



Queensland

Land Act 1994

Land Regulation 2009

Reprinted as in force on 29 June 2012

Reprint No. 1G

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

Also see endnotes for information about—

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

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Land Regulation 2009

[as amended by all amendments that commenced on or before 29 June 2012]

Part 1 Preliminary

1 Short title

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

2 Commencement

This regulation commences on 1 July 2010.

3 Definitions

The dictionary in schedule 12 defines particular words used in this regulation.

Part 2 Reserves and deeds of grant in trust

Division 1 Powers of trustee—model by-laws

Subdivision 1 Model by-laws

4 Model by-laws—Act, s 56

For section 56 of the Act, the model by-laws for trust land (the *model by-laws*) are in schedules 1 to 5.

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Subdivision 2 Way of adopting

5 Purpose of sdiv 2

For section 56(7) of the Act, this subdivision prescribes the way for a trustee to adopt a model by-law.

6 Step 1—propose to adopt model by-law

- (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 for recording trust business.

7 Step 2—consult with public about proposed adoption

- (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 of the trust land;
 - (c) that the trustee proposes to adopt the model by-law;
 - (d) the name of the model by-law;
 - (e) the purposes and general effect of the model by-law;
 - (f) 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, and where it may be purchased and its cost;
 - (i) that a written submission by any person supporting or objecting to the proposed model by-law may be made to the trustee, on or before the last day of the consultation period, at the address stated in the notice for the purpose.

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

- (1) A copy of the model by-law must be open for inspection—
- (a) at the location stated in the notice about the proposed adoption of the model by-law; and
 - (b) on the first day of the consultation period and until the end of the last day of the consultation period.

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- (2) Copies of the model by-law must be available for purchase at a price of no more than—
 - (a) the cost to the trustee of having the copy available for purchase; and
 - (b) if the copy is posted to the purchaser, the postage cost.

9 Step 4—consider all written submissions

- (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.

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

- (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) If the trustee consists of only 1 person, the decision whether to proceed must be recorded in the books for recording trust business.
- (3) If the trustee consists of 2 or more persons—
 - (a) the trustee must make the decision by resolution; and
 - (b) the resolution must be recorded in the minutes book for recording trust business.

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

11 Step 6—adopt model by-law proposed to be adopted

- (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) 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.
- (4) If the trustee consists of 2 or more persons—
- (a) the trustee must make the decision by resolution; and
 - (b) the resolution must be recorded in the minutes book for recording trust business.
- (5) As soon as practicable after adopting the model by-law, the trustee must—
- (a) give to the Minister—
 - (i) a copy of the decision or resolution; and
 - (ii) a copy of the model by-law; 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, display the notice—
 - (i) in a conspicuous place on the trust land to which the public has ready access; and
 - (ii) for at least 7 days.
- (6) The notice must state the following—
- (a) the name of the trustee adopting the model by-law;

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- (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 Minister is to arrange for the adoption of the model by-law to be published in the gazette.

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

- (1) As soon as practicable after the trustee gives the Minister a copy of the model by-law under section 11(5)(a), the Minister 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.

Division 2 Trustee permits and trustee leases

Subdivision 1 Requirements for trustee permits

13 Requirements for trustee permits—Act, s 60

- (1) This section prescribes, for section 60(2) of the Act, the requirements with which a trustee permit must not be inconsistent.
- (2) 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) may not be issued for a part of the trust land that is subject to a trustee lease; and
 - (c) must not allow the construction of structural improvements; and
 - (d) may allow the modification or use of structural improvements existing when the permit is issued; and
 - (e) if there is a management plan for the trust land under section 48 of the Act—must be consistent with the management plan; and
 - (f) must state that it is a condition of the permit that the permittee holds the permit so that the trust land may be used for the community purpose for which it was reserved or granted in trust without undue interruption or obstruction; and
 - (g) must state the permittee’s permitted use of the trust land; and
 - (h) must not give a right—
 - (i) to renew the permit; or
 - (ii) to be given a more secure tenure over the trust land; and
 - (i) must not allow the permittee to transfer, sublet or mortgage the permittee’s right to use the trust land.

Subdivision 2 Statutory bodies exemption

14 Statutory bodies to which rent expenditure limitation does not apply—Act, s 63

For section 63(4)(b) of the Act, a port authority under the *Transport Infrastructure Act 1994* is a prescribed statutory body.

Subdivision 3 Requirements for trustee leases

15 Requirements for relevant leases—Act, s 64

- (1) This section prescribes, for section 64(2) of the Act, the requirements with which a relevant lease must be consistent.
- (2) A relevant lease must state—
 - (a) that the lease is a lease given by the relevant person for the lease; and
 - (b) for the written authority mentioned in section 64(1) of the Act—a number identifying the document; and
 - (c) the date on which the authority mentioned in paragraph (b) took effect; and
 - (d) the name of the relevant person giving the lease; and
 - (e) the lot on plan description of the trust land; and
 - (f) the area of the trust land; and
 - (g) if the lessee is only 1 person—the name of the person; and
 - (h) 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
 - (i) the term of the lease; and

Note—

Under section 61 of the Act, a trustee lease or sublease must not be for more than 30 years.

- (j) when the term of the lease starts; and
- (k) whether the lease relates to all or part of the trust land; and
- (l) if the lease relates to part only of the trust land—
 - (i) the area of the lease land; and

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18 Information to be sent to applicants and displayed

- (1) A list of all applicants and the number (the *application number*) corresponding to each applicant's position in the list must be—
 - (a) sent to each applicant; and
 - (b) publicly displayed at the ballot.
- (2) Also, information about the time and place the ballot is to be conducted must be sent to all applicants.

19 Chief executive must conduct ballot and appoint observer

- (1) The chief executive must conduct the ballot.
- (2) The chief executive must appoint a person as an independent observer.
- (3) The independent observer must not be—
 - (a) an applicant; or
 - (b) a spouse, other relative or close associate of an applicant; or
 - (c) an officer of the department.

20 Chief executive must provide marbles and containers

The chief executive must provide—

- (a) marbles or other similar things (*marbles*); and
- (b) separate containers for units, tens, hundreds, thousands and so on as necessary for the number of applications received.

21 Requirements for marbles and containers

- (1) Each container mentioned in section 20(b) must contain the number of marbles, numbered from 0 to 9, necessary for the number of applications received.

- (2) The marbles numbered 6 or 9 must have the 6 and 9 underlined.
- (3) The marbles and containers must be available for inspection—
 - (a) by any person attending the ballot; and
 - (b) before each draw.

22 Drawing process

- (1) The chief executive must draw 1 marble from each container until the complete application number (the *complete number*) for an applicant is drawn.
- (2) The number on each marble must be—
 - (a) announced as it is drawn; and
 - (b) confirmed by the independent observer.
- (3) The applicant whose application number corresponds to the complete number is the winner of the draw.
- (4) However, if the complete number does not correspond to an application number for an applicant, all marbles must be replaced and another draw conducted.

23 Containers and marbles must be inspected

- (1) Immediately after each draw—
 - (a) both the chief executive and the independent observer must inspect the containers for the draw 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.
- (2) If the containers do not contain the correct number of marbles, the draw is invalid and must be conducted again.

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24 Winner must be notified

Within 7 days after the ballot, the chief executive must—

- (a) notify the winner of the ballot of the result; and
- (b) give a notice to the public of the result of the ballot.

25 Process if more than 1 parcel of land to be made available

- (1) This section applies if more than 1 parcel of land is to be made available by the ballot.
- (2) The marbles must be replaced in the containers and a separate draw conducted for each parcel.
- (3) Unless the notice of sale of the land mentions that an applicant may win more than 1 parcel of the land in a ballot, the name of an applicant who is the winner of a draw must be removed from the list of applicants before another draw is conducted.

Part 4 Matters affecting land holdings

Division 1 Rents—general

26 Definitions for div 1

In this division—

lease means a lease, licence or permit.

lessee means—

- (a) for a lease—the lessee under the lease; or
- (b) for a licence—the licensee under the licence; or
- (c) for a permit—the permittee under the permit.

relevant category lease means a category 11, 12, 13 or 14.2 lease.

27 Categories for rent assessment—Act, s 182

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

- (a) category 11—primary production;
- (b) category 12—residential;
- (c) category 13—business and government core business;
- (d) category 14.1—charities and small sporting or recreational clubs;
- (e) category 14.2—large sporting or recreational clubs;
- (f) category 15.1—communication sites (community service activities);
- (g) category 15.2—communication sites (limited commercial service activities—rural);
- (h) category 15.3—communication sites (limited commercial service activities—urban);
- (i) category 15.4—communication sites (non-community service activities—rural);
- (j) category 15.5—communication sites (non-community service activities—urban);
- (k) category 16—divestment.

28 Category 11 lease

(1) A lease is a category 11 lease if under its conditions it may be used primarily for, or it is being used primarily for, grazing or primary production.

(2) In this section—

primary production includes—

- (a) agriculture, including viticulture and the growing of cane, coffee, tea, tobacco, fruit, vegetables, flowers and other horticultural products; and
- (b) aquaculture, including oyster farming; and

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- (c) farming cattle in feedlots; and
- (d) farming pigs and poultry.

29 Category 12 lease

A lease is a category 12 lease if—

- (a) under its conditions—
 - (i) the lease may be used primarily for, or it is being used primarily for, a single dwelling house; or
 - (ii) the lease may be used solely for, or it is being used solely for, a private purpose; and
- (b) the lease does not meet the requirements for another category.

Examples of a private purpose for paragraph (a)(ii)—

- storing a motor vehicle, boat or equipment, owned or leased by the lessee and for the lessee's private use
- cultivating gardens or lawns for the lessee's private use

30 Category 13 lease

(1) A lease is a category 13 lease if—

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

(2) Also, a lease is a category 13 lease if—

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

Examples of a lessee's core business—

operating hospitals, police stations, schools, 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.

31 Category 14.1 lease

- (1) A lease is a category 14.1 lease 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
 - (b) under its conditions the lease may be used for, or it is being used for, providing—
 - (i) services that are charitable in nature; or
 - (ii) services aimed at improving community welfare or safety; and
 - (c) the lease does not meet the requirements for another category.

Examples of services for paragraph (b)(ii)—

services provided by surf-lifesaving clubs, scouts and guides associations and volunteer emergency service organisations including, for example, marine rescue and coast guard organisations

- (2) Also, a lease is a category 14.1 lease if—

[s 32]

- (a) under its conditions the lease may be used for, or it is being used for, a sporting or recreational purpose; and
 - (b) the lessee is a sporting or recreational organisation—
 - (i) with fewer than 2000 members; and
 - (ii) whose constitution does not permit its profits to be distributed to its members; and
 - (c) the lease does not meet the requirements for another category.
- (3) In addition, a lease is a category 14.1 lease if—
- (a) the lease is held by the State or a local government for a non-commercial community service organisation; and
 - (b) the lease is being used by the organisation for providing community services, on a basis other than a commercial basis, aimed at improving community welfare or safety; and
 - (c) the lease does not meet the requirements for another category.

- (4) In this section—

non-commercial community service organisation means an organisation that provides services to the community free of charge.

Examples of non-commercial community service organisations—

rural fire brigades, the State Emergency Service

32 Category 14.2 lease

A lease is a category 14.2 lease if—

- (a) under its conditions the lease may be used for, or it is being used for, a sporting or recreational purpose; and
- (b) the lessee is—
 - (i) a sporting or recreational organisation with 2000 members or more; and

- (ii) an organisation whose constitution does not permit its profits to be distributed to its members.

33 Category 15.1, 15.2, 15.3, 15.4 or 15.5 lease

- (1) A lease is a category 15.1 lease if 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 a community service activity.
- (2) A lease is a category 15.2 lease if—
 - (a) 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 a limited commercial service activity; and
 - (b) the lease land is in a rural area.
- (3) A lease is a category 15.3 lease if—
 - (a) 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 a limited commercial service activity; and
 - (b) the lease land is in an urban area.
- (4) A lease is a category 15.4 lease if—
 - (a) 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 a non-community service activity; and
 - (b) the lease land is in a rural area.
- (5) A lease is a category 15.5 lease if—
 - (a) 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 a non-community service activity; and
 - (b) the lease land is in an urban area.
- (6) In this section—

[s 33]

community service activity means an activity relating to the provision of emergency or essential community services.

Examples of emergency or essential community services—

ambulance, fire or police services

limited commercial service activity means an activity relating to the provision of commercial or domestic services carried out by—

- (a) a radio broadcaster owned by the State or Commonwealth; or

Example for paragraph (a)—

ABC radio

- (b) a television broadcaster owned by the State or Commonwealth; or

Example for paragraph (b)—

SBS television

- (c) a local service provider.

Example for paragraph (c)—

channel 31

local service provider means an individual, or corporation employing less than 200 employees, that provides commercial or domestic services—

- (a) within the area of only 1 of the local governments within an urban area; or
(b) only to a rural area.

non-community service activity means an activity relating to the provision of commercial or domestic services, other than a limited commercial service activity.

Examples of commercial or domestic services—

mobile phone or cable television services

rural area means a part of the State that is not an urban area.

urban area means a part of the State in the area of a following local government—

- Brisbane City Council
- Gold Coast City Council
- Ipswich City Council
- Logan City Council
- Moreton Bay Regional Council
- Redland City Council
- Sunshine Coast Regional Council.

34 Category 16 lease

Each of the following leases is a category 16 lease—

- (a) a lease over land at a place commonly known as a ‘DIP industrial estate’;
- (b) a lease for which the chief executive has, under section 16 of the Act, assessed that the most appropriate tenure and use for the lease land is freehold.

35 Amount and sub-periods for payment of rent—Act, s 181

For section 181(4) of the Act, the following are prescribed for a relevant category lease—

- (a) the amount is \$2000;
- (b) the sub-periods are quarterly starting on 1 July.

36 Matters for calculating rent (valuations for rental purposes)—Act, s 183

For section 183(1)(b) of the Act, the prescribed valuation for rental purposes of lease land for a rental period is—

- (a) for a relevant category lease—the averaged value of the lease land for the rental period; or
- (b) for another lease—the most recently made valuation for rental purposes of the lease land for the rental period.

[s 37]

37 Matters for calculating rent—Act, s 183

- (1) For section 183(1)(a) of the Act, the following amounts are prescribed—
 - (a) for a category 14.1 or 15.1 lease—\$103;
 - (b) for a category 15.2 lease—\$5180;
 - (c) for a category 15.3 lease—\$7700;
 - (d) for a category 15.4 lease—\$10360;
 - (e) for a category 15.5 lease—\$15540.
- (2) For section 183(1)(b) of the Act, the following rates are prescribed—
 - (a) for a category 11 lease —1.5%;
 - (b) for a category 12 lease—6%;

Note—

See section 65 for the rate prescribed for a category 12 lease for the rental period starting on 1 July 2010.

 - (c) for a category 13 lease—6%;
 - (d) for a category 14.2 lease—
 - (i) 5% for the land on which the clubhouse and associated amenities are situated; and
 - (ii) 1% for the remainder of the land under the lease;
 - (e) for a category 16 lease—7%.

38 Minimum rent—Act, s 183

For section 183(4)(a) of the Act, the prescribed minimum rent for a lease for a rental period is—

- (a) for a category 11, 12, 13 or 16 lease—\$207; or
- (b) for a category 14.2 lease—\$103.

38A Set rent for particular leases—Act, s 183A

- (1) This section prescribes, for section 183A(2) of the Act, the set rents for particular leases.
- (2) The set rent for the lease with title reference 40058945 is \$1 for the term of the lease.
- (3) The set rent, for a rental period for each lease with a title reference stated in schedule 6A, is the lesser of the following—
 - (a) the amount, in whole dollars, worked out by multiplying the averaged value of the lease land for the rental period by 6%;
 - (b) the amount, in whole dollars, that is 10% more than the rent payable for the lease for the immediately preceding rental period.
- (4) Despite subsection (3), if the set rent worked out for a lease under that subsection is less than the prescribed minimum rent, the set rent for the lease is the prescribed minimum rent.
- (5) Subsection (3), (4) and this subsection expire on 30 June 2015.
- (6) In this section—

prescribed minimum rent means the prescribed minimum rent, for the category of the lease, under section 38.

39 Percentage for protection against undue rental increases—Act, s 183AA

- (1) For section 183AA(2) of the Act, the prescribed percentage for a category 11 lease is 20%.
- (2) For section 183AA(2) of the Act, the prescribed percentage for a category 12 lease (other than a category 12 excluded lease) is—
 - (a) 50% for the financial year ending 30 June 2013; and
 - (b) 75% for the financial year ending 30 June 2014; and
 - (c) 100% for the financial year ending 30 June 2015.

[s 40]

- (3) For section 183AA(2) of the Act, the prescribed percentage for a category 13 lease (other than a category 13 excluded lease) is 100%.
- (4) For section 183AA(2) of the Act, the prescribed percentage for a category 16 lease is 100%.
- (5) Subsections (3) and (4) and this subsection expire on 30 June 2014.
- (6) Subsection (2) and this subsection expire on 30 June 2015.
- (7) In this section—

body corporate means a body corporate under the *Body Corporate and Community Management Act 1997*.

category 12 excluded lease means a category 12 lease held by—

- (a) a corporation that is not a charitable organisation, non-commercial community service organisation or body corporate; or
- (b) a government leasing entity (other than a local government).

category 13 excluded lease means a category 13 lease—

- (a) with a title reference stated in schedule 6A; or
- (b) held by a person who carries on a mining business; or
- (c) held by a government leasing entity (other than a local government).

mining business means a business, enterprise or activity that involves the extraction of minerals.

Division 2 Concessional rents

40 Criteria for residential hardship concession—Act, s 187

For section 187(1)(b) of the Act, the prescribed criteria are—

-
- (a) the lease land is the lessee's principal place of residence; and
 - (b) either—
 - (i) the lessee holds, or is entitled to hold, a Commonwealth concession card; or
 - (ii) the annual rent payable under the lease is a significant proportion of the lessee's taxable income.

Division 3 Rent and instalment payments

41 When rent is payable—Act, s 190

For section 190(1) of the Act, the time by which rent must be paid is—

- (a) for a development lease issued under the repealed Act, part 9, division 1—on or before 1 January of the calendar year for which the rent is payable; or
- (b) for a relevant category lease for which a rental period is divided into sub-periods under section 35—
 - (i) for the sub-period starting on 1 July—on or before 1 September of the sub-period for which the rent is payable; or
 - (ii) for the sub-period starting on 1 October—on or before 1 December of the sub-period for which the rent is payable; or
 - (iii) for the sub-period starting on 1 January—on or before 1 March of the sub-period for which the rent is payable; or
 - (iv) for the sub-period starting on 1 April—on or before 1 June of the sub-period for which the rent is payable; or

[s 42]

- (c) for a lease other than a lease mentioned in paragraph (a) or (b)—on or before 1 September of the financial year for which the rent is payable.

42 When instalments are payable—Act, s 190

- (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 subsection (2) lease is on or before 31 March of the calendar year for which the instalment is payable.
- (3) The prescribed time for a subsection (3) lease is on or before the quarter day that is the anniversary of the quarter day on which the lease commenced.
- (4) 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.
- (5) The prescribed time for a subsection (5) lease is on or before 31 December for the calendar year beginning on the following 1 January.
- (6) The prescribed time for a subsection (6) lease is on or before the anniversary of the day on which the lease started.
- (7) An instalment payable by the prescribed time mentioned in subsection (6) is for the year ending on the day immediately before the anniversary on or before which the instalment is payable.
- (8) In this section—
 - subsection (2) lease** means a pre-Wolfe freeholding lease that is one of the following leases—
 - (a) an agricultural farm issued before 31 December 1991 under the repealed Act, part 4, division 1;
 - (b) an auction perpetual lease that is a perpetual country, suburban or town lease issued under the repealed Act, part 7, division 2;

- (c) a grazing homestead freeholding lease issued under the repealed Act, part 4, division 5 because the application for conversion was received before 5 February 1990;
- (d) a perpetual lease selection issued under the repealed Act, part 4, division 2.

subsection (3) lease means a pre-Wolfe freeholding lease that is a perpetual country, suburban or town lease that was taken to be, under the repealed Act, part 7, division 3, 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 a lease issued under the *Industrial Development Act 1963*—before 3 October 1991.

subsection (5) lease means a pre-Wolfe freeholding lease that is a mining titles freeholding lease.

subsection (6) lease means a freeholding lease other than a subsection (2) lease, subsection (3) lease or subsection (5) lease.

43 Places for payment of rent and instalments—Act, s 190

For section 190(1) of the Act, the following places are prescribed—

- (a) an office of the department;
- (b) a place mentioned on the account setting out the rent or instalment payable.

Part 5 Registration and dealings

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

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

[s 45]

(2) In this section—

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

Note—

The *Transport Infrastructure Act 1994*, expired section 232 commenced on 1 July 1994.

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

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

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 registered in more than 1 register in the land registry—2 copies; or
- (b) otherwise—1 copy.

Example for paragraph (a)—

an easement burdening a lease and benefiting freehold land

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

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

- (a) a commissioner for declarations under the *Justices of the Peace and Commissioners for Declarations Act 1991*;
- (b) a conveyancer;
- (c) a justice of the peace under the *Justices of the Peace and Commissioners for Declarations Act 1991*;

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

47 Requirements for subletting without Minister's approval—Act, s 333

For section 333(3) of the Act, all of the following requirements are prescribed for a sublease of a lease—

- (a) the areas of 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 purpose for which the sublease is granted must not be inconsistent with the purpose for which the lease was granted;
- (d) the term of the sublease must be less than the balance of the term of the lease.

Part 6 General

48 Required time for trespass notice—Act, s 406

- (1) For section 406(4) of the Act, the required time for a trespass notice for unlawfully occupying land or having unlawfully done a trespass related act on land is—
 - (a) for a trespass related act that is building, placing or maintaining an improvement, other than a relevant improvement, on the land—28 days; or
 - (b) otherwise—7 days.

[s 49]

(2) In this section—

relevant improvement means—

- (a) an outbuilding or fence; or
- (b) an apparatus for raising, holding or conveying water; or
- (c) a cultivation, garden, orchard or plantation.

Examples of an outbuilding for paragraph (a)—

carport, shed, toilet

49 Different period for filing notice of appeal for particular decisions—Act, s 428

(1) For section 428(4) of the Act, 14 days is the period for a decision under a prescribed provision.

(2) In this section—

prescribed provision means any of the following provisions of the Act—

- section 118(2)
- section 160(3)
- section 168(5)
- section 322(5)
- section 332(6).

Part 7 Continued rights and tenures

Division 1 Freeholding leases

Subdivision 1 Pre-Wolfe freeholding leases

50 Discount applying to pre-Wolfe freeholding lease—Act, s 457

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 stated in schedule 7, column 2 opposite the balance of the term of the lease, expressed in years, stated in column 1.

51 Criteria for residential hardship concession—Act, s 459

For section 459(1)(b) of the Act, the prescribed criteria are—

- (a) the lease land is the lessee's principal place of residence; and
- (b) either—
 - (i) the lessee holds, or is entitled to hold, a Commonwealth concession card; or
 - (ii) the annual instalment payable under the lease is a significant proportion of the lessee's taxable income.

Subdivision 2 Post-Wolfe freeholding leases

52 Rate of interest for instalments—Act, s 462

- (1) For section 462(1)(b) of the Act, the prescribed rate of interest for instalments is—

[s 52]

- (a) for a relevant post-Wolfe freeholding lease—the fixed rate of interest, compounding annually, applying to instalments when the lease was issued; or
 - (b) for any other post-Wolfe freeholding lease—the Suncorp-Metway business banking variable lending base rate accruing daily and compounding annually.
- (2) In this section—
- relevant post-Wolfe freeholding lease*** means a post-Wolfe freeholding lease that is—
- (a) an auction purchase freehold issued under the repealed Act on or before 31 December 1991; or
 - (b) 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 9; 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; or
 - (c) a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 5 February 1990, other than a special lease purchase freehold mentioned in paragraph (b).

Subdivision 3 Grazing homestead freeholding leases

53 Definition for sdiv 3

In this subdivision—

grazing homestead freeholding lease means a grazing homestead freeholding lease, other than a pre-Wolfe freeholding lease, used for grazing or agricultural purposes.

54 Rate of interest for instalments—Act, s 466

For section 466(1)(b) of the Act, the prescribed rate of interest for instalments under a grazing homestead freeholding lease is the Suncorp-Metway business banking variable lending base rate accruing daily and compounding annually.

55 Discount applying to grazing homestead freeholding lease—Act, s 466

For section 466(1)(c) of the Act, the prescribed 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; or
- (b) if paragraph (a) does not apply—the percentage of the purchase price stated in schedule 8, column 2 opposite the balance of the term of the lease, expressed in years, stated in column 1.

Subdivision 4 All freeholding leases

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

For sections 457(1)(e), 462(1)(d) and 466(1)(d) of the Act, the

[s 57]

minimum instalments are—

- (a) for a residential lease—\$284; or
- (b) for another lease—
 - (i) for instalments that pay out the purchase price of the land—\$699; and
 - (ii) for instalments that pay out the purchase price of commercial timber on the land—\$699.

Division 2 Grazing homestead perpetual leases

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

For section 469(2) of the Act, the prescribed discount to which the lessee is entitled if the lessee elects to pay the purchase price by a single payment is the percentage of the purchase price stated in schedule 8, column 2 opposite the balance of the term of the lease, expressed in years, stated in column 1.

Division 3 Continued tenures generally

58 No subdivision of freeholding lease if less than prescribed amount owing—Act, s 489

- (1) For section 489(3)(d) of the Act, the prescribed amount is—
 - (a) if the lessee is receiving a hardship concession for the freeholding lease or the subdivision is for a family member only—the minimum instalment payable under the lease; or
 - (b) if paragraph (a) does not apply—\$6750.

[s 63]

- (3) The fee payable on relodgement of a document under section 306(4) of the Act is half the fee in schedule 11 for lodgement of the document.
- (4) Despite subsection (1), a fee is not payable for the following—
 - (a) the lodgement and registration of—
 - (i) an instrument of transfer of land to, or acquisition or lease of land by, the State; or
 - (ii) a covenant or release of a covenant if the covenantee is the State;
 - (b) the deposit or removal of an administrative advice by the State.

Part 9 Repeal and transitional provisions

Division 1 Repeal provision

63 Repeal

The Land Regulation 1995, SL No. 186 is repealed.

Division 2 Transitional provisions

64 Model by-laws

A model by-law adopted by a trustee under the repealed regulation and in force immediately before the commencement of this section is taken to be a model by-law adopted by the trustee under this regulation.

65 Matters for calculating rent (rates) for category 12 lease for rental period starting on 1 July 2010—Act, s 183

- (1) For section 183(1)(b) of the Act, the rate prescribed for a category 12 lease for the rental period starting on 1 July 2010 is 5%.
- (2) This section applies despite section 37(2)(b).

66 Penalty interest on rent and instalments outstanding immediately before 1 July 2010—Act, s 195

- (1) For section 195(1) of the Act, the rate of interest prescribed for rent or instalments outstanding immediately before 1 July 2010 is 8.5% calculated on yearly rests.
- (2) This section applies despite section 61.

Schedule 1 Model by-law about protection and use of trust land

section 4

Trust Land Protection and Use Model By-law 2009

Part 1 General

1 Short title

This model by-law may be cited as the *Trust Land Protection and Use Model By-law 2009*.

2 Purposes of model by-law

The purposes of this model by-law are—

- (a) to protect the trust land, including buildings on the land;
and
- (b) to regulate the use of the trust land.

3 Application of pt 3

If part 3 applies to the trust land, sections 16 to 20 do not apply to the land.

4 Definitions

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 see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

navigational equipment means a navigational aid, beacon or device.

regulatory notice see section 5(1).

trust land means the trust land for 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 on wheels, whether or not the vehicle is capable of being operated or used in a way that is normal for the vehicle.

5 Trustee may erect or display regulatory notice

- (1) The trustee may, consistently with the community purpose of the land, erect or display in relation to the land or a part of the land a notice (a **regulatory notice**) for regulating or prohibiting—
 - (a) the use of the land or the part of the land by persons; or
 - (b) the driving onto or from the land of vehicles or vehicles included in a class of vehicles stated in the notice; or
 - (c) the use in the land or the part of the land of vehicles or vehicles included in the stated class of vehicle; or
 - (d) the bringing onto the land or the part of the land of all animals, or an animal included in a class of animals stated in the notice.
- (2) A regulatory notice—

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

6 References to person acting for trustee

- (1) In a provision of this model by-law, a reference to a person acting for the trustee is a reference to a person chosen by the trustee to act for the trustee under the provision.
- (2) A person chosen by the trustee to act for the trustee under a provision must be appropriately qualified to act for the trustee under the provision.
- (3) In this section—
appropriately qualified includes having the qualifications, experience or standing appropriate to act for the trustee.

Part 2 Particular activities prohibited

Division 1 General

7 Disturbing peaceful use of trust land

A person must not act in a way or do anything that unreasonably disturbs, or is likely to disturb, another person's peaceful use of the trust land.

Maximum penalty—5 penalty units.

8 Displaying or distributing literature

A person must not, other than under the authority of the trustee, display or distribute a handbill, notice, ticket or any

other kind of literature on the trust land.

Maximum penalty—5 penalty units.

9 Litter

- (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 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.

10 Lighting fires

- (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 for the trustee.

11 Damaging or interfering with land or improvements

- (1) A person must not, other than under the authority of the trustee, damage or interfere with—
 - (a) soil or turf on the trust land; or
 - (b) a plant 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.

12 Entering closed areas

- (1) This section applies if—
 - (a) 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) a regulatory notice clearly indicates—
 - (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 indicates the closed area is permanently closed to the public—at any time; or
 - (b) if the designation indicates the closed area is closed to the public only during particular indicated

periods—during the particular indicated periods.

Maximum penalty—10 penalty units.

Examples—

- 1 The trustee designates a part of the trust land as a closed area permanently to protect an environmentally fragile or sensitive area.
- 2 The trust land is dedicated or granted in trust for navigational purposes and the trustee designates a part of the land as a closed area permanently for 1 or more of the following reasons—
 - to protect navigational equipment on the land from damage
 - to ensure navigational signals sent by or from navigational equipment on the 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 land.
- 3 The trust land is dedicated or granted in trust for drainage and the trustee designates a part of the 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 land.
- 4 The trustee designates a part of the trust land as a closed area for a particular period during which renovations are carried out to the land.

13 Camping

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

Maximum penalty—10 penalty units.

14 Selling things

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.

Maximum penalty—5 penalty units.

Division 2 Vehicles

15 Driving vehicle onto or from land

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

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

Maximum penalty—5 penalty units.

16 Person driving motor vehicle must be licensed

- (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 a public road.

Maximum penalty—5 penalty units.

- (2) However, a person who is not licensed to drive a motor vehicle on a public road 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.

17 Motor vehicle must be registered

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

Maximum penalty—5 penalty units.

18 Driving, moving, operating, parking or using vehicle

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

Maximum penalty—5 penalty units.

- (2) 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.

Maximum penalty—10 penalty units.

19 Driving or operating motorcycle

- (1) A person must not drive or operate a motorcycle on the trust land—

- (a) if the driver or a passenger on the motorcycle is not wearing a safety helmet that—
 - (i) is of a standard required under the *Transport Operations (Road Use Management) Act 1995* to be worn by a person riding a motorcycle 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 motorcycle do not stay in contact with the ground all the time the motorcycle is moving.

Maximum penalty—10 penalty units.

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

20 Parking or standing vehicle

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—

- (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; or
- (c) is not in conformity with ground or surface markings on the land clearly intended for ordering the parking and standing of vehicles.

Maximum penalty—5 penalty units.

Division 3 Animals

21 Protection of animals

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 a bird, fish, reptile or other animal; or
- (b) destroy or interfere with a bird's nest.

Maximum penalty—5 penalty units.

22 Prohibition of animals

A person must not bring an animal onto the trust land if—

- (a) a regulatory notice indicates that animals of that type are not permitted on the land; and
- (b) the notice is 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 land.

Maximum penalty—5 penalty units.

23 Control of animals

- (1) This section applies if—
- (a) a regulatory notice indicates that a person may bring an animal onto, or keep an animal on, the trust land only on particular conditions; and
 - (b) the notice is erected at all places reasonably necessary for informing the public of the conditions, including, for example, the places of entry to and exit from the land.

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

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

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

Maximum penalty—5 penalty units.

24 Dogs

- (1) A person who has a dog in the person's charge on the trust land must, at all times the dog is on the land, restrain the dog by a lead or leash.

Maximum penalty—5 penalty units.

- (2) A person who has a dog in the person's charge on the trust land must not allow the dog to behave in a way that causes unreasonable noise, annoys another person or puts another person in danger.

Maximum penalty—5 penalty units.

- (3) A person who has a dog, other than a prescribed dog, in the person's charge on the trust land must not allow the dog to stay on the 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.

(4) A person does not commit an offence under subsection (1) or (3) if, in acting in a way that would contravene the subsection, the person is acting under the authority of the trustee.

(5) In this section—

prescribed dog means an assistance dog, guide dog, hearing dog, or trainee support dog, as defined under the *Guide, Hearing and Assistance Dogs Act 2009*, schedule 4.

Part 3 Navigational purposes

25 Application of pt 3

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

26 No driving, parking or standing motor vehicle in closed area

(1) This section applies if—

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

Example—

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

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

- (a) if the designation indicates the closed area is permanently closed to motor vehicles—at any time; or
- (b) if the designation indicates the closed area is closed to motor vehicles only during particular periods—during the particular periods.

Maximum penalty—10 penalty units.

27 Damaging or interfering with navigational equipment

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

Maximum penalty—10 penalty units.

Part 4 Drainage purposes

28 Damage to or interference with land or works

- (1) This section applies to the trust land if it is dedicated or granted in trust for drainage.
- (2) 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 2 Model by-law about cemeteries, crematoriums and mortuaries

section 4

Trust Land Cemeteries, Crematoriums and Mortuaries Model By-law 2009

Part 1 General

1 Short title

This model by-law may be cited as the *Trust Land Cemeteries, Crematoriums and Mortuaries Model By-law 2009*.

2 Purposes of model by-law

The purposes of this model by-law are—

- (a) to protect the trust land, including buildings on the land;
and
- (b) to regulate the use of the trust land as a cemetery,
crematorium or mortuary.

3 Definitions

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
- (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, or scatter the cremated remains, in the grounds of the trust land.

formed road means an existing road or track on private or public land used, or that may be reasonably capable of being used, to drive or ride motor vehicles.

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

motor vehicle see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

regulatory notice see section 4(1).

State Archivist means the State Archivist under the *Public Records Act 2002*, section 21(1).

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 or mortuary purposes.

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

4 Trustee may erect or display regulatory notices

- (1) The trustee may, consistent with the community purpose of the trust land, erect or display in relation to the land or a part of the land a notice (a **regulatory notice**) for regulating or prohibiting—
 - (a) the use of the land or the part of the land by persons; or

- (b) the use in the land or the part of the land of vehicles or vehicles included in a class of vehicles stated in the notice; or
 - (c) the bringing onto the land or the part of the land of all animals or animals included in a class of animals stated in the notice.
- (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 land to which the notice relates; and
 - (b) must indicate a particular requirement to be complied with by persons entering, or on, the trust land or the part of the land.

5 References to person acting for trustee

- (1) In a provision of this model by-law, a reference to a person acting for the trustee is a reference to a person chosen by the trustee to act for the trustee under the provision.
- (2) A person chosen by the trustee to act for the trustee under a provision must be appropriately qualified to act for the trustee under the provision.
- (3) In this section—
appropriately qualified includes having the qualifications, experience or standing appropriate to act for the trustee.

Part 2 Grounds of the trust land

Division 1 Application

6 Application of pt 2

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

Division 2 Particular activities prohibited

Subdivision 1 Activities relating to human remains

7 No disposal of human remains without trustee's approval

- (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 required for the lawful disposal of human remains.
- (3) An applicant seeking the trustee's approval must apply to the trustee at least 24 hours before the proposed date for the disposal.

8 Disturbing human remains buried in grave

- (1) After a body has been disposed of by burial in a coffin in a grave (the *first burial*), 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 since the first burial.

- (2) Despite subsection (1)(b), the trustee, or a person acting for 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 first burial; or
 - (b) if paragraph (a) does not apply—the trustee, or a person acting for the trustee, reasonably considers that the re-opening of the grave is not likely to create a danger to public health.

Note—

This model by-law does not provide for the trustee to authorise the exhumation of human remains. Authority required for the exhumation of human remains may be available under section 83 (Exhumations) of the Act and the *Coroners Act 2003*, section 20 (Exhuming body or recovering cremated remains).

Subdivision 2 Graves, funerals and memorials

9 Interference with graves and other things

A person must not, other than under the authority of the trustee, interfere with—

- (a) a grave, memorial, niche or vault on the trust land; or
- (b) flowers or tokens on a grave, memorial, niche or vault on the trust land.

Maximum penalty—10 penalty units.

10 Interference with funeral or commemorative services

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

Maximum penalty—10 penalty units.

11 Approval needed for memorials

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 for the trustee.

Maximum penalty—10 penalty units.

12 Placement of flowers and tokens on graves and other things

- (1) This section applies if—
 - (a) a regulatory notice indicates flowers or tokens may be placed on a grave, memorial, niche or vault in the grounds of the trust land only in compliance with the requirements stated in the notice; and
 - (b) the notice is erected at all places reasonably necessary for informing the public of the requirements, including, for example, the places of entry to and exit from the trust land.
- (2) A person must not, other than under the authority of the trustee, place flowers or tokens on a grave, memorial, niche or vault on the trust land in a way that contravenes the requirements mentioned in subsection (1)(a).

Maximum penalty—5 penalty units.

Subdivision 3 Animals

13 Animals

- (1) A person must not, other than under the authority of the trustee, bring an animal onto the trust land.

Maximum penalty—5 penalty units.

- (2) A person does not commit an offence under subsection (1) if the animal brought onto 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 road on the trust land.

Maximum penalty—5 penalty units.

- (4) In this section—
animal does not include a dog.

14 Dogs

- (1) A person who has a dog in the person's charge on the trust land must, at all times the dog is on the land, restrain the dog by a lead or leash.

Maximum penalty—5 penalty units.

- (2) A person who has a dog in the person's charge on the trust land must not allow the dog to behave in a way that causes unreasonable noise, annoys another person or puts another person in danger.

Maximum penalty—5 penalty units.

- (3) A person does not commit an offence under subsection (1) if, in acting in a way that would otherwise contravene the subsection, the person is acting under the authority of the trustee.

Subdivision 4 General

15 Disturbing peaceful use of trust land

A person must not, other than under the authority of the trustee, act in a way or do anything that unreasonably disturbs, or is likely to disturb, another person's peaceful use of the trust land.

Maximum penalty—10 penalty units.

16 Displaying or distributing literature

A person must not, other than under the authority of the trustee, display or distribute a handbill, notice, ticket or any other kind of literature on the trust land.

Maximum penalty—10 penalty units.

17 Vehicles to be used on formed road only

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 road.

Maximum penalty—5 penalty units.

18 Damaging or interfering with land or improvements

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

- (a) soil or turf on the trust land; or
- (b) a plant 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.

19 Selling things

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.

20 Firearms

(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.

21 Entering or remaining on grounds of the trust land when not open to public

(1) This section applies if—

- (a) a regulatory notice indicates when the grounds of the trust land are open to the public (the *opening hours*); and
 - (b) the notice is erected at all places reasonably necessary for informing the public of the opening hours, including, for example, at the places of entry to and exit from the land.
- (2) A person must not, other than under the authority of the trustee, 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.

Division 3 Trustee to decide standards and keep records

Subdivision 1 Standards

22 Graves

- (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.

23 Receptacle for cremated human remains to be placed in a niche

The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for a receptacle for cremated human remains 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.

24 Receptacle for human remains to be placed in vault

The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for a receptacle for human remains, other than cremated human remains, to be placed in a 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.

25 Minimum specifications for construction of vault

The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for the minimum specifications for the design and construction of a 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.

26 Inscription on headstone, memorial or niche

The trustee must decide the following matters for an inscription on a headstone, memorial or niche in the grounds of the trust land—

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

27 Trustee must ensure matters decided are complied with

The trustee must take all reasonable steps to ensure the matters decided by the trustee under section 22, 23, 24, 25 or 26 about a grave, receptacle or vault, or inscription on a headstone, memorial or niche, in the grounds of the trust land are complied with.

Subdivision 2 Records

28 Records trustee must keep

- (1) The trustee, or a person acting for 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, 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 a person's remains have been buried in the grounds of the trust land—the location of the grave; and
 - (d) if a person's remains have been 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 person's remains have been placed in the grounds of the trust land; and
- (e) any dealing with the person's remains after they have been buried or placed in the grounds of the trust land.
- (2) The trustee, or a person acting for the trustee, does not need to keep a record of a matter under subsection (1) if it is included in the register kept under section 79 of the Act.
 - (3) The trustee must make a record kept under subsection (1) available for public inspection at all reasonable times.
 - (4) If the trust is wound up, the record must be sent to the State Archivist.

Part 3 Mortuary

29 Application of pt 3

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

30 Mortuary records

- (1) The trustee, or a person acting for 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 is delivered to the mortuary;
 - (b) the name of the person from whom the body is received;
 - (c) the name, age and sex of the person whose body is delivered;
 - (d) the date and place of death of the person whose body is delivered, if known;
 - (e) any post-mortem examination, or other medical procedure, carried out in the mortuary;

- (f) the date on which the body is taken from the mortuary;
 - (g) the name of the person taking the body from the mortuary.
- (3) If the trust is wound up, the record must be sent to the State Archivist.

31 Authority needed to enter mortuary

A person must not enter, or remain in, a mortuary other than under the authority of the trustee or a person acting for the trustee.

Maximum penalty—10 penalty units.

Schedule 3 Model by-law about consumption of liquor

section 4

Trust Land Consumption of Liquor Model By-law 2009

Part 1 General

1 Short title

This model by-law may be cited as the *Trust Land Consumption of Liquor Model By-law 2009*.

2 Purpose of model by-law

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

3 Definitions

In this model by-law—

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.

liquor see the *Liquor Act 1992*, section 4B.

trust land means the trust land in relation to which the trustee of the land 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.

4 References to person acting for the trustee

- (1) In a provision of this model by-law, a reference to a person acting for the trustee is a reference to a person chosen by the trustee to act for the trustee under the provision.
- (2) A person chosen by the trustee to act for the trustee under a provision must be appropriately qualified to act for the trustee under the provision.
- (3) In this section—
appropriately qualified includes having the qualifications, experience or standing appropriate to act for the trustee.

Part 2 Consumption of liquor

5 Consumption of liquor other than in particular places prohibited

- (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 for the revocation or amendment of the place's designation.

Part 3

Designated places for the consumption of liquor

6 Trustee may designate trust land for liquor consumption

- (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.

7 Trustee must advertise designation and place signs

- (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 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 land as a designated place; and
 - (b) stating when the trust land or part of the land is a designated place.
- (4) The trustee does not need to comply with subsections (1) and (2) if the designation is in force for 1 day or less.
- (5) The trustee does not need 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.

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

- (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—
 - (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 when the designation is in force—that signs identifying the designated place state the changed period or times.

Part 4 **Approved places for consumption of liquor**

9 **Application for approved place**

- (1) A person may apply to the trustee to approve the trust land, or part of the land, as a place where liquor may be consumed.
- (2) The application must include—
 - (a) the name and address of the applicant; and
 - (b) whether approval is sought in relation to all or part of the trust land; and
 - (c) details of the activity of which the consumption of liquor forms part; and
 - (d) the day on which, and times during which, the activity is to be conducted; and
 - (e) the number of persons likely to take part in the activity; and
 - (f) any other information the trustee may reasonably ask for.

10 **Approved places**

- (1) The trustee may approve an application made under section 9.
- (2) The approval must not be in force for more than 24 hours.
- (3) The approval may be given on reasonable conditions.
- (4) The approval must be in writing and state—
 - (a) the name of the person (the *approval holder*) who applied for the approval; and
 - (b) when the approval has effect; and
 - (c) if the approval relates to part only of the trust land—the part of the land to which it relates.

- (5) The approval holder must ensure the approval is made available for inspection, at the approved place, if asked for by the trustee or a person acting for the trustee.

11 Directions about complying with approval conditions

A person must not disobey a reasonable direction given by the trustee, or a person acting for the trustee, about complying with a condition imposed under section 10(3).

Maximum penalty—5 penalty units.

Schedule 4 Model by-law about business and management of trust land

section 4

Trust Land Business and Management Model By-law 2009

Part 1 Preliminary

1 Short title

This model by-law may be cited as the *Trust Land Business and Management Model By-law 2009*.

2 Purpose of model by-law

The purposes of this model by-law are—

- (a) to regulate the business and management of the trust;
and
- (b) to provide for the way in which officers of the trust are
appointed; and
- (c) to state the duties of the officers.

3 Definitions

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.

4 Limitation on adopting model by-law

This model by-law may be adopted only if there are 3 or more trust members.

Part 2 Appointment and duties of officers

5 Appointment of chairperson, secretary and treasurer of trust

- (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.

6 Duration of appointment of chairperson, secretary and treasurer

- (1) An officer holds office until the officer—

- (a) resigns from office; or
 - (b) is removed from office; or
 - (c) ceases to be a trust member.
- (2) For subsection (1)(b), an officer may be removed from office by the trust members present at a meeting of the trust members called for the purpose.

7 Duties of secretary

The secretary must—

- (a) keep the books and documents relating to the business and management of the trust other than the books and documents mentioned in section 8(a); 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.

8 Duties of treasurer

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 and documents mentioned in paragraph (a) at the intervals, of no more than 12 months, required by the trust members; 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
- (e) perform other duties directed by the trust members to be performed by the treasurer.

Part 3 **Conduct of meetings**

9 **Times and places**

- (1) The trust members may hold meetings of the trust members when and where they decide.
- (2) However, the trust members must meet at least once every 3 months.

10 **Chairperson to preside**

- (1) The chairperson presides at all meetings of the trust members at which the chairperson is present.
- (2) If the chairperson is absent from a meeting of the trust members, a trust member chosen by the other members present at the meeting presides.

11 **Quorum**

- (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 for a meeting of the trust members, a trust member who is present at the meeting—
 - (a) if the trust member has the proxy of 1 or more trust members absent from the meeting—is counted as 2; or
 - (b) otherwise—is counted as 1.
 - (3) However, a meeting is not validly held unless at least 1 officer is present at the meeting.

12 **Voting**

- (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 there is a quorum at the meeting, a decision supported by a majority of the votes of the trust members present and voting is a decision of the trustee.

13 Special meetings

- (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 5 Model by-law about financial management of trust land

section 4

Trust Land Financial Management Model By-law 2009

Part 1 General

1 Short title

This model by-law may be cited as the *Trust Land Financial Management Model By-law 2009*.

2 Purpose of model by-law

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

3 Definitions

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
- (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

4 Financial management by 1 trust member

- (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 by the trust member.
- (3) The trust member must ensure that all moneys received for the trust are paid into the trust land account as soon as practicable after the moneys are 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.

5 Financial management by 2 or more trust members

- (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 by the trust members.
- (3) The trust members must ensure that all amounts received for the trust are paid into the trust land 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 the accounts 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.

6 Public liability insurance

The trustee must maintain, or take out and maintain, a public liability insurance policy applying to the trust land and complying with all of 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 the trustee considers appropriate in the circumstances of the likely use of the trust land.

Schedule 6 Averaged value

schedule 12, definition *averaged value*

1 Definitions for sch 6

In this schedule—

averaging factor 1, for a lease of a particular category, means the factor, expressed as a percentage, worked out using the formula—

$$\frac{T_1 \times 100}{T_R}$$

where—

T₁ means the total of the values, for rental period 1, of all land in the State subject to a lease of the particular category.

T_R means the total of the values, for the relevant period, of all land in the State subject to a lease of the particular category.

Example—

If the total of the values, for the rental period starting on 1 July 2009, of all land in the State subject to a category 11 lease is \$10m and the total of the values, for the rental period starting on 1 July 2008, of all land in the State subject to the category is \$8m, averaging factor 1 for a category 11 lease is 80%.

averaging factor 2, for a lease of a particular category, means the factor, expressed as a percentage, worked out using the formula—

$$\frac{T_2 \times 100}{T_1}$$

where—

T₂ means the total of the values, for rental period 2, of all land in the State subject to a lease of the particular category.

T_1 means the total of the values, for rental period 1, of all land in the State subject to a lease of the particular category.

averaging factor 3, for a lease of a particular category, means the factor, expressed as a percentage, worked out using the formula—

$$\frac{T_3 \times 100}{T_2}$$

where—

T_3 means the total of the values, for rental period 3, of all land in the State subject to a lease of the particular category.

T_2 means the total of the values, for rental period 2, of all land in the State subject to a lease of the particular category.

averaging factor 4, for a lease of a particular category, means the factor, expressed as a percentage, worked out using the formula—

$$\frac{T_4 \times 100}{T_3}$$

where—

T_4 means the total of the values, for rental period 4, of all land in the State subject to a lease of the particular category.

T_3 means the total of the values, for rental period 3, of all land in the State subject to a lease of the particular category.

relevant period, for a lease, means the rental period for the lease for which the valuation for rental purposes is being worked out.

rental period 1, for a lease, means the rental period immediately before the relevant period.

rental period 2, for a lease, means the rental period immediately before rental period 1.

rental period 3, for a lease, means the rental period immediately before rental period 2.

rental period 4, for a lease, means the rental period immediately before rental period 3.

2 Category 11 lease land

For schedule 12, definition *averaged value*, of land subject to a category 11 lease for the relevant period, the averaged value of the land is worked out using the formula—

$$\frac{V_R + V_1 + V_2 + V_3 + V_4}{5}$$

where—

V_R means the value of the land for the relevant period.

V_1 means—

- (a) if the land has a value for rental period 1—that value; or
- (b) if the land does not have a value for rental period 1—the value of the land for the relevant period multiplied by averaging factor 1 for the lease (*calculated value 1*).

V_2 means—

- (a) if the land has a value for rental period 2—that value; or
- (b) if the land does not have a value for rental period 2 and has a value for rental period 1—the value of the land for rental period 1 multiplied by averaging factor 2 for the lease (*calculated value 2*); or
- (c) if the land does not have a value for rental period 1 or rental period 2—calculated value 1 multiplied by averaging factor 2 for the lease.

V_3 means—

- (a) if the land has a value for rental period 3—that value; or
- (b) if the land does not have a value for rental period 3 and has a value for rental period 2—the value of the land for

rental period 2 multiplied by averaging factor 3 for the lease (*calculated value 3*); or

- (c) if the land does not have a value for rental period 2 or rental period 3—calculated value 2 multiplied by averaging factor 3 for the lease.

V_4 means—

- (a) if the land has a value for rental period 4—that value; or
- (b) if the land does not have a value for rental period 4 and has a value for rental period 3—the value of the land for rental period 3 multiplied by averaging factor 4 for the lease; or
- (c) if the land does not have a value for rental period 3 or rental period 4—calculated value 3 multiplied by averaging factor 4 for the lease.

3 Category 12, 13 or 14.2 lease land

For schedule 12, definition *averaged value*, of land subject to a category 12, 13 or 14.2 lease for the relevant period, the averaged value of the land is worked out using the formula—

$$\frac{V_R + V_1 + V_2}{3}$$

where—

V_R means the value of the land for the relevant period.

V_1 means—

- (a) if the land has a value for rental period 1—that value; or
- (b) if the land does not have a value for rental period 1—the value of the land for the relevant period multiplied by averaging factor 1 for the lease (*calculated value 1*).

V_2 means—

- (a) if the land has a value for rental period 2—that value; or

- (b) if the land does not have a value for rental period 2 and has a value for rental period 1—the value of the land for rental period 1 multiplied by averaging factor 2 for the lease; or
- (c) if the land does not have a value for rental period 1 or rental period 2—calculated value 1 multiplied by averaging factor 2 for the lease.

Schedule 6A Lease title references

section 38A(3)

17548229	17660133	40000372	40034849
17548230	17660148	40003731	40034897
17549124	17660163	40003807	40035475
17549137	17660178	40004324	40038875
17551125	17660179	40006539	40039117
17551126	17660183	40007875	40040294
17552049	17660225	40008122	40042603
17553111	17660240	40008131	40043132
17555171	17660243	40009646	40045184
17555176	17709118	40009647	40045952
17563246	17713246	40010954	40047582
17564050	17715244	40010976	40052347
17568060	17723013	40013449	40052922
17569233	17723035	40013449	40052931
17572023	17726168	40015579	40052948
17573010	17726194	40016904	40053355
17579167	17730063	40017055	40053808
17586133	17730198	40020132	40056027
17596108	17739248	40020815	40056028

17596114	17740184	40021597	40056029
17658223	17740207	40022760	40056030
17659025	17744148	40022913	40057789
17659142	17746126	40025043	40058362
17659182	17746198	40029838	40058568
17659188	17747006	40029929	40058570
17659202	17768160	40030347	40059018
17660012	17769197	40031701	40060355
17660077	17770095	40032780	40061000
17660125	17778110	40033061	40062352

Schedule 7 Discount applying to pre-Wolfe freeholding lease

section 50

Column 1	Column 2	Column 1	Column 2
Balance of term (years)	Percentage	Balance of term (years)	Percentage
1	4.76	21	38.95
2	7.03	22	40.17
3	9.23	23	41.35
4	11.35	24	42.51
5	13.41	25	43.62
6	15.41	26	44.71
7	17.34	27	45.77
8	19.21	28	46.79
9	21.02	29	47.79
10	22.78	30	48.76
11	24.49	31	49.70
12	26.14	32	50.62
13	27.74	33	51.51
14	29.30	34	52.37
15	30.80	35	53.22
16	32.26	36	54.04
17	33.68	37	54.83
18	35.06	38	55.61
19	36.39	39	56.37
20	37.69	40	57.10

Column 1	Column 2	Column 1	Column 2
Balance of term (years)	Percentage	Balance of term (years)	Percentage
41	57.82	51	64.04
42	58.52	52	64.58
43	59.20	53	65.11
44	59.86	54	65.62
45	60.50	55	66.12
46	61.13	56	66.61
47	61.74	57	67.09
48	62.34	58	67.55
49	62.92	59	68.01
50	63.49	60	68.45

Schedule 8 Discount applying to grazing homestead freeholding or perpetual lease

sections 55 and 57

Column 1 Balance of term (years)	Column 2 Percentage	Column 1 Balance of term (years)	Column 2 Percentage
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 9 Amount prescribed

section 59

Column 1	Column 2
Act provision	Amount prescribed
section 47(3)	\$5000
section 184(7)	\$100
section 191(1)	\$100
section 499(2)(e)	\$110

Schedule 10 Interest rate prescribed

section 60

Column 1	Column 2
Act provision	Annual interest rate prescribed
section 184(4) and (5)	2% compounding monthly
section 192(4)	2% compounding monthly
section 500(1)	2% compounding monthly
section 503I(2)	2% compounding monthly

Schedule 11 Fees

section 62

	\$
1 Application—	
(a) for an exchange of land (Act, s 18)	220.60
(b) for an allocation of a floating reservation (Act, s 23A)	220.60
(c) to buy—	
(i) land in a reservation (Act, s 24(3))	220.60
(ii) unallocated State land (Act, ss 120A(1) and 122)	220.60
(d) for the dedication of land as a road for public use (Act, s 94(2))	220.60
(e) for a road closure—	
(i) if the closure is the permanent closure of a road (Act, s 99(1))	220.60
(ii) if the closure is the temporary closure of a road, including issuing a road licence over the road (Act, s 99(2))	220.60
(f) for a road licence over a temporarily closed road other than the road licence mentioned in paragraph (e)(ii) (Act, s 103)	220.60
(g) for the simultaneous opening and closing of roads (Act, s 109A(1) or 109B(1))	220.60
(h) for a lease of unallocated State land (Act, s 120A(1)).	220.60
(i) for a change to a lease—	
(i) if the change is for the lease to be used for additional or fewer purposes (Act, s 154(1))	110.30
(ii) if the change is a change of an imposed condition of a lease, licence or permit (Act, s 210)	110.30
(j) for extending particular term leases (Act, s 155A(2) or 155B(2))	220.60
(k) for an offer of a new lease (Act, s 158(1)).	220.60
(l) to convert a lease (Act, s 166(1)).	220.60

	\$
(m) for the Governor in Council's approval of a transfer (Act, s 174(3))	110.30
(n) for the removal of a covenant from land (Act, s 174(4))	110.30
(o) for approval to subdivide a lease (Act, s 176(1))	220.60
(p) for approval to amalgamate leases (Act, s 176K(1))	220.60
(q) for a permit to occupy (Act, s 177A)	220.60
(r) for—	
(i) approval to surrender a road licence (Act, s 105(3))	110.30
(ii) surrender of a permit (Act, s 180A(2))	110.30
(iii) surrender of freehold land (Act, s 327B(1))	110.30
(iv) absolute surrender of all or part of a lease (Act, s 327B(2))	110.30
(v) approval to surrender land contained in a registered owner's deed of grant or trustee's deed of grant in trust—change in boundaries of land (Act, s 358(2))	220.60
(vi) absolute surrender of all or part of an occupation licence (Act, s 481B)	110.30
(s) for approval to transfer a lease, licence or sublease (Act, s 322(1B))	110.30
(t) for approval to sublease a lease (Act, s 332(1) and (2))	110.30
(u) to amend a description in a lease (Act, s 360C)	110.30
(v) for approval of an easement to be created over land granted in trust or non-freehold land (Act, s 362(1))	220.60
(w) for approval of a public utility easement to continue over unallocated State land (Act, s 372(2))	110.30
(x) for approval to make a lease the subject of a profit a prendre (Act, s 373G)	220.60
(y) for a review of a decision mentioned in schedule 2 of the Act (Act, s 423)	110.30
2 Lodging—	
(a) a document changing the lessee of a lease, the licensee of a licence or the holder of an interest in a lease or licence—	

	\$
(i) for 1 lease or licence	132.50
(ii) for each additional lease or licence	27.90
(b) a surrender of a lease, trustee lease, road licence, occupation licence or permit to occupy	nil
(c) a standard terms document under section 318 of the Act	nil
(d) a plan of survey—	
(i) for the plan only	275.50
(ii) additional fee for each lot or interest surveyed . .	21.00
(e) another document	132.50
(f) a document received through the post, courier or document exchange service—additional fee	27.90
3 Examination of a sketch plan that is part of a document . .	35.45
4 Requisition of a document lodged for registration	35.45
5 Issuing—	
(a) a deed of grant, other than a deed of grant issued because of an exchange of a native title interest in land under section 18A of the Act, granted to the State or issued under section 358 of the Act	57.15
(b) a lease, other than a lease issued under the Act to the State or because of a surrender of a native title interest in land under section 18A of the Act, or licence	57.15
(c) a permit to occupy, other than a permit for a term of less than 3 months issued to a non-profit community organisation	57.15
6 Computer printout of—	
(a) the current details of a lease, licence, permit to occupy or reserve generated—	
(i) within an office of the land registry	13.95
(ii) by external access	11.20
(b) the historical details of a lease or licence generated—	
(i) within an office of the land registry	21.15
(ii) by external access	18.35
7 Image of—	
(a) a lease, licence or permit to occupy generated—	
(i) within an office of the land registry	13.95

Schedule 11

	\$
(ii) by external access	11.20
(b) another document	28.45
8 Search of a statement of registered dealing or administrative advice against a lease or licence	2.70
9 Investigative search of the register (not including providing copies of documents) by an employee of the department if the search requires—	
(a) no additional computer programming time—for each hour or part of an hour.	57.15
(b) additional computer programming time—for each hour or part of an hour.	141.10
10 Order in council, under section 216 of the Act, resuming a lease or part of a lease or taking an easement over a lease—	
(a) for 1 lease or part of the lease or easement	151.60
(b) for each additional lease or part of the lease or easement	73.80
11 Preparing and serving a notice resuming a lease or part of a lease under section 224 of the Act.	73.80
12 Instrument amending an instrument resuming a lease or an easement over a lease.	73.80
13 Certifying a copy of a document mentioned in section 284(1)(b) of the Act.	28.45
14 Lodging a request for the registration of the cancellation, discharge or satisfaction of a writ of execution (Act, s 388 or 389)	27.90
15 Depositing or removing an administrative advice.	13.50
16 Preparing and serving a notice of a caveat	28.45

Schedule 12 Dictionary

section 3

averaged value, of land subject to a relevant category lease for a rental period, means the averaged value of the land for the period worked out under schedule 6.

averaging factor 1, for schedule 6, see schedule 6, section 1.

averaging factor 2, for schedule 6, see schedule 6, section 1.

averaging factor 3, for schedule 6, see schedule 6, section 1.

averaging factor 4, for schedule 6, see schedule 6, section 1.

Commonwealth concession card means—

- (a) a safety net concession card issued under the *National Health Act 1953* (Cwlth), part VII, division 1A; or
- (b) any of the following cards issued by the Commonwealth department in which the *Social Security Act 1991* (Cwlth) or the *Veterans' Entitlements Act 1986* (Cwlth) is administered—
 - (i) a repatriation health card for specific conditions;
 - (ii) a repatriation health card for all conditions;
 - (iii) a repatriation pharmaceutical benefits card;
 - (iv) a health care card;
 - (v) a pensioner concession card;
 - (vi) a Commonwealth seniors health card.

consultation period see section 7(1).

expressed in years means rounded down to the nearest whole year.

government leasing entity see section 30(3).

grazing homestead freeholding lease, for part 7, division 1, subdivision 3, see section 53.

lease, for part 4, division 1, see section 26.

lessee, for part 4, division 1, see section 26.

model by-laws see section 4.

non-commercial community service organisation see section 31(4).

relevant category lease see section 26.

relevant period, for schedule 6, see schedule 6, section 1.

rental period 1, for schedule 6, see schedule 6, section 1.

rental period 2, for schedule 6, see schedule 6, section 1.

rental period 3, for schedule 6, see schedule 6, section 1.

rental period 4, for schedule 6, see schedule 6, section 1.

repealed regulation means the repealed *Land Regulation 1995*.

Suncorp-Metway Bank means Suncorp-Metway Limited ACN 010 831 722.

Suncorp-Metway business banking variable lending base rate means the variable base interest rate set by the Suncorp-Metway Bank for loans to business entities.

Editor's note—

On 1 September 2009, the Suncorp-Metway Bank business banking variable lending base rate interest rate was 8.8% a year.

taxable income means taxable income under the *Income Tax Assessment Act 1997* (Cwlth).

trust land, for part 2, division 1, subdivision 2, means the land for which—

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

value, of land subject to a relevant category lease, means the value of the land under the Land Valuation Act, section 7.

Editor's note—

For 'value' see the *Land Valuation Act 2010*, chapter 2 and chapter 10, part 3.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated	101
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7 Information about retrospectivity	106

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 29 June 2012. Future amendments of the Land Regulation 2009 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	2010 SL No. 137	1 July 2010	Revision notice issued for R1
1 rv	2010 SL No. 285	1 July 2010	Electronic version only incl. revision notice issued for R1
1A rv	2010 SL No. 162	1 August 2010	
1B rv	2010 Act No. 39	20 September 2010	
1C	2010 SL No. 137	30 October 2010	
1D	2011 SL No. 131	1 July 2011	prov exp 30 June 2011
1E	2011 SL No. 135	1 August 2011	
1F	2012 SL No. 45	17 February 2012	
1G	2012 SL No. 87	29 June 2012	

5 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Land Regulation 2009 SL No. 282

made by the Governor in Council on 3 December 2009

notfd gaz 4 December 2009 pp 1106–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

exp 1 September 2020 (see SIA s 54)

Notes—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A regulatory impact statement and explanatory note were prepared.

amending legislation—

Land Legislation Amendment Regulation (No. 1) 2010 SL No. 137 ss 1–2(1), pt 2

notfd gaz 25 June 2010 pp 823–30

ss 1–2 commenced on date of notification

s 4 commenced 30 October 2010 (see s 2(1) and 2010 SL No. 293)

remaining provisions commenced on date of notification

Environment and Resource Management Legislation Amendment Regulation (No. 2) 2010 SL No. 162 pts 1, 8

notfd gaz 2 July 2010 pp 1033–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 August 2010 (see s 2)

Land Valuation Act 2010 No. 39 ss 1, 325 sch 1 pt 2

date of assent 20 September 2010

commenced on date of assent

Land Amendment Regulation (No. 1) 2010 SL No. 285

notfd gaz 8 October 2010 pp 378–9

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

Land and Other Legislation Amendment Regulation (No. 1) 2011 SL No. 131 pts 1–2

notfd gaz 1 July 2011 pp 589–96

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)

**Environment and Resource Management Legislation Amendment Regulation (No. 1)
2011 SL No. 135 pts 1, 8**

notfd gaz 8 July 2011 pp 632–5
ss 1–2 commenced on date of notification
remaining provisions commenced 1 August 2011 (see s 2)

Land Amendment Regulation (No. 1) 2012 SL No. 45

notfd gaz 17 February 2012 pp 340–3
commenced on date of notification

Land Amendment Regulation (No. 2) 2012 SL No. 87

notfd gaz 29 June 2012 pp 704–710
commenced on date of notification

6 List of annotations

Winner must be notified

s 24 amd 2010 SL No. 137 s 4

Categories for rent assessment—Act, s 182

s 27 amd 2011 SL No. 131 s 4

Category 15.1, 15.2 or 15.3 lease

prov hdg amd 2011 SL No. 131 s 5(1)
s 33 amd 2011 SL No. 131 s 5(2)–(5)

Matters for calculating rent (valuations for rental purposes)—Act, s 183

s 36 amd 2010 SL No. 137 s 5; 2010 Act No. 39 s 325 sch 1 pt 2

Matters for calculating rent—Act, s 183

s 37 sub 2010 SL No. 137 s 6
amd 2011 SL No. 131 s 6

Minimum rent—Act, s 183

s 38 amd 2010 SL No. 137 s 7; 2010 SL No. 285 s 4 (retro); 2011 SL No. 131 s 7

Set rent for particular leases—Act, s 183A

s 38A ins 2010 SL No. 137 s 8
amd 2010 Act No. 39 s 325 sch 1 pt 2; 2010 SL No. 285 s 5 (retro); 2011 SL
No. 131 s 8; 2012 SL No. 45 s 3
(3)–(5) exp 30 June 2015 (see s 38A(5))

Percentage for protection against undue rental increases—Act, s 183AA

s 39 amd 2010 SL No. 285 s 6 (retro)
amd 2011 SL No. 131 s 9; 2012 SL No. 87 s 3
(3)–(5) exp 30 June 2014 (see s 39(5))
(2) and (6) exp 30 June 2015 (see s 39(6))

Minimum instalments—Act, ss 457, 462 and 466

s 56 amd 2011 SL No. 131 s 10

Fees

s 62 amd 2011 SL No. 131 s 11

Matters for calculating rent (rates) for category 12 lease for rental period starting on 1 July 2010—Act, s 183

s 65 amd 2010 SL No. 137 s 9

SCHEDULE 1—MODEL BY-LAW ABOUT PROTECTION AND USE OF TRUST LAND

Driving or operating motorcycle

s 19 amd 2011 SL No. 131 s 12

SCHEDULE 6—AVERAGED VALUE

sch hdg sub 2010 Act No. 39 s 325 sch 1 pt 2

sch 6 ins 2010 SL No. 137 s 10

Definitions for sch 6

s 1 ins 2010 SL No. 137 s 10

Category 11 lease land

s 2 ins 2010 SL No. 137 s 10
amd 2010 Act No. 39 s 325 sch 1 pt 2

Category 12, 13 or 14.2 lease land

s 3 ins 2010 SL No. 137 s 10
amd 2010 Act No. 39 s 325 sch 1 pt 2

SCHEDULE 6A—LEASE TITLE REFERENCES

amd 2011 SL No. 131 s 13; 2012 SL No. 87 s 4

SCHEDULE 11—FEES

amd 2010 SL No. 162 s 18
sub 2011 SL No. 135 s 18

SCHEDULE 12—DICTIONARY

def “**averaged unimproved value**” om 2010 Act No. 39 s 325 sch 1 pt 2

def “**averaged value**” ins 2010 Act No. 39 s 325 sch 1 pt 2

def “**government leasing entity**” ins 2012 SL No. 87 s 5

def “**non-commercial community service organisation**” ins 2012 SL No. 87 s 5

def “**unimproved value**” om 2010 Act No. 39 s 325 sch 1 pt 2

def “**value**” ins 2010 Act No. 39 s 325 sch 1 pt 2

7 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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