



***Land Act 1994***

# **Land Regulation 2009**

**Current as at 1 July 2019**

## **Reprint notes**

This is the last reprint before repeal. Repealed on 1 July 2020 by 2020 SL No. 106 s 99.

The *Land (COVID-19 Emergency Response—Waiver and Deferral of Rents and Instalments) Regulation 2020* modified this legislation from 8 May 2020 until 30 June 2020. These modifications did not amend the text of this law. Accordingly, while this point-in-time version does not contain textual amendments, it is affected by and must be read with the modifications that were in force at the same time.

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## Queensland

# Land Regulation 2009

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# Land Regulation 2009

## Part 1 Preliminary

### 1 Short title

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

### 2 Commencement

This regulation commences on 1 July 2010.

### 3 Definitions

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

## Part 2 Reserves and deeds of grant in trust

### Division 1A Revocation of dedication of reserve

#### 3A Revocation of dedication of cemetery reserve—Act, s 34D

- (1) For section 34D(3) of the Act, this section authorises the revocation of the dedication of the part of the Southport cemetery reserve shown as ‘new road’ on lot 91 on SP240307, containing an area of about 512m<sup>2</sup>.
- (2) In this section—

*Southport cemetery reserve* means the land reserved for cemetery purposes on lot 91 on plan WD810502, County of Ward, Parish of Nerang, known as Southport cemetery.

## **Division 1                    Powers of trustee—model by-laws**

### **Subdivision 1            Model by-laws**

#### **4            Model by-laws—Act, s 56**

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

### **Subdivision 2            Way of adopting**

#### **5            Purpose of sdiv 2**

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

#### **6            Step 1—propose to adopt model by-law**

- (1) The trustee may—
  - (a) if the trustee consists of only 1 person—decide to propose to adopt a model by-law for the trust land; or
  - (b) if the trustee consists of 2 or more persons—decide, by resolution, to propose to adopt a model by-law for the trust land.
- (2) If a decision is made under subsection (1)(a), the trustee must record the decision in the books for recording trust business.
- (3) If a decision is made under subsection (1)(b), the trustee must record the resolution in the minutes book for recording trust business.

#### **7            Step 2—consult with public about proposed adoption**

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

- (2) The consultation period begins on the day when the notice mentioned in subsection (3) is first published under subsection (3)(a).
- (3) A notice about the proposed adoption of the model by-law—
  - (a) must be published at least once in a newspaper circulating generally in the area in which the trust land is situated; and
  - (b) if the trustee considers publication in the way mentioned in paragraph (a) may not adequately bring the notice to the attention of the public—must be displayed in a conspicuous place on the trust land to which the public has ready access, for all or part of the consultation period.
- (4) The notice must state the following—
  - (a) the name of the trustee proposing to adopt the model by-law;
  - (b) the property description of the trust land;
  - (c) that the trustee proposes to adopt the model by-law;
  - (d) the name of the model by-law;
  - (e) the purposes and general effect of the model by-law;
  - (f) the consultation period and the first and last days of the period;
  - (g) that a copy of the model by-law may be inspected on or before the last day of the consultation period, and where it may be inspected;
  - (h) that a copy of the model by-law may be purchased on or before the last day of the consultation period, and where it may be purchased and its cost;
  - (i) that a written submission by any person supporting or objecting to the proposed model by-law may be made to the trustee, on or before the last day of the consultation period, at the address stated in the notice for the purpose.

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

- (1) A copy of the model by-law must be open for inspection—
  - (a) at the location stated in the notice about the proposed adoption of the model by-law; and
  - (b) on the first day of the consultation period and until the end of the last day of the consultation period.
- (2) Copies of the model by-law must be available for purchase at a price of no more than—
  - (a) the cost to the trustee of having the copy available for purchase; and
  - (b) if the copy is posted to the purchaser, the postage cost.

**9 Step 4—consider all written submissions**

- (1) The trustee must consider every submission properly made to the trustee.
- (2) A submission is properly made to the trustee if—
  - (a) it is the written submission of a person about the proposed adoption of the model by-law; and
  - (b) it states—
    - (i) the grounds of the submission; and
    - (ii) the facts and circumstances relied on in support of the grounds; and
  - (c) it is given to the trustee on or before the last day of the consultation period.

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

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



- 
- (2) If the trustee consists of only 1 person, the decision whether to proceed must be recorded in the books for recording trust business.
  - (3) If the trustee consists of 2 or more persons—
    - (a) the trustee must make the decision by resolution; and
    - (b) the resolution must be recorded in the minutes book for recording trust business.
  - (4) If the trustee decides not to proceed with the adoption of the model by-law but later proposes to adopt the model by-law, the trustee must start again at step 1.

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

- (1) This section applies if the trustee decides to proceed with the adoption of the model by-law proposed to be adopted.
- (2) The trustee must decide to adopt the model by-law.
- (3) If the trustee consists of only 1 person, the decision to adopt the model by-law must be recorded in the books for recording trust business.
- (4) If the trustee consists of 2 or more persons—
  - (a) the trustee must make the decision by resolution; and
  - (b) the resolution must be recorded in the minutes book for recording trust business.
- (5) As soon as practicable after adopting the model by-law, the trustee must—
  - (a) give to the Minister—
    - (i) a copy of the decision or resolution; and
    - (ii) a copy of the model by-law; and
  - (b) publish a notice about the adoption of the model by-law at least once in a newspaper circulating generally in the area in which the trust land is situated; and

- (c) if the trustee considers publication in the way mentioned in paragraph (b) may not adequately bring the notice to the attention of the public, display the notice—
    - (i) in a conspicuous place on the trust land to which the public has ready access; and
    - (ii) for at least 7 days.
- (6) The notice must state the following—
  - (a) the name of the trustee adopting the model by-law;
  - (b) the property description of the trust land;
  - (c) the name of the model by-law adopted;
  - (d) the purposes and general effect of the model by-law;
  - (e) that a copy of the model by-law is to be given to the Minister;
  - (f) that the Minister is to arrange for the adoption of the model by-law to be published in the gazette.

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

- (1) As soon as practicable after the trustee gives the Minister a copy of the model by-law under section 11(5)(a), the Minister must arrange for the adoption of the model by-law to be published in the gazette.
- (2) The model by-law takes effect for the trust land—
  - (a) on the day its adoption is published in the gazette; or
  - (b) if a later day is stated in the gazette for the model by-law to take effect—on the stated day.

## **Division 2                      Trustee permits and trustee leases**

### **Subdivision 1              Requirements for trustee permits**

#### **13              Requirements for trustee permits—Act, s 60**

- (1) This section prescribes, for section 60(2) of the Act, the requirements with which a trustee permit must not be inconsistent.
- (2) A trustee permit for the use of all or part of trust land—
  - (a) must state that the Minister or the trustee must give the permittee 28 days notice of the Minister's or the trustee's intention to cancel the permit; and
  - (b) may not be issued for a part of the trust land that is subject to a trustee lease; and
  - (c) must not allow the construction of structural improvements; and
  - (d) may allow the modification or use of structural improvements existing when the permit is issued; and
  - (e) if there is a management plan for the trust land under section 48 of the Act—must be consistent with the management plan; and
  - (f) must state that it is a condition of the permit that the permittee holds the permit so that the trust land may be used for the community purpose for which it was reserved or granted in trust without undue interruption or obstruction; and
  - (g) must state the permittee's permitted use of the trust land; and
  - (h) must not give a right—
    - (i) to renew the permit; or
    - (ii) to be given a more secure tenure over the trust land; and

- (i) must not allow the permittee to transfer, sublet or mortgage the permittee's right to use the trust land.

## **Subdivision 2      Statutory bodies exemption**

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

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

## **Subdivision 3      Requirements for trustee leases**

### **15      Requirements for relevant leases—Act, s 64**

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

- (ii) whether the persons hold the lease as joint tenants or tenants in common and, if as tenants in common, each person's share; and
- (i) the term of the lease; and

*Note—*

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

- (j) when the term of the lease starts; and
  - (k) whether the lease relates to all or part of the trust land; and
  - (l) if the lease relates to part only of the trust land—
    - (i) the area of the lease land; and
    - (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 attached to the relevant lease.
- (3) In this section—

***relevant lease*** means—

- (a) a trustee lease; or
- (b) a sublease of a trustee lease; or
- (c) a sub-sublease of a sublease of a trustee lease.

***relevant person***, for a relevant lease, means—

- (a) for a trustee lease—a trustee of the trustee lease; or
- (b) for a sublease of a trustee lease—a lessee under the trustee lease; or
- (c) for a sub-sublease of a sublease of a trustee lease—a sublessee under the sublease of the trustee lease.

## **Part 3                      Land holdings—making land available by competition**

### **16        Way ballot must be conducted—Act, s 119**

For section 119 of the Act, this part prescribes the way a ballot must be conducted.

### **17        Applications must be numbered**

Applications for inclusion in the ballot must be numbered consecutively in the order they are received.

### **18        Information to be sent to applicants and displayed**

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

### **19        Chief executive must conduct ballot and appoint observer**

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

## **20 Chief executive must provide marbles and containers**

The chief executive must provide—

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

## **21 Requirements for marbles and containers**

- (1) Each container mentioned in section 20(b) must contain the number of marbles, numbered from 0 to 9, necessary for the number of applications received.
- (2) The marbles numbered 6 or 9 must have the 6 and 9 underlined.
- (3) The marbles and containers must be available for inspection—
  - (a) by any person attending the ballot; and
  - (b) before each draw.

## **22 Drawing process**

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

## **23 Containers and marbles must be inspected**

- (1) Immediately after each draw—
  - (a) both the chief executive and the independent observer must inspect the containers for the draw to confirm that the correct number of marbles remains; and
  - (b) the containers and the remaining marbles must be made available for inspection by any person attending the ballot.
- (2) If the containers do not contain the correct number of marbles, the draw is invalid and must be conducted again.

## **24 Winner must be notified**

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

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

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

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



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## **Part 4                      Matters affecting land holdings**

### **Division 1AA              Lease and other land conversion**

#### **25A      What this division does**

- (1) This division prescribes the way the purchase price, unimproved value, value of commercial timber, value of quarry material or cash premium must be decided for the purposes of the following sections of the Act—
  - (a) section 25(1);
  - (b) section 26B(6);
  - (c) section 34IA(2);
  - (d) section 69(1);
  - (e) section 109C(4);
  - (f) section 122(3);
  - (g) section 127(6)(b);
  - (h) section 170(1).
- (2) This division also provides for a right of appeal against the chief executive's decision on the purchase price for land in particular circumstances.

#### **25B      Purchase price—generally**

- (1) The purchase price of land, other than land mentioned in sections 25BA and 25BB, is an amount equal to the total of—
  - (a) the value of the land; and
  - (b) the market value of any commercial timber on the land (see section 25E).
- (1A) The purchase price of the following land also includes the value of any quarry material in the land (see section 25EA)—

- (a) land to be amalgamated, under section 109(2)(b) of the Act, with land for which there is no reservation of quarry material to the State;
  - (b) land to be amalgamated, by way of a deed of grant under section 122(1) of the Act, with land for which there is no reservation of quarry material to the State.
- (2) The value of the land is—
  - (a) for a category 11.1 or 11.2 lease—the net present value of the land (see section 25C); or
  - (b) otherwise—the unimproved value of the land, as if it were fee simple (see section 25D).

#### **25BA Purchase price—Act, s 34IA**

- (1) This section applies to land that is the subject of a decision of the Minister under section 34IA(2) of the Act.
- (2) The purchase price of the land is an amount the Minister considers appropriate.

#### **25BB Purchase price of particular interests in land—Act, s 122**

- (1) This section applies to land if—
  - (a) the land is the subject of a decision of the Minister under section 122(3) of the Act; and
  - (b) the Minister decides to offer an interest in the land to MEDQ or a constructing authority under section 120A of the Act.
- (2) The purchase price of the land is an amount the Minister considers appropriate.

#### **25C Net present value**

- (1) The *net present value* is the amount worked out using the following formula—

$$A \times \left[ \frac{1 - \left( 1/(1+i)^{30} \right)}{i} \right] + A \times \left[ \frac{(1+g)/(i-g)}{(1+i)^{30}} \right]$$

where—

*A* is the annual rent for the lease worked out by multiplying the unimproved value of the lease by the percentage rate for the lease as stated in section 37A.

*i* is .065.

*g* is .025.

- (2) The net present value is to be worked out as at the day the chief executive receives the conversion application.

## 25D Unimproved value

- (1) The *unimproved value of land* is—
- (a) for a category 11.1 or 11.2 lease—the rental valuation; or
  - (b) otherwise—the amount that an estate in fee simple in the land in an unimproved state would be worth if—
    - (i) after proper marketing, there were an exchange between a willing buyer and a willing seller in an arms-length transaction; and
    - (ii) the buyer and seller had acted knowledgeably, prudently and without compulsion.
- (2) Also, the unimproved value includes the value of improvements and development work made by the State to the land, and for which the State has not been paid, before the lease started or the deed of grant was issued.
- (3) However, the unimproved value does not include the value of any commercial timber on the land.
- (4) The unimproved value is—

- (a) for land that has been reclaimed under the authority of an Act—as at the day the permission to reclaim the land was given; or
- (b) otherwise—as at the day the chief executive receives either—
  - (i) the conversion application; or
  - (ii) the application under section 34I(1) of the Act.
- (5) To remove any doubt, it is declared that the Land Valuation Act does not apply to the meaning of unimproved value.

## **25E Value of commercial timber**

- (1) The value of any commercial timber on the land is the market value of any commercial timber on the land that is the property of the State, other than forest products that are the subject of a consent agreement.
- (2) The market value of any commercial timber is to be worked out—
  - (a) if the value is not appealed—as at the day the chief executive receives the conversion application; or
  - (b) if the value is appealed—as at the day the appeal is decided; or
  - (c) if a person has applied to buy the commercial timber—as at the day the person applied; or
  - (d) if the Minister made an offer to sell the commercial timber before the day mentioned in paragraph (c)—as at the day the offer was made.

## **25EA Value of quarry material**

- (1) The value of any quarry material in the land is the market value of any quarry material in the land that is the property of the State and that could be taken for commercial gain.
- (2) The market value of any quarry material is to be worked out—

- (a) if the quarry material is in land to be amalgamated under section 109(2)(b) of the Act—as at the day the Minister makes the decision under that section; or
- (b) if the quarry material is in land to be amalgamated by way of a deed of grant under section 122(1) of the Act—as at the day the Minister makes the decision under that section.

## **25F Cash premium**

The cash premium is equal to the minimum rent for the category of the lease that the closed road will be amalgamated with.

## **25G Appeal against decision on purchase price by lessee**

- (1) This section applies if the chief executive decides the purchase price for an offer of a deed of grant to a lessee.
- (2) The lessee may appeal against the chief executive's decision on the purchase price.
- (3) However, an appeal of the chief executive's decision on the purchase price for a category 11.1 or 11.2 lease must not relate to the rental valuation for the lease.

*Note—*

A rental valuation is decided by the valuer-general under the Land Valuation Act and is used to calculate the unimproved value of lease land for a purchase price under sections 25C(1) and 25D(1)(a).

# **Division 1 Rents—general**

## **26 Definitions for div 1**

In this division—

*lease* means a lease, licence or permit.

*lessee* means—

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

***relevant category lease*** means a category 12.1, 12.2, 13 or 14.2 lease.

## **26A Rent periods**

- (1) The rental period for a lease, licence or permit is 1 year starting on 1 July.
- (2) However—
  - (a) if a lease, licence or permit starts in a rental period—the first rental period for the lease, licence or permit is from the start of the lease, licence or permit until the next 30 June; and
  - (b) if a lease, licence or permit ends in a rental period—the last rental period for the lease, licence or permit is from 1 July before the lease, licence or permit ends until the lease, licence or permit ends.
- (3) Also, if the annual rent for a lease, licence or permit is more than \$2,000, the rental period for the lease, licence or permit may be divided into quarterly sub-periods starting on 1 July.

## **27 Rental categories for rental assessment**

- (1) The Minister may decide (a ***rental category decision***) to include a lease or licence into a rental category mentioned in subsection (5) for the purposes of rent assessment.
- (2) The chief executive may decide (also a ***rental category decision***) to include a permit into a rental category mentioned in subsection (5) for the purposes of rent assessment.
- (3) The relevant decision maker must give a lessee, licensee or permittee notice of the rental category decision when—
  - (a) the lease, licence or permit is being offered; or

- (b) approval is given for a lease to be used for an additional purpose.
- (4) A lessee, licensee or permittee may appeal against the rental category decision.
- (5) The following are the rental categories for rent assessment—
  - (a) category 11.1—primary production perpetual lease;
  - (b) category 11.2—primary production other tenures;
  - (c) category 12.1—residential;
  - (d) category 12.2—residential (permit to occupy for short term accommodation purpose);
  - (e) category 13—business and government core business;
  - (f) category 14.1—charities and small sporting or recreational clubs;
  - (g) category 14.2—large sporting or recreational clubs;
  - (h) category 15.1—communication sites (community service activities);
  - (i) category 15.2—communication sites (limited commercial service activities—rural);
  - (j) category 15.3—communication sites (limited commercial service activities—urban);
  - (k) category 15.4—communication sites (non-community service activities—rural);
  - (l) category 15.5—communication sites (non-community service activities—urban);
  - (m) category 16—divestment.

## **28 Category 11.1 or 11.2 lease**

- (1) A category 11.1 lease is a perpetual lease that is or may be used primarily for grazing or primary production.

- (2) A category 11.2 lease is a term lease, licence or permit to occupy that is or may be used primarily for grazing or primary production.
- (3) In this section—  
*primary production* includes—
  - (a) agriculture, including viticulture and the growing of cane, coffee, tea, tobacco, fruit, vegetables, flowers and other horticultural products; and
  - (b) aquaculture, including oyster farming; and
  - (c) farming cattle in feedlots; and
  - (d) farming pigs and poultry.

## 29 Category 12.1 or 12.2 lease

- (1) A lease is a category 12.1 lease if—
  - (a) under its conditions—
    - (i) the lease may be used primarily for, or it is being used primarily for, a single dwelling house; or
    - (ii) the lease may be used solely for, or it is being used solely for, a private purpose; and
  - (b) the lease does not meet the requirements for another category.

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

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

- (2) A lease is a category 12.2 lease if—
  - (a) it is a permit to occupy only; and
  - (b) under its conditions the permit may be used solely for, or it is being used solely for, a short term accommodation purpose.



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*Example of short term accommodation purpose for paragraph (b)—*

staying at a fishing hut for a weekend or holiday period

### 30 **Category 13 lease**

- (1) A lease is a category 13 lease if—
- (a) under its conditions the lease may be used for, or it is being used for, a business, commercial or industrial purpose; and
  - (b) the lease does not meet the requirements for another category.
- (2) Also, a lease is a category 13 lease if—
- (a) the lessee is a government leasing entity; and
  - (b) the use of the lease is essential for conducting the lessee's core business.

*Examples of a lessee's core business—*

operating hospitals, police stations, schools, offices and depots

- (3) In this section—

**government company** means a corporation incorporated under the Corporations Law all the stock or shares in the capital of which is or are beneficially owned by the State.

**government leasing entity** means—

- (a) the State or the Commonwealth; or
- (b) a Commonwealth or State authority, instrumentality or body corporate; or
- (c) a government company; or
- (d) a GOC; or
- (e) a rail government entity under the *Transport Infrastructure Act 1994*; or
- (f) a local government.

### **31 Category 14.1 lease**

- (1) A lease is a category 14.1 lease if—
- (a) the lessee is—
    - (i) a charitable organisation or non-commercial community service organisation; and
    - (ii) an organisation whose constitution does not permit its profits to be distributed to its members; and
  - (b) under its conditions the lease may be used for, or it is being used for, providing—
    - (i) services that are charitable in nature; or
    - (ii) services aimed at improving community welfare or safety; and
  - (c) the lease does not meet the requirements for another category.

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

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

- (2) Also, a lease is a category 14.1 lease if—
- (a) under its conditions the lease may be used for, or it is being used for, a sporting or recreational purpose; and
  - (b) the lessee is a sporting or recreational organisation—
    - (i) with fewer than 2,000 members; and
    - (ii) whose constitution does not permit its profits to be distributed to its members; and
  - (c) the lease does not meet the requirements for another category.
- (3) In addition, a lease is a category 14.1 lease if—
- (a) the lease is held by the State or a local government for a non-commercial community service organisation; and

- (b) the lease is being used by the organisation for providing community services, on a basis other than a commercial basis, aimed at improving community welfare or safety; and
- (c) the lease does not meet the requirements for another category.

(4) In this section—

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

*Examples of non-commercial community service organisations—*

rural fire brigades, the State Emergency Service

## 32 Category 14.2 lease

A lease is a category 14.2 lease if—

- (a) under its conditions the lease may be used for, or it is being used for, a sporting or recreational purpose; and
- (b) the lessee is—
  - (i) a sporting or recreational organisation with 2,000 members or more; and
  - (ii) an organisation whose constitution does not permit its profits to be distributed to its members.

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

- (1) A lease is a category 15.1 lease if the lease may be used for, or it is being used for, the provision, relay or transmission of telephonic, television, radio or other electronic communication services for a community service activity.
- (2) A lease is a category 15.2 lease if—
  - (a) the lease may be used for, or it is being used for, the provision, relay or transmission of telephonic, television, radio or other electronic communication services for a limited commercial service activity; and

- (b) the lease land is in a rural area.
- (3) A lease is a category 15.3 lease if—
  - (a) the lease may be used for, or it is being used for, the provision, relay or transmission of telephonic, television, radio or other electronic communication services for a limited commercial service activity; and
  - (b) the lease land is in an urban area.
- (4) A lease is a category 15.4 lease if—
  - (a) the lease may be used for, or it is being used for, the provision, relay or transmission of telephonic, television, radio or other electronic communication services for a non-community service activity; and
  - (b) the lease land is in a rural area.
- (5) A lease is a category 15.5 lease if—
  - (a) the lease may be used for, or it is being used for, the provision, relay or transmission of telephonic, television, radio or other electronic communication services for a non-community service activity; and
  - (b) the lease land is in an urban area.
- (6) In this section—

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

*Examples of emergency or essential community services—*

ambulance, fire or police services

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

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

*Example for paragraph (a)—*

ABC radio

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

*Example for paragraph (b)—*

SBS television

- (c) a local service provider.

*Example for paragraph (c)—*

channel 31

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

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

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

*Example of commercial or domestic services—*

mobile phone or cable television services

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

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

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

### **34 Category 16 lease**

Each of the following leases is a category 16 lease—

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

### **36 Matters for calculating rent (valuations for rental purposes)**

- (1) The prescribed valuation for rental purposes of lease land for a rental period is—
  - (a) for a relevant category lease—the averaged value of the lease land for the rental period; or
  - (b) for another lease—the most recently made valuation for rental purposes of the lease land for the rental period.
- (2) However, the valuation for a category 12.2 lease is \$13,350 if the averaged value of the lease land for the rental period would be more than \$13,350.

### **37 Minimum rent for leases of particular categories**

The minimum rent for a lease for a rental period is—

- (a) for a category 11.1, 11.2, 12.1, 12.2, 13 or 16 lease—\$267; or
- (b) for a category 14.2 lease—\$130.

### **37A Rent for leases of particular categories**

- (1) The rent for a rental period for the following leases is the amount calculated by multiplying the rental valuation for the particular lease by the following percentage—
  - (a) for a category 11.1 lease—1.5%;
  - (b) for a category 11.2 lease—0.75%;

- (c) for a category 12.1 lease—6%;
  - (d) for a category 12.2 lease—6%;
  - (e) for a category 13 lease—6%;
  - (f) for a category 14.2 lease—
    - (i) 5% for the land on which the clubhouse and associated amenities are situated; and
    - (ii) 1% for the remainder of the land under the lease.
  - (g) for a category 16 lease—7%.
- (2) The rent for a rental period for the following leases is—
- (a) for a category 14.1 or 15.1 lease—\$130;
  - (b) for a category 15.2 lease—\$6,735;
  - (c) for a category 15.3 lease—\$10,013;
  - (d) for a category 15.4 lease—\$13,476;
  - (e) for a category 15.5 lease—\$20,212.

### **37B Rent for leases with particular title references**

The rent for the term of the lease with title reference 40058945 is \$1.

### **37C Designated set rent**

The designated officer may set the rent (the *designated set rent*) for the following—

- (a) a term lease for a significant development;
- (b) a licence or permit for which a rental valuation has not been made;
- (c) a lease, licence or permit given or issued to the State, a government owned corporation or a rail government entity under the *Transport Infrastructure Act 1994*.

### **38 Protection against undue rental increases**

- (1) This section applies to a lease mentioned in section 37A(1), other than—
- (a) a lease with a designated set rent; or
  - (b) a category 12.1 or 12.2 lease held by—
    - (i) a corporation that is not a charitable organisation, non-commercial community service organisation or body corporate; or
    - (ii) a government leasing entity that is not a local government; or
  - (c) a lease that did not exist, and had no former lease, during the previous rental year; or
  - (d) a freeholding lease.

*Note—*

For freeholding leases, see chapter 8, part 2 of the Act.

- (2) If the Minister considers that an increase of the lease's rent under section 37A(1) is excessive, the Minister may decide that the rent for the rental period is the rent worked out using the following formula—

**RPY+ (RPY x PP)**

where—

**RPY** means—

- (a) if the lease existed during the previous rental year—that year's annual rent for the lease; or
- (b) if the lease did not exist during the previous rental year but had a corresponding lease for that year—that year's notional annual rent for the corresponding lease.

**PP** means, for a category 11.1 or 11.2 lease, 10%.

- (4) In this section—

**corresponding lease**, for a lease, means a former lease, licence or permit, whether or not of the same area as the lease, that—



- (a) was ended for the purpose of changing its area, issuing a new lease or for a renewal or conversion under the Act; and
- (b) because of which change, issuing renewal or conversion the lease was created.

*notional annual rent*, for the previous rental year of a corresponding lease of a lease, means the rent for each hectare of the corresponding lease's area multiplied by the area of the lease.

### **39 No rent payable once offer to convert lease is accepted**

- (1) This section applies to a lease if—
  - (a) the lessee has applied to convert the lease to freehold land under section 166 of the Act; and
  - (b) the chief executive has made an offer to convert the lease.
- (2) Rent stops being payable for the lease when the offer to convert the lease is accepted.

*Note—*

For when an offer to convert a lease has been accepted see section 171 of the Act.

### **39A Rent adjustments**

- (1) The rent payable for a lease, licence or permit must be adjusted from the first quarter day after the change is approved if—
  - (a) an application is approved to change the purpose for which a lease, licence or permit is used; and
  - (b) the approval results in a change of rental category.
- (2) If a new rental valuation is made in a rental period because of an action under the Act, the rent must be adjusted from the first quarter day after the action was taken.

- (3) If a rental valuation for a rental period is amended on appeal or objection under the Land Valuation Act, the rent payable for the rental period must be adjusted proportionally.
- (4) Interest, at the prescribed rate, on rent overpaid for the rental period because of an amendment under subsection (3) must be paid from the day the rent was paid until the day the overpayment is refunded.
- (5) If on appeal, a lease, licence or permit is allocated to a new category, the overpaid rent must be credited to the lessee, licensee or permittee, together with prescribed interest, on the amount credited from the time of payment until the appeal is decided.
- (6) If a lease, licence or permit has a designated set rent, and the area of land in the lease, licence or permit is changed, the rent must be adjusted—
  - (a) in accordance with the offer or the conditions of approval; or
  - (b) if a rent adjustment was not stated in the offer or approval—proportionally.
- (7) If the rent for a lease, license or permit is adjusted—
  - (a) for an adjustment that is more than the prescribed amount—the adjustment must be paid to the department or credited to the lessee, licensee or permittee; or
  - (b) for an adjustment that is less than the prescribed amount—the adjustment must be credited or debited to the account of the lessee, licensee or permittee.
- (8) In this section—
  - prescribed amount*** means \$100.
  - prescribed rate*** means 2% compounding monthly.

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## **Division 2                      Concessional and deferred rents**

### **Subdivision 1              Concessional rent**

#### **40              Charitable, recreational and sporting concessions**

- (1) The Minister may set a rent less than the rent normally applying to a lease, if the lessee is a charitable, sporting or recreational organisation.
- (2) The Minister must not set a rent less than the minimum rent.

#### **40A              Development and investigation concessions**

- (1) This section applies to a lease or permit that does not have a designated set rent.
- (2) The designated officer may fix an annual rent, instead of the rent that would otherwise be payable—
  - (a) if the designated officer considers the lease needs investigation and development work by a lessee—while the lease is being investigated and developed; or
  - (b) if the permit is for investigation for a lease for development work—while the permit is in force.
- (3) Subsection (2)(a) only applies for the first 5 years of a lease.

#### **40B              Residential hardship concessions**

- (1) The Minister may reduce a rent normally applying to a lease, if—
  - (a) the lease land is the lessee's principal place of residence; and
  - (b) the lessee is suffering hardship; and
  - (c) either—
    - (i) the lessee holds, or is entitled to hold, a Commonwealth concession card; or

- (ii) the annual rent payable under the lease is a significant proportion of the lessee's taxable income.
- (2) If the Minister considers the financial circumstances of the lessee have changed to the extent that a concession should be amended or cancelled, the Minister may amend or cancel the amount of the concession for future rental periods.
- (3) If a lease is transferred, a concession applying to the lease does not apply from the day of the transfer.

#### **40C Limited rent discount for particular leases**

- (1) This section applies if a lessee's lease (the *relevant lease*) is—
  - (a) for rural leasehold land of 100ha or more; and
  - (b) for a term of 20 years or more.
- (2) The lessee for a relevant lease may apply to the Minister for a discount of 25% on the rent payable for the lease for a period of 5 years if—
  - (a) the application is made before 1 July 2018; and
  - (b) the discount has not previously been approved for the lease.
- (3) The Minister may approve the application if—
  - (a) the lease land is subject to an indigenous cultural interest; and
  - (b) the lessee has withdrawn from a native title claim made—
    - (i) by the indigenous party for the indigenous cultural interest; and
    - (ii) over the part of the lease land that is subject to the interest; and
  - (c) either—
    - (i) the lessee remains responsible for all costs associated with any public liability insurance the

- 
- lessee requires the indigenous party for the indigenous cultural interest to hold; or
- (ii) the lessee has waived, in writing, any requirement mentioned in subparagraph (i).
- (4) If the Minister decides to approve the application, the discount applies to the lease for 5 years starting on the later of the following days—
- (a) 1 July 2014;
  - (b) the first day of the next full rental period after the day of approval.
- (5) However, if any of the following happen during the 5 years, the discount ends when—
- (a) the indigenous cultural interest to which the lease land is subject ends;
  - (b) the lessee becomes a respondent to a native title claim made—
    - (i) by the indigenous party for the indigenous cultural interest; and
    - (ii) over the part of the lease land that is subject to the interest;
  - (c) the lessee remains responsible for all costs associated with any public liability insurance the lessee requires the indigenous party for the indigenous cultural interest to hold.

## **Subdivision 2      Deferred rent**

### **40D      Governor in Council may defer rent or instalment**

- (1) The Governor in Council may, by gazette notice, declare an area or particular tenures as a hardship area only if the Governor in Council is satisfied that the area or tenure has been severely affected by—

- (a) natural disaster; or
  - (b) adverse economic conditions.
- (2) The declaration must state the following—
  - (a) the area or particular tenures;
  - (b) that the rent or instalment payable by a lessee or licensee in the area or of the tenure is, either wholly or partly, deferred;
  - (c) the period for which the deferral applies.
- (3) If rent or instalments are deferred, penalty interest does not apply for—
  - (a) the period of the deferral; or
  - (b) if the rent or instalments are deferred for 2 or more consecutive periods—the total of the period of the deferrals.

#### **40DA Minister may extend deferred payment day for rent or instalment**

- (1) This section applies in relation to the payment of rent or an instalment deferred for 2 or more consecutive periods under section 40D.
- (2) If the Minister considers it appropriate in the circumstances, the Minister may extend the deferred payment day for the rent or instalment to a day not more than 5 years after the day on which the last of the periods ends.
- (3) If the Minister extends the deferred payment day, the Minister must give the lessee or licensee a written notice stating—
  - (a) the day to which payment of the deferred rent or instalment has been extended; and
  - (b) the terms of payment of the deferred rent or instalment.
- (4) If the Minister extends the deferred payment day, penalty interest does not apply for the period of the extension.
- (5) In this section—

***deferred payment day***, for rent or an instalment, means the day to which payment of the rent or instalment was deferred under section 40D.

#### **40E Minister may defer rent or instalment**

- (1) The Minister may defer, wholly or partly, the payment of rent or instalments for the lessee's lease or licensee's licence if—
  - (a) the lessee or licensee applies for a deferral; and
  - (b) the Minister considers the lessee or licensee is suffering hardship because of—
    - (i) natural disaster; or
    - (ii) adverse economic conditions related to the purpose of the lease.
- (2) The Minister may defer payment only if the applicant gives the Minister—
  - (a) the returns and financial statements that the Minister asks for to help decide the application; or
  - (b) evidence that the applicant is receiving, for the hardship mentioned in subsection (1)(b)(i), financial assistance under a State or Commonwealth scheme.

*Example of a scheme—*

the exceptional circumstances scheme under the *Rural and Regional Adjustment Act 1994*

- (3) If the Minister defers payment the Minister must give the applicant a written notice stating—
  - (a) the period for which the deferral applies; and
  - (b) the terms of repayment of the deferred rent or instalments.
- (4) If rent or instalments are deferred, penalty interest does not apply for—
  - (a) the period of the deferral; or

- (b) if the rent or instalments are deferred for 2 or more consecutive periods—the total of the period of the deferrals.

#### **40F Change of circumstances**

- (1) If the Minister considers the financial circumstances of a lessee who has been granted a relevant extension or deferral have changed to the extent that the extension or deferral should no longer apply, the Minister may revoke the extension or deferral for future rental periods or instalment payments.
- (2) If a lease or licence is transferred, a relevant extension or deferral applying to the lease or licence ceases to apply from the day of the settlement of the transfer.
- (3) It is a condition of the approval to a transfer of a lease or licence that the deferred rent or instalments for a relevant extension or deferral must be paid to the State at settlement.
- (4) In this section—  
*relevant extension or deferral* means—
  - (a) an extension of a deferred payment day for rent or an instalment under section 40DA; or
  - (b) a deferral for hardship under section 40E.

### **Division 3 Rent and instalment payments**

#### **40G Rent and instalments are payable—general**

- (1) All rent and instalments must be paid at the times and places stated in this division unless the chief executive is satisfied that the payment can not be made by the time or at the place because of exceptional circumstances.

*Examples of possible exceptional circumstances—*

civil disturbance, computer failure, extreme climatic conditions and industrial action



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- (2) Subsection (1) applies even if a lessee, licensee or permittee has—
- (a) objected to or appealed against—
    - (i) a rental valuation of the lease, licence or permit; or
    - (ii) a categorisation of the lease, licence or permit.
  - (b) made an application for a matter under the Act, the lessee, licensee or permittee must still pay rent and instalments when they are owing.

## **41 When rent is payable**

The time by which rent must be paid is—

- (a) for a development lease issued under the repealed Act, part 9, division 1—on or before 1 January of the calendar year for which the rent is payable; or
- (b) for a relevant category lease for which a rental period is divided into sub-periods under section 26A(3)—
  - (i) for the sub-period starting on 1 July—on or before 1 September of the sub-period for which the rent is payable; or
  - (ii) for the sub-period starting on 1 October—on or before 1 December of the sub-period for which the rent is payable; or
  - (iii) for the sub-period starting on 1 January—on or before 1 March of the sub-period for which the rent is payable; or
  - (iv) for the sub-period starting on 1 April—on or before 1 June of the sub-period for which the rent is payable; or
- (c) for a lease other than a lease mentioned in paragraph (a) or (b)—on or before 1 September of the financial year for which the rent is payable.

## **42 When instalments are payable—Act, s 190**

- (1) This section prescribes the time by which instalments must be paid.
- (2) The prescribed time for a subsection (2) lease is on or before 31 March of the calendar year for which the instalment is payable.
- (3) The prescribed time for a subsection (3) lease is on or before the quarter day that is the anniversary of the quarter day on which the lease commenced.
- (4) An instalment payable by the prescribed time mentioned in subsection (3) is for the year ending on the day immediately before the quarter day on or before which the instalment is payable.
- (5) The prescribed time for a subsection (5) lease is on or before 31 December for the calendar year beginning on the following 1 January.
- (6) The prescribed time for a subsection (6) lease is on or before the anniversary of the day on which the lease started.
- (7) An instalment payable by the prescribed time mentioned in subsection (6) is for the year ending on the day immediately before the anniversary on or before which the instalment is payable.
- (8) In this section—

***subsection (2) lease*** means a pre-Wolfe freeholding lease that is one of the following leases—

- (a) an agricultural farm issued before 31 December 1991 under the repealed Act, part 4, division 1;
- (b) an auction perpetual lease that is a perpetual country, suburban or town lease issued under the repealed Act, part 7, division 2;
- (c) a grazing homestead freeholding lease issued under the repealed Act, part 4, division 5 because the application for conversion was received before 5 February 1990;

- (d) a perpetual lease selection issued under the repealed Act, part 4, division 2.

**subsection (3) lease** means a pre-Wolfe freeholding lease that is a perpetual country, suburban or town lease that was taken to be, under the repealed Act, part 7, division 3, a lease for a term of years subject to a covenant entitling the lessee to the issue of a deed of grant if an application was received—

- (a) before 5 February 1990; or  
(b) for a lease issued under the repealed *Industrial Development Act 1963*—before 3 October 1991.

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

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

#### **43 Places for payment of rent and instalments**

All rent and instalments must be paid at the following places—

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

#### **43A Method of paying rent and instalments**

All rent and instalments may be paid by the electronic means mentioned on the account setting out the rent or instalment payable.

#### **43B Overpayment of rent**

- (1) If a lessee, licensee or permittee overpays rent or instalments, and the excess rent or instalments is—

- (a) greater than the rental amount—the overpayment must be refunded to the lessee, licensee or permittee; or
  - (b) less than the rental amount—the overpayment must be credited to the account of the lessee, licensee or permittee.
- (2) To remove any doubt, it is declared that interest is payable on overpaid rent or instalments only if the overpayment is because of—
  - (a) a change in valuation on objection or appeal under the Land Valuation Act; or
  - (b) a change of category of a lease, licence or permit because of an appeal.
- (3) In this section—  
*rental amount* means \$100.

## **Division 4                      Action for non-payment of rent or instalments**

### **43C      When this division applies**

This division applies if a lessee, licensee or permittee does not pay the rent or instalment within the time required under—

- (a) for a rent payment—section 41; or
- (b) for a instalment payment—section 42.

### **43D      Penalty interest on outstanding rent and instalments**

- (1) The lessee, licensee or permittee must pay—
  - (a) the rent and instalment outstanding; and
  - (b) penalty interest on the rent or instalment outstanding until the day the rent or instalment is paid.
- (2) The designated officer may extend the time for the payment of rent or instalment.

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- (3) However, penalty interest still runs from the time payment was owing, unless the lessee, licensee or permittee had a reasonable excuse for not paying the rent or instalment.
  - (4) If a lessee, licensee or permittee does not pay the rent, instalments or penalty interest within time, or the extended time, the designated officer may do 1 or more of the following—
    - (a) take action in a court of competent jurisdiction to recover the rent, instalments or penalty interest owing;
    - (b) forfeit the lease under chapter 5, part 4, division 2 of the Act;
    - (c) cancel the licence or permit.

#### **43E Notice of intention to cancel**

- (1) The designated officer must give written notice to the lessee, licensee or permittee of the designated officer's intention to take action to do either or both of the following—
  - (a) recover the rent, instalments, deferred rent or penalty interest;
  - (b) cancel the licence or permit.

*Note—*

See section 235 of the Act for notice of intention to forfeit a lease.

- (2) The notice must state—
  - (a) a reasonable time in which the designated officer will not take action in a court of competent jurisdiction to recover the rent, instalments or penalty interest owing; and
  - (b) the amount of—
    - (i) rent, or instalments payable by the lessee, licensee or permittee; and
    - (ii) penalty interest accruing each day.
- (3) The time stated in the notice must not be less than 28 days after the day of the notice.

#### **43F Designated officer may reinstate licence or permit**

If a licence or permit is cancelled because the rent, instalments or penalty interest was not paid, the designated officer may reinstate the licence or permit if—

- (a) the licensee or permittee pays all outstanding amounts; and
- (b) the designated officer is satisfied the licensee or permittee had a reasonable excuse for not paying the outstanding amounts.

## **Part 5 Registration and dealings**

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

- (1) Harbours corporation land is prescribed for section 276(j) of the Act.
- (2) In this section—

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

*Note—*

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

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

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

For section 290 of the Act, the prescribed number of executed copies of a document is—

- (a) if the document is for an easement affecting land registered in more than 1 register in the land registry—2 copies; or
- (b) otherwise—1 copy.

*Example for paragraph (a)—*

an easement burdening a lease and benefiting freehold land

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

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

- (a) a commissioner for declarations under the *Justices of the Peace and Commissioners for Declarations Act 1991*;
- (b) a conveyancer;
- (c) a justice of the peace under the *Justices of the Peace and Commissioners for Declarations Act 1991*;
- (d) a lawyer;
- (e) a notary public;
- (f) a person approved by the registrar of titles under the *Land Title Act 1994*, section 161.

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

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

- (a) the areas of the lease and the sublease must be clearly identified in the sublease;
- (b) if the lease is mortgaged, the written consent of the mortgagee to the sublease must be endorsed on the sublease;

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

## **Part 5A                      Dispute resolution**

### **47A      Prescribed dispute resolution entities—Act, 339A**

For section 339A of the Act, definition *prescribed dispute resolution entity*, the following entities are prescribed—

- (a) the Queensland Law Society Incorporated ABN 33 423 389 441;
- (b) the Resolution Institute ABN 69 008 651 232.

### **47B      Matters arbitrator must consider in deciding dispute—Act, s 339Q**

For section 339Q(4) of the Act, the arbitrator must consider any evidence supplied to the arbitrator.

### **47C      Matters arbitrator must consider in deciding costs—Act, s 339U**

For section 339U(4) of the Act, the following matters are prescribed—

- (a) whether or not a party to the dispute has complied with chapter 6, part 4, division 3A of the Act in relation to the dispute;
- (b) whether a party to the dispute has made a frivolous or vexatious claim in the arbitration;
- (c) whether a party to the dispute has complied with an order or direction of the arbitrator;



- (d) whether a party to the dispute has participated in the arbitration in good faith;
- (e) the amount of any fees incurred because of the appointment of experts under section 339R of the Act.

## Part 6 General

### 48 Compliance period for trespass notice—Act, s 406

- (1) For section 406(6) of the Act, the compliance period is—
  - (a) for a trespass related act that is building, placing or maintaining an improvement, other than a relevant improvement, on the land—28 days; or
  - (b) for a trespass act related act, other than an act to which paragraph (a) applies or an act related to camping—7 days; or
  - (c) for a trespass related act related to camping—4 hours.

- (2) In this section—

***relevant improvement*** means—

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

*Examples of an outbuilding for paragraph (a)—*

carport, shed, toilet

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

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

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

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

#### **49A Declared beach area—Act, s 431Q(1)**

For section 431Q(1) of the Act, the proposed easements A, B and C on SP143259 situated in lots 69, 71 and 72 on plan FD395 are a declared beach area.

*Note—*

The declared beach area is a road under the *Transport Operations (Road Use Management) Act 1995*.

#### **49B Camping on declared beach area**

- (1) A person must not camp on a declared beach area.

Maximum penalty—20 penalty units.

- (2) In this section—

***camp*** includes camping in a vehicle.

#### **49C Lighting fires on declared beach area**

- (1) A person must not light, keep or use a fire on a declared beach area.

Maximum penalty—20 penalty units.

- (2) This section does not apply to a person—

- (a) lighting or smoking a smoking product; or
- (b) authorised under an Act to light, keep or use a fire.

- (3) In this section—

***smoking product*** see the *Tobacco and Other Smoking Products Act 1998*, schedule.

#### **49D Littering on declared beach area**

- (1) A person must not put, or allow to be put, litter on a declared beach area, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) A person does not commit an offence under subsection (1) merely because the person, as an incident of the person's use of the declared beach area, and for no longer than is reasonably necessary for the use, puts litter on the area.

#### **49E Taking dogs into declared beach area**

- (1) A person who has a dog, other than a prescribed dog, in the person's charge on a declared beach area must, at all times the dog is on the declared beach area, restrain the dog by a lead or leash, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) In this section—

***prescribed dog*** means any of the following dogs under the *Guide, Hearing and Assistance Dogs Act 2009*—

- (a) an assistance dog;
- (b) a guide dog;
- (c) a hearing dog;
- (d) a trainee support dog.

#### **49F Temporary closure of declared beach area—Act, s 431W(2)**

- (1) For section 431W(2) of the Act, a manager of a declared beach area may temporarily close the declared beach area, or part of the declared beach area, (the ***closed declared beach area***), if the manager reasonably believes the closure is necessary to—

- (a) protect the health or safety of a person; or

- (b) minimise any danger to an individual or damage to property caused by fire or other natural disaster.
- (2) The manager may authorise a person to access the closed declared beach area.
- (3) A person must not access the closed declared beach area unless the person is authorised by the manager.

Maximum penalty—20 penalty units.

## **Part 7                      Continued rights and tenures**

### **Division 1                Freeholding leases**

#### **Subdivision 1        Pre-Wolfe freeholding leases**

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

For section 457(1)(d) of the Act, the discount applying if the remaining purchase price of a pre-Wolfe freeholding lease is paid in cash during a lease is the percentage of the purchase price stated in schedule 7, column 2 opposite the balance of the term of the lease, expressed in years, stated in column 1.

##### **51        Criteria for residential hardship concession—Act, s 459**

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

- (a) the lease land is the lessee's principal place of residence; and
- (b) either—
  - (i) the lessee holds, or is entitled to hold, a Commonwealth concession card; or

- (ii) the annual instalment payable under the lease is a significant proportion of the lessee's taxable income.

## Subdivision 2 Post-Wolfe freeholding leases

### 52 Rate of interest for instalments—Act, s 462

- (1) For section 462(1)(b) of the Act, the prescribed rate of interest for instalments is—
  - (a) for a relevant post-Wolfe freeholding lease—the fixed rate of interest, compounding annually, applying to instalments when the lease was issued; or
  - (b) for any other post-Wolfe freeholding lease—the Suncorp-Metway business banking variable lending base rate accruing daily and compounding annually.
- (2) In this section—

***relevant post-Wolfe freeholding lease*** means a post-Wolfe freeholding lease that is—

  - (a) an auction purchase freehold issued under the repealed Act on or before 31 December 1991; or
  - (b) a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 3 October 1991 for a special lease issued—
    - (i) under the repealed Act and the repealed *Industrial Development Act 1963*, section 9; or
    - (ii) before the commencement of the repealed *Industrial Development Act 1963* under a recommendation of the Minister administering industrial development; or
    - (iii) subject to a condition about the freeholding of the lease; or

- (c) a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 5 February 1990, other than a special lease purchase freehold mentioned in paragraph (b).

### **Subdivision 3      Grazing homestead freeholding leases**

#### **53      Definition for sdiv 3**

In this subdivision—

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

#### **54      Rate of interest for instalments—Act, s 466**

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

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

- (1) For section 466(1)(c) of the Act, the prescribed discount applying if the remaining purchase price of a grazing homestead freeholding lease is paid in cash during the lease is—
  - (a) if, in the Minister’s opinion, the lease has a higher value than for grazing or agriculture—no discount; or
  - (b) if paragraph (a) does not apply—the percentage of the purchase price stated in schedule 8, column 2 opposite the balance of the term of the lease, expressed in years, stated in column 1.

- (2) However, subsection (1) does not apply to a grazing homestead freeholding lease issued on or after 1 July 2014.

## **Subdivision 4 All freeholding leases**

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

For sections 457(1)(e), 462(1)(d) and 466(1)(d) of the Act, the minimum instalments are—

- (a) for a residential lease—\$366; or
- (b) for another lease—
  - (i) for instalments that pay out the purchase price of the land—\$908; and
  - (ii) for instalments that pay out the purchase price of commercial timber on the land—\$908.

## **Division 2 Grazing homestead perpetual leases**

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

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

## **Division 3                      Continued tenures generally**

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

- (1) For section 489(3)(d) of the Act, the prescribed amount is—
  - (a) if the lessee is receiving a hardship concession for the freeholding lease or the subdivision is for a family member only—the minimum instalment payable under the lease; or
  - (b) if paragraph (a) does not apply—\$6,750.
- (2) For this section, a lessee is receiving a hardship concession for a lease if, under section 192 of the Act, the Minister has deferred payment of rent or instalments for the lease.

## **Part 8                              Miscellaneous**

### **59            Amount prescribed—Act, ss 47 and 499**

The amount prescribed for a provision of the Act mentioned in schedule 9, column 1 is the amount stated opposite the provision in column 2.

### **60            Interest rate prescribed—Act, ss 500 and 503I**

The rate of interest prescribed for a provision of the Act mentioned in schedule 10, column 1 is the rate stated opposite the provision in column 2.

### **61            Regulated conditions—Act, s 212B(1)**

Each condition stated in schedule 10A is a condition of a lease, licence or permit for section 212B(1) of the Act.



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## **61A Regulated islands—Act, s 434A(1)**

Each island mentioned in schedule 10B is declared to be a regulated island for section 434A(1) of the Act.

## **62 Fees**

- (1) The fees payable under the Act are stated in schedule 11.
- (2) If a document (the *rejected document*) is rejected by the chief executive under section 306(1) of the Act, the fee paid for lodging the document is forfeited.
- (3) Subsection (4) applies if—
  - (a) the rejected document changes the lessee of a lease, the licensee of a licence or the holder of an interest in a lease or licence, for more than 1 lease or licence; and
  - (b) the lodgement fee paid for the rejected document included an amount for each additional lease or licence; and
  - (c) the document is relodged within 1 year of the document being rejected.
- (4) The fee payable for the relodgement of the document is the fee that would be payable if the document related to only 1 lease or licence.
- (5) A fee is not payable for the lodgement and registration of an instrument that relates to—
  - (a) the acquisition by the State of an interest in land; or
  - (b) the release or surrender by the State of an interest in land, other than a fee simple interest.

## **Part 9                      Repeal and transitional provisions**

### **Division 1                      Repeal provision**

#### **63              Repeal**

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

### **Division 2                      Transitional provisions**

#### **64              Model by-laws**

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

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

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

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

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

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

section 4

### **Trust Land Protection and Use Model By-law 2009**

#### **Part 1              General**

##### **1      Short title**

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

##### **2      Purposes of model by-law**

The purposes of this model by-law are—

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

##### **3      Application of pt 3**

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

##### **4      Definitions**

In this model by-law—

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

*drainage works* includes the following—

- (a) underground stormwater drains;

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

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

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

**regulatory notice** see section 5(1).

**trust land** means the trust land for which the trustee has adopted this model by-law.

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

## 5 Trustee may erect or display regulatory notice

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

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

## **6 References to person acting for trustee**

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

*appropriately qualified* includes having the qualifications, experience or standing appropriate to act for the trustee.

# **Part 2 Particular activities prohibited**

## **Division 1 General**

### **7 Disturbing peaceful use of trust land**

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

Maximum penalty—5 penalty units.

### **8 Displaying or distributing literature**

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

Maximum penalty—5 penalty units.

## **9 Litter**

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

Maximum penalty—10 penalty units.

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

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

- (3) In this section—

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

***put*** includes the following—

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

## **10 Lighting fires**

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

Maximum penalty—5 penalty units.

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

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

## 11 Damaging or interfering with land or improvements

- (1) A person must not, other than under the authority of the trustee, damage or interfere with—
  - (a) soil or turf on the trust land; or
  - (b) a plant growing on the trust land; or
  - (c) improvements, signs or equipment on the trust land.Maximum penalty—10 penalty units.
- (2) This section does not apply to damage of or interference with trees.

## 12 Entering closed areas

- (1) This section applies if—
  - (a) the trustee designates a part (the *closed area*) of the trust land, either permanently or only for particular periods, as closed to the public; and
  - (b) a regulatory notice clearly indicates—
    - (i) the closed area; and
    - (ii) whether the designation is permanent or, if not, the particular periods when the designation has effect.
- (2) A person must not enter the closed area—
  - (a) if the designation indicates the closed area is permanently closed to the public—at any time; or
  - (b) if the designation indicates the closed area is closed to the public only during particular indicated periods—during the particular indicated periods.

Maximum penalty—10 penalty units.

*Examples—*

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

## **13 Camping**

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

Maximum penalty—10 penalty units.

## **14 Selling things**

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

Maximum penalty—5 penalty units.



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## **Division 2                      Vehicles**

### **15            Driving vehicle onto or from land**

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

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

Maximum penalty—5 penalty units.

### **16            Person driving motor vehicle must be licensed**

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

Maximum penalty—5 penalty units.

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

### **17            Motor vehicle must be registered**

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

Maximum penalty—5 penalty units.

### **18            Driving, moving, operating, parking or using vehicle**

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

Maximum penalty—5 penalty units.

- (2) A person must not, other than under the authority of the trustee, drive or operate a vehicle on the trust land—
  - (a) in a way, or at a place, if driving or operating the vehicle in the way or at the place could damage vegetation; or
  - (b) to enter a place where a barrier or fence has been lawfully erected or placed to prevent the entry.

Maximum penalty—10 penalty units.

## **19 Driving or operating motorcycle**

- (1) A person must not drive or operate a motorcycle on the trust land—
  - (a) if the driver or a passenger on the motorcycle is not wearing a safety helmet that—
    - (i) is of a standard required under the *Transport Operations (Road Use Management) Act 1995* to be worn by a person riding a motorcycle on a road; and
    - (ii) is securely fastened under the chin of the wearer using a chin strap attached to the safety helmet; or
  - (b) if the front and rear wheels of the motorcycle do not stay in contact with the ground all the time the motorcycle is moving.

Maximum penalty—10 penalty units.

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

## **20 Parking or standing vehicle**

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

- (a) obstructs, to an unreasonable extent, the movement of a person or another vehicle; or
- (b) is likely to cause damage to the trust land; or
- (c) is not in conformity with ground or surface markings on the land clearly intended for ordering the parking and standing of vehicles.

Maximum penalty—5 penalty units.

## **Division 3                      Animals**

### **21            Protection of animals**

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

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

Maximum penalty—5 penalty units.

### **22            Prohibition of animals**

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

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

Maximum penalty—5 penalty units.

### **23            Control of animals**

- (1) This section applies if—

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

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

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

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

Maximum penalty—5 penalty units.

## **24 Dogs**

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

Maximum penalty—5 penalty units.

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

Maximum penalty—5 penalty units.

- (3) A person who has a dog, other than a prescribed dog, in the person's charge on the trust land must not allow the dog to stay on the land overnight, other than in an area designated by a regulatory notice as an area where dogs may stay overnight.

Maximum penalty—5 penalty units.

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

(5) In this section—

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

## Part 3                      Navigational purposes

### 25      Application of pt 3

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

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

(1) This section applies if—

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

*Example—*

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

- (2) A person must not drive, park or stand a motor vehicle in a closed area—
  - (a) if the designation indicates the closed area is permanently closed to motor vehicles—at any time; or
  - (b) if the designation indicates the closed area is closed to motor vehicles only during particular periods—during the particular periods.

Maximum penalty—10 penalty units.

**27      Damaging or interfering with navigational equipment**

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

Maximum penalty—10 penalty units.

**Part 4                      Drainage purposes**

**28      Damage to or interference with land or works**

- (1) This section applies to the trust land if it is dedicated or granted in trust for drainage.
- (2) A person must not damage or interfere with the surface of, or drainage works on or under, the trust land.

Maximum penalty—10 penalty units.

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## Schedule 2      Model by-law about cemeteries, crematoriums and mortuaries

section 4

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

#### Part 1                      General

##### 1      Short title

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

##### 2      Purposes of model by-law

The purposes of this model by-law are—

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

##### 3      Definitions

In this model by-law—

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

*dispose*, for human remains, means—

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

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

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

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

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

**regulatory notice** see section 4(1).

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

**trust** means the trust under which the trustee holds the trust land.

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

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

#### **4 Trustee may erect or display regulatory notices**

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



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

## **5 References to person acting for trustee**

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

# **Part 2 Grounds of the trust land**

## **Division 1 Application**

### **6 Application of pt 2**

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

## **Division 2                      Particular activities prohibited**

### **Subdivision 1              Activities relating to human remains**

#### **7              No disposal of human remains without trustee's approval**

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

Maximum penalty—10 penalty units.

- (2) An application to the trustee for an approval must be accompanied by the documents or authorities required for the lawful disposal of human remains.
- (3) An applicant seeking the trustee's approval must apply to the trustee at least 24 hours before the proposed date for the disposal.

#### **8              Disturbing human remains buried in grave**

- (1) After a body has been disposed of by burial in a coffin in a grave (the *first burial*), a person must not—
- (a) move or disturb the coffin; or
  - (b) re-open the grave for a further burial until at least 1 year has elapsed since the first burial.
- (2) Despite subsection (1)(b), the trustee, or a person acting for the trustee, may authorise the re-opening of the grave for a further burial before 1 year has elapsed if—
- (a) the further burial is within 6 days after the first burial; or
  - (b) if paragraph (a) does not apply—the trustee, or a person acting for the trustee, reasonably considers that the re-opening of the grave is not likely to create a danger to public health.

*Note—*

This model by-law does not provide for the trustee to authorise the exhumation of human remains. Authority required for the exhumation of human remains may be available under section 83 (Exhumations) of

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the Act and the *Coroners Act 2003*, section 20 (Exhuming body or recovering cremated remains).

## **Subdivision 2 Graves, funerals and memorials**

### **9 Interference with graves and other things**

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

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

Maximum penalty—10 penalty units.

### **10 Interference with funeral or commemorative services**

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

Maximum penalty—10 penalty units.

### **11 Approval needed for memorials**

A person must not build or install a memorial in the grounds of the trust land other than under the authority of the trustee or a person acting for the trustee.

Maximum penalty—10 penalty units.

### **12 Placement of flowers and tokens on graves and other things**

(1) This section applies if—

- (a) a regulatory notice indicates flowers or tokens may be placed on a grave, memorial, niche or vault in the grounds of the trust land only in compliance with the requirements stated in the notice; and

- (b) the notice is erected at all places reasonably necessary for informing the public of the requirements, including, for example, the places of entry to and exit from the trust land.
- (2) A person must not, other than under the authority of the trustee, place flowers or tokens on a grave, memorial, niche or vault on the trust land in a way that contravenes the requirements mentioned in subsection (1)(a).

Maximum penalty—5 penalty units.

## **Subdivision 3      Animals**

### **13      Animals**

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

Maximum penalty—5 penalty units.

- (2) A person does not commit an offence under subsection (1) if the animal brought onto the trust land is for the ceremonial purposes associated with a funeral.
- (3) A person must not, other than under the authority of the trustee, ride, or drive a vehicle drawn by, an animal other than on a formed road on the trust land.

Maximum penalty—5 penalty units.

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

### **14      Dogs**

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

Maximum penalty—5 penalty units.

- (2) A person who has a dog in the person's charge on the trust land must not allow the dog to behave in a way that causes

unreasonable noise, annoys another person or puts another person in danger.

Maximum penalty—5 penalty units.

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

## **Subdivision 4      General**

### **15      Disturbing peaceful use of trust land**

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

Maximum penalty—10 penalty units.

### **16      Displaying or distributing literature**

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

Maximum penalty—10 penalty units.

### **17      Vehicles to be used on formed road only**

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

Maximum penalty—5 penalty units.

### **18      Damaging or interfering with land or improvements**

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

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

Maximum penalty—10 penalty units.

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

## **19 Selling things**

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

Maximum penalty—5 penalty units.

## **20 Firearms**

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

Maximum penalty—5 penalty units.

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

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

- (1) This section applies if—
  - (a) a regulatory notice indicates when the grounds of the trust land are open to the public (the *opening hours*); and
  - (b) the notice is erected at all places reasonably necessary for informing the public of the opening hours, including, for example, at the places of entry to and exit from the land.

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

Maximum penalty—10 penalty units.

## **Division 3                      Trustee to decide standards and keep records**

### **Subdivision 1              Standards**

#### **22              Graves**

- (1) The trustee must decide the following matters, which must be reasonable and appropriate in the circumstances, for a grave in the grounds of the trust land—
- (a) its length;
  - (b) its breadth;
  - (c) its depth;
  - (d) the clearance between the sides of a coffin in the grave and the sides of the grave;
  - (e) the distance between the top of a coffin in the grave and the surface of the ground.
- (2) In deciding the depth of a grave under subsection (1)(c), the trustee must have regard to the number of bodies the trustee has approved, or may approve, to be buried in the grave.

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

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

- (a) its length;

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

## **24 Receptacle for human remains to be placed in vault**

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

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

## **25 Minimum specifications for construction of vault**

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

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

## **26 Inscription on headstone, memorial or niche**

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

- (a) content;
- (b) placement;



- (c) size;
- (d) style.

## **27 Trustee must ensure matters decided are complied with**

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

## **Subdivision 2 Records**

### **28 Records trustee must keep**

- (1) The trustee, or a person acting for the trustee, must keep a record of—
  - (a) the name of each person whose remains have been—
    - (i) buried in the grounds of the trust land; or
    - (ii) cremated on the trust land; or
    - (iii) cremated and scattered, or placed in a niche, in the grounds of the trust land; and
  - (b) when the remains of each person were disposed of; and
  - (c) if a person's remains have been buried in the grounds of the trust land—the location of the grave; and
  - (d) if a person's remains have been cremated and the cremated remains have not been scattered in the grounds of the trust land or taken away from the trust land—the particular place where the person's remains have been placed in the grounds of the trust land; and
  - (e) any dealing with the person's remains after they have been buried or placed in the grounds of the trust land.
- (2) The trustee, or a person acting for the trustee, does not need to keep a record of a matter under subsection (1) if it is included in the register kept under section 79 of the Act.

- (3) The trustee must make a record kept under subsection (1) available for public inspection at all reasonable times.
- (4) If the trust is wound up, the record must be sent to the State Archivist.

## **Part 3                      Mortuary**

### **29        Application of pt 3**

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

### **30        Mortuary records**

- (1) The trustee, or a person acting for the trustee, must keep a record of all bodies delivered to the mortuary.
- (2) The record must contain the following particulars for each body—
  - (a) the date on which the body is delivered to the mortuary;
  - (b) the name of the person from whom the body is received;
  - (c) the name, age and sex of the person whose body is delivered;
  - (d) the date and place of death of the person whose body is delivered, if known;
  - (e) any post-mortem examination, or other medical procedure, carried out in the mortuary;
  - (f) the date on which the body is taken from the mortuary;
  - (g) the name of the person taking the body from the mortuary.
- (3) If the trust is wound up, the record must be sent to the State Archivist.

**31 Authority needed to enter mortuary**

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

Maximum penalty—10 penalty units.

## **Schedule 3      Model by-law about consumption of liquor**

section 4

### **Trust Land Consumption of Liquor Model By-law 2009**

#### **Part 1              General**

##### **1              Short title**

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

##### **2              Purpose of model by-law**

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

##### **3              Definitions**

In this model by-law—

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

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

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

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

**4 References to person acting for the trustee**

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

**Part 2 Consumption of liquor****5 Consumption of liquor other than in particular places prohibited**

- (1) A person must not consume liquor on the trust land other than at—
  - (a) a designated place; or
  - (b) an approved place.Maximum penalty—5 penalty units.
- (2) A person who consumes liquor on the trust land at a place that is not a designated place or approved place does not commit an offence under subsection (1) if—
  - (a) the place was, but is no longer, a designated place; and
  - (b) the trustee has not complied with section 8 for the revocation or amendment of the place's designation.

## **Part 3**

# **Designated places for the consumption of liquor**

### **6 Trustee may designate trust land for liquor consumption**

- (1) The trustee may designate all or part of the trust land as a place where liquor may be consumed.
- (2) The trustee may state the period or times when the designation is to be in force.

### **7 Trustee must advertise designation and place signs**

- (1) If the trustee designates a place under section 6, the trustee must advertise, or cause someone else to advertise, the designation in a newspaper circulating generally in the area in which the trust land is located.
- (2) The advertisement must—
  - (a) include a description of all, or the relevant part of, the trust land; and
  - (b) state when the trust land or part of the land is a designated place.
- (3) The trustee must also erect, or cause someone else to erect, signs—
  - (a) sufficiently identifying the trust land or part of the land as a designated place; and
  - (b) stating when the trust land or part of the land is a designated place.
- (4) The trustee does not need to comply with subsections (1) and (2) if the designation is in force for 1 day or less.
- (5) The trustee does not need to comply with subsections (1) to (3) if the designated place is adjacent to premises, on the trust land, used for the primary purpose of eating meals prepared, served and intended to be eaten on the premises.

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

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

- (1) If the trustee revokes or amends a designation, the trustee must advertise, or cause someone else to advertise, the revocation or amendment in a newspaper circulating generally in the area in which the trust land is located.
- (2) The advertisement must—
- (a) for the revocation of a designation—include a description of the designated place; and
  - (b) for an amendment changing the boundaries of a designated place—include a description of the designated place as changed; and
  - (c) for an amendment changing when the designation is in force—state the new period or times.
- (3) The trustee must also ensure—
- (a) for a revocation—that all signs identifying the place as a designated place are taken away; and
  - (b) for an amendment relating to the boundaries of the designated place—that signs sufficiently identify the place, as changed, as a designated place; and
  - (c) for an amendment relating to when the designation is in force—that signs identifying the designated place state the changed period or times.

## **Part 4**

# **Approved places for consumption of liquor**

### **9 Application for approved place**

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

### **10 Approved places**

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



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

## **11 Directions about complying with approval conditions**

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

Maximum penalty—5 penalty units.

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

section 4

### **Trust Land Business and Management Model By-law 2009**

#### **Part 1                      Preliminary**

##### **1            Short title**

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

##### **2            Purpose of model by-law**

The purposes of this model by-law are—

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

##### **3            Definitions**

In this model by-law—

***chairperson*** means the trust member appointed by the trust members as chairperson of the trust.

***officer*** means the chairperson, secretary or treasurer of the trust.

***secretary*** means the trust member appointed by the trust members as secretary of the trust.

*treasurer* means the trust member appointed by the trust members as treasurer of the trust.

*trust* means the trust under which the trustee holds the trust land.

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

*trust members* means the persons for the time being comprising the trustee.

#### **4 Limitation on adopting model by-law**

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

## **Part 2 Appointment and duties of officers**

#### **5 Appointment of chairperson, secretary and treasurer of trust**

- (1) The trust members may appoint—
  - (a) 1 of the trust members as chairperson of the trust; and
  - (b) 1 of the trust members as secretary of the trust; and
  - (c) 1 of the trust members as treasurer of the trust.
- (2) A person who held the office of chairperson, secretary or treasurer of the trust immediately before the commencement of this model by-law is taken to have been appointed to the corresponding office under this model by-law.

#### **6 Duration of appointment of chairperson, secretary and treasurer**

- (1) An officer holds office until the officer—
  - (a) resigns from office; or
  - (b) is removed from office; or

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

## **7 Duties of secretary**

The secretary must—

- (a) keep the books and documents relating to the business and management of the trust other than the books and documents mentioned in section 8(a); and
- (b) keep minutes of each meeting of the trustee; and
- (c) perform the duties of treasurer if the treasurer is unable, because of illness or otherwise, to perform the treasurer's duties; and
- (d) perform any other duties directed by the trust members to be performed by the secretary.

## **8 Duties of treasurer**

The treasurer must—

- (a) keep the books of account and other documents relating to the financial management of the trust; and
- (b) present to the trust members the books and documents mentioned in paragraph (a) at the intervals, of no more than 12 months, required by the trust members; and
- (c) bank money relating to the trust and held by the trust members; and
- (d) pay accounts relating to the trust and payable by the trust members; and
- (e) perform other duties directed by the trust members to be performed by the treasurer.

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## Part 3 Conduct of meetings

### 9 Times and places

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

### 10 Chairperson to preside

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

### 11 Quorum

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

*Examples—*

- 1 If there are 4 trust members, a quorum is 2.
  - 2 If there are 5 trust members, a quorum is 3.
- (2) For deciding whether there is a quorum for a meeting of the trust members, a trust member who is present at the meeting—
    - (a) if the trust member has the proxy of 1 or more trust members absent from the meeting—is counted as 2; or
    - (b) otherwise—is counted as 1.
  - (3) However, a meeting is not validly held unless at least 1 officer is present at the meeting.

### 12 Voting

- (1) At a meeting of the trust members—

- (a) a question is decided by a majority of votes of the trust members who are present either in person or by proxy and who vote; and
  - (b) each trust member has 1 vote on each question to be decided and, if the votes are equal, the trust member presiding has a casting vote.
- (2) Without limiting subsection (1), if there is a quorum at the meeting, a decision supported by a majority of the votes of the trust members present and voting is a decision of the trustee.

### **13 Special meetings**

- (1) The secretary must call a special meeting of the trust members on receiving a written request by the chairperson, or at least 2 trust members, to call the meeting.
- (2) The secretary must give each trust member at least 24 hours written notice of—
  - (a) the calling of a special meeting of the trust members; and
  - (b) when and where the meeting is to be held; and
  - (c) the nature of the business to be conducted at the meeting.

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## Schedule 5      Model by-law about financial management of trust land

section 4

### Trust Land Financial Management Model By-law 2009

#### Part 1              General

##### 1      Short title

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

##### 2      Purpose of model by-law

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

##### 3      Definitions

In this model by-law—

**trust** means the trust under which the trustee holds the trust land.

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

**trust member** means—

- (a) if the trustee consists of only 1 person for the time being—the person for the time being comprising the trustee; or
- (b) if the trustee consists of 2 or more persons for the time being—each person for the time being comprising the trustee.

## **Part 2                      Financial management**

### **4                      Financial management by 1 trust member**

- (1) This section applies if the trustee consists of only 1 trust member.
- (2) The funds of the trust must be kept in an account (the ***trust land account***), in the name by which the trustee is described, in a financial institution decided by the trust member.
- (3) The trust member must ensure that all moneys received for the trust are paid into the trust land account as soon as practicable after the moneys are received.
- (4) All accounts presented for payment by the trust must be approved for payment by the trust by the trust member before they may be paid.
- (5) An approval under subsection (4) must be recorded in the books or documents kept by the trust member relating to the financial management of the trust.
- (6) All payments from the trust land account must be made by cheque signed by the trust member.

### **5                      Financial management by 2 or more trust members**

- (1) This section applies if the trustee consists of 2 or more trust members.
- (2) The funds of the trust must be kept in an account (the ***trust land account***), in the name by which the trustee is described, in a financial institution decided by the trust members.
- (3) The trust members must ensure that all amounts received for the trust are paid into the trust land account as soon as practicable after the amounts are received.
- (4) All accounts presented for payment by the trust must be approved for payment by the trust at a meeting of the trust members before the accounts may be paid.
- (5) An approval under subsection (4) must be recorded in the minutes of the meeting of the trust members.



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

## **6 Public liability insurance**

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

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

## Schedule 6      Averaged value

schedule 12, definition *averaged value*

### 1      Definitions for sch 6

In this schedule—

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

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

where—

***T<sub>1</sub>*** means the total of the values, for rental period 1, of all land in the State subject to a lease of the particular category.

***T<sub>R</sub>*** means the total of the values, for the relevant period, of all land in the State subject to a lease of the particular category.

*Example—*

If the total of the values, for the rental period starting on 1 July 2009, of all land in the State subject to a category 12 lease is \$10m and the total of the values, for the rental period starting on 1 July 2008, of all land in the State subject to the category is \$8m, averaging factor 1 for a category 12 lease is 80%.

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

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

where—

***T<sub>2</sub>*** means the total of the values, for rental period 2, of all land in the State subject to a lease of the particular category.

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

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

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

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

## 2 Category 12.1, 12.2, 13 or 14.2 lease land

For schedule 12, definition *averaged value*, of land subject to a category 12.1, 12.2, 13 or 14.2 lease for the relevant period, the averaged value of the land is worked out using the formula—

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

where—

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

$V_1$  means—

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

$V_2$  means—

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

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

## Schedule 6A      Lease title references

section 37B(2)

17548229	17660125	40003731	40052931
17548230	17660133	40003807	40052948
17549124	17660163	40004324	40053355
17549125	17660178	40008122	40053808
17549137	17660179	40008131	40056027
17553111	17660183	40009646	40056028
17563246	17660225	40009647	40056030
17564050	17660240	40010976	40057789
17568060	17709118	40013449	40058568
17569233	17713246	40015579	40058570
17572023	17715244	40016904	40059018
17573010	17726168	40017055	40060355
17596114	17726194	40020132	40061000
17658223	17730063	40020815	40062352
17659025	17730198	40021597	40064845
17659142	17739248	40022760	40065034
17659182	17740207	40022913	40065080
17659188	17746126	40025043	40065551
17659202	17747006	40029838	40066381
17660012	17768160	40029929	40067136
17660077	17778110	40030347	40067368
		40033061	40067512
		40034849	40067513

Schedule 6A

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40034897	40067837
40035475	40067838
40039117	40068685
40040294	40069139
40045184	40069218
40047582	40069401
	40069852
	40070121
	40071129
	40071685

## Schedule 7      Discount applying to pre-Wolfe freeholding lease

section 50

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

Schedule 7

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>
<b>Balance of term (years)</b>	<b>Percentage</b>	<b>Balance of term (years)</b>	<b>Percentage</b>
19	36.39	39	56.37
20	37.69	40	57.10
41	57.82	51	64.04
42	58.52	52	64.58
43	59.20	53	65.11
44	59.86	54	65.62
45	60.50	55	66.12
46	61.13	56	66.61
47	61.74	57	67.09
48	62.34	58	67.55
49	62.92	59	68.01
50	63.49	60	68.45



## **Schedule 8      Discount applying to grazing homestead freeholding or perpetual lease**

sections 55 and 57

<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>
<b>Balance of term (years)</b>	<b>Percentage</b>	<b>Balance of term (years)</b>	<b>Percentage</b>
1	2.75	16	17.74
2	4.05	17	18.45
3	5.30	18	19.14
4	6.50	19	19.79
5	7.66	20	20.41
6	8.77	21	21.01
7	9.84	22	21.58
8	10.87	23	22.13
9	11.86	24	22.66
10	12.80	25	23.16
11	13.71	26	23.64
12	14.59	27	24.10
13	15.43	28	24.54
14	16.23	29	24.96
15	17.00	30	25.36

**Schedule 9      Amount prescribed**

section 59

<b>Column 1</b>	<b>Column 2</b>
<b>Act provision</b>	<b>Amount prescribed</b>
section 47(3)	\$5,000
section 499(2)(e)	\$110

## Schedule 10      Interest rate prescribed

section 60

**Column 1****Act provision**

section 500(1)

section 503I(2)

**Column 2****Annual interest rate prescribed**

2% compounding monthly

2% compounding monthly

## **Schedule 10A Regulated conditions**

section 61

### **Part 1 Regulated conditions for leases**

#### **1. Indemnity**

The Lessee indemnifies and agrees to keep indemnified the Minister, and the State of Queensland and its Representatives (the “Indemnified parties”) against all liability, costs, loss and expenses including claims in negligence (including any claims, proceedings or demands brought by any third party, and any legal fees, costs and disbursements on a solicitor and client basis) (“Claim”) arising from or incurred in connection with:

- (a) the granting of this Lease to the Lessee;
- (b) the Lessee’s use and occupation of the land; or
- (c) personal injury (including sickness and death) or property damage or loss in connection with the performance (or attempted or purported performance or non-performance) of the lease or a breach of the lease by the Lessee.

The Lessee hereby releases and discharges to the full extent permitted by law, the Indemnified parties from all actions, claims, proceedings or demands and in respect of any loss, death, injury illness or damage (whether personal or property, and whether special, direct, indirect or consequential, including consequential financial loss) arising out of the use and occupation of the Lease.

To the full extent permitted by law, the Minister, the State of Queensland and their Representatives will not be liable to the Lessee for any special, indirect or consequential damages, including consequential financial loss arising out of the use and occupation of the Lease.

#### **2. Public Liability**

The Lessee must effect a public liability insurance policy with an insurer authorised under the *Insurance Act 1973* (Commonwealth) or, if not so authorised then only with the Minister's approval, which can be given or withheld in the Minister's sole discretion, naming the Lessee as the insured covering legal liability for any loss of, or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the land or any improvements thereon and against all claims, demands, proceedings, costs, charges and expenses whatsoever (including claims in negligence). Such policy must:

- (a) be for an amount of not less than \$20 Million and have no per event sublimit or such higher amounts as the Minister may reasonably require.
- (b) be effected on a "claims occurring" basis; and
- (c) be maintained at all times during the currency of the lease, and upon receipt of any notice of cancellation, the lessee must immediately effect another public insurance policy in accordance with the terms of the lease.

The Lessee must, as soon as practicable, inform the Minister, in writing, of the occurrence of any event that the Lessee considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister is kept fully informed of subsequent actions and developments concerning the claim.

The Lessee must renew such policy, at the Lessee's expense, each year during the currency of this Lease.

This condition will be satisfied if the Lessee is the State of Queensland or a statutory authority eligible for cover under the Queensland Government Insurance Fund and is insured and continues to be insured by the Queensland Government Insurance Fund.

This condition will be satisfied if the lessee is the Commonwealth of Australia or a statutory authority eligible for cover under the Comcover Insurance Fund and is insured and continues to be insured by Comcover.

### **3. Access**

The provision of access, further access or services to the land will not be the responsibility of the State.

#### **4. Survey Costs**

If the land needs to be surveyed or re-surveyed the Lessee must do this at its own cost under the *Survey and Mapping Infrastructure Act 2003*. This survey plan must be lodged in the land registry within the specified time.

#### **5. Jurisdiction**

The Lease is subject to the *Land Act 1994* and all other relevant Queensland and Commonwealth legislation.

#### **6. Compliance with Laws**

The Lessee must comply with all lawful requirements of the:

- (a) Local Government; and
- (b) any department within the Queensland or Commonwealth governments (including the department administering the *Land Act 1994*), local authority or statutory instrumentality having jurisdiction over the land, or the development, use and occupation of the land, in regard to its use, occupation and development of the land.

## **Part 2                      Additional regulated condition for rolling term leases**

#### **7. Extension**

The lease is subject to the extensions of rolling term leases provision of the *Land Act 1994* and the Minister must grant an extension of the term of a rolling term lease if the lessee makes an application in the approved form. The extension will be for the original term of the lease and may be given subject to condition changes.

## **Schedule 10B Regulated islands**

### **section 61A**

Brampton Island  
Camp Island, Coral Sea  
Curtis Island  
Daydream Island  
Dent Island  
Double Island  
Fitzroy Island  
Fraser Island  
Great Keppel Island  
Green Island  
Haggerston Island  
Hamilton Island  
Hayman Island  
Heron Island  
Hinchinbrook Island  
Hook Island  
Lindeman Island  
Lizard Island  
Long Island  
Moreton Island  
Orpheus Island  
Pumpkin Island  
Restoration Island  
South Molle Island

South Stradbroke Island

Stone Island

Sweers Island

Wild Duck Island

Wilson Island



## Schedule 11 Fees

section 62(1)

		\$
1	Request for an agreement under section 18 of the Act about a proposed exchange of land (Act, s 18(5))	286.70
2	Application—	
	(a) for the allocation of a floating reservation under section 23A(1) of the Act	286.70
	(b) to buy land in a reservation under section 24(3) of the Act	286.70
	(c) for the dedication of land as a road for public use under section 94(2) of the Act	286.70
	(d) for a road closure—	
	(i) if the closure is the permanent closure of the road under section 99(1) of the Act	286.70
	(ii) if the closure is the temporary closure of the road under section 99(3) of the Act (including issuing a road licence over the road applied for with the application)	286.70
	(e) for the issue of a road licence over a temporarily closed road under section 103(1) of the Act, other than the road licence mentioned in paragraph (d)(ii)	286.70
	(f) for approval to surrender a road licence under section 105(3) of the Act	143.20
	(g) for the simultaneous opening and closing of roads under section 109A(1) or 109B(1) of the Act	286.70
	(h) for the grant of an interest in land under section 120A(1) of the Act	286.70
	(i) for a lease of unallocated State land under section 121(1) of the Act	286.70

	\$
(j) for the grant of a deed of grant of unallocated State land under section 122 of the Act	286.70
(k) for a change to a lease—	
(i) if the change is for the lease to be used for additional or fewer purposes mentioned in section 154(1) of the Act	143.20
(ii) if the change is a change of an imposed condition of the lease mentioned in section 210(2) of the Act	143.20
(l) to extend a lease under section 155A(2) or 155B(2) of the Act	286.70
(m) for an offer of a new lease that is a renewal application under section 158(1) of the Act	286.70
(n) that is a conversion application under section 166(1) of the Act	286.70
(o) that is an extension application under section 164C(1) of the Act	286.70
(p) for approval to subdivide a lease under section 176(1) of the Act	286.70
(q) for approval to amalgamate leases under section 176K(1) of the Act	286.70
(r) for a permit to occupy unallocated State land, a reserve or a road under section 177A(1) of the Act	286.70
(s) for surrender of a permit under section 180A(5) of the Act	143.20
(t) for approval to transfer a lease, licence or sublease under section 322(3) of the Act	143.20
(u) for surrender of freehold land under section 327B of the Act	143.20
(v) for surrender of all or part of a lease under section 327C(1) of the Act	143.20
(w) for approval to sublease a lease under section 332(1)(a)(i) of the Act	143.20

	\$
(x) for approval to surrender land under section 358(2) of the Act	286.70
(y) to amend the description in a lease under section 360C of the Act	143.20
(z) for approval of an easement to be created over land under section 362(1) of the Act	286.70
(za) for approval of a public utility easement to continue over unallocated State land under section 372(2) of the Act	143.20
(zb) for approval of a public utility easement that burdens a State lease to continue over a reserve under section 372(3) of the Act	143.20
(zc) for approval to make a lease the subject of a profit a prendre under section 373G(1) of the Act	286.70
(zd) for a review under section 423 of the Act of an original decision mentioned in schedule 2 of the Act	143.20
(ze) for absolute surrender of all or part of an occupation licence under section 481B(3) of the Act	143.20
3 Lodging—	
(a) a document changing the lessee of a lease, the licensee of a licence or the holder of an interest in a lease or licence—	
(i) to record the death of an individual who is a joint tenant—	
(A) for 1 lease or licence	36.00
(B) for each additional lease or licence	nil
(ii) other than in the circumstances mentioned in subparagraph (i)—	
(A) for 1 lease or licence	192.00
(B) for each additional lease or licence	36.00

		\$
	(b) a request to record a change of name of an individual, or to correct the name of an individual, who is a lessee of a lease, a licensee of a licence or a holder of an interest in a lease or licence—	
	(i) for 1 lease or licence	36.00
	(ii) for each additional lease or licence	nil
	(c) a surrender of a lease, trustee lease, road licence, occupation licence or permit to occupy	nil
	(d) a standard terms document under section 318 of the Act	nil
	(e) a plan of survey—	
	(i) for the plan	383.00
	(ii) for each lot or interest surveyed or defined	28.00
	(f) another document	192.00
4	Examination of a sketch plan that is part of a document	36.00
5	Requisitioning a document lodged or deposited under section 305(1) of the Act	36.00
6	Issuing—	
	(a) a deed of grant (other than a deed of grant issued under section 18A of the Act because of a surrender of native title, a deed of grant granted to the State or a deed of grant issued under section 358(3)(b) of the Act)	74.20
	(b) a lease (other than a lease issued to the State or issued under section 18A of the Act because of a surrender of native title) or licence	74.20
	(c) a permit to occupy, other than a permit for a term of less than 3 months issued to a non-profit community organisation	74.20
7	Title search for—	
	(a) the current details of a lease, licence, permit to occupy or a reserve, if the information is generated—	

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	(i) for an entity mentioned in section 284(4) of the Act	16.30
	(ii) otherwise	19.90
	(b) the historical details of a lease or licence, if the information is generated—	
	(i) for an entity mentioned in section 284(4) of the Act	25.55
	(ii) otherwise	29.25
8	Image of—	
	(a) a lease, licence or permit to occupy, if the image is generated—	
	(i) for the purposes of an entity mentioned in section 284(4) of the Act	16.30
	(ii) otherwise	19.90
	(b) another document	38.75
9	Search of a statement of registered dealing or administrative advice against a lease or licence	3.25
10	Investigative search of the register (not including providing copies of documents) by an employee of the department if the search requires—	
	(a) no additional computer programming time—for each hour or part of an hour	124.60
	(b) additional computer programming time—for each hour or part of an hour	348.00
11	Order in council, under section 216 of the Act, resuming a lease or part of a lease or taking an easement over a lease—	
	(a) for 1 lease or easement or part of a lease or easement	196.80
	(b) for each additional lease or easement	95.85
12	Preparing and serving a notice resuming a lease or part of a lease under section 224 of the Act	95.85

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		\$
13	Instrument amending an instrument resuming a lease or an easement over a lease	95.85
14	Certifying a copy of a document mentioned in section 284(1)(b) of the Act	36.15
15	Lodging a request to cancel registration of a writ of execution under section 388 of the Act	nil
16	Lodging a request to register a discharge or satisfaction of a writ of execution under section 389 of the Act	192.00
17	Depositing or removing an administrative advice, other than an advice deposited, or removed, by the State	28.00
18	Preparing and giving a notice of a caveat	36.00
19	Providing lodgement support service bundle 1 to an ELN in relation to a conveyancing transaction	16.30
20	Providing lodgement support service bundle 2 to an ELN in relation to a conveyancing transaction	12.90

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## Schedule 12 Dictionary

### section 3

***administrative advice*** means an advice that is an administrative advice under the manual of land practice kept under section 286A of the Act.

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

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

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

***body corporate*** see the *Body Corporate and Community Management Act 1997*.

***Commonwealth concession card*** means—

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

***consultation period*** see section 7(1).

***conveyancing transaction*** see the Electronic Conveyancing National Law (Queensland), section 3.

***designated set rent*** see section 37C.

**ELN** see the Electronic Conveyancing National Law (Queensland), section 3.

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

***government leasing entity*** see section 30(3).

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

***instalment*** includes any interest that is a component of the instalment.

***Land Valuation Act*** means the *Land Valuation Act 2010*.

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

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

***lodgement support service bundle 1***, for a conveyancing transaction, means—

- (a) the particulars recorded in the appropriate register that are necessary to do any of the following in relation to the transaction—
  - (i) complete each document that may be lodged for the transaction;
  - (ii) identify anything in the register that is changed, lodged, noted, recorded or registered; and
- (b) confirmation, for each completed document, as to whether the document may be lodged electronically.

***lodgement support service bundle 2***, for a conveyancing transaction, means—

- (a) the particulars recorded in the appropriate register that are necessary to complete each document that may be lodged for the transaction; and
- (b) confirmation, for each completed document, as to whether the document may be lodged electronically.

***minimum rent*** see section 37.

***model by-laws*** see section 4.



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

***penalty interest*** is the rate, accruing daily and compounding monthly, that is 2% above the Suncorp-Metway business banking variable lending base rate.

***relevant category lease*** see section 26.

***relevant decision maker*** means, for a rental category decision—

- (a) made by the Minister—the Minister; or
- (b) made by the chief executive—the chief executive.

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

***rental category decision*** see section 27.

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

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

***rental valuation*** means a Land Act rental valuation under the Land Valuation Act.

***repealed regulation*** means the repealed *Land Regulation 1995*.

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

***Suncorp-Metway business banking variable lending base rate*** means the variable base interest rate set by the Suncorp-Metway Bank for the loan type called the Small Business Mortgage Rate that is effective as at 31 March immediately before the current financial year.

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

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

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

***unimproved value*** see section 25D.

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

*Note—*

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