the number of stock agisted on the miners common to more than—
 - (i) the carrying capacity of the miners common; or
 - (ii) if the controller has varied the carrying capacity under this division by reducing or increasing the number of stock that may agist on the miners common—the varied carrying capacity; or
 - (c) the controller reasonably believes the condition, carrying capacity or varied carrying capacity of the miners common can not support the stock.
- (3) In calculating the number of stock for a person under subsection (2)(a), the controller must include stock agisted under all agistment approvals in which the person has a direct or indirect interest.

27 Agistment approval not transferable

An agistment approval is not transferable.

28 How long agistment approval is in force

- (1) An agistment approval is in force for the period stated in the approval and may be renewed.
- (2) However, an agistment approval lapses if the approval holder does not do the following within 14 days after a day stated in the approval—
 - (a) pay the fees payable under the approval;
 - (b) start agisting stock on the miners common.

29 Tagging agisted stock

- (1) If the controller issues tags for agisted stock, a person agisting stock under an agistment approval must ensure each animal agisted is tagged with a tag supplied by the controller.

Maximum penalty—20 penalty units.

- (2) A person whose agistment approval ends must return tags issued to the person under subsection (1) to the controller within 7 days after the approval ends.

Maximum penalty—20 penalty units.

30 Varying carrying capacity

- (1) The controller may vary the number of stock that may agist on the miners common (the *varied carrying capacity*) as follows—

- (a) if the controller reasonably believes there are more stock on the miners common than it can support—by reducing the number of stock that may agist on the common;
- (b) if the controller reasonably believes the common can support more than the number of stock agisted on the common without adversely affecting future agistment—by increasing the number of stock that may agist on the common.

- (2) The controller must apply the varied carrying capacity in a way that ensures, as far as is reasonably practicable, no existing or prospective agistment approval holder is treated more favourably than any other approval holder.

- (3) Subsection (1)(b) does not authorise the controller to increase a person's agistment approval beyond 20 head of stock.

31 Notice of varied carrying capacity

- (1) If the controller reduces the number of stock that may agist on the miners common under section 30(1)(a), the controller must give written notice of the varied carrying capacity to each agistment approval holder affected by it.

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- (2) The notice must—
 - (a) state the reduced number of stock the approval holder may agist; and
 - (b) ask the approval holder to reduce stock agisted under the approval to the stated number within a stated reasonable period.
- (3) The approval holder must comply with the notice, unless the approval holder has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

32 Mustering

- (1) The controller must muster stock agisted on the miners common at least once but not more than 6 times a year.
- (2) The controller may muster the stock—
 - (a) to find stock unlawfully agisted on the common; or
 - (b) to dip or spray stock agisted on the common; or
 - (c) to monitor the health of stock on the common.

Division 3 Records

33 Register of agistment approvals

- (1) The controller must keep a register of agistment approvals.
- (2) The register must include the following details for each approval—
 - (a) the name and address of the person given the approval;
 - (b) the type and number of stock that may be agisted under the approval;
 - (c) the number of each tag issued to the approval holder by the controller;

-
- (d) amounts the controller receives for agistment fees and tags;
 - (e) particulars of any action taken for stock agisted.
- (3) The controller must keep the register available for inspection during business hours, free of charge.

Part 7 General

34 **Term of licence—Act, s 19**

An issuing officer may grant—

- (a) an individual or family fossickers licence for 1 month, 6 months or 1 year; or
- (b) an educational organisation or commercial tour operator fossickers licence for 1 month or 1 year; or
- (c) another kind of licence for 1 year.

35 **Term of fossickers camping permit—Act, s 63**

An issuing officer may grant a permit for not more than 3 months.

36 **Commission—Act, s 71**

- (1) This section applies to an issuing officer authorised under the Act, section 71(3)—
- (a) to charge a commission for issuing a licence or permit; or
 - (b) to keep a part of the prescribed fee for issuing a licence or permit.
- (2) The commission or kept part of the licence or permit fee is 10% of the fee.

[s 37]

37 Prescribed value for abandoned property—Act, s 97

For section 97 of the Act, the prescribed value for abandoned property is \$300.

38 Forms

The chief executive may approve forms for use under this regulation.

39 Fees

The fees payable under the Act are stated in schedule 1.

Part 8 Repeal

40 Repeal

The Fossicking Regulation 1994, SL No. 466 is repealed.

Schedule 1 Fees

section 39

	\$
1 Individual fossickers licence—	
(a) for 1 month	8.50
(b) for 6 months	32.25
(c) for 1 year	54.30
2 Family fossickers licence—	
(a) for 1 month	12.20
(b) for 6 months	41.40
(c) for 1 year	72.60
3 Club fossickers licence	90.95
4 Educational organisation fossickers licence—	
(a) for 1 month	36.05
(b) for 1 year	72.60
5 Commercial tour operator fossickers licence—	
(a) for 1 month	63.60
(b) for 1 year	548.00
6 Individual fossickers camping permit or family fossickers camping permit—	
(a) for each whole week	25.60
(b) for each night not part of a whole week	4.10
7 Club fossickers camping permit or educational organisation fossickers camping permit, for each person who is to camp under the permit—	
(a) for each whole week	12.45

Schedule 1

	\$
(b) for each night not part of a whole week	2.11
8 Commercial tour operator fossickers camping permit, for each person who is to camp under the permit—	
(a) for each whole week	25.60
(b) for each night not part of a whole week	4.10
9 Copy of a licence	8.50
10 Application for agistment approval (s 25(2)(a))—for each tag	17.15
11 Agistment fee—for each tag, for each week	0.41

Schedule 2 Designated fossicking land

section 4

- 1 Divide designated fossicking land—land west of the Town of Rubyvale shown on plan no. MP40825—an area of 339.1ha.
- 2 Duck Creek designated fossicking land—land south-east of Quilpie shown on plan no. MP36659—an area of about 633ha.
- 3 Opalton designated fossicking land—land south of the Town of Winton shown on plan no. MP36631—an area of about 974.5ha.
- 4 Reward designated fossicking land—land west of the Town of Sapphire shown on plan no. MP34342—an area of about 940ha.
- 5 Rubyvale designated fossicking land—land around the Town of Rubyvale shown on plan no. MP34341—an area of about 990ha.
- 6 Sapphire designated fossicking land—land around the Town of Sapphire shown on plan no. MP34343—an area of about 1,570ha.
- 7 Scrub Lead designated fossicking land—land north-east of the Town of Sapphire shown on plan no. MP34340—an area of about 1,360ha.
- 8 Sheep Station Creek designated fossicking land—land south-east of Quilpie shown on plan no. MP36659—an area of about 596ha.
- 9 Willows designated fossicking land—land west of the Town of Anakie shown on plan no. MP36464—an area of about 1,154ha.

Note—

For items 1, 4 to 7 and 9 see expired sections 112 (Designated areas) and 118 (Application of s 20A of Acts Interpretation Act 1954) of the Act.

Schedule 3 Fossicking areas

section 5

- 1 Agate Creek fossicking area—land south of Forsayth shown on plan no. MP36674 (other than land covered by mining claims 30027 and 30028 and land contained in MHPL1551)—an area of about 4,526ha.
- 2 Big Bessie fossicking area—land west of the Town of Sapphire shown on plan no. MP34238—an area of 33.55ha.
- 3 Deep Creek fossicking area—land in the Town of Gympie shown on plan no. MP40896—an area of 7.573ha.
- 4 Glenalva fossicking area—land west of the Town of Anakie shown on plan no. MP40817—an area of 496.8ha.
- 5 Graves Hill fossicking area—land west of the Town of Sapphire shown on plan no. MP40830—an area of 115.7ha.
- 6 Middle Ridge fossicking area—land west of the Town of Rubyvale shown on plan no. MP40828—an area of 31.92ha.
- 7 Mount Gibson fossicking area—land north-west of Innot Hot Springs shown on plan no. MP35585—an area of 344ha.
- 8 O’Briens Creek fossicking area—land west-north-west of the Town of Mount Surprise shown on plan no. MP36588 (other than land covered by mining claim, mining lease or residence area)—an area of 3,160ha.
- 9 Thanes Creek fossicking area—land west of Warwick shown on plan no. MP41157—an area of 3.9ha.
- 10 Tomahawk Creek fossicking area—land west of the Town of Rubyvale shown on plan no. MP40814—an area of about 2,450ha.
- 11 Yowah fossicking area—land west of the Town of Eulo shown on plan no. MP41145, sheets 1 and 2 (other than land covered by a mining claim or mining lease)—an area of 27.3ha.

Note—

For items 1, 4 to 6 and 10, see expired sections 113 (Fossicking areas) and 118 (Application of s 20A of Acts Interpretation Act 1954) of the Act.

Schedule 4 Prohibited camping land

section 6

Part 1 Designated fossicking land

- 1 Part of Sapphire designated fossicking land shown on plan no. MP34657—area about 670ha.
- 2 Part of Scrub Lead designated fossicking land and part of Rubyvale designated fossicking land shown on plan no. MP34656—area about 540ha.
- 3 Willows designated fossicking land.

Note—

If a plan number is given for the land, the plan shows the limits of the prohibited camping land.

Part 2 Fossicking areas

- 1 Land in the Agate Creek fossicking area.
- 2 Land in the Deep Creek fossicking area.
- 3 Land in the Mount Gibson fossicking area.
- 4 Land in the O'Briens Creek fossicking area.
- 5 Land in the Thanes Creek fossicking area.
- 6 Land in the Yowah fossicking area.

Note—

If a plan number is given for the land, the plan shows the limits of the prohibited camping land.

Schedule 5 Regulated camping land

section 7

Part 1 Designated fossicking land

- 1 Divide designated fossicking land.
- 2 Duck Creek designated fossicking land.
- 3 Opalton designated fossicking land.
- 4 Reward designated fossicking land.
- 5 Rubyvale designated fossicking land (other than prohibited camping land).
- 6 Sapphire designated fossicking land (other than prohibited camping land).
- 7 Scrub Lead designated fossicking land (other than prohibited camping land).
- 8 Sheep Station Creek designated fossicking land.

Part 2 Fossicking areas

- 1 Big Bessie fossicking area.
- 2 Glenalva fossicking area.
- 3 Graves Hill fossicking area.
- 4 Middle Ridge fossicking area.
- 5 Tomahawk Creek fossicking area.

Schedule 6 Rubyvale, Sapphire and Scrub Lead Miners Common

section 22

Part 1 Designated fossicking land

- 1 Rubyvale designated fossicking land.
- 2 Sapphire designated fossicking land.
- 3 Scrub Lead designated fossicking land.

Part 2 Fossicking areas

- 1 Big Bessie fossicking area.
- 2 Graves Hill fossicking area.
- 3 Middle Ridge fossicking area.

Schedule 7 Dictionary

section 2

agistment approval see section 25(1)(b).

camping fee envelope means a part of a camping form for use for the payment of camping fees.

camping form see section 8(4).

carrying capacity, of the miners common, means 400 head of stock.

controller, of the miners common, see section 23.

corresponding law means a law of another State that corresponds to the *Transport Operations (Road Use Management Act) 1995*.

miners common see section 22.

plan means a survey plan held by the department.

Note—

A copy of each plan may be inspected, free of charge, during office hours on business days at the department's office at level 2, 41 George Street, Brisbane.

prescribed fee means the fee prescribed under schedule 1.

self-registration camping area means regulated camping land that is the subject of a self-registration camping notice.

self-registration camping notice see section 8(1).

self-registration form see section 8(5)(b).

stock means camels, cattle and horses over 9 months old but does not include stallions.

varied carrying capacity see section 30(1).