

Authorised Version
Cemeteries and Crematoria Regulations 2015
S.R. No. 59/2015

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Authorised Version

STATUTORY RULES 2015

S.R. No. 59/2015

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

The Administrator of the State of Victoria as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: 16 June 2015

Responsible Minister:

JILL HENNESSY
Minister for Health

YVETTE CARISBROOKE
Clerk of the Executive Council

Part 1—Preliminary

1 Objectives

The objectives of these Regulations are—

- (a) to regulate public cemeteries and crematoria and the activities of cemetery trusts; and
- (b) to prescribe forms, fees and other matters for the purposes of the **Cemeteries and Crematoria Act 2003**; and
- (c) to provide for other associated matters.

2 Authorising provision

These Regulations are made under section 180 of the **Cemeteries and Crematoria Act 2003**.

3 Commencement

These Regulations come into operation on 27 June 2015.

4 Revocation

The following Regulations are **revoked**—

- (a) the Cemeteries and Crematoria Regulations 2005¹;
- (b) the Cemeteries and Crematoria Amendment Regulations 2008²;
- (c) the Cemeteries and Crematoria Amendment Regulations 2010³.

5 Definitions

(1) In these Regulations—

concrete-lined grave means a grave lined along its vertical walls with stone, concrete or similar material, whether or not the bottom of the grave is also so lined;

domestic partner of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—
 - (i) for fee or reward; or

- (ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

funeral director means—

- (a) a person who carries on the business of arranging for the disposal of human remains;
- (b) an employee, sub-contractor or agent of a person referred to in paragraph (a) acting in the course of that employment, contract or agency;

nearest surviving relative in relation to a deceased person means—

- (a) the spouse or domestic partner of that person; or
- (b) if at the time of the person's death the person did not have a spouse or domestic partner, any relative of that person first listed in the following paragraphs regardless of gender—
 - (i) son or daughter who has attained the age of 18 years;
 - (ii) father or mother;
 - (iii) brother or sister who has attained the age of 18 years;
 - (iv) grandfather or grandmother;
 - (v) grandson or granddaughter who has attained the age of 18 years;
 - (vi) uncle or aunt who has attained the age of 18 years;

(vii) nephew or niece who has attained the age of 18 years;

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

the Act means the **Cemeteries and Crematoria Act 2003**;

vehicle means a mechanical or motorised vehicle, bicycle, carriage, cart, horse, rollerblades, rollerskates, skateboard or any other means of conveyance.

(2) For the purposes of the definition of *domestic partner* in subregulation (1)—

(a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and

(b) in determining whether persons who are not in a registered relationship 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 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and

(c) a person is not a domestic partner of another person only because they are co-tenants.

Part 2—Cemetery trust records

6 Prescribed information—interment of bodily remains

For the purposes of section 59(a) of the Act, the following information is prescribed for the interment of bodily remains—

- (a) the full name of the deceased person;
- (b) if known, the last permanent address of the deceased person;
- (c) if known, the date of birth and the date of death of the deceased person;
- (d) the date of the interment;
- (e) a description of—
 - (i) the type of place of interment, such as grave, vault or crypt; and
 - (ii) the location of the place of interment, such as section, row and grave number or other unique identifier;
- (f) if applicable, the number of interments that the place of interment has been excavated to accommodate;
- (g) if bodily remains have been exhumed from the place of interment, the date of the exhumation and details of the manner in which those remains were disposed of.

7 Prescribed information—interment of foetal remains

For the purposes of section 59(a) of the Act, the following information is prescribed for the interment of foetal remains which are not a still-born child—

- (a) the date of the interment;

- (b) a description of—
 - (i) the type of place of interment, such as grave, vault or crypt; and
 - (ii) the location of the place of interment, such as section, row and grave number or other unique identifier;
- (c) the name of the person and of the organisation (if any) making the application for interment of the foetal remains.

8 Prescribed information—interment of cremated human remains

For the purposes of section 59(a) of the Act, the following information is prescribed for the interment of cremated human remains—

- (a) the full name of the deceased person;
- (b) if known, the last permanent address of the deceased person;
- (c) if known, the date of birth and the date of death of the deceased person;
- (d) a description of—
 - (i) the type of place of interment, such as niche wall, garden niche, memorial rose or grave; and
 - (ii) the location of the place of interment, such as section, row and grave number or other unique identifier;
- (e) the date of the interment;
- (f) if a cemetery trust has exercised any of its powers under section 86 of the Act, details of—
 - (i) the date of that exercise; and

- (ii) in relation to the power under section 86(b) of the Act, the manner in which the cremated human remains were disposed of.

9 Prescribed information—places of interment

For the purposes of section 59(b) of the Act, the following information is prescribed for places of interment—

- (a) a description of—
 - (i) the type of place of interment, such as grave, vault or crypt; and
 - (ii) the location of the place of interment, such as section, row and grave number or other unique identifier;
- (b) if known, whether there is a current right of interment granted for that place of interment;
- (c) if known, the number of interments that the place of interment has been prepared to accommodate;
- (d) if known, the number of interments, if any, that have taken place in the place of interment.

10 Prescribed information—cremation of bodily remains

For the purposes of section 59(c) of the Act, the following information is prescribed for the cremation of bodily remains—

- (a) the full name of the deceased person;
- (b) if known, the last permanent address of the deceased person;
- (c) if known, the date of birth and the date of death of the deceased person;
- (d) the date on which cremation occurred;

- (e) if the cremated bodily remains are subsequently scattered in a public cemetery for which the cemetery trust is responsible, the date on which that occurred, if known;
- (f) if the cremated bodily remains are subsequently taken from a public cemetery for which the cemetery trust is responsible—
 - (i) the full name, address and contact number of the person who removed them; and
 - (ii) the date on which the removal occurred.

11 Prescribed information—cremation of foetal remains

For the purposes of section 59(c) of the Act, the following information is prescribed for the cremation of foetal remains which are not a still-born child—

- (a) the date on which the cremation occurred;
- (b) the name of the person and of the organisation (if any) making the application for cremation of the foetal remains.

12 Prescribed information—right of interment

For the purposes of section 59(d) of the Act, the following information is prescribed for a right of interment granted by a cemetery trust—

- (a) the full name, address and contact number for the holder of the right;
- (b) the date the right was granted to the person;
- (c) if the right was granted subject to any conditions, details of the conditions;
- (d) whether the right is allocated or unallocated;

- (e) a description of—
 - (i) the type of place of interment such as grave, vault or crypt; and
 - (ii) the location of the place of interment, such as section, row and grave number, or if the right of interment is unallocated, the specific part of the cemetery to which the right of interment relates, if any;
- (f) the original fee or charge paid for the right;
- (g) if the right is for the interment of cremated human remains, the period of the right;
- (h) if the right of interment for cremated human remains has been renewed, the date and period of the renewal.

13 Prescribed information—right of interment transferred

For the purposes of section 59(d) of the Act, the following information is prescribed for a right of interment that has been transferred—

- (a) the name of the person who transferred the right;
- (b) the full name of the person to whom the right has been transferred;
- (c) the date of the transfer;
- (d) a description of—
 - (i) the type of place of interment such as grave, vault or crypt; and
 - (ii) the location of the place of interment, such as section, row and grave number, or if the right of interment is unallocated, the specific part of the

cemetery to which the right of interment relates, if any;

- (e) the method of transfer whether by sale, gift or otherwise;
- (f) the amount of consideration (if any) paid for the transfer.

14 Prescribed information—right of interment surrendered

For the purposes of section 59(d) of the Act, the following information is prescribed for a right of interment that has been surrendered—

- (a) the name of the person who surrendered the right;
- (b) the date of the surrender;
- (c) a description of—
 - (i) the type of place of interment such as grave, vault or crypt; and
 - (ii) the location of the place of interment, such as section, row and grave number, or if the right of interment is unallocated, the specific part of the cemetery to which the right of interment relates, if any.

15 Prescribed information—right of interment cancelled

For the purposes of section 59(d) of the Act, the following information is prescribed for a right of interment that has been cancelled—

- (a) a description of—
 - (i) the type of place of interment such as grave, vault or crypt; and

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Part 2—Cemetery trust records

- (ii) the location of the place of interment, such as section, row and grave number, or if the right of interment is unallocated, the specific part of the cemetery to which the right of interment relates, if any;
- (b) the date of the cancellation.

Part 3—Applications for interment, cremation and exhumation

16 Application for interment authorisation

For the purposes of section 116(2) of the Act, the prescribed form is Form 1 set out in Schedule 1.

17 Application for interment approval for interment other than in a public cemetery

For the purposes of section 121(2)(a) of the Act, the prescribed form is Form 2 set out in Schedule 1.

18 Application for cremation authorisation

For the purposes of section 131(2) of the Act, the prescribed form is Form 3 set out in Schedule 1.

19 Certificate of registered medical practitioner authorising cremation

For the purposes of section 131(3)(a)(i) of the Act, the prescribed form of a certificate is Form 4 set out in Schedule 1.

20 Prescribed person may apply for order

For the purposes of section 142 of the Act, the following persons are prescribed—

- (a) a person who is a relative or friend of the deceased;
- (b) an executor or administrator of the deceased's estate;
- (c) a person who is a representative of a religious or charitable organisation;
- (d) State Trustees within the meaning of the **State Trustees (State Owned Company) Act 1994**;
- (e) a person who is a staff member of a hospital or other health or aged care service;

(f) a police officer.

21 Application for interment or cremation of body parts

- (1) For the purposes of section 151(2) of the Act, a prescribed person within the meaning of section 151(3) of the Act must supply the following prescribed information in relation to body parts which are not foetal remains—
- (a) if known, the full name of the person or persons to whom the body parts belong;
 - (b) if known, the type of body part to be interred or cremated;
 - (c) the name of the person and the name of the organisation (if any) making the application for cremation or interment of the body parts;
 - (d) the category of prescribed person to which the person making the application belongs.
- (2) For the purposes of section 151(2) of the Act, a prescribed person within the meaning of section 151(3) of the Act must supply the following prescribed information in relation to body parts which are foetal remains that are not a still-born child—
- (a) the name of the person and of the organisation (if any) making the application for interment or cremation of the remains;
 - (b) the category of prescribed person to which the person making the application belongs.

22 Application to Secretary for exhumation licence

- (1) For the purposes of section 156(2)(a) of the Act, the prescribed form of application to the Secretary for an exhumation licence is Form 5 set out in Schedule 1.
- (2) For the purposes of section 156(2)(c) of the Act, the prescribed fee is 12 fee units.

Part 4—Interment

23 Requirements for enclosure of bodily remains and body parts

A person must not bring bodily remains or body parts to be interred into a public cemetery, or convey those bodily remains or body parts within a public cemetery, unless the bodily remains or body parts are enclosed in a coffin, container or receptacle—

- (a) that is clean and hygienic; and
- (b) that is constructed of wood, metal or other substantial material; and
- (c) from which neither offensive or noxious emissions nor matter from those bodily remains or body parts will escape.

Penalty: 10 penalty units.

24 Depth of burial requirements

- (1) Subject to subregulations (2) and (3), if human remains other than cremated human remains are interred in a place of interment in a public cemetery, the cemetery trust responsible for that cemetery must ensure that—
 - (a) if the ground above the place of interment is to be sealed with a substantial layer of stone, concrete or similar material—
 - (i) that layer is placed or poured over the coffin, container, receptacle, or those remains as soon as practicable after the interment; and
 - (ii) there is at least 500 millimetres of earth between that layer of stone, concrete or similar material and the normal level of the ground; or

- (b) if the ground above the place of interment is unsealed, there is at least 750 millimetres of earth between the coffin, container, receptacle or those remains and the normal level of the ground.

Penalty: 10 penalty units.

- (2) Despite subregulation (1), a right of interment may be exercised to inter human remains other than cremated remains in a place of interment if—

- (a) that right of interment has been exercised in relation to that place of interment at least once before 28 July 1998; and

- (b) in interring those remains by the current exercise of that right—

- (i) the place of interment is resealed with a substantial layer of stone, concrete or similar material placed or poured over the coffin, container, receptacle or those remains as soon as practicable after the interment; and
- (ii) the sides of the place of interment above the level of that layer are lined with brick, stone, concrete or other similar material; and
- (iii) there is at least 300 millimetres of earth between the layer of stone, concrete or similar material and the normal level of the ground.

- (3) A cemetery trust must ensure that an interment to which subregulation (2) applies is carried out in accordance with that subregulation.

Penalty: 10 penalty units.

- (4) This regulation does not apply to the interment of human remains—
- (a) in a concrete-lined grave; or
 - (b) in a mausoleum or other above ground interment structure.

25 Requirements for interment in concrete-lined graves

If human remains other than cremated human remains are interred in a place of interment in a public cemetery that is a concrete-lined grave, the cemetery trust responsible for that cemetery must ensure that the place of interment is sealed by a substantial layer of stone, concrete or similar material placed or poured over the coffin, container, receptacle or those human remains as soon as practicable after the interment.

Penalty: 10 penalty units.

Part 5—Cremation

26 Requirements for enclosure of bodily remains and body parts

A person must not bring bodily remains or body parts to be cremated into a public cemetery, or convey those bodily remains or body parts within a public cemetery, unless those bodily remains or body parts are enclosed in a coffin, container or receptacle—

- (a) with a flat base; and
- (b) that is clean and hygienic; and
- (c) that is constructed of wood, or other substantial material that is combustible and that will not—
 - (i) impede the cremation process; or
 - (ii) cause damage to the cremator; and
- (d) that will not give rise to noxious emissions when burnt; and
- (e) from which neither offensive or noxious emissions nor matter from the bodily remains or body parts will escape.

Penalty: 10 penalty units.

27 Inspection of coffins and containers

If bodily remains or body parts are to be cremated in a crematorium at a public cemetery for which a cemetery trust is responsible pursuant to a cremation authorisation or a cremation approval, or in the case of body parts, pursuant to an authority under section 150 of the Act, a cemetery trust may inspect any coffin, container or other receptacle containing those bodily remains or body parts and the contents of that coffin, container or receptacle if the cemetery trust is of

the opinion that the coffin, container or other receptacle or its contents could—

- (a) impede the cremation process; or
- (b) cause damage to the cremator.

28 Removal of fittings which may impede cremation process

- (1) If bodily remains or body parts are to be cremated in a crematorium at a public cemetery for which a cemetery trust is responsible pursuant to a cremation authorisation or a cremation approval, or in the case of body parts, pursuant to an authority under section 150 of the Act, the cemetery trust may remove any fittings on any coffin, container or other receptacle containing those bodily remains or body parts if the cemetery trust is of the opinion that the fittings could—
 - (a) impede the cremation process; or
 - (b) cause damage to the cremator.
- (2) The cemetery trust must ensure that any fittings removed under subregulation (1) are disposed of in a manner considered appropriate by the cemetery trust.

29 Disposal of substances

A cemetery trust may dispose of any metal substance or non-human substance recovered from a cremator after the cremation of bodily remains or body parts in a crematorium at a public cemetery for which a cemetery trust is responsible pursuant to a cremation authorisation or a cremation approval, or in the case of body parts, pursuant to an authority under section 150 of the Act, in any manner it considers appropriate.

30 Release of cremated human remains

- (1) This regulation does not apply to cremated human remains that have been disinterred under section 86 of the Act.
- (2) Subject to any order of a court, a cemetery trust may release cremated human remains only to—
 - (a) the applicant; or
 - (b) the applicant's agent; or
 - (c) if the applicant and the applicant's agent are both deceased, the nearest surviving relative of the person who was cremated.
- (3) In this regulation and regulation 31—

applicant means the person who applied for a cremation authorisation, cremation approval or, in the case of body parts, for an authority under section 150 of the Act;

applicant's agent means a person authorised in writing by an applicant to be the applicant's agent for the purposes of the release by the cemetery trust to that agent of cremated human remains to which the cremation authorisation, cremation approval or authority under section 150 of the Act relates.

31 Collection and disposal of cremated human remains

- (1) A cemetery trust must make cremated human remains available for collection within 2 working days after the cremation.
- (2) A cemetery trust must hold cremated human remains for at least 12 months from the date of cremation unless those remains are released prior to that date to the applicant, the applicant's agent or the nearest surviving relative of the deceased in accordance with regulation 30(2).

- (3) If no person entitled to the cremated human remains gives a direction within 12 months of the date of the cremation as to the disposal of the remains, a cemetery trust may dispose of the remains—
- (a) in the grounds of a public cemetery for which it is responsible; or
 - (b) in any other manner that it considers appropriate.
- (4) At least 3 months prior to the expiry of the 12 month period referred to in subregulation (3), a cemetery trust must take reasonable steps to notify the applicant, the applicant's agent, or if both the applicant and the applicant's agent are deceased, the nearest surviving relative of the deceased of the trust's intention to dispose of the remains at the expiry of that 12 month period.

Part 6—Mausolea

32 Construction of mausolea

A cemetery trust or a person who establishes or alters under Part 7 of the Act a place of interment that is a mausoleum must ensure that the mausoleum—

- (a) is designed, constructed and maintained for a service life of at least 100 years; and
- (b) is constructed of stone or similar durable material; and
- (c) is adequately ventilated, drained and is vermin proof; and
- (d) contains crypt spaces which are adequately ventilated and drained and vermin proof.

Penalty: 20 penalty units.

33 Interment in mausolea

(1) A cemetery trust or a person who interments bodily remains or body parts in a mausoleum in a public cemetery must ensure that the bodily remains or body parts are interred in a coffin, container or receptacle—

- (a) that is clean and hygienic; and
- (b) that is constructed of wood, metal or other substantial material; and
- (c) from which neither offensive or noxious emissions nor matter from the bodily remains or body parts will escape.

Penalty: 10 penalty units.

(2) A cemetery trust or a person who interrs bodily remains or body parts in a mausoleum in a public cemetery must ensure that the bodily remains or body parts are interred—

- (a) in a soundly constructed crypt space; and
- (b) in a crypt space in which the number of interments has not exceeded the number of interments for which the crypt space was designed.

Penalty: 10 penalty units.

34 Sealing of crypt space in mausolea

A cemetery trust or a person who interrs bodily remains or body parts in a mausoleum in a public cemetery must ensure that as soon as possible after the interment, the opening of the crypt space—

- (a) is sealed with a slab of impervious material to prevent the escape of offensive or noxious emissions or matter; and
- (b) is faced with a substantial slab of stone, slate or iron.

Penalty: 10 penalty units.

Part 7—Behaviour and activities in public cemeteries

35 Commercial activities

A person must not, in a public cemetery, initiate unsolicited contact with another person for the purpose of promotion or marketing of the supply of goods or services relating to the interment, cremation or memorialisation of the dead.

Penalty: 20 penalty units.

36 Information to purchasers of monuments

- (1) If a cemetery trust sells or supplies monuments, the cemetery trust, when promoting that activity, whether orally, by way of printed advertising or promotional material, must provide information that complies with subregulation (2) that alternative vendors or suppliers of monuments exist.

Penalty: 10 penalty units.

- (2) The information provided under subregulation (1) must include a statement that contact details for alternative vendors or suppliers may be found in the telephone directory and on the Internet.
- (3) For the purposes of this regulation, *monument* means a headstone or other structure placed on or built over a grave, being a grave that is prepared, or is suitable to be prepared, to accommodate bodily remains, but does not include a beam, a plaque or any structure other than a headstone to which a plaque is attached.

37 Funerals

A person must not arrange or conduct a funeral in a public cemetery without the prior approval of the cemetery trust responsible for that cemetery.

Penalty: 10 penalty units.

38 Offence to cause disturbance

A person in a public cemetery must not act in a way that causes unreasonable disturbance to any other person.

Penalty: 10 penalty units.

39 Danger to person or property

A person in a public cemetery must not act in a manner that is likely to cause danger to any person or property.

Penalty: 10 penalty units.

40 Offence to play sport in a public cemetery

A person must not engage in any sport or play any game involving physical activity in a public cemetery without the prior written approval of the cemetery trust.

Penalty: 10 penalty units.

41 Offence to fish or bathe in a public cemetery

- (1) A person, other than a person specified in subregulation (2), must not fish, swim or bathe in any waters in a public cemetery without the prior written approval of the cemetery trust.

Penalty: 10 penalty units.

- (2) For the purposes of subregulation (1) a person specified includes—

- (a) the cemetery trust when carrying out its functions; or

- (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or
- (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the public cemetery authorised by the cemetery trust.

42 Offence to hunt in a public cemetery

- (1) A person, other than a person specified in subregulation (2), must not hunt or set up snares, traps or poisons in a public cemetery without the prior written approval of the cemetery trust.

Penalty: 10 penalty units.

- (2) For the purposes of subregulation (1) a person specified includes—
 - (a) the cemetery trust when carrying out its functions; or
 - (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or
 - (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the public cemetery authorised by the cemetery trust.

43 Offence to camp in a public cemetery

A person must not camp in a public cemetery without the prior written approval of the cemetery trust.

Penalty: 10 penalty units.

44 Offence to remove items from a place of interment or memorial in a public cemetery

- (1) A person, other than a person specified in subregulation (2), must not, without reasonable excuse, remove any object or thing from a place of interment or memorial in a public cemetery.

Penalty: 10 penalty units.

- (2) For the purposes of subregulation (1) a person specified includes—
- (a) the cemetery trust when carrying out its functions; or
 - (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or
 - (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the public cemetery authorised by the cemetery trust.

45 Offence to damage plants in a public cemetery

- (1) A person, other than a person specified in subregulation (2), must not remove, pick or damage any plant, flower, shrub or tree in a public cemetery without the prior written approval of the cemetery trust.

Penalty: 10 penalty units.

- (2) For the purposes of subregulation (1) a person specified includes—
- (a) the cemetery trust when carrying out its functions; or
 - (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or

- (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the public cemetery authorised by the cemetery trust.

46 Written approval of cemetery trust for certain activities

- (1) A cemetery trust may approve the carrying out of an activity referred to in regulation 40, 41, 42, 43 or 45 by a person in a public cemetery for which the trust is responsible if the cemetery trust is satisfied that the carrying out of that activity by that person is not inconsistent with—
 - (a) the care, protection or management of the public cemetery; or
 - (b) the protection of public health in the cemetery; or
 - (c) the maintenance of public order in the cemetery.
- (2) An approval under subregulation (1)—
 - (a) must be in writing; and
 - (b) may be subject to any terms and conditions which the cemetery trust considers reasonable to impose in the circumstances.

47 Ceremonial use of fire in a public cemetery

- (1) A person, other than a person specified in subregulation (2), must not light a fire in a public cemetery.
Penalty: 10 penalty units.
- (2) For the purposes of subregulation (1) a person specified includes—
 - (a) the cemetery trust when carrying out its functions; or

- (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or
 - (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the public cemetery authorised by the cemetery trust; or
 - (d) a person using candles, lanterns, incense, joss sticks or similar items in association with ceremonies for the interment, cremation or commemoration of the dead.
- (3) A person who uses candles, lanterns, incense, joss sticks or other similar items in association with ceremonies for the interment, cremation or commemoration of the dead must not, without the prior approval of the cemetery trust, leave those items alight when those items are unattended.

Penalty: 10 penalty units.

48 Use of vehicles in a public cemetery

- (1) A person in a public cemetery must not drive, ride or otherwise use a vehicle so as to impede—
- (a) the operations or work of the cemetery trust responsible for that cemetery; or
 - (b) a funeral.

Penalty: 10 penalty units.

- (2) A person in a public cemetery must not drive, ride or otherwise use a vehicle on any surface other than a road, track or parking area, without the prior approval of the cemetery trust responsible for that cemetery.

Penalty: 10 penalty units.

49 Use of vehicles in public cemeteries contrary to signs

- (1) A person in a public cemetery must not drive, ride or otherwise use a vehicle in a manner contrary to any direction given by the cemetery trust responsible for that cemetery, including any direction indicated by a sign authorised by the cemetery trust.

Penalty: 10 penalty units.

- (2) A person in a public cemetery must not park a vehicle in a manner contrary to any direction given by the cemetery trust responsible for that cemetery, including any direction indicated by a sign authorised by the cemetery trust.

Penalty: 10 penalty units.

- (3) For the purposes of this regulation, *sign* means a sign prominently displayed within the public cemetery to which it relates and includes—
- (a) any notice, whether on a post or not; and
 - (b) any painted lines, markings or words on a roadway.

50 Model rules—public cemeteries and crematoria

For the purposes of section 180(1)(a) of the Act, the prescribed model rules are the model rules set out in Schedule 2.

Schedule 1—Forms

FORM 1

Regulation 16

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

APPLICATION FOR INTERMENT AUTHORISATION

The deceased

Full name:

Sex: *Male *Female

Date of birth:

Date of death:

Age:

Last known permanent address:

Religion if any (please note this field is optional):

Did the deceased have a spouse or domestic partner at the time of the deceased's death? *Yes *No

Details of interment

Name of cemetery:

Type of place of interment (e.g. grave, vault, crypt):

Location in cemetery of place of interment (e.g. grave number, section and row):

Please answer this question if this will be the first interment in the place of interment—how many additional interments will be required? (Please indicate which applies).

*0 *1 *2 *3 *Other

Dimensions of coffin, receptacle or container if any:

Length: Width: Depth:

Material of which coffin, receptacle or container is constructed (e.g. wood, metal):

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Schedule 1—Forms

Applicant for interment authorisation

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile:

Email:

Consent of holder of right of interment

Are you the holder of the right of interment for the place of interment where the remains will be interred? *Yes *No

If yes, proceed to "Other matters"

If no, provide the details of the holder of the right of interment, answer the questions below and where possible obtain the signature of the right of interment holder.

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile:

Has the holder of the right of interment been informed of this application?

*Yes *No

If no, give reasons why the holder of the right of interment has not been informed of this application:

If yes, does the holder of the right of interment consent to this application?

*Yes *No

If yes please obtain the holder's signature below.

Signature of holder of right of interment: Date:

Other matters

Details of the funeral director or the person otherwise arranging for the interment of the human remains:

*Company Name:

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Schedule 1—Forms

Title: Given Names: Surname:
Address:
Suburb/Town: State: Post Code:
Telephone: Fax: Email:

Matters relating to interment

Service type:

*service both ends *meet at cemetery *no attendance

Location:

Date: Time:

Special service requirements:

Other remarks:

Details of the type of place of interment:

*new *pre-purchases/pre-need *reopen

Signature of applicant:

Date:

WARNING

Under section 117 of the **Cemeteries and Crematoria Act 2003** it is an offence to make a false statement in an application for an interment authorisation, punishable by a fine of up to 240 penalty units or 2 years imprisonment or both.

**Delete if not applicable*

FORM 2

Regulation 17

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

**APPLICATION FOR INTERMENT APPROVAL FOR
INTERMENT OTHER THAN IN A PUBLIC CEMETERY**

The deceased

Title: Given Names: Surname:

Sex: *Male *Female

Date of birth:

Date of death:

Last known permanent address:

Suburb/Town: State: Post Code:

Applicant for interment approval

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile:

Email:

Location of proposed interment

Interment location [*provide property details including address and Certificate of Title folio and volume reference, and if the interment is proposed to take place on Crown land, Crown allotment details*]:

Location of interment on land [*please provide details consistent with the cemetery system for recording grave locations, for example section, row and plot/grave number*]:

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

Details of other interments at the proposed place of interment

Is there a record of another person having been buried on the land?

*Yes *No

If no, contact the department to discuss the application.

If yes, is the existing grave/s clearly marked? *Yes *No

Provide details, such as existing headstones, fencing of grave, etc.

Consent of land owner/manager

Is the land on which the interment is to take place:

*Crown land *Privately owned land

Please provide a statement from the applicable person listed below:

* landowner—attach a copy of the Certificate of Title confirming your ownership of the land and sign below indicating your consent to the interment on your land

Signature of landowner:

Date:

* appointed delegate of the landowner—attach a copy of the Certificate of Title and a signed statement from the land owner indicating that you are authorised to act on their behalf in regards to conducting interments on their land. This statement must include the land owner's full name, address and contact telephone number.

* appointed land manager (relates to Crown land)—attach a statement from the body responsible for the management of that land that you are authorised to carry out the interment on the land.

Other matters

Details of funeral director or the person who otherwise arranged for the interment of the human remains:

*Company Name:

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Fax: Email:

Dimensions of coffin, receptacle or container if any:

Length: Width: Depth:

Cemeteries and Crematoria Regulations 2015

S.R. No. 59/2015

Schedule 1—Forms

Material of which coffin, receptacle or container is constructed (e.g. wood or metal):

Description of memorial or marker to be placed over the place of interment:

Signature of applicant:

Date:

WARNING

Under section 122 of the **Cemeteries and Crematoria Act 2003** it is an offence to make a false statement in an application for an interment approval, punishable by a fine of up to 240 penalty units or 2 years imprisonment or both.

**Delete if not applicable*

FORM 3

Regulation 18

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

APPLICATION FOR CREMATION AUTHORISATION

This form must always be accompanied by a Certificate of Registered Medical Practitioner Authorising Cremation (Form 4) unless the application relates to one of the following, in which case the form is not required:

- the cremation of a still-born child (please check the Medical Certificate of Cause of Perinatal Death form to confirm whether the application relates to a still-born child)
- where an order has been made by a Coroner under section 47 of the **Coroners Act 2008**
- a deceased person who died interstate or overseas and for whom an authority to cremate has been issued by the Coroner or other person permitted by the law of the jurisdiction where they died to authorise the cremation.

Name of crematorium at which cremation is to take place:

Details of deceased

Full name:

Sex: *Male *Female

Date of birth:

Date of death:

Age:

Last known permanent address:

Suburb/Town State Post Code

Religion, if any (this information is optional):

Did the deceased have a spouse or domestic partner at the time of the deceased's death? *Yes *No

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Schedule 1—Forms

Applicant for cremation authorisation

Title: Given Names Surname

Address:

Suburb/Town State Post Code

Telephone: Home Work Mobile Email

Signature of applicant:

Date:

Cremated remains

Following cremation, the cremated remains are to be:

- * Memorialised at:
- * Collected by:
- * Held at crematorium for up to 12 months after the cremation:
- * Other [*please specify*]:

Please note that cemetery trusts are required to hold the cremated remains for at least 12 months after the cremation. Following the expiry of the 12 month period, the cemetery may dispose of the cremated remains in any way that it considers appropriate.

** If you would like to nominate an agent to collect the cremated remains provide the following details:*

Agent details

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile: Email:

Matters relating to the cremation

Service type: *service both ends *meet at cemetery *no attendance

Location:

Date of cremation: Time:

Special service requirements:

Other remarks:

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

Statement by funeral director

This section should be filled out by the funeral director or the person who is otherwise arranging for the cremation of the human remains.

* Removal of pacemaker or other battery-powered device from the deceased is not required.

* I have arranged for any pacemaker or other battery-powered device referred to on the medical certificate of cause of death to be removed from the deceased as required by the relevant cemetery trust.

*Company name:

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Fax: Email:

Signature:

Date:

WARNING

Under section 132 of the **Cemeteries and Crematoria Act 2003** it is an offence to make a false statement in an application for a cremation authorisation, punishable by a fine of up to 600 penalty units or 5 years imprisonment or both.

**Delete if not applicable*

FORM 4

Regulation 19

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

**CERTIFICATE OF REGISTERED MEDICAL
PRACTITIONER AUTHORISING CREMATION**

Note 1:

In accordance with section 138 of the **Cemeteries and Crematoria Act 2003** this form must be completed by a registered medical practitioner who is not the registered medical practitioner who completed the notice as required under section 37(2) of the **Births, Deaths and Marriages Registration Act 1996** in respect of the death of the deceased person who is to be cremated.

Note 2:

This form is not required for the cremation of a still-born child. For all perinatal deaths, please check the Medical Certificate of Cause of Perinatal Death to confirm whether the application relates to a still-born child.

The deceased

Full name:

Sex: *Male *Female

Date of birth:

Date of death:

Place of death:

Certificate

I, [*name of registered medical practitioner*], of [*address of registered medical practitioner*], certify that:

1. I am a currently registered medical practitioner under the Health Practitioner Regulation National Law.
2. I have carefully read the statements contained in the Application for Cremation Authorisation relating to the deceased, signed by [*applicant for cremation authorisation*] and dated [*date of application for cremation authorisation*].
3. I have examined the body of the deceased.

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

4. I have sighted:

- * a completed Medical Certificate of Cause of Death of a person aged 28 days or over prepared pursuant to section 37(2) of the **Births, Deaths and Marriages Registration Act 1996**; or
- * a completed Medical Certificate of Cause of Perinatal Death prepared pursuant to section 37(2) of the **Births, Deaths and Marriages Registration Act 1996**.

AND I state that:

1. I have made careful and independent inquiry into the circumstances surrounding the death of the deceased.
2. I agree with the cause of death as shown on the notice given under section 37(2) of the **Births, Deaths and Marriages Registration Act 1996**.
3. In my opinion the death is not reportable or reviewable under the **Coroners Act 2008**.
4. In my opinion, there is no circumstance concerning the death of the deceased that might necessitate further examination of the body before it is cremated, or which could, in my opinion, make exhumation of the body necessary at any time in the future.
5. In my opinion there is no reason why the cremation should not proceed.
6. Apart from any fee payable for the provision of this certificate, I have not acquired and do not anticipate acquiring directly or indirectly any property or pecuniary or other benefit of any description by reason of the death of the deceased.
7. I am not in partnership with, nor will I derive any professional remuneration from, any registered medical practitioner who professionally attended the deceased.

*I authorise the cremation of the deceased.

*I refuse to authorise the cremation of the deceased on the grounds that:

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile: Email:

Medical practitioner registration number:

Signature:

Date:

Authorised by the Chief Parliamentary Counsel

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

Under section 140 of the **Cemeteries and Crematoria Act 2003** it is an offence to make a false statement in a certificate of a registered medical practitioner authorising cremation, punishable by a fine of up to 600 penalty units or 5 years imprisonment or both.

FORM 5

Regulation 22(1)

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

**APPLICATION TO SECRETARY FOR EXHUMATION
LICENCE**

This application relates to the exhumation of the remains of (state details of deceased):

Details of deceased

Title: Given Names: Surname:

Sex: *Male *Female

Part A: Applicant for exhumation licence

Full name:

Address:

Telephone number:

Email:

Part B: Location of current interment

Name of cemetery [*for exhumations outside of a public cemetery also include both the property address and the Certificate of Title folio and volume reference or Crown allotment details*]:

Type of place of interment (e.g. grave, crypt):

Location of place of interment (e.g. grave number, row and section or description of the location):

Details of other interments at the place of interment:

Is there a memorial on the place of interment?

*Yes *No

Details of type of coffin, container or receptacle used (if known):

Was the body embalmed and to what degree (if known):

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

Attach a statement from the cemetery trust, land owner or land manager stating:

- whether there are any reasons why the exhumation cannot be accommodated at this time; and
- for public cemeteries only, the name of the current holder of the right of interment as recorded in the cemetery trust records.

*Statement attached:

Part C: Disposition of the remains after exhumation

What will happen to the remains after exhumation [*select one option only*]:

*Re-interred in a grave/vault/crypt [*select the type of site that applies*] at
[*state name of cemetery*]:

*Cremated in Victoria at [*state name of crematorium*]:

*Transportation interstate

*Transportation overseas.

Part D: Details of funeral director or other person engaged to assist at the exhumation

*Company name:

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Fax: Email:

Cemeteries and Crematoria Regulations 2015

S.R. No. 59/2015

Schedule 1—Forms

Part E: Consent of holder of right of interment for the place of interment from which the remains are to be exhumed

If the remains are to be exhumed from a place of interment in a **public cemetery**, the holder of the right of interment must complete this section.

If the remains are not being exhumed from a public cemetery, proceed to **Part F**.

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile: Email:

Do you consent to this application? *Yes *No

Signature:

Date:

Part F: Consent of holder of right of interment for the proposed place of re-interment

If the remains are to be re-interred in a **public cemetery**, the holder of the right of interment must complete this section.

If the remains are not being reinterred in a public cemetery, proceed to **Part G**.

Title: Given Names Surname

Address:

Suburb/Town State Post Code

Telephone: Home Work Mobile

Do you consent to the re-interment application? *Yes *No

Signature of holder of right of interment for new place of interment:

Signature:

Date:

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

Part G: Consent of nearest surviving relative/s of the deceased

Indicate below only the **first** listed category in which there is a surviving near relative of the deceased:

*spouse or domestic partner (of the deceased at the time of their death)

*children (who have attained the age of 18 years)

*parents

*siblings (who have attained the age of 18 years)

*grandparents

*grandchildren (who have attained the age of 18 years)

*uncles or aunts (who have attained the age of 18 years)

*nephews or nieces (who have attained the age of 18 years)

Provide below the details and consents of **all** surviving near relatives of the deceased in the indicated first category. Attach additional pages if required.

Title: Given Names: Surname:

I consent to the exhumation of the remains of the deceased.

Signature:

Date:

Are there any other surviving near relatives of the deceased in the indicated first category whose details and consent have not been provided above?

*Yes *No

If yes, give details of any surviving near relatives in the indicated category who have not given consent and reasons why the consent of these relatives has not been obtained.

Title: Given Names: Surname:

Relationship to the deceased:

Reasons why the consent of this relative has not been obtained:

Cemeteries and Crematoria Regulations 2015

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Schedule 1—Forms

Part H: Details of executor of the deceased's estate

Did the deceased leave a will? *Yes *No

If the executor is a natural person (i.e. not a company or other body corporate), is the executor alive? *Yes *No

To be completed by the executor of the deceased's estate:

Title: Given Names: Surname:

Address:

Suburb/Town: State: Post Code:

Telephone: Home: Work: Mobile:

Email:

Does the will or any other document contain instructions as to the disposal of the remains of the deceased?

*Yes *No

If yes, provide evidence and attach copies of any relevant documentation.

Documents attached? *Yes *No

Signature of executor:

Date:

Declaration by applicant

Under section 158A of the **Cemeteries and Crematoria Act 2003** it is an offence to make a false statement in an application for exhumation licence, punishable by a fine of up to 240 penalty units or 2 years imprisonment or both.

All information I have provided on this form is correct. I understand that it is an offence to knowingly make a false statement in an application for exhumation licence.

Signature of applicant:

Date:

**Delete if not applicable*

Schedule 2—Model Rules

Regulation 50

MODEL RULES

Part 1—Preliminary

1 Objective

The objective of these model rules is to provide for the general care, protection and management of a public cemetery by a cemetery trust if the cemetery trust has not made cemetery trust rules.

2 Authorising provisions

These model rules are made under sections 25 and 180 of the **Cemeteries and Crematoria Act 2003**.

3 Definitions

In these Rules—

cemetery means a public cemetery for which a cemetery trust is responsible;

the Act means the **Cemeteries and Crematoria Act 2003**.

Part 2—General

4 Written approval of cemetery trust for certain activities

- (1) A cemetery trust may approve the carrying out of an activity referred to in rules 8, 16, 17 and 18 by a person in a cemetery if the cemetery trust is satisfied that the carrying out of that activity by that person is not inconsistent with the care, protection or management of the cemetery.

- (2) An approval under subrule (1)—
 - (a) must be in writing; and
 - (b) may be subject to any terms and conditions which the cemetery trust considers reasonable to impose in the circumstances.

5 Opening hours

- (1) If a cemetery is not open to pedestrian access at all times, the cemetery trust must display at the main entrance of that cemetery and at prominent places within that cemetery the hours during which pedestrian access is available to the cemetery.
- (2) A cemetery trust must notify the Secretary of—
 - (a) the hours during which pedestrian access is available to the cemetery; and
 - (b) any changes to those hours.

6 Funerals

- (1) A cemetery trust may give directions to a person regarding the manner in which a funeral, including a funeral procession, is to be conducted in the cemetery.
- (2) A person responsible for arranging a funeral, including a funeral procession, in a cemetery must comply with any direction given by a cemetery trust under subrule (1).

Part 3—Memorials and places of interment

7 Directions of cemetery trust

- (1) A cemetery trust may give directions to a person regarding the items affixed to, or placed on, the places of interment and memorials in the cemetery.

- (2) A person must comply with any direction given by a cemetery trust under subrule (1).

8 Approval for certain mementos

A person must not, without the approval of a cemetery trust under rule 4, place the following items on a memorial or place of interment—

- (a) ceramic or glass items that are fragile or breakable; or
- (b) metal items that are likely to rust or deteriorate.

9 Items likely to cause harm

A person must not place any item likely to cause a risk to health or safety on a memorial or place of interment.

10 Items must remain within boundaries

A person placing an item on a memorial or place of interment must ensure that the item does not extend beyond the boundaries of the memorial or place of interment.

11 Power to remove objects

- (1) A cemetery trust may remove any of the following from a memorial or place of interment in a cemetery for which it is responsible—
- (a) any object that extends beyond the boundary of the memorial or place of interment;
 - (b) any dead flowers or any other item that is in a poor condition;
 - (c) any object placed on a memorial or place of interment in contravention of the Act, the regulations or these Rules.

- (2) A cemetery trust must ensure that anything removed under subrule (1) is disposed of in a manner considered appropriate by the cemetery trust.

Part 4—Works on memorials, places of interment and buildings for ceremonies

12 Power to inspect memorials, places of interment and buildings for ceremonies

A cemetery trust may inspect any work that is being carried out on memorials, places of interment and buildings for ceremonies in the cemetery.

13 Access to and maintenance of work sites

A person responsible for carrying out work on a memorial, place of interment or building for ceremonies in a cemetery must ensure that all materials to be used in that work are, so far as practicable, prepared off-site.

Part 5—Activities on land in a cemetery

14 Entry of animals into a cemetery

A person must not allow any animal other than a dog to enter into or remain in a cemetery without the approval of the cemetery trust.

Penalty: 10 penalty units.

15 Control of animals in a cemetery

- (1) A person who brings a dog or, in accordance with rule 14, any other animal into a cemetery for the purpose of recreation, visiting a place of interment or attendance at a funeral ceremony must keep that dog or other animal under immediate control at all times.

Penalty: 10 penalty units.

- (2) A person who brings a dog or, in accordance with rule 14, any other animal into a cemetery for the purpose of recreation, visiting a place of interment or attendance at a funeral ceremony must dispose of any excrement produced by that dog or other animal.

Penalty: 10 penalty units.

- (3) A person who brings a dog or, in accordance with rule 14, any other animal into a cemetery must prevent the dog or other animal—

- (a) drinking from or entering into any water feature in the cemetery;
- (b) from causing a disturbance or annoyance to any other person in the cemetery.

Penalty: 10 penalty units.

16 Offence to build within a cemetery

- (1) Subject to subrule (2), unless a person has an approval under the Act to do so, a person must not construct or erect any building, structure, enclosure or fence in a cemetery without the prior written approval of the cemetery trust in accordance with rule 4.

Penalty: 10 penalty units.

- (2) Subrule (1) does not apply to—

- (a) the cemetery trust when carrying out its functions; or
- (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or
- (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the cemetery authorised by the cemetery trust.

17 Offence to damage cemetery trust property

- (1) A person, other than a person specified in subrule (2), must not disturb or demolish any cemetery trust property, including buildings, structures, fences or roads without the prior written approval of the cemetery trust in accordance with rule 4.

Penalty: 10 penalty units.

- (2) For the purposes of subrule (1) a person specified includes—
- (a) the cemetery trust when carrying out its functions; or
 - (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or
 - (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the cemetery authorised by the cemetery trust.

18 Offence to dig or plant

- (1) A person, other than a person specified in subrule (2), must not dig or plant anything in a cemetery without the prior written approval of the cemetery trust in accordance with rule 4.

Penalty: 10 penalty units.

- (2) For the purposes of subrule (1) a person specified includes—
- (a) the cemetery trust when carrying out its functions; or
 - (b) an employee, agent, or contractor of the cemetery trust acting in the course of that employment, agency, or contract; or

- (c) a volunteer or any other person authorised by the cemetery trust when carrying out a function in the cemetery authorised by the cemetery trust.

19 Obstruction of the exercise of the powers or functions of a cemetery trust

A person must not obstruct any member, officer, employee, delegate or agent of a cemetery trust in the exercise of the powers or functions of that member, officer, employee, delegate or agent.

Penalty: 10 penalty units.

Endnotes

¹ Reg. 4(a): S.R. No. 76/2005 as amended by S.R. Nos 145/2008 and 75/2010.

² Reg. 4(b): S.R. No. 145/2008.

³ Reg. 4(c): S.R. No. 75/2010.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2014 is \$13.24. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2014 is \$147.61.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.