



Fossicking Act 1994

Fossicking Regulation 2019

Current as at 1 September 2019

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Queensland

Fossicking Regulation 2019

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
3	Definitions	3
4	Regulation does not affect landowner's rights	3
Part 2	Declarations for particular land	
5	Designated fossicking land—Act, s 42	3
6	Fossicking areas—Act, s 44	4
7	Prohibited camping land—Act, s 65	4
8	Regulated camping land—Act, s 66	4
Part 3	Conduct of persons—Act, s 107	
Division 1	Conduct generally	
9	Display of permits	4
10	Particular conduct prohibited	5
11	Fossicking in a watercourse	6
12	Disposal of human waste	7
13	Land to be left safe	7
14	Land to be left tidy	7
Division 2	Conduct of persons on designated fossicking land and fossicking areas	
15	Structures, dams and machinery	8
16	Routes, tracks and roads	8
17	Use of vehicles	8
18	Other prohibited conduct	9
Part 4	Miners common—Act, s 107	
Division 1	Preliminary	
19	Name and boundaries of miners common	10

Contents

20	Controller	11
21	Powers and functions of controller	11
Division 2	Agistment of stock	
22	Approval needed	11
23	When agistment approval must not be given	12
24	Agistment approval not transferable	13
25	How long agistment approval remains in force	13
26	Agistment tags	13
27	Replacing agistment tags	13
28	Carrying capacity of miners common	14
29	Variation of carrying capacity of miners common	14
30	Notice of reduction of carrying capacity of miners common	15
31	Mustering	15
32	Register of agistment approvals	15
Part 5	Miscellaneous provisions	
33	Term of fossickers camping permits—Act, s 63	16
34	Commission or part of prescribed fee—Act, s 71	16
35	Value for abandoned property—Act, s 97	16
36	Fees	16
Part 6	Repeal and transitional provisions	
37	Definition for part	16
38	Repeal	17
39	Authorisations and appointments	17
40	Applications for agistment approvals	17
41	Agistment approvals	18
42	Agistment tags	18
43	Notices of varied carrying capacity	18
44	References to repealed regulation	18
45	Application of Acts Interpretation Act 1954, s 20	19
Schedule 1	Designated fossicking land	20
Schedule 2	Fossicking areas	21
Schedule 3	Prohibited camping land	23
Schedule 4	Regulated camping land	24
Schedule 5	Rubyvale, Sapphire and Scrub Lead Miners Common	25
Schedule 6	Fees	26
Schedule 7	Dictionary	28

Fossicking Regulation 2019

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Fossicking Regulation 2019*.

2 Commencement

This regulation commences on 1 September 2019.

3 Definitions

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

4 Regulation does not affect landowner's rights

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

Part 2 Declarations for particular land

5 Designated fossicking land—Act, s 42

- (1) For section 42(1) of the Act, each parcel of land described in schedule 1, column 2, other than land excluded from the Act's operation under part 2 of the Act, is designated fossicking

[s 6]

land with the name stated in schedule 1, column 1 opposite the parcel.

- (2) In this regulation, a reference to a name mentioned in schedule 1, column 1 is a reference to the designated fossicking land with that name.

6 Fossicking areas—Act, s 44

- (1) For section 44(1) of the Act, each parcel of land described in schedule 2, column 2, other than land excluded from the Act's operation under part 2 of the Act, is a fossicking area with the name stated in schedule 2, column 1 opposite the parcel.
- (2) In this regulation, a reference to a name mentioned in schedule 2, column 1 is a reference to the fossicking area with that name.

7 Prohibited camping land—Act, s 65

For section 65(1) of the Act, the land described in schedule 3 is prohibited camping land.

8 Regulated camping land—Act, s 66

For section 66(1) of the Act, the land described in schedule 4 is regulated camping land.

Part 3 Conduct of persons—Act, s 107

Division 1 Conduct generally

9 Display of permits

- (1) A person camping under a permit must, immediately after making camp, display the permit by attaching it in a conspicuous position—

-
- (a) if the person is using a camping structure—to the structure; or
 - (b) otherwise—to other camping equipment used by the person.

Maximum penalty—2 penalty units.

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

Maximum penalty—2 penalty units.

10 Particular conduct prohibited

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

Maximum penalty—20 penalty units.

- (2) A person fossicking under a licence on designated fossicking land or a fossicking area must not move wash out of the designated fossicking land or fossicking area.

Maximum penalty—20 penalty units.

- (3) In this section—

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

cultural heritage significance, of a site, see the *Queensland Heritage Act 1992*, schedule.

wash means a substance containing, or that is reasonably likely to contain, fossicking material.

Examples of a substance—

sand, gravel, soil

11 Fossicking in a watercourse

- (1) This section applies to a person fossicking in a watercourse.
- (2) The person must not—
 - (a) fossick within 40m of—
 - (i) a weir, bridge or other structure in or over the watercourse; or
 - (ii) a pump used to pump water from the watercourse; or
 - (b) fossick within 3m of the top or toe of a bank or in a bank slope if the fossicking may cause erosion or the collapse of the bank; or
 - (c) interrupt, divert or stop the flow of water in the watercourse more than is necessary to fossick in the watercourse; or
 - (d) cause stream turbidity more than 300m downstream from where the person is fossicking; or
 - (e) erect a structure in the watercourse.

Maximum penalty—20 penalty units.

- (3) If the person digs in the watercourse, the person must, before leaving the watercourse—
 - (a) refill the places dug with dug material; and
 - (b) if there is dug material left over after refilling the places dug—put the leftover material in a place in the watercourse where it is unlikely to—

- (i) interrupt, divert or stop the flow of water in the watercourse; or
- (ii) disturb the watercourse's usual course at low flow.

Maximum penalty—20 penalty units.

12 Disposal of human waste

A person fossicking under a licence or camping under a permit on land must dispose of all human waste made by the person—

- (a) if there are facilities for disposing of human waste on the land—by using the facilities; or
- (b) otherwise—by burying the waste—
 - (i) at least 20m from the nearest high bank of any watercourse; and
 - (ii) at least 20cm below the land's surface.

Maximum penalty—5 penalty units.

13 Land to be left safe

A person who has stopped fossicking under a licence or camping under a permit on land must, immediately before leaving the land, make the person's fossicking or camp site safe for other fossickers, stock and the owner of the land.

Example of making a site safe—

filling in a place dug by the person on the site

Maximum penalty—5 penalty units.

14 Land to be left tidy

A person who has stopped fossicking under a licence or camping under a permit on land must, immediately before leaving the land—

[s 15]

- (a) remove the person's camping structures from the camp site; and
- (b) remove the person's rubbish from the camp or fossicking site; and
- (c) make the camp or fossicking site tidy.

Maximum penalty—5 penalty units.

Division 2 Conduct of persons on designated fossicking land and fossicking areas

15 Structures, dams and machinery

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

Maximum penalty—50 penalty units.

16 Routes, tracks and roads

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

- (a) without the written approval of the chief executive, the land manager for the land or the owner of the land; or
- (b) in contravention of a condition of a written approval mentioned in paragraph (a).

Maximum penalty—20 penalty units.

17 Use of vehicles

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

-
- (2) A person must not drive a vehicle on the land unless—
- (a) the vehicle is registered; and
 - (b) the person holds a licence to drive the vehicle under—
 - (i) the *Transport Operations (Road Use Management) Act 1995*; or
 - (ii) a law of another State that provides for the same matter as that Act.

Maximum penalty—5 penalty units.

- (3) Also, a person must not drive a vehicle on the land—
- (a) at more than 50km/h; or
 - (b) other than on a made track or road; or
 - (c) in a way that—
 - (i) unreasonably interferes with another person's use of the land; or
 - (ii) endangers anyone on the land, including the driver; or
 - (iii) damages a road surface; or
 - (iv) makes excessive noise or dust.

Maximum penalty—5 penalty units.

- (4) Despite subsection (3)(b), a person may drive a vehicle on regulated camping land, other than on a made track or road, if the person—
- (a) does not drive at more than 15km/h; and
 - (b) does not interfere with any improvement on the land; and
 - (c) is driving for the purpose of making camp only.

18 Other prohibited conduct

- (1) A person on designated fossicking land or a fossicking area must not—

[s 19]

- (a) use an explosive, firearm or trap on the land, unless the person has a reasonable excuse; or
- (b) operate a generator, engine-driven equipment, radio or other electrical appliance in a way that unreasonably interferes with another person's use of the land; or
- (c) damage or destroy a wall, fence, building, barrier, sign, receptacle or other structure; or
- (d) light a fire—
 - (i) in a place other than a cleared space with a radius of at least 2m or a constructed fireplace; or
 - (ii) in contravention of a sign erected on the land by the chief executive; or
- (e) bring an animal onto the land in contravention of a sign erected on the land by the chief executive.

Maximum penalty—20 penalty units.

- (2) In this section—

explosive see the *Explosives Act 1999*, schedule 2.

firearm see the *Weapons Act 1990*, schedule 2.

trap means a device or equipment used to attract, capture or detect an animal.

Part 4 Miners common—Act, s 107

Division 1 Preliminary

19 Name and boundaries of miners common

- (1) The name of the miners common is the 'Rubyvale, Sapphire and Scrub Lead Miners Common'.
- (2) The boundaries of the miners common contain all land, other than occupied land, within the designated fossicking land and fossicking areas stated in schedule 5.

20 Controller

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

21 Powers and functions of controller

- (1) The controller may authorise its chief executive officer to do anything necessary to be done for the performance of the controller's functions under this part.
- (2) Without limiting subsection (1), the controller may authorise the chief executive officer to appoint a person the chief executive officer considers has the necessary training and experience to perform the controller's functions.
- (3) The chief executive officer may, in the appointment, impose conditions on the performance of the functions.

Division 2 Agistment of stock

22 Approval needed

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

Maximum penalty—20 penalty units.

- (2) An application for an agistment approval must—
 - (a) be in writing; and
 - (b) state the number of head of stock to be agisted under the approval; and
 - (c) be accompanied by—

- (i) documentary evidence establishing the applicant owns, or has permission to keep, the stock; and
 - (ii) the fee mentioned in schedule 6 for the application.
- (3) The controller must give the applicant the agistment approval if—
 - (a) the controller is satisfied the applicant owns, or has the permission needed to keep, the stock; and
 - (b) section 23 does not apply in relation to the applicant.
- (4) If the controller gives the applicant the agistment approval, the controller must give to the applicant a tag (an ***agistment tag***) for each head of stock to be agisted under the approval.
- (5) In this section—

Rubyvale–Sapphire area means land within the boundaries shown on plans mentioned in schedule 1, column 2 for the areas of the following designated fossicking land—

- Divide
- Reward
- Rubyvale
- Sapphire
- Scrub Lead.

23 When agistment approval must not be given

- (1) The controller must not give an agistment approval to a minor.
- (2) Also, the controller must not give an agistment approval if—
 - (a) the approval would allow a person to agist more than 20 head of stock on the miners common; or
 - (b) the approval would increase the number of stock agisted on the miners common to more than the carrying capacity of the miners common; or

- (c) the controller considers that, because of the condition of the miners common, the stock for which the approval is sought can not be supported.

24 Agistment approval not transferable

An agistment approval is not transferable.

25 How long agistment approval remains in force

- (1) An agistment approval remains in force for the period stated in the approval.
- (2) However, an agistment approval lapses if the approval holder does not, within 14 days after the day stated in the approval—
 - (a) pay the agistment fee mentioned in schedule 6 for the approval; and
 - (b) start agisting stock on the miners common.

26 Agistment tags

- (1) The holder of an agistment approval must ensure each animal agisted under the approval is tagged with an agistment tag.
Maximum penalty—20 penalty units.
- (2) The holder of an agistment approval must, within 7 days after the agistment approval ends, return to the controller all agistment tags relating to the approval that are in the holder's possession.
Maximum penalty—20 penalty units.

27 Replacing agistment tags

- (1) The holder of an agistment approval may apply to the controller to replace an agistment tag if it is lost, stolen, destroyed or damaged.
- (2) The application must—

- (a) be in writing; and
 - (b) state how the agistment tag was lost, stolen, damaged or destroyed; and
 - (c) be accompanied by the replacement fee for the agistment tag mentioned in schedule 6.
- (3) If the controller is satisfied the agistment tag has been lost, stolen, destroyed or damaged, the controller must issue a replacement tag to the person.

28 Carrying capacity of miners common

The *carrying capacity* of the miners common is—

- (a) if the controller varies the carrying capacity under section 29—the carrying capacity decided under that section; or
- (b) otherwise—400 head of stock.

29 Variation of carrying capacity of miners common

- (1) The controller may vary the carrying capacity of the miners common as follows—
- (a) if the controller considers there is more stock on the miners common than it can support—by reducing the carrying capacity;
 - (b) if the controller considers the miners common can support more than the number of stock agisted on it without adversely affecting future agistment—by increasing the carrying capacity.
- (2) The controller may vary the carrying capacity only in a way that ensures, as far as is reasonably practicable, no existing or prospective holder of an agistment approval is treated more favourably than any other holder.
- (3) Subsection (1)(b) does not authorise the controller to increase the number of stock a person may agist on the miners common to more than 20 head of stock.

30 Notice of reduction of carrying capacity of miners common

- (1) If the controller reduces the carrying capacity of the miners common under section 29(1)(a), the controller must give written notice of the reduction to each agistment approval holder affected by the reduction.
- (2) The notice must—
 - (a) state the number of stock the approval holder may agist; and
 - (b) ask the approval holder to reduce the number of stock agisted under the approval to the stated number within a stated period.
- (3) The agistment approval holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

31 Mustering

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

32 Register of agistment approvals

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

[s 33]

- (c) the number of each tag issued to the approval holder by the controller;
 - (d) amounts the controller receives for agistment fees and replacement tags.
- (3) The controller must keep the details of the register mentioned in subsection (2)(b) to (d) available for inspection during business hours, free of charge.

Part 5 Miscellaneous provisions

33 Term of fossickers camping permits—Act, s 63

For section 63(2) of the Act, the maximum term is 3 months.

34 Commission or part of prescribed fee—Act, s 71

For section 71(4) of the Act, the commission or part of the prescribed fee is 10% of the fee.

35 Value for abandoned property—Act, s 97

For section 97(5) of the Act, the prescribed value is \$1,000.

36 Fees

The fees payable under the Act are stated in schedule 6.

Part 6 Repeal and transitional provisions

37 Definition for part

In this part—

repealed regulation means the repealed *Fossicking Regulation 2009*, as in force from time to time before the commencement.

38 Repeal

The Fossicking Regulation 2009, SL No. 167 is repealed.

39 Authorisations and appointments

- (1) An authorisation mentioned in section 24(1) or (2) of the repealed regulation that was in effect immediately before the commencement—
 - (a) continues in effect; and
 - (b) on the commencement, is taken to have been given under section 21(1) or (2) of this regulation.
- (2) An appointment made under an authorisation mentioned in subsection (1) that was in effect immediately before the commencement—
 - (a) continues in effect; and
 - (b) on the commencement, is taken to have been made under section 21(2) of this regulation.
- (3) If a condition was imposed in the appointment under section 24(3) of the repealed regulation, the condition—
 - (a) continues in effect; and
 - (b) on the commencement, is taken to have been imposed under section 21(3) of this regulation.

40 Applications for agistment approvals

- (1) This section applies to an application under section 25(2) of the repealed regulation made, but not finally decided, before the commencement.

- (2) On the commencement, the application is taken to be an application for an agistment approval under section 22(2) of this regulation.

41 Agistment approvals

- (1) This section applies to an agistment approval given under the repealed regulation that was in force immediately before the commencement.
- (2) On the commencement, the agistment approval is taken to be an agistment approval given under section 22(3) of this regulation.

42 Agistment tags

An agistment tag issued to the holder of an agistment approval under the repealed regulation is, on the commencement, taken to be an agistment tag given to the holder under section 22(4) of this regulation.

43 Notices of varied carrying capacity

- (1) This section applies in relation to an agistment approval holder if, before the commencement, the controller gave the holder a notice under section 31 of the repealed regulation.
- (2) On the commencement, the notice is taken to be a notice given under section 30 of this regulation.

44 References to repealed regulation

- (1) In a document, if the context permits, a reference to the repealed regulation may be taken to be a reference to this regulation.
- (2) For this section, a reference in the document to a provision of the repealed regulation may be taken to be a reference to a provision of this regulation that provides for the same, or substantially the same, matter as the repealed provision.

45 Application of Acts Interpretation Act 1954, s 20

This part does not limit the operation of the *Acts Interpretation Act 1954*, section 20, other than to the extent an intention contrary to that section is expressed.

Schedule 1 Designated fossicking land

section 5

Column 1 Name	Column 2 Description
Divide	land west of the Town of Rubyvale shown on plan no. MP40825, with an area of 339.1ha
Duck Creek	land south-east of Quilpie shown on plan no. MP36659, with an area of about 633ha
Opalton	land south of the Town of Winton shown on plan no. MP36631, with an area of about 974.5ha
Reward	land west of the Town of Sapphire shown on plan no. MP34342, with an area of about 940ha
Rubyvale	land around the Town of Rubyvale shown on plan no. MP34341, with an area of about 990ha
Sapphire	land around the Town of Rubyvale shown on plan no. MP34341, with an area of about 990ha
Scrub Lead	land north-east of the Town of Sapphire shown on plan no. MP34340, with an area of about 1,360ha
Sheep Station Creek	land south-east of Quilpie shown on plan no. MP36659, with an area of about 596ha
Willows	land west of the Town of Anakie shown on plan no. MP36464, with an area of about 1,154ha

Schedule 2 Fossicking areas

section 6

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

Schedule 2

Column 1 Name	Column 2 Description
Yowah	land west of the Town of Eulo shown on plan no. MP41145, sheets 1 and 2 (other than land covered by a mining claim or mining lease), with an area of 27.3ha

Schedule 3 Prohibited camping land

section 7

Part 1 Designated fossicking land

- 1 the part of Sapphire shown on plan no. MP34657, with an area of about 670ha
- 2 the parts of Scrub Lead and Rubyvale shown on plan no. MP34656, with an area of about 540ha
- 3 Willows

Part 2 Fossicking areas

- 1 Agate Creek
- 2 Deep Creek
- 3 Mount Gibson
- 4 O'Briens Creek
- 5 Thanes Creek
- 6 Yowah

Note—

A plan mentioned in schedule 2 for a fossicking area shows the limits of the prohibited camping land.

Schedule 4 Regulated camping land

section 8

Part 1 Designated fossicking land

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

Part 2 Fossicking areas

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

**Schedule 5 Rubyvale, Sapphire and Scrub
Lead Miners Common**

section 19

Part 1 Designated fossicking land

- 1 Rubyvale
- 2 Sapphire
- 3 Scrub Lead

Part 2 Fossicking areas

- 1 Big Bessie
- 2 Graves Hill
- 3 Middle Ridge

Schedule 6 Fees

section 36

	\$
1 Individual fossickers licence—	
(a) for 1 month	8.50
(b) for 6 months	32.25
(c) for 1 year	54.30
2 Family fossickers licence—	
(a) for 1 month	12.20
(b) for 6 months	41.40
(c) for 1 year	72.60
3 Club fossickers licence	90.95
4 Educational organisation fossickers licence—	
(a) for 1 month	36.05
(b) for 1 year	72.60
5 Commercial tour operator fossickers licence—	
(a) for 1 month	63.60
(b) for 1 year	548.00
6 Individual fossickers camping permit or family fossickers camping permit—	
(a) for each whole week	25.60
(b) for each additional night	4.10
7 Club fossickers camping permit or educational organisation fossickers camping permit, for each person who is to camp under the permit—	
(a) for each whole week	12.45

	\$
(b) for each additional night	2.11
8 Commercial tour operator fossickers camping permit, for each person who is to camp under the permit—	
(a) for each whole week	25.60
(b) for each additional night	4.10
9 Application for agistment approval, for each head of stock to be agisted (s 22(2)(c)(ii))	17.15
10 Agistment fee for an agistment approval (s 25(2)(a)), for each tag given, for each week of the period stated in the approval	0.41
11 Replacement fee for an agistment tag (s 27(2)(c))	17.15

Schedule 7 Dictionary

section 3

agistment approval see section 22(1)(b).

agistment tag see section 22(4).

camping structure means a tent, trailer, caravan or other structure used for camping.

carrying capacity, of the miners common, see section 28.

controller means the controller of the miners common appointed under section 20.

improvement means—

- (a) a bridge, building, fence, stockyard or other structure; or
- (b) equipment, machinery or plant.

miners common means the miners common mentioned in section 19.

plan means a survey plan held by the department.

Note—

A copy of each plan may be inspected free of charge at the department's office.

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