

Queensland



Fossicking Act 1994

FOSSICKING REGULATION 1994

**Reprinted as in force on 29 June 1995
(includes amendments up to SL No. 110 of 1995)**

Reprint No. 2

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This regulation is reprinted as at 29 June 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use expressions consistent with current drafting practice (s 29)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 37).

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

Also see endnotes for information about—

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

Queensland



FOSSICKING REGULATION 1994

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FOSSICKING REGULATION 1994

[as amended by all amendments that commenced on or before 29 June 1995]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Fossicking Regulation 1994*.

Definitions

3. In this regulation—

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

“camping form” means a form made available for use for camping in a self-registration camping area.¹

“corresponding law” means a law of another State that corresponds to the *Transport Infrastructure (Roads) Act 1991*.

“plan” means a survey plan held in the Brisbane office of the department.²

“requirement” of a self-registration camping notice, includes a direction, instruction, indication, condition or other provision of the notice.

“self-registration camping area” means regulated camping land to which a self-registration camping notice relates.

“self-registration camping notice” means a notice under section 13.³

¹ See section 13.

² A copy of each plan may be inspected at the department’s head office, 61 Mary Street, Brisbane.

³ Section 13 deals with self-registration camping areas.

Forms

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

Fees

5. The fees payable under the Act are fixed in schedule 1.

Term of licence

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

Term of permit

7. An issuing officer may grant a permit for not more than 1 month.

Regulation does not affect landowner's rights

8.(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) A person acting under the owner's authority under subsection (1) does not contravene this regulation.

PART 2—DESIGNATED FOSSICKING LAND, FOSSICKING AND OTHER AREAS

Designated fossicking land

9.(1) The land specified in schedule 2 is designated fossicking land with the name given to it in the schedule.

(2) The area given for the land is the total area inside the boundaries of the land, even though some of the land may not be designated fossicking land because it is excluded from the designated fossicking land under the Act.⁴

Fossicking areas

10.(1) The land specified in schedule 3 is a fossicking area with the name given to it in the schedule.

(2) The area given for the land is the total area inside the boundaries of the land, even though some of the land may not be part of the fossicking area because it is excluded from the fossicking area under the Act.⁵

Prohibited camping land

11. The land specified in schedule 4 is prohibited camping land.

Regulated camping land

12. The land specified in schedule 5 is regulated camping land.

⁴ See the *Fossicking Act 1994*, section 112 (Designated areas).

⁵ See the *Fossicking Act 1994*, section 113 (Fossicking areas).

PART 3—CAMPING

Self-registration camping areas

13.(1) The chief executive may erect or display on, or at or near any entrance to, regulated camping land, a notice (a **“self-registration camping notice”**) stating that the land, or a stated part of the land, is a self-registration camping area for a stated period.

(2) The self-registration camping notice must state, in general terms, the procedures to be followed by anyone intending to camp in the area.

(3) The self-registration camping notice must also state—

- (a) how many people may camp in the area under a permit; and
- (b) how long someone may camp in the area; and
- (c) how many people may camp on a camp site in the area; and
- (d) how many permits may apply to a camp site in the area; and
- (e) the camping fee payable for camping in the area; and
- (f) the penalty for camping in the area without a permit.

(4) The chief executive must make forms (**“camping forms”**) and a sealed, secure camping fee container available for use for camping in the area.

(5) The camping forms and camping fee container must be in an easily accessible and conspicuous position in the area.

(6) The camping form must—

- (a) state the procedures a person using the form must follow; and
- (b) include a detachable camping fee envelope and a form (the **“self-registration form”**) to be displayed at the person’s camp site.

(7) A person intending to camp in the area must follow the procedures stated on the camping fee envelope.

When permit is taken to have been granted

14.(1) This section applies if a person—

- (a) fills in a camping form for a self-registration camping area in the way stated on the form; and
- (b) places cash or a cheque for the camping fee in the camping fee envelope and seals the envelope; and
- (c) puts the envelope in the camping fee container.

(2) The person, and anyone accompanying the person to camp in the area, is taken to have been granted a permit for the area and period stated in the form.

(3) The permit is not taken to have been granted—

- (a) for more people than the number mentioned in the camping form; or
- (b) for more people than the number stated under the self-registration camping notice; or
- (c) for a time when the area is not a self-registration camping area; or
- (d) for longer than the longest period for which anyone may camp in the area; or
- (e) if the person paid the camping fee by cheque and the cheque is dishonoured.

Display of permits and self-registration forms

15.(1) A person camping under a permit, including a person to whom a permit is taken to have been granted, must, as soon as possible after making camp, display the form by attaching it, in a conspicuous position—

- (a) to the person's tent, caravan or other structure; or
- (b) if paragraph (a) does not apply—to other camping equipment used by the person.

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

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

Maximum penalty—2 penalty units.

Interference with permits and self-registration forms

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

Maximum penalty—2 penalty units.

PART 4—CONTROL OF ACTIVITIES ON ALL LAND

Certain activities prohibited

17. 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;⁶
or
- (c) pollute a watercourse or water storage facility; or
- (d) dig in land in a way likely to cause gullying, or the collapse of banks, on land around the land dug; or
- (e) place material dug on a slope where water may wash it away; or
- (f) interfere with improvements, a site of cultural or heritage value or domestic stock.

Maximum penalty—20 penalty units.

⁶ The *Water Resources (Watercourse Protection) Regulation 1993* sets out the extent to which the destruction of vegetation, excavation or placing of fill in a watercourse is allowed under a fossicking licence.

Fossicking in a watercourse

18.(1) This section applies to a person fossicking in a watercourse.⁷

(2) The person must not—

- (a) fossick within 40 m of—
 - (i) a weir, bridge or other structure in or over the watercourse; or
 - (ii) a site of a pump used to pump water from the watercourse; or
- (b) if fossicking within 3 m of the top or toe of a bank or in a bank slope may cause erosion or the collapse of the bank—fossick within 3 m of the top or toe of the bank or in the bank's slope; or
- (c) significantly interrupt, divert or stop the flow of water in the watercourse; or
- (d) cause significant stream turbidity more than 300 m downstream from the person's fossicking site; or
- (e) erect a structure in the watercourse.

(3) A person digging in a watercourse must, before leaving the watercourse—

- (a) refill the person's fossicking site; and
- (b) if there is material left over after refilling the site—put the left over material in a place in the watercourse where it is unlikely to affect significant stream flows or disturb the stream's low flow channel.

Maximum penalty—20 penalty units.

Disposal of human wastes

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

- (a) if there are facilities for disposing of human waste on the land—in

⁷ The *Water Resources (Watercourse Protection) Regulation 1993* sets out the extent to which the destruction of vegetation, excavation or the placing of fill in a watercourse is allowed under a fossicking licence.

the facilities; or

- (b) by burying it at least 20 m from the nearest high bank of a watercourse and covering it with at least 20 cm of soil.

Maximum penalty—5 penalty units.

Land to be left safe and tidy

20.(1) A person who has stopped fossicking or camping on land must, immediately before leaving the land—

- (a) if the land is designated fossicking land or a fossicking area—make the person's fossicking or camp site safe for other fossickers, stock and the owner of the land; or
- (b) if paragraph (a) does not apply—make the person's fossicking or camp site safe for other fossickers, stock and the owner of the land, for example, by filling in any place dug by the person.

(2) The person must also—

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

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

Maximum penalty for subsections (1) to (3)—5 penalty units.

PART 5—CONTROL OF ACTIVITIES ON DESIGNATED FOSSICKING LAND AND FOSSICKING AREAS

Structures, dams and machinery

21. 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.

Roads, tracks etc.

22. 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 mining registrar's or land manager's written approval; or
- (b) in contravention of the conditions of the approval.

Maximum penalty—20 penalty units.

Use of vehicles

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

(2) A person must not drive a vehicle on fossicking land unless the vehicle is registered, and the person holds a licence to drive the vehicle, under the *Transport Infrastructure (Roads) Act 1991* or a corresponding law.

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

- (a) at more than 50 km/h; or
- (b) other than on a made track or road; or
- (c) in a way that may—
 - (i) unreasonably inconvenience someone else on the land; or
 - (ii) endanger anyone on the land (including the driver); or
 - (iii) damage a road surface; or
- (d) in a way that makes excessive noise.

Maximum penalty—5 penalty units.

Other prohibited conduct

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

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

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

Maximum penalty—20 penalty units.

Display of advertisements

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

Maximum penalty—5 penalty units.

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

Other prohibited activities

26. A person on a fossicking area must not, without the mining registrar's written approval—

- (a) set up or use a loudspeaker system; or
- (b) hold or address a meeting, assembly or religious service; or

- (c) give a musical performance; or
- (d) solicit donations; or
- (e) give out literature.

Maximum penalty—5 penalty units.

PART 6—GENERAL

Commission

27.(1) This section applies to an issuing officer authorised under the Act—

- (a) to charge a commission for issuing a licence or permit; or
- (b) to retain a part of the prescribed fee for issuing a licence or permit.

(2) The commission or retained part of the licence or permit fee is 10% of the fee.

Prescribed value for abandoned property

28. The prescribed value for abandoned property is \$300.⁸

⁸ Abandoned property may be dealt with under section 97 of the Act.

SCHEDULE 1**FEES**

section 5

\$

1.	Individual fossickers licence—	
(a)	1 month	5.00
(b)	6 months	18.00
(c)	1 year	30.00
2.	Family fossickers licence—	
(a)	1 month	7.00
(b)	6 months	23.00
(c)	1 year	40.00
3.	Club fossickers licence	50.00
4.	Educational organisation fossickers licence—	
(a)	1 month	20.00
(b)	1 year	40.00
5.	Commercial tour operator fossickers licence—	
(a)	1 month	35.00
(b)	1 year	300.00
6.	Individual or family fossicker camping permit—	
(a)	each night	2.00
(b)	each week	12.00
7.	Club or educational organisation fossicker camping permit for each person—	
(a)	each night	1.00
(b)	each week	6.00
8.	Commercial tour operator fossicker camping permit for each person—	
(a)	each night	2.00
(b)	each week	12.00
9.	Copy of a licence	5.00

SCHEDULE 2**DESIGNATED FOSSICKING LAND**

section 9

1. Divide Designated Fossicking Land—the land west of the Town of Rubyvale shown on Plan No. MP 40825, Sheets 1 and 2—area 339.1 ha.⁹
2. Opalton Designated Fossicking Land—the land south of the Town of Winton shown on Plan No. MP 36631—area about 974.5 ha.
3. Reward Designated Fossicking Land—the land west of the Town of Sapphire shown on Plan No. MP 34342—area about 940 ha.⁹
4. Rubyvale Designated Fossicking Land—the land around the Town of Rubyvale shown on Plan No. MP 34341—area about 990 ha.⁹
5. Sapphire Designated Fossicking Land—the land around the Town of Sapphire shown on Plan No. MP 34343—area about 1 570 ha.¹⁰
6. Scrub Lead Designated Fossicking Land—the land north-east of the Town of Sapphire shown on Plan No. MP 34340—area about 1 360 ha.¹⁰
7. Willows Designated Fossicking Land—the land west of the Town of Anakie shown on Plan No. MP 36464—area about 1 154 ha.¹⁰

⁹ See the *Fossicking Act 1994*, section 112 (Designated areas).

¹⁰ See the *Fossicking Act 1994*, section 112 (Designated areas).

SCHEDULE 3

FOSSICKING AREAS

section 10

1. Big Bessie Fossicking Area—land west of the Town of Sapphire shown on Plan No. MP 34238—area 33.55 ha.¹¹
2. Deep Creek Fossicking Area—land in the Town of Gympie shown on Plan No. MP 40896—area 7.573 ha.¹²
3. Glenalva Fossicking Area—land west of the Town of Anakie shown on Plan No. MP 40817—area 496.8 ha.¹¹
4. Graves Hill Fossicking Area—land west of the Town of Sapphire shown on Plan No. MP 40830—area 115.7 ha.¹¹
5. Middle Ridge Fossicking Area—land west of the Town of Rubyvale shown on Plan No. MP 40828—area 31.92 ha.¹¹
6. O'Briens Creek Fossicking Area—land west-north-west of the Town of Mount Surprise shown on Plan No. MP 36588 (other than land covered by mining claim, mining lease or residence area)—area 3 160 ha.
7. Thanes Creek Fossicking Area—land west of Warwick shown on Plan No. MP 41157—area 3.967 ha.¹²
8. Tomahawk Creek Fossicking Area—land west of the Town of Rubyvale shown on Plan No. MP 40814—area about 2 450 ha.¹¹
9. Yowah Fossicking Area—land west of the Town of Eulo shown on Plan No. MP 41145, Sheets 1 and 2 (other than land covered by a mining claim or mining lease)—area 27.3 ha.¹²

¹¹ See the *Fossicking Act 1994*, section 113 (Fossicking areas).

¹² This land was a fossicking area under the repealed Act.

SCHEDULE 4

PROHIBITED CAMPING LAND

section 11

PART 1—DESIGNATED FOSSICKING LAND

1. Part of Sapphire Designated Fossicking Land shown on Plan No. MP 34657—area about 670 ha.¹³
2. Part of Scrub Lead Designated Fossicking Land and part of Rubyvale Designated Fossicking Land shown on Plan No. MP 36456—area about 540 ha.¹³
3. Willows Designated Fossicking Land.¹³

PART 2—FOSSICKING AREAS

4. Land in the Deep Creek Fossicking Area.¹³
5. Land in the O'Briens Creek Fossicking Area.
6. Land in the Thanes Creek Fossicking Area.¹³
7. Land in the Yowah Fossicking Area.¹³

¹³ This is land on which camping was prohibited under the repealed Act. If a plan number is given for the land, the plan shows the limits of the prohibited camping land.

SCHEDULE 5**REGULATED CAMPING LAND**

section 12

PART 1—DESIGNATED FOSSICKING LAND

1. Divide Designated Fossicking Land.¹⁴
2. Opalton Designated Fossicking Land.¹⁴
3. Reward Designated Fossicking Land.¹⁴
4. Rubyvale Designated Fossicking Land (other than prohibited camping land¹⁵).
5. Sapphire Designated Fossicking Land (other than prohibited camping land¹⁵).
6. Scrub Lead Designated Fossicking Land (other than prohibited camping land¹⁵).

¹⁴ Designated fossicking land is included in schedule 2.

¹⁵ Prohibited camping land is included in schedule 4.

SCHEDULE 5 (continued)

PART 2—FOSSICKING AREAS

6. Big Bessie Fossicking Area.¹⁶
7. Graves Hill Fossicking Area.¹⁶
8. Glenalva Fossicking Area.¹⁶
9. Middle Ridge Fossicking Area.¹⁶
10. Tomahawk Creek Fossicking Area.¹⁶

¹⁶ Fossicking areas are included in schedule 3.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 June 1995. Future amendments of the Fossicking Regulation 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

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

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

Reprint No.	Amendments included	Reprint date
1	to SL No. 15 of 1995	13 February 1995

5 List of legislation

Fossicking Regulation 1994 SL No. 466

notfd gaz 16 December 1994 pp 1792–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 February 1995 (see s 2)

as amended by—

Fossicking Amendment Regulation (No. 1) 1995 SL No. 15

notfd gaz 27 January 1995 pp 292–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 February 1995 (see s 2)

Fossicking Amendment Regulation (No. 2) 1995 SL No. 110

notfd gaz 21 April 1995 pp 1718–21

commenced on date of notification

6 List of annotations

Commencement

s 2 om R2 (see RA s 37)

SCHEDULE 2—DESIGNATED FOSSICKING LAND

sub 1995 SL No. 110 s 3

SCHEDULE 3—FOSSICKING AREAS

amd 1995 SL No. 15 s 4

SCHEDULE 4—PROHIBITED CAMPING LAND

amd 1995 SL No. 15 s 5

SCHEDULE 5—REGULATED CAMPING LAND

amd 1995 SL No. 110 s 4