

Queensland



Subordinate Legislation 1996 No. 7

*Fossicking Act 1994*

**FOSSICKING AMENDMENT REGULATION  
(No. 1) 1996**

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SCHEDULE 6

RUBYVALE, SAPPHIRE AND SCRUB LEAD MINERS COMMON

**Short title**

1. This regulation may be cited as the *Fossicking Amendment Regulation (No. 1) 1996*.

**Commencement**

2. This regulation commences on 1 February 1996.

**Regulation amended**

3. This regulation amends the *Fossicking Regulation 1994*.

**Amendment of s 3 (Definitions)**

4. Section 3—

*insert—*

‘**“agistment approval”** see section 30.

**“controller”**, of the miners common, see section 28.

**“miners common”** see section 27.

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

- Divide Designated Fossicking Land
- Reward Designated Fossicking Land
- Rubyvale Designated Fossicking Land
- Sapphire Designated Fossicking Land
- Scrub Lead Designated Fossicking Land.

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

**Renumbering of pt 6 (General)****5.** Part 6—

*renumber* as part 7.

**Amendment of ss 27 and 28****6.** Sections 27 and 28—

*renumber* as sections 39 and 40.

**Insertion of new pt 6****7.** After part 5—

*insert*—

**‘PART 6—CONTROL OF MINERS COMMON*****‘Division 1—Preliminary*****‘Name of miners common**

**‘27.(1)** The name of the miners common is the ‘Rubyvale, Sapphire and Scrub Lead Miners Common’.

**‘(2)** The miners common includes all unoccupied land within designated fossicking land and fossicking areas specified in schedule 6.

**‘Who is controller**

**‘28.** The Emerald Shire Council is controller of the miners common.

**‘Performing functions under this part**

**‘29.(1)** The controller may authorise its chief executive officer to do anything necessary to be done for the performance of functions under this part.

**‘(2)** In particular, the controller may authorise the chief executive officer

to appoint someone the chief executive officer considers has the necessary training and experience for the purpose, 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*

#### **‘Approval needed**

‘30.(1) A person must not agist stock on the miners common unless the person—

- (a) is an individual who owns and lives on land in the Rubyvale–Sapphire area; and
- (b) has the controller's written approval (an “**agistment approval**”) to agist the stock.

Maximum penalty—20 penalty units.

‘(2) An application for an agistment approval must be in writing and be accompanied by—

- (a) the prescribed fee; and
- (b) documentary evidence of ownership of the stock to be agisted and any permission needed to keep the stock.<sup>1</sup>

#### **‘When agistment approval cannot be given**

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

‘(2) Also, the controller must not give an agistment approval if—

- (a) it allows someone (alone, or with someone else and whether under 1 or more agistment approvals in which the person has a direct or indirect interest) to agist more than 20 head of stock on the miners common; or

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<sup>1</sup> A permit to keep category A4/A6 stock under the *Rural Lands Protection Act 1985* is needed for camels.

- (b) it increases the number of animals agisted on the miners common to more than—
  - (i) 400 head; or
  - (ii) if the controller has changed the carrying capacity under this division—the changed carrying capacity; or
- (c) the controller reasonably believes the condition or carrying capacity of the miners common cannot support the stock.

#### **‘Agistment approval not transferable**

**‘32.** An agistment approval is not transferable.

#### **‘How long agistment approval is in force**

**‘33.(1)** An agistment approval is in force for the period stated in the approval and may be renewed.

**‘(2)** However, an agistment approval lapses if the approval holder does not do the following within 14 days after a day stated in the approval—

- (a) pay the fees payable under the approval;
- (b) start agisting stock on the miners common.

#### **‘Tagging agisted stock**

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

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

Maximum penalty—20 penalty units.

#### **‘Reducing carrying capacity**

**‘35.(1)** If, because of drought, flood or another reason (including a reduction in the area of the miners common) there are more stock on the

common than the controller reasonably believes it can carry, the controller may reduce the number of head of stock that may agist on the common.

‘(2) The controller must apply the reduction to persons agisting stock on the common in a way that ensures, as far as is reasonably practicable, no-one is treated more favourably than anyone else.

‘(3) The controller must give written notice of the reduction to each agistment approval holder affected by it.

‘(4) The notice must—

- (a) state the reduced number of stock the person may agist; and
- (b) require the holder to reduce stock agisted under the approval to the stated number within a stated reasonable time.

‘(5) The agistment approval holder must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

### **‘Increasing carrying capacity**

‘36.(1) The controller may increase the carrying capacity for the miners common if the controller considers the common can carry more than 400 head of stock without adversely affecting future agistment on the common.

‘(2) The controller must apply the increase in a way that ensures, as far as is reasonably practicable, no-one agisting stock, or wanting to agist stock, is treated more favourably than anyone else.

‘(3) Subsection (2) does not authorise the controller to increase a person’s agistment capacity beyond 20 head of stock.

### **‘Mustering**

‘37.(1) The controller must muster stock agisted on the miners common at least once but not more than 6 times a year.

‘(2) The controller may muster the stock—

- (a) to find stock unlawfully agisted on the common; or
- (b) to dip or spray stock agisted on the common; or

- (c) to monitor the health of stock on the common.

***Division 3—Records***

**‘Register of agistment approvals**

‘**38.(1)** The controller must keep a register of agistment approvals, including—

- (a) the name and address of the person given the approval; and
- (b) the type and number of stock that may be agisted under the approval; and
- (c) the number of each tag issued to the person by the controller; and
- (d) amounts the controller received for agistment fees and tags; and
- (e) particulars of any action taken in relation to the stock agisted under the approval.

‘**(2)** The controller must allow anyone who asks to inspect the register, free of charge.’.

**Amendment of sch 1 (Fees)**

**8.** Schedule 1—

*insert—*

<b>‘10.</b> Application for approval to agist—each tag . . . . .	10.00
<b>11.</b> Agistment fee—each tag, each week . . . . .	0.25’.

**Insertion of new sch 6**

9. After schedule 5—

*insert—*

**‘SCHEDULE 6****‘RUBYVALE, SAPPHIRE AND SCRUB LEAD  
MINERS COMMON**

section 27

**‘PART 1—DESIGNATED FOSSICKING LAND**

1. Rubyvale Designated Fossicking Land.
2. Sapphire Designated Fossicking Land.
3. Scrub Lead Designated Fossicking Land.

**‘PART 2—FOSSICKING AREAS**

4. Big Bessie Fossicking Area.
5. Graves Hill Fossicking Area.
6. Middle Ridge Fossicking Area.’.

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**ENDNOTES**

1. Made by the Governor in Council on 25 January 1996.
2. Notified in the gazette on 25 January 1996.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Minerals and Energy.

