

1992—No. 488

**ROYAL BOTANIC GARDENS AND DOMAIN TRUST ACT
1980—REGULATION**

(Royal Botanic Gardens and Domain Trust Regulation 1992)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Royal Botanic Gardens and Domain Trust Act 1980, has been pleased to make the Regulation set forth hereunder.

CHRIS HARTCHER
Minister for the Environment.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Royal Botanic Gardens and Domain Trust Regulation 1992.

Commencement

2. This Regulation commences on 1st September, 1992.

Definitions

3. In this Regulation:

“**animal**” includes bird, fish and reptile;

“**closed land**” means such part of the Trust lands as is for the time being closed to the public;

“**ranger**” means a member of staff of the Trust appointed by the Trust to be a ranger for the purposes of this Regulation, and includes any trustee and the Director;

“reserved land” means such part of the Trust lands as is for the time being reserved for an organised activity under clause 4;

“the Act” means the Royal Botanic Gardens and Domain Trust Act 1980;

“the Domain” means that part of the Trust lands known as the Domain;

“the Gardens” means that part of the Trust lands known as the Royal Botanic Gardens, the Mount Annan Botanic Garden or the Mount Tomah Botanic Garden;

“vehicle” includes a bicycle or tricycle, but does not include a perambulator, stroller or wheelchair.

PART 2—REGULATION OF USE OF THE TRUST LANDS GENERALLY

Reserved land

4. The Trust may from time to time reserve any part of the Trust lands for:

- (a) organised sporting activities; or
- (b) organised entertainment; or
- (c) organised ceremonies; or
- (d) any other organised activity.

Fees and charges

5. (1) The Trust may from time to time determine the fees and charges payable for the use of any reserved land.

(2) Fees and charges may differ according to such factors as the Trust may determine.

(3) The Trust may exempt any person from paying any fee or charge.

Entry to the Trust lands

6. (1) The Trust may give any one or more of the following directions:

- (a) a direction limiting the number of persons who may enter any part of the Trust lands;
- (b) a direction closing to the public any part of the Trust lands (including my reserved land and any road, path or building);
- (c) a direction charging admission to any part of the Trust lands;

- (d) a direction imposing conditions (such as conditions prohibiting the possession or consumption of alcohol) subject to which the public may enter any part of the Trust lands,

by means of a sign displayed on or adjacent to the part or (in the case of a direction referred to in paragraph (a) or (b)) by means of an instruction given orally by a ranger or by a police officer.

(2) A person must not enter any part of the Trust lands in contravention of a direction under this clause.

Maximum penalty: \$200.

(3) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

Camping, erection of tents etc.

7. (1) A person must not in the Trust lands:

- (a) camp or reside; or
- (b) erect or occupy or cause to be erected or occupied a building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under subclause (1) (b) if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

(3) A person who has erected or occupied or caused to be erected or occupied a building, tent, screen, awning, enclosure or other structure or thing contrary to subclause (1) (b) must, when required to do so by a ranger or a police officer, remove the building, tent, screen, awning, enclosure, structure or thing.

(4) If a person fails to comply with a direction given under subclause (3), a ranger or a police officer may remove the building, tent, screen, awning, enclosure, structure or thing.

(5) Neither the Trust nor any other person acting under this clause is responsible for the safekeeping of or for damage to anything removed.

Disposal of rubbish

8. A person must not do any of the following:

- (a) bring into, or deposit for disposal in, the Trust lands any refuse, rubbish or industrial waste;
- (b) abandon a vehicle in the Trust lands;

- (c) leave in the Trust lands any litter, bottle, broken glass, china, pottery, plastic, rubbish, refuse or waste material except in a receptacle provided and designated for that purpose;
- (d) deposit or allow to escape in the Trust lands any oil or similar product or hot liquid.

Maximum penalty: \$200.

Protection of the Trust lands

9. (1) A person must not do any of the following in the Trust lands:

- (a) damage any lawn, playing field or green, otherwise than in the course of, and as a normal incident of, an organised recreational or sporting activity on reserved land;
- (b) remove, uproot, climb upon or cause damage to, or remove any part from, any tree or other vegetation;
- (c) remove any dead timber, log or stump, whether standing or fallen;
- (d) deface any rock or dig up any soil, sand, stone or similar substance;
- (e) damage, deface or interfere with:
 - any part of the Trust lands (including any road, path, fence, barrier, gate, fence post, railing, wall or building); or
 - any thing situated in any part of the Trust lands (including any seat, furniture, play equipment, fountain, statue, ornament, vase, monument, sign, notice, descriptive plate, label, machinery or equipment);
- (f) destroy, capture, injure or interfere with any animal;
- (g) destroy or interfere with the habitat of any animal.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

Recreational activities

10. (1) A person must not do any of the following in the Trust lands:

- (a) operate any mechanically propelled model aircraft, boat or similar thing;
- (b) land any aircraft, hang-glider, hot air balloon or parachute;
- (c) ride on or use my skateboard, roller skates or similar apparatus;
- (d) fly any kite;

- (e) operate any radio, cassette or record player or any instrument at a volume likely to cause a nuisance or annoyance to any person;
- (f) operate or use a loudspeaker or public address system or apparatus;
- (g) jog otherwise than on a road, path or specially designated circuit;
- (h) play or practise golf;
- (i) bathe, wade, wash or swim in any lake, pond, stream or ornamental water;
- (j) use any drinking fountain otherwise than for drinking;
- (k) light any fire otherwise than in fixed cooking apparatus provided by the Trust;
- (l) discharge any fireworks.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

Commercial activities

11. (1) A person must not do any of the following in the Trust lands:

- (a) collect or attempt to collect money;
- (b) sell or attempt to sell or hire, expose for sale or hire or solicit for sale or hire papers, printed matter, food, or other goods or services;
- (c) conduct, or cause or assist the operation of, an amusement, entertainment, instruction or performance for money or other consideration;
- (d) use television, video, cinematographic or photographic equipment for commercial purposes;
- (e) display or distribute any advertising matter, sign, bill, poster or other printed matter.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

Vehicles

12 (1) A person must not do any of the following in the Trust lands:

- (a) cause or permit my vehicle to stand or be parked:

- on any lawn, grass, parkland, garden or path; or
 - contrary to a sign erected by or on behalf of the Trust;
- (b) drive or ride any vehicle:

- otherwise than on a road laid out for the purpose; or
- contrary to a sign erected by or on behalf of the Trust.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

Obstruction etc.

13. A person must not do any of the following in the Trust lands:

- (a) obstruct another person in the performance of the person's work or duties;
- (b) fail to comply with any reasonable direction given by a ranger, by a member of staff of the Trust or by a police officer.

Maximum penalty: \$200.

Persons to leave on request

14. (1) A person who:

- (a) enters the Trust lands unlawfully; or
- (b) causes any annoyance or inconvenience to other persons in the Trust lands; or
- (c) commits an offence against this Regulation,

must leave the Trust lands if directed to do so by a ranger or by a police officer.

Maximum penalty: \$200.

(2) A person who fails to comply with such a direction may be removed from the Trust lands by a ranger or by a police officer.

PART 3—REGULATION OF USE OF THE GARDENS

Entry to the Gardens

15. (1) The Gardens are open to the public daily at times specified by the Trust and indicated on signs displayed adjacent to the entrances to the Gardens.

(2) A person must not, without the consent of the Trust, enter or remain in the Gardens at any time when they are not open to the public.

Maximum penalty: \$200.

Offences relating to the Gardens

16. (1) A person must not do any of the following:

- (a) bring into the Gardens a vehicle, otherwise than on a road specially designated for the purpose;
- (b) bring into the Gardens any animal or permit any animal under the person's control to remain in the Gardens;
- (c) address a function, public meeting, demonstration or gathering in the Gardens;
- (d) fish in the ponds of the Gardens;
- (e) fish in the waters of Sydney Harbour from the Royal Botanic Gardens;
- (f) moor boats to the sea wall that separates Sydney Harbour from the Royal Botanic Gardens;
- (g) rollerskate, ride a skateboard or operate any similar apparatus in the Gardens;
- (h) ride a bicycle or tricycle in the Royal Botanic Gardens or Mount Tomah Botanic Garden;
- (i) throw, kick or hit any object in the Gardens.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

(3) Subclause (1) (b) does not prohibit a person from bringing into the Gardens or from permitting to remain in the Gardens:

- (a) a seeing-eye dog that is in harness; or
- (b) a dog or horse that is being used in connection with police duty.

PART 4—REGULATION OF USE OF THE DOMAIN

Offences relating to the Domain

17. (1) A person must not do any of the following:

- (a) bring into the Domain, otherwise than on a road laid out for the purpose:
 - a bus; or

- a vehicle (other than a bus) having a tare weight of more than 2 tonnes;
- (b) bring into the Domain any animal or permit any animal under the person's control to remain in the Domain;
- (c) address a function, public meeting, demonstration or gathering in the Domain, except between the hours of 2 p.m. and sunset;
- (d) throw, kick or hit any object in the Domain, otherwise than in the course of, and as a normal incident of, an organised activity on reserved land.

Maximum penalty: \$200.

(2) A person is not guilty of an offence under this clause if the person establishes that the act giving rise to the offence was done with the written consent of the Trust.

(3) Subclause (1) (b) does not prohibit a person from bringing into the Domain or from permitting to remain in the Domain:

- (a) a seeing-eye dog that is in harness; or
- (b) a dog or horse that is being used in connection with police duty; or
- (c) a dog that is on a leash.

PART 5—GENERAL

Lessees, licensees, employees etc.

18. (1) An act or omission does not constitute an offence against this Regulation if it is authorised expressly or impliedly by the terms or conditions of a lease, licence or occupancy granted by the Trust.

(2) Nothing in this Regulation prevents members of staff of the Trust from doing any act or thing in the course of their employment.

Abandoned vehicles

19. (1) A ranger or a police officer may seize and take charge of, and may remove or tow away or cause to be removed or towed away, any motor vehicle that the ranger or police officer believes on reasonable grounds:

- (a) has been abandoned in the Trust lands; or
- (b) has been parked and left unattended in an part of the Trust lands that is not set aside for parking.

(2) Any motor vehicle removed or towed away under this clause may be impounded at any place set aside by the Trust or the Commissioner of Police for the purpose.

(3) On seizure of a motor vehicle under this clause, a ranger or a police officer must:

- (a) if the name and address of the owner of the vehicle are recorded at the offices of the Roads and Traffic Authority in respect of the registration (if any) of the vehicle—within the period of 14 days after the seizure cause to be sent by post to the owner a notice setting out particulars of the time, date and place of seizure and the place where the vehicle is impounded; or
- (b) if the name and address of the owner of the vehicle are not so recorded:
 - if the owner can after reasonable inquiry be located—within the period of 14 days after the seizure cause to be sent by post to the owner a notice setting out the particulars referred to in paragraph (a); or
 - if the owner cannot after reasonable inquiry be located—cause a notice setting out those particulars to be published in a Sydney daily newspaper.

(4) Except in the case of a motor vehicle that is dealt with under subclause (5), the following conditions are to be observed before an impounded motor vehicle may be released:

- (a) an application for the release must be made by the owner of the vehicle, or by a person acting for or on behalf of the owner, to a ranger or a police officer;
- (b) the applicant must furnish evidence, to the satisfaction of a ranger or a police officer, as to the ownership of the vehicle;
- (c) the vehicle is not to be released from custody unless:
 - a ranger or a police officer is satisfied that the applicant is the owner of the vehicle or that the applicant has authority to act for or on behalf of the owner; and
 - the fee (if any) payable in respect of the seizure, taking charge, removal, towing away, impounding or release of the vehicle has been paid to a ranger or police officer; and
 - the applicant has signed a receipt for the delivery of the vehicle.

(5) If, within a period of 2 months after the date on which the motor vehicle has been seized, the owner, or a person acting for or on behalf of the owner, has failed to claim the vehicle and, if applicable, to pay the fee referred to in subclause (4) (c), the vehicle may, after expiration of that

period, be disposed of or destroyed in accordance with the directions of a ranger or a police officer.

(6) The Trust may determine the fee payable in respect of the seizure, taking charge, removal, towing away, impounding or release of a motor vehicle removed or towed away under this clause.

(7) In this clause, “**motor vehicle**” includes the remains of a motor vehicle.

Repeals

20. All regulations in force under the Act immediately before the commencement of this Regulation are repealed.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with modifications, all regulations in force under the Royal Botanic Gardens and Domain Trust Act 1980. The new Regulation deals with:

- (a) the regulation of the use of the Trust Lands generally (Part 2); and
- (b) the regulation of the use of the Royal Botanic Gardens, the Mount Annan Botanic Garden and the Mount Tomah Botanic Garden (Part 3); and
- (c) the regulation of the use of the Domain (Part 4); and
- (d) other minor, consequential and ancillary matters (Parts 1 and 5).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
