

Queensland



Subordinate Legislation 1999 No. 22

Land Act 1994

**LAND AMENDMENT REGULATION (No. 1)
1999**

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SCHEDULE 7

MODEL BY-LAW ABOUT BUSINESS AND MANAGEMENT
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SCHEDULE 11

MODEL BY-LAW ABOUT CEMETERIES, CREMATORIALS
AND MORTUARIES

Short title

1. This regulation may be cited as the *Land Amendment Regulation (No. 1) 1999*.

Regulation amended

2. This regulation amends the *Land Regulation 1995*.

Replacement of pt 2

3. Part 2—

omit, insert—

‘PART 2—RESERVES AND DEEDS OF GRANT IN TRUST

‘Division 1—Guidelines for trustee permits

‘Purpose of division

‘3. This division prescribes, for section 60(2)¹ of the Act, the guidelines with which a trustee permit must not be inconsistent.

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

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

- (a) must state that the Minister or the trustee must give the permittee 28 days notice of the Minister’s or the trustee’s intention to cancel the permit; and
- (b) must not be issued for a continuous period of longer than—
 - (i) if the Minister has given approval for a period of more than 3 months—3 years; or
 - (ii) if subparagraph (i) does not apply—3 months; and

¹ Section 60 (Trustee permits) of the Act

- (c) may not be issued for a part of the trust land that is the subject of a trustee lease; and
- (d) must not allow the construction of structural improvements; and
- (e) may allow the modification or use of existing structural improvements; and
- (f) if there is a management plan for the trust land under section 48² of the Act—must be consistent with the management plan; and
- (g) must state that it is a condition of the trustee permit that the permittee holds the permit so that the trust land may be used for the community purpose for which it was dedicated or granted in trust without undue interruption or obstruction; and
- (h) must state the permittee’s permitted use of the trust land; and
- (i) must not give a right—
 - (i) to renew the permit; or
 - (ii) to be given a more secure tenure over the trust land; and
- (j) must not allow the permittee to transfer, sublet or mortgage the permittee’s right to use the trust land.

‘Division 2—Statutory bodies exemption

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

‘5. A port authority under the *Transport Infrastructure Act 1994*, is a prescribed statutory body for section 63(4)(b)³ of the Act.

² Section 48 (Trustees to give information and allow inspection of records) of the Act

³ Section 63 (Rent to be charged) of the Act

‘Division 3—Guidelines for trustee leases**‘Purpose of division**

‘5A. This division prescribes, for section 64(2)⁴ of the Act, the guidelines with which a trustee lease must be consistent.

‘Interpretation

‘5B. In this division—

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

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

‘Establishing the circumstances of the trustee lease

‘5C. A trustee lease must state—

- (a) that the lease is a lease given by the trustee of trust land; and
- (b) the document identification number for the written authority given by the Minister under section 64(1) of the Act, dispensing with the need to obtain the Minister’s approval for trustee leases; and
- (c) the date on which the written authority mentioned in paragraph (b) took effect; and
- (d) the name of the trustee giving the lease of the trust land; and
- (e) the particulars of the gazette notice or notices under which the Minister appointed the trustees; and
- (f) the community purpose for which the trust land was dedicated as a reserve or granted in trust; and
- (g) the lot on plan description of the trust land; and
- (h) the area of the trust land; and

⁴ Section 64 (Minister may dispense with approval) of the Act

- (i) the particulars of the order in council or proclamation under which the trust land was dedicated as a reserve or granted in trust; and
- (j) if the order in council or proclamation mentioned in paragraph (i) has been amended the date on which and the page or pages at which the most recent amending order in council or proclamation was published in the gazette; and
- (k) if the lessee is only 1 person—the name of the person; and
- (l) if the lessee consists of 2 or more persons—
 - (i) the name of each person; and
 - (ii) whether the persons hold the lease as joint tenants or tenants in common and, if as tenants in common, each person's share; and
- (m) the term of the lease;⁵ and
- (n) when the term of the lease starts; and
- (o) whether the lease relates to all or part of the trust land; and
- (p) if the lease relates to part only of the trust land—
 - (i) the area of the lease land; and
 - (ii) the position of the lease land in relation to a location, marked on the boundary of the trust land, shown on the plan of the whole trust land to be attached to the lease document.

‘Establishing the uses of the lease land

‘5D. A trustee lease must state—

- (a) the lessee's proposed use of the lease land; and
- (b) that it is a condition of the lease that the lessee holds the lease so that the trust land may be used for the community purpose for which it was dedicated or granted in trust without undue interruption or obstruction; and

⁵ Under section 61 (Conditions on trustee leases and trustee permits) of the Act, a trustee lease must not be for more than 30 years.

- (c) if there is a management plan for the lease land under section 48⁶ of the Act—that the uses of the land must be consistent with the management plan; and
- (d) the purposes for which the trustee or lessee may prohibit, or impose conditions on, access to the lease land by the public; and
- (e) that pedestrians may enter the lease land in daylight hours unless the lease land is being used by the lessee; and
- (f) the conditions on which activities on the lease land may be conducted; and
- (g) that the trustee, as lessor, reserves the right to permit a person or an entity other than the lessee to use the lease land for a purpose consistent with the community purposes for which the trust land was dedicated or granted in trust but in a way likely to cause as little disruption as practicable to the lessee’s use of the land; and
- (h) the conditions for the parking of motor vehicles on the lease land, including any prohibition of parking; and
- (i) that a person may clear a tree or allow a tree to be cleared on the lease land only under chapter 5, part 6⁷ of the Act.

‘Establishing the rent for the trust land

‘5E.(1) A trustee lease must state—

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

⁶ Section 48 (Trustees to give information and allow inspection of records) of the Act

⁷ Chapter 5 (Matters affecting land holdings), part 6 (Tree management) of the Act

- (d) the period for which each amount of rent mentioned in paragraph (c) is payable.

‘(2) In this section—

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

‘Establishing obligations about improvements and maintenance of the lease land

‘5F. A trustee lease must state—

- (a) any obligations the lessee has to fence the whole or part of the lease land; and
- (b) that the erection of high security fencing must be limited to the fencing of—
- (i) an area adjacent to and around each structural improvement or sporting or recreational facility; and
- (ii) any other area specifically authorised by the trustee to be fenced by high security fencing; and
- (c) if vehicular access to the lease land is to be limited—
- (i) that the fencing of the lease land must not be greater than 1 m high; and
- (ii) that the fencing must include gates and openings to allow pedestrian access to the lease land; and
- (d) all of the following—
- (i) whether, on termination of the lease, other than because of cancellation under the Act, the lessee has the right to remove the improvements constructed by the lessee on the lease land;
- (ii) the period, which must be reasonable in the circumstances, within which the improvements may be removed;
- (iii) the party taken to own any improvements that may be removed but are not removed; and

- (e) that the lessee must keep the lease land, and the improvements on the lease land, in a sound, clean and sanitary condition; and
- (f) that the lessee must—
 - (i) clear the lease land of noxious plants as soon as practicable after the term of the lease starts; and
 - (ii) keep the lease land free from noxious plants during the term of the lease.

‘Miscellaneous lease provisions

‘5G. A trustee lease—

- (a) must require the trustee to take out and maintain a public liability insurance policy applying to the trust land complying with the following requirements—
 - (i) the policy must be in the name of the Minister, the trustee and the lessee for their respective liabilities;
 - (ii) the insurer under the policy must be authorised under the *Insurance Act 1973* (Cwlth) to carry on insurance business;
 - (iii) the cover under the policy must include loss or damage to property and death of or injury to persons;
 - (iv) the cover under the policy must be for an amount considered appropriate by the trustee in the circumstances of the likely use of the trust land; and
- (b) must include an endorsement that is completed, signed and dated by the trustee and is in the following form or to the effect of the following form—

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

‘Certain matters to be drawn to lessee’s attention

‘5H. A trustee lease must include an information section in which the

following is drawn to the lessee's attention—

- (a) that if the lease land is all or part of the land comprising a reserve and the Minister, by gazette notice, revokes the reserve under section 33⁸ of the Act, the trustee lease is cancelled under section 34(1)⁹ of the Act from the day the revocation is notified in the gazette;
- (b) that if the lease land is all or part of the land comprising a deed of grant in trust and the Governor in Council, by gazette notice, cancels the deed of grant in trust under section 38(1)¹⁰ of the Act, the trustee lease is cancelled, under section 38(3) of the Act, from the day the cancellation is published in the gazette;
- (c) that under section 58(1)¹¹ of the Act, a transfer, mortgage or sublease of the lease requires the trustee's written approval;
- (d) that under section 61(2)¹² of the Act, a trustee lease must not contain a covenant, agreement or condition—
 - (i) to renew the lease; or
 - (ii) to convert to another form of tenure (including freehold); or
 - (iii) to buy all or part of the lease land;
- (e) that under section 65(1)¹³ of the Act, the trustee may cancel the lease if the lessee does not comply with the conditions of the lease;
- (f) that under section 65(2) of the Act, the Minister may cancel the lease if—
 - (i) the lessee does not comply with the conditions of the lease;
or

⁸ Section 33 (Revocation of reserves) of the Act

⁹ Section 34 (Revocation of reserve cancels appointments, leases and permits) of the Act

¹⁰ Section 38 (Cancelling a deed of grant in trust) of the Act

¹¹ Section 58 (Other transactions a trustee may allow) of the Act

¹² Section 61 (Conditions on trustee leases and trustee permits) of the Act

¹³ Section 65 (Cancellation of a trustee lease or trustee permit) of the Act

- (ii) the Minister is satisfied cancellation would be in the public interest;
- (g) that under section 65(3) of the Act, if the lease is cancelled no person has a right to a claim for compensation.

‘PART 2A—MODEL BY-LAWS FOR TRUST LAND

‘Division 1—Model by-laws

‘Model by-laws—Act, s 56

‘5I. For section 56¹⁴ of the Act, the model by-laws prescribed for trust land are in schedules 7 to 11.

‘Division 2—Adopting model by-laws

‘Purpose of division

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

‘Definitions

‘5K. In this division—

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

“trust land” means the land for which—

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

¹⁴ Section 56 (Model by-laws) of the Act

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

‘5L.(1) The trustee may—

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

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

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

‘Step 2—consult with public about proposed adoption

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

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

‘(3) A notice about the proposed adoption of the model by-law—

- (a) must be published at least once in a newspaper circulating generally in the area in which the trust land is situated; and
- (b) if the trustee considers publication in the way mentioned in paragraph (a) may not adequately bring the notice to the attention of the public—must be displayed in a conspicuous place on the trust land to which the public has ready access, for all or part of the consultation period.

‘(4) The notice must state the following—

- (a) the name of the trustee proposing to adopt the model by-law;
- (b) the property description for the trust land;
- (c) that the trustee proposes to adopt a model by-law;
- (d) the name of the model by-law;
- (e) the purposes and general effect of the model by-law;

- (f) the length of the consultation period and the first and last days of the period;
- (g) that a copy of the model by-law may be inspected on or before the last day of the consultation period, and where it may be inspected;
- (h) that a copy of the model by-law may be purchased on or before the last day of the consultation period, where it may be purchased and the cost of purchase;
- (i) that a written submission by any person supporting or objecting to the proposed model by-law may be made and may be given to the trustee at the address shown on the notice on or before the last day of the consultation period.

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

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

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

‘Step 4—consider all written submissions

‘5O.(1) The trustee must consider every submission properly made to the trustee.

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

- (a) it is the written submission of a person about the proposed adoption of the model by-law; and
- (b) it states—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds; and

- (c) it is given to the trustee on or before the last day of the consultation period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

‘(7) The notice must state the following—

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

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

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

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

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

Insertion of new schs 7–11

4. After schedule 6—

insert—

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

section 5I

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

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

‘Purpose

‘2. The purposes of this model by-law are—

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

‘Application

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

‘Definitions

‘4. In this model by-law—

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

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

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

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

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

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

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

‘PART 2—APPOINTMENT AND DUTIES OF OFFICERS

‘Appointment of chairperson, secretary and treasurer of trust

‘5.(1) The trust members may appoint—

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

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

‘Duration of appointment of chairperson, secretary and treasurer

‘6.(1) An officer holds office until the officer resigns from office.

‘(2) However, an officer—

- (a) may be removed from office by the trust members present at a meeting of the trust members called for the purpose; and
- (b) ceases to hold office if the officer ceases to be a trust member.

‘Duties of the secretary

‘7. The secretary must—

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

‘Duties of the treasurer

‘8. The treasurer must—

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

‘PART 3—PROCEEDINGS OF TRUST MEMBERS

‘Times and places of meetings for trust members

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

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

‘Chairperson to preside at meetings for trust members

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

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

‘Quorum at meetings

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

Examples—

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

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

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

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

‘Voting at meetings

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

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

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

‘Special meetings

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

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

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

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

section 5I

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

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

‘Purpose of by-law

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

‘Definitions

‘3. In this model by-law—

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

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

“trust member” means—

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

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

‘PART 2—FINANCIAL MANAGEMENT

‘Financial management by 1 trust member

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

‘(2) The funds of the trust must be kept in an account (the “**trust land account**”), in the name by which the trustee is described, in a financial institution decided upon by the trust member.¹⁵

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

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

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

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

‘Financial management by 2 or more trust members

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

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

‘(3) The trust members must ensure that all amounts received for the

¹⁵ Under the *Acts Interpretation Act 1954*, section 36, “financial institution” means a bank, building society or credit union.

trust are paid into the account as soon as practicable after the amounts are received.

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

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

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

‘Public liability insurance

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

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

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

section 5I

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

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

‘Purpose of by-law

‘2. The purposes of this model by-law are—

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

‘Application

‘3. If part 3¹⁶ applies to the trust land, section 14¹⁷ does not apply to the trust land.

¹⁶ Part 3 (Navigational purposes)

¹⁷ Section 14 (Vehicles on trust land)

‘Definitions

‘4. In this model by-law—

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

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

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

“**motor vehicle**” has the same meaning as in the *Traffic Act 1949*.¹⁸

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

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

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

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

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

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

¹⁸ *Traffic Act 1949*, section 9 (Definitions)—

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

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

‘(2) A regulatory notice—

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

‘References to person acting on behalf of the trustee

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

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

‘(3) In this section—

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

‘PART 2—GENERAL ACTIVITIES

‘Entry to trust land

‘7. A person must not, other than under the authority of the trustee, drive

a vehicle on to or from the trust land, unless—

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

Maximum penalty—5 penalty units.

‘Behaviour

‘8. A person must not—

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

Maximum penalty—5 penalty units.

‘Lighting fires

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

Maximum penalty—5 penalty units.

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

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

‘Litter

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

Maximum penalty—10 penalty units.

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

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

‘(3) In this section—

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

“**put**” includes the following—

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

‘Activities causing damage to trust land or improvements

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

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

Maximum penalty—10 penalty units.

‘(2) This section does not apply to damage of or interference with trees.¹⁹

‘Trespass on closed areas

‘12.(1) This section applies—

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

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

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

Maximum penalty—10 penalty units.

Examples of application of subsection (1)—

1. The trustee decides to designate a part of the trust land as a closed area for a particular period during which renovations are carried out to the trust land.

¹⁹ Chapter 5 (Matters affecting land holdings) part 6 (Tree management) of the Act, section 255 (Tree clearing permit needed)—

Tree clearing permit needed

255. A person must not—

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

Maximum penalty—400 penalty units.

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

‘Camping

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

Maximum penalty—10 penalty units.

‘Vehicles on trust land

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

Maximum penalty—5 penalty units.

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

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

Maximum penalty—5 penalty units.

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

Maximum penalty—5 penalty units.

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

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

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

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

Maximum penalty—10 penalty units.

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

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

Maximum penalty—5 penalty units.

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

Maximum penalty—5 penalty units.

‘Protection of animals

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

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

Maximum penalty—5 penalty units.

‘Prohibition of animals

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

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

Maximum penalty—5 penalty units.

‘Control of animals

‘17.(1) This section applies if—

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

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

Maximum penalty—5 penalty units.

Example of a condition for subsection (1)—

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

‘Dogs

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

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

Maximum penalty—5 penalty units.

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

‘(3) In this section—

“**guide dog**” see *Guide Dogs Act 1972*, section 3.²⁰

²⁰ *Guide Dogs Act 1972*, section 3—

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

‘Selling things

‘19. A person must not, other than under a trustee lease or the authority of the trustee, sell anything, or offer anything for sale on the trust land.²¹

Maximum penalty—5 penalty units.

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

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

‘Vehicles on closed areas

‘21.(1) This section applies—

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

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

- (a) if the designation on the regulatory notices is, or is to the effect, that the closed area is permanently closed to motor vehicles—at any time; or

²¹ Under section 57 (Trustee leases) of the Act, a trustee may lease trust land. Under section 60 (Trustee permits) of the Act, a trustee may issue trustee permits for the trust land.

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

Maximum penalty—10 penalty units.

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

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

‘Damage to or interference with navigational equipment

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

Maximum penalty—10 penalty units.

‘PART 4—DRAINAGE PURPOSES

‘Application

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

‘Damage to or interference with land or works

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

Maximum penalty—10 penalty units.

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

section 5I

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

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

‘Purpose of by-law

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

‘Definitions

‘3. In this model by-law—

“approval conditions” see section 10.

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

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

“**liquor**” see the *Liquor Act 1992*, section 4B.²²

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

‘References to person acting on behalf of the trustee

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

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

‘**(3)** In this section—

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

‘PART 2—CONSUMPTION OF ALCOHOL

‘Consumption of liquor in certain places prohibited

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

²² *Liquor Act 1992*, section 4B—

Meaning of “liquor”

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

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

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

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

‘PART 3—DESIGNATED PLACES FOR THE CONSUMPTION OF ALCOHOL

‘Trustee may designate trust land for liquor consumption

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

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

‘Trustee must advertise designation and place signs

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

‘(2) The advertisement must—

- (a) include a description of all, or the relevant part of, the trust land; and

²³ Section 8 (Trustee must advertise revocation or amendment of designation and remove or change signs)

(b) state when the trust land or part of the trust land is a designated place.

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

(a) sufficiently identifying the trust land or part of the trust land as a designated place; and

(b) stating when the trust land or part of the trust land is a designated place.

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

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

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

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

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

‘(2) The advertisement must—

(a) for the revocation of a designation—include a description of the designated place; and

(b) for an amendment changing the boundaries of a designated place—include a description of the designated place as changed; and

(c) for an amendment changing when the designation is in force—state the new period or times.

‘(3) The trustee must also ensure—

- (a) for a revocation—that all signs identifying the place as a designated place are taken away; and
- (b) for an amendment relating to the boundaries of the designated place—that signs sufficiently identify the place, as changed, as a designated place; and
- (c) for an amendment relating to where the designation is in force—that signs identifying the designated place state the changed period or times.

‘PART 4—APPROVED PLACES FOR CONSUMPTION OF ALCOHOL

‘Application for trustee consent as an approved place

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

‘(2) The application must include or be accompanied by—

- (a) the name and address of the applicant; and
- (b) an indication of whether the consent is sought in relation to all, or part only, of the trust land; and
- (c) details of the activity of which the consumption of liquor forms part; and
- (d) the day on which, and the times during which, the activity is to be conducted; and
- (e) the number of persons likely to take part in the activity; and
- (f) other information the trustee may reasonably ask for.

‘Approved places

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

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

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

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

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

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

‘**Directions about complying with approval conditions**

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

Maximum penalty—5 penalty units.

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

section 5I

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

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

‘Purpose of by-law

‘2. The purposes of this model by-law are—

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

‘Definitions

‘3. In this model by-law—

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

“dispose”, for human remains, means—

- (a) to bury in a grave; or
- (b) if the remains have been exhumed—to rebury in a grave; or

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

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

“motor vehicle” has the same meaning as in the *Traffic Act 1949*.²⁴

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

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

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

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

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

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

- (a) the use of the trust land or the part of the trust land by persons; or
- (b) the use in the trust land or the part of the trust land of vehicles or vehicles included in a stated class of vehicles; or

²⁴ *Traffic Act 1949*, section 9 (Definitions)—

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

- (c) the bringing on to the trust land or the part of the trust land of animals or animals included in a stated class of animals.

‘(2) A regulatory notice—

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

‘References to person acting on behalf of trustee

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

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

‘(3) In this section—

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

‘PART 2—GROUNDS OF THE TRUST LAND

‘Application

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

‘No disposal of remains without approval of trustee

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

Maximum penalty—10 penalty units.

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

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

‘Disturbance of remains

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

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

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

- (a) the further burial is within 6 days after the immediately preceding burial; or
- (b) if paragraph (a) does not apply—the trustee reasonably considers, or a person acting on behalf of the trustee reasonably considers, that the re-opening of the grave is not likely to create a danger to public health.²⁵

‘Standards for coffins, niches and vaults etc.

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

- (a) its length;

²⁵ This by-law does not contain a provision for the trustee to authorise the exhumation of human remains. The necessary authority for the exhumation of human remains may be available under section 83 (Exhumations) of the Act and the *Coroners Act 1958*, section 17 (Exhumation).

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

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

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

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

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

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

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

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

‘(7) The trustee must take all reasonable steps to ensure the matters

decided by the trustee under subsection (6) about a receptacle for the remains of a human body not cremated are complied with.

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

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

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

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

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

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

‘Approval necessary for memorials

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

Maximum penalty—10 penalty units.

‘Records for cemetery and crematorium to be kept by trustee

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

a record of—

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

‘(2) A matter is not required to be recorded under subsection (1) if it is included in the register kept under section 79²⁶ of the Act.

‘(3) The trustee must make a record kept under subsection (1) available for public inspection at all reasonable times.²⁷

‘(4) If the trust is wound up, the record must be sent to the State archivist and held for public access.²⁸

‘Animals

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

²⁶ Section 79 (Cemetery registers) of the Act

²⁷ Under section 79 (Cemetery registers) of the Act, this is also a requirement for a register of burials.

²⁸ Section 79 (Cemetery registers) of the Act provides for the same procedure to be followed for a register of burials.

Maximum penalty—5 penalty units.

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

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

Maximum penalty—5 penalty units.

‘(4) In this section—
“**animal**” does not include a dog.

‘Dogs

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

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

Maximum penalty—5 penalty units.

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

‘Interference with funeral or commemorative services

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

Maximum penalty—10 penalty units.

‘Interference with grave etc.

‘**15.** A person must not, other than under the authority of the trustee,

interfere with a grave, vault, niche or memorial, or with flowers or tokens on a grave, vault, niche or memorial.

Maximum penalty—10 penalty units.

‘Behaviour

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

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

Maximum penalty—10 penalty units.

‘Vehicles to be used on formed roadways only

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

Maximum penalty—5 penalty units.

‘Activities causing damage to trust land or improvements

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

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

Maximum penalty—10 penalty units.

‘(2) This section does not apply to damage of or interference with trees.²⁹

‘Selling things

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

Maximum penalty—5 penalty units.

‘Firearms

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

Maximum penalty—5 penalty units.

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

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

‘21.(1) This section applies if—

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

²⁹ Chapter 5 (Matters affecting land holdings) Part 6 (Tree management) of the Act, section 255 (Tree clearing permit needed)—

Tree clearing permit needed

255. A person must not—

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

Maximum penalty—400 penalty units.

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

Maximum penalty—10 penalty units.

‘Placement of flowers and tokens on graves etc.

‘22.(1) This section applies if—

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

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

Maximum penalty—5 penalty units.

‘PART 3—MORTUARY

‘Application

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

‘Mortuary records

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

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

- (a) the date on which the body was delivered to the mortuary;

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

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

‘Authority necessary to enter mortuary

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

Maximum penalty—10 penalty units.’

ENDNOTES

1. Made by the Governor in Council on 11 March 1999.
2. Notified in the gazette on 12 March 1999.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Natural Resources.