

Version No. 002
Royal Botanic Gardens Regulations 2004
S.R. No. 148/2004
Version as at 11 April 2008

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PART 1—PRELIMINARY

1 Objectives

The objectives of these Regulations are—

- (a) to make provision for the care, protection, management and use of the botanic gardens and of other land managed by the Board;
- (b) to provide for fees payable for entry to the Australian Garden;
- (c) to provide for concessional charges for entry to the Australian Garden;
- (d) to provide for the exemption from payment of fees or charges for entry to the Australian Garden for certain classes of person.

2 Authorising provision

These Regulations are made under section 51 of the **Royal Botanic Gardens Act 1991**.

3 Commencement

These Regulations come into operation on 1 December 2004.

4 Revocation

The Royal Botanic Gardens Regulations 1994¹ are **revoked**.

5 Definitions

(1) In these Regulations—

Act means the **Royal Botanic Gardens Act 1991**;

animal means any mammal (other than a human being), bird, reptile, amphibian, fish, or invertebrate in any stage of biological development;

Australian Garden means that part of the Royal Botanic Gardens, Cranbourne shown hatched on the plan in Schedule 1;

domestic partner of a person means a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

Gardens means—

- (a) the botanic gardens; and
- (b) the managed land;

plant means any algae, fungi, bryophyte or vascular plant including any tree, bush, shrub or herb in any stage of biological development;

spouse of a person means a person to whom the person is married;

structure includes a building, tent, screen, awning, enclosure, portable shelter, beach umbrella or other construction;

vehicle has the same meaning as in the **Road Safety Act 1986** but does not include a wheel chair, a motorised wheel chair, pram, stroller or other device for the conveyance of disabled or injured persons or children.

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- (2) For the purposes of the definition of *domestic partner* in subregulation (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.

6 Application of Regulations

- (1) Regulations 7(3), 8(2), 9(1), 10, 11, 12, 13(1), 13(3), 14, 15(1), 16(1), 17, 18, 19(1), 20, 21, 22(2), 22(3), 23(1), 24(4) and 27(2) do not apply to a person who is of any one or more of the following classes, when the person is acting in the course of his or her duties—
- (a) an agent, employee or member of the Board;
 - (b) an authorised officer;
 - (c) a member of the police force;
 - (d) a person dealing with a fire, flood or other public emergency, when authorised to do so by or under an Act or regulations made under that Act.
- (2) Regulations 7(3), 8(2), 9(1), 10, 11, 12, 13(1), 13(3), 14, 15(1), 16(1), 17, 18, 19(1), 20, 21, 22(2), 22(3), 23(1), 24(4) and 27(2) do not apply to a person acting in accordance with a lease, licence or permit issued under the Act, to the extent that the activities authorised by that lease, licence or permit are inconsistent with those Regulations.
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**PART 2—CARE, PROTECTION AND MANAGEMENT OF
THE GARDENS**

**7 Entry to, opening hours and closure of parts of the
Gardens**

- (1) The Board may determine, for any part of the Gardens—
 - (a) the times at which that part of the Gardens is open and the times at which it is closed to the public; and
 - (b) the number of persons who may enter that part of the Gardens at any particular time; and
 - (c) the purposes for which that part of the Gardens is open or closed to the public.
- (2) The Board must cause the particulars of a determination made under subsection (1) to be displayed within or at the entrances to the Gardens, and in a place and a manner that ensures that the particulars are reasonably likely to be seen by persons entering the part of the Gardens to which the determination applies.
- (3) A person must not enter or remain in any part of the Gardens that is closed to the public—
 - (a) unless he or she is attending a private function approved by the Board; or
 - (b) except in accordance with the written authority of the Board.

Penalty: 5 penalty units.

8 Requests to leave the Gardens

- (1) An authorised officer or an employee or agent of the Board who is authorised by the Board for the purposes of this regulation may request a person to leave the Gardens—
 - (a) on the grounds of—
 - (i) the preservation of good order; or
 - (ii) the safety of the public; or
 - (iii) the protection of the state botanical collection or any flora or fauna in the Gardens; or
 - (b) if the authorised officer or employee or agent of the Board reasonably believes the person has not entered the Gardens in accordance with these Regulations.
- (2) A person must leave the Gardens when directed to do so by a person acting under subsection (1).

Penalty: 5 penalty units.

9 Protection of plants

- (1) A person must not in the Gardens—
 - (a) climb upon any plant whether alive or dead;
or
 - (b) knowingly bring in or introduce any plant, seed, pathogen, spore or any other part of any plant—

except in accordance with a determination of the Board or the written authority of the Board.

Penalty: 20 penalty units.

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- (2) Subregulation (1)(b) does not apply to a person who brings any plant, seed or any part of any plant into the Gardens—
- (a) for the purposes of identification at the National Herbarium or Royal Botanic Gardens, Cranbourne; or
 - (b) in connection with any display, function or other activity authorised by the Board.
- (3) For the purposes of this regulation, the Board may determine that—
- (a) any plant in the Gardens (whether alive or dead) may be climbed on; or
 - (b) any plant, seed, pathogen, spore or any part of a plant may be brought in or introduced to the Gardens.

10 Protection of animals and animal habitats

A person must not in the Gardens—

- (a) interfere with any animal; or
- (b) destroy or interfere with the habitat of any animal including any nest, bower, display mound, lair or burrow—

except in accordance with the written authority of the Board.

Penalty: 20 penalty units.

11 Offering food to animals

A person must not in the Gardens feed or offer food or any object as food to any animal, except in accordance with the written authority of the Board.

Penalty: 10 penalty units.

12 Protection of structures, facilities, equipment and natural features

A person must not in the Gardens—

- (a) damage, deface, remove or displace any sign, structure, facility, equipment, or natural feature; or
- (b) dig up or remove any soil, mulch, sand, stone or similar substance—

except in accordance with the written authority of the Board.

Penalty: 20 penalty units.

13 Camping, occupying buildings and erecting structures

(1) A person must not in the Gardens—

- (a) camp or reside; or
- (b) occupy any building that is not set aside for public use; or
- (c) erect or occupy a structure or cause a structure to be erected or occupied—

except in accordance with the written authority of the Board.

Penalty: 10 penalty units.

(2) The Board may direct a person who has contravened subregulation (1)(c) to remove that structure.

(3) A person who has contravened subregulation (1)(c) must remove the structure, when directed to do so by the Board.

Penalty: 10 penalty units.

- (4) For the purposes of the care, protection and management of the Gardens, the Board may remove the structure if a person fails to comply with a direction given under subregulation (2).
- (5) The Board must take all reasonable steps to notify the owner of a structure removed in accordance with subregulation (4) that the structure has been removed.
- (6) Subject to subregulation (5), if, after a period of one month from the date of a direction under subregulation (2), the owner of the structure removed in accordance with subregulation (4), has not claimed that structure, the Board may dispose of the structure.

14 General offences

- (1) A person must not in the Gardens, leave the lawns, pathways, walking tracks, roads or other thoroughfares in any area except under and in accordance with the written authority of the Board.
Penalty: 10 penalty units.
- (2) A person must not climb over, pass under or break through any gate, fence, barrier or hedge in the Gardens, in order to leave or enter the Gardens.
Penalty: 10 penalty units.
- (3) A person must not light any fire or use any flame in the Gardens except—
 - (a) in cooking apparatus or other equipment approved by the Board; or
 - (b) with the written authority of the Board.Penalty: 20 penalty units.

- (4) A person must not in the Gardens, obstruct or interfere with an employee of the Board.

Penalty: 20 penalty units.

15 Possession, carriage or use of certain things

- (1) A person must not in the Gardens, possess, carry or use any—

- (a) poison; or
- (b) weapon, trap, snare or similar equipment.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply to a person who does so under and in accordance with the written authority of the Board.

16 Engaging in recreational or sporting activity

- (1) The Board may determine—

- (a) that a particular recreational or sporting activity must not be engaged in, in the Gardens; or
- (b) that a particular recreational or sporting activity must not be engaged in, except in a specified area, in the Gardens—

and for the purposes of paragraph (b), the Board may, in the determination, set aside the area in which the recreational or sporting activity may be engaged in.

- (2) A person must not engage in a recreational or sporting activity in the Gardens in contravention of a determination of the Board under subregulation (1), unless the person does so—

- (a) under and in accordance with a written authority of the Board; or

- (b) at an event conducted by a person who has been issued with a written authority under regulation 17 which allows the sporting or recreational activity.

Penalty: 10 penalty units.

- (3) The Board must cause particulars of a determination under subsection (1) to be displayed within or at the entrances to the Gardens, and in a manner and place that ensures that the particulars are reasonably likely to be seen by persons entering the part of the Gardens to which the determination applies.

17 Organised events

A person must not, in the Gardens, conduct—

- (a) an organised entertainment or show; or
- (b) a festival, tour, fete or public meeting; or
- (c) a demonstration, training class or similar event; or
- (d) a wedding or similar ceremony; or
- (e) a rally, competition or similar event—

unless the person does so under and in accordance with the written authority of the Board.

Penalty: 10 penalty units.

18 Dangerous activities

A person must not in the Gardens—

- (a) throw a stone or other object; or
- (b) play a game; or
- (c) engage in any other activity—

in a manner that is likely to cause danger to any person or animal or damage to any plant.

Penalty: 20 penalty units.

19 Operating sound producing device

(1) A person must not play or operate any sound producing device in the Gardens at a volume that is likely to—

- (a) cause inconvenience or nuisance to any person; or
- (b) disturb any animal—

unless the person does so under and in accordance with the written authority of the Board.

Penalty: 10 penalty units.

(2) In this regulation *sound producing device* means a device, the main function of which is to make, reproduce or amplify sound.

20 Commercial activities

A person must not, in the Gardens—

- (a) conduct a commercial activity or offer for sale or hire any article or service; or
- (b) take a photograph, make a film or video or make an image, a drawing or a painting for commercial purposes—

unless that person is acting under and in accordance with the written authority of the Board.

Penalty: 20 penalty units.

21 Advertising, soliciting, public speaking etc.

A person must not, in the Gardens—

- (a) solicit or collect money; or
- (b) distribute or display any handbills, pamphlets, books, papers or advertising matter or erect or display any advertising placard or notice; or

- (c) preach, declaim, harangue or deliver any address that may disturb or annoy any other person in the Gardens—

unless that person is acting under and in accordance with the written authority of the Board.

Penalty: 10 penalty units.

22 Dogs

- (1) The Board may, by determination, set aside an area of the Gardens as an area—
- (a) into which dogs may be brought; and
 - (b) in which dogs may be allowed to remain—
- subject to the conditions specified in the determination.
- (2) A person must not bring a dog into or allow a dog to remain in the Gardens unless that person does so—
- (a) in an area of the Gardens set aside by a determination under subregulation (1); and
 - (b) in accordance with the determination setting aside the area of the Gardens.

Penalty: 10 penalty units.

- (3) A person who brings a dog into, or allows a dog under his or her control to enter or remain in the Gardens, must pick up and remove from the Gardens any faeces deposited by the dog.

Penalty: 10 penalty units.

- (4) Subregulations (1), (2), and (3) do not apply to a disabled person who brings a dog into the Gardens or allows a dog to remain in the Gardens, to assist that person with respect to that person's disability.

23 Animals other than dogs

- (1) A person must not bring an animal, that is not a dog, into the Gardens or allow any such animal under his or her control to enter or remain in the Gardens.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a disabled person who brings an animal, that is not a dog, into the Gardens to assist that person with respect to that person's disability.

24 Vehicles

- (1) The Board may, by determination, set aside in the Gardens—
- (a) an area where the parking of vehicles or classes of vehicles is permitted; or
 - (b) an area as an area in which vehicles or classes of vehicles may be driven only in accordance with specified conditions; or
 - (c) an area where vehicles of a class specified in the determination may be driven; or
 - (d) an area where vehicles of a class specified in the determination must not be driven.
- (2) The Board must cause particulars of a determination made under subregulation (1) to be displayed within or at the entrances to the Gardens, in a place and manner that the particulars are reasonably likely to be seen by persons affected by the determination.
- (3) A person must not in the Gardens—
- (a) park a vehicle in contravention of a determination under subregulation (1); or

- (b) drive a vehicle in a manner that is not in accordance with the conditions specified by the Board in any determination under subregulation (1).

Penalty: 10 penalty units.

- (4) A person must not drive a vehicle in the Gardens unless the vehicle is being driven—
 - (a) on a public access road; or
 - (b) in accordance with a determination under subregulation (1); or
 - (c) under and in accordance with a written authority of the Board.

Penalty: 10 penalty units.

25 Determination of Board setting area aside

- (1) In a determination of the Board under these Regulations setting aside an area, the Board may specify conditions under which the use of the area to which the determination relates may or may not be carried out.
- (2) If the Board has made a determination setting aside an area under these Regulations in which a particular use of an area is restricted or prohibited, the Board must cause signs or notices to be erected or displayed at or near the entrance to the area indicating—
 - (a) the area that has been set aside under the determination and the reason why the area has been set aside; and
 - (b) in the case of any use that is restricted, the conditions under which that use may be carried out in the area so set aside.

26 Authorities

- (1) For the purposes of Regulations 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21 or 24 the Board may grant written authority to any person.
 - (2) An authority given under this Part is subject to any reasonable conditions determined by the Board, and specified in the authority in respect of—
 - (a) the care, protection and management of the Gardens; or
 - (b) the safety of persons and preservation of property within the Gardens.
 - (3) The Board may cancel an authority at any time if the holder of the authority has—
 - (a) breached the conditions of the authority; or
 - (b) breached these Regulations.
 - (4) If the Board cancels an authority under subregulation (3), the Board must, within a reasonable time after the cancellation, notify the holder of the authority in writing of the cancellation of the authority.
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**PART 3—ENTRY FEES AND CHARGES TO THE
AUSTRALIAN GARDEN**

**27 Requirement to pay a general fee or concessional
charge for entry to the Australian Garden**

- (1) The fee or charge payable by a person on entry to the Australian Garden is—
- (a) the general fee for entry determined by the Board in accordance with regulation 28 as being payable by members of the class of person to which the person belongs, if—
 - (i) the person is not entering the Australian Garden in circumstances in which the Board has determined under regulation 29, that a concessional charge is payable; and
 - (ii) the person is not exempt from the payment of a fee or charge under this Part; or
 - (b) the concessional charge for entry determined by the Board in accordance with regulation 29 as being payable by members of the class of person to which the person belongs, if—
 - (i) the person is entering the Australian Garden in circumstances in which the Board has determined, under regulation 29, that a concessional charge is payable; and
 - (ii) the person is not exempt from the payment of a fee or charge under this Part.
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- (2) If a fee or concessional charge is payable under subregulation (1) by a person to enter the Australian Garden, the person must not enter the garden unless he or she has paid the fee or concessional charge (as the case requires).

Penalty: 5 penalty units.

28 Determination of general fees for entry to the Australian Garden

- (1) The Board may determine fees to be paid for entry to the Australian Garden.
- (2) A fee determined by the Board under subregulation (1) for a class of person set out in Column 2 of the Table in Schedule 2 must not—
- (a) be more than; or
 - (b) be less than 40% of—
- the amount set out in Column 3 of the Table in Schedule 2 opposite that class of person.

29 Determination of concessional charges for entry to the Australian Garden

- (1) The Board may determine concessional charges to be paid for entry to the Australian Garden.
- (2) A concessional charge determined by the Board under subregulation (1) for a class of person set out in Column 2 of the Table in Schedule 2 must not be—
- (a) more than the fee determined under regulation 28(1); or
 - (b) less than 30% of the amount set out in Column 3 of the Table in Schedule 2 opposite that class of person.

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- (3) In determining a concessional charge the Board must have regard to one or more of the following factors—
- (a) visits being made by groups of 10 or more persons;
 - (b) the nature of the visits;
 - (c) the day or time of entry of visits;
 - (d) the day of the week of visits;
 - (e) any weather factors that may affect visits;
 - (f) any seasonal considerations that may affect visits;
 - (g) any promotional or marketing considerations affecting visits;
 - (h) visits being made by members of organisations, approved by the Board, that are established for the following or similar purposes—
 - (i) to encourage public interest in, and increase public understanding and appreciation of plants, animals and their roles in natural ecosystems; or
 - (ii) to support the development and operation of botanic and public gardens, and horticulture, and projects connected with those activities.
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30 Exemption from payment of entry fees or charges to the Australian Garden

- (1) On any day on which the Australian Garden is open to the public, the following persons are exempt from paying any fee or concessional charge determined under this Part—
- (a) a child under 16 years of age;
 - (b) a person who is the prime carer in attendance of a physically or intellectually disabled person;
 - (c) a teacher, supervisor or supervising parent (a "supervising person") accompanying children or students on a group visit from a pre-school, primary school, secondary school or post-secondary education institution;
 - (d) a member of the Board, and the member's spouse or domestic partner and any child of the member or of the member's spouse or domestic partner when accompanied by the member;
 - (e) a person who is employed by the Board, and the person's spouse or domestic partner and any child of the person or of the person's spouse or domestic partner when accompanied by the employee;
 - (f) a person who holds a complimentary pass issued by the Board;
 - (g) an official visitor attending at the invitation of the Board.

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- (2) An exemption in subregulation (1)(c) is limited to one supervising person for the respective number of children or students on a group visit in each of the following categories—
- (a) for a group of children from a registered pre-school, one supervising person for every 3 children;
 - (b) for a school group—
 - (i) one supervising person for every 5 students in the preparatory year to year 2; and
 - (ii) one supervising person for every 10 students in years 3 to 12;
 - (c) for a group from a post-secondary education institution, one supervising person for every group of 15 students.

31 Fees for entry to be displayed

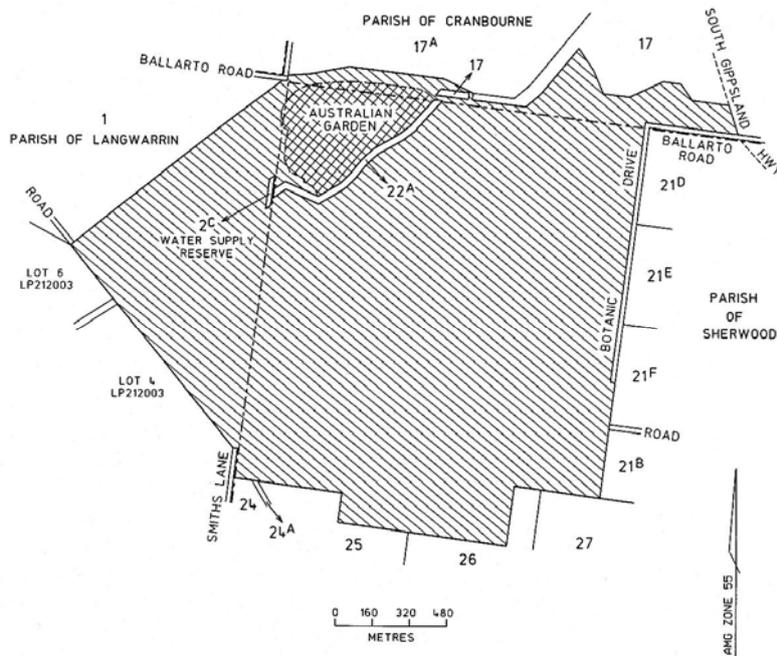
The Board must cause signs or notices to be displayed at the entrance of the Australian Garden specifying the fees payable for entry.

SCHEDULES

SCHEDULE 1

Regulation 5

**THE AUSTRALIAN GARDEN AT ROYAL BOTANIC
GARDENS, CRANBOURNE**



Sch. 2

SCHEDULE 2

Regulation 28

**MAXIMUM FEES FOR ENTRY TO THE AUSTRALIAN
GARDEN**

<i>Column 1 Item</i>	<i>Column 2 Visitor Class</i>	<i>Column 3 Amount</i>
1	Adult (16 years of age and over)(not covered by item 2 or 3)	\$13.00
2	Eligible recipient or eligible beneficiary within the meaning of the State Concessions Act 1986	\$9.75
3	Full-time student	\$9.75

ENDNOTES

1. General Information

The Royal Botanic Gardens Regulations 2004, S.R. No. 148/2004 were made on 30 November 2004 by the Governor in Council, on the recommendation of the Royal Botanic Gardens Board, under section 51 of the **Royal Botanic Gardens Act 1991**, No. 87/1991 and came into operation on 1 December 2004: regulation 3.

The Royal Botanic Gardens Regulations 2004 will sunset 10 years after the day of making on 30 November 2014 (see section 5 of the **Subordinate Legislation Act 1994**).

Endnotes

2. Table of Amendments

There are no amendments made to the Royal Botanic Gardens Regulations 2004 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

¹ Reg. 4: S.R. No. 1/1994. Reprint No. 1 as at 6 August 1998.