

**Authorised Version No. 001**  
**Royal Botanic Gardens Regulations 2014**

**S.R. No. 170/2014**

Authorised Version as at  
29 October 2014

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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; and
- (b) to provide for any other matters required to be prescribed under the **Royal Botanic Gardens Act 1991**.

**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 29 October 2014.

**4 Revocation**

The Royal Botanic Gardens Regulations 2004<sup>1</sup> are **revoked**.

**5 Definitions**

In these Regulations—

***animal*** means any mammal (other than a human being), bird, reptile, amphibian, fish or invertebrate in any stage of biological development and whether alive or dead but

does not include food for human consumption;

**assistance animal** has the same meaning as it has in the Disability Discrimination Act 1992 of the Commonwealth;

**assistance dog** has the same meaning as it has in the **Equal Opportunity Act 2010**;

**authorised person** means a person authorised under regulation 9 to give directions under regulation 8(1);

**Board determination** means a determination made by the Board under regulation 7;

**camp** means—

- (a) to occupy or use a structure for accommodation;
- (b) to occupy or use a swag or sleeping bag for accommodation;
- (c) to occupy or use for accommodation a vehicle, vessel or other moveable form of accommodation;

**Gardens** means—

- (a) the Royal Botanic Gardens, Melbourne;
- (b) the Royal Botanic Gardens, Cranbourne;
- (c) any managed land;

**plant** means any algae, fungi, non-vascular or vascular plant including any tree, bush, shrub or herb in any stage of biological development and whether alive or dead but does not include any of the following—

- (a) food for human or animal consumption;
- (b) plant-based manufactured objects;

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*police officer* has the same meaning as it has in the **Victoria Police Act 2013**;

*prohibited item* means any of the following—

- (a) a firework;
- (b) a laser pointer;
- (c) a poison;
- (d) a fishing rod, trap, snare, net or similar equipment;
- (e) a tool, implement or machine that may be used—
  - (i) to take, destroy or damage any plant;
  - (ii) to dig or remove any gravel, shell, grit, mulch, sand, soil, stone or other similar material;
  - (iii) to damage, deface, remove or displace any structure, fence, gate, facility, equipment or natural feature;
- (f) a loud hailer;
- (g) a dangerous article within the meaning of the **Control of Weapons Act 1990**;
- (h) a prohibited weapon within the meaning of the **Control of Weapons Act 1990**;
- (i) a controlled weapon within the meaning of the **Control of Weapons Act 1990**;
- (j) a firearm within the meaning of the **Firearms Act 1996**;

***sound producing device*** means a device, the main function of which is to make, reproduce or amplify sound;

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

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

***vehicle*** has the same meaning as it has in the **Road Safety Act 1986** but does not include any of the following—

- (a) a wheelchair;
- (b) a motorised wheelchair;
- (c) a pram or stroller;
- (d) any other device used for the conveyance of children or disabled or injured persons.

## **6 Application of certain regulations**

Regulations 8(3), 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29(1), 30, 31, 32, 33, 34(2), 35, 36, 37, 38 and 39 do not apply to any of the following persons—

- (a) a member of the Board when carrying out the duties or functions of the Board;
- (b) an employee or agent of the Board when acting in the course of the employee's or agent's employment or duties;
- (c) an authorised officer when acting in the course of the authorised officer's duties;
- (d) a person acting under a contract, agreement or arrangement made under section 14(b) of the Act;

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- (e) a person acting under a lease, licence or permit made under section 24 or 24A of the Act;
  - (f) a person acting under an agreement made under section 32 of the Act;
  - (g) a police officer when acting in the course of the police officer's duties;
  - (h) an officer or member of the ambulance service when acting in the course of the officer's or member's duties;
  - (i) a person dealing with an emergency who is authorised to do so by any Act or regulations and who is acting in the course of that person's duties.
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**PART 2—AUTHORISATIONS, DETERMINATIONS AND DIRECTIONS**

**7 Board determination**

- (1) The Board may make a determination—
- (a) as to the times at which the Gardens are open and closed to the public;
  - (b) to set aside an area of the Gardens as an area—
    - (i) that is closed to the public;
    - (ii) into which a class of animals may be brought and may be allowed to remain;
    - (iii) where a recreational or sporting activity is prohibited;
    - (iv) where a recreational or sporting activity is restricted;
    - (v) where the parking of vehicles or a class of vehicles is permitted;
    - (vi) where vehicles of a particular class may be used or operated;
    - (vii) where vehicles of a particular class must not be used or operated;
  - (c) that a plant, or class of plant, may be climbed upon;
  - (d) that a pathogen, plant or a part of a plant may be brought into or introduced to the Gardens;
  - (e) that a prohibited item may be brought into, possessed, carried or used in the Gardens.
- (2) The Board may specify in a determination under subregulation (1) any conditions to which the determination is subject.

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- (3) If the Board makes a determination under subregulation (1) setting aside an area to which access or use of an area is restricted or prohibited, the Board must cause a sign or notice 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
  - (b) the reason why the area has been set aside; and
  - (c) 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.

#### **8 Direction to leave the Gardens**

- (1) An authorised officer or an authorised person may direct a person to leave the Gardens, or an area of the Gardens, if the authorised officer or authorised person believes, on reasonable grounds, that it is necessary to do so for—
- (a) the preservation of good order; or
  - (b) the safety of the public; or
  - (c) the care, protection, management and improvement of the Gardens; or
  - (d) the care, protection and management of the State botanical collection; or
  - (e) the protection of a plant or animal in the Gardens.
- (2) Before directing a person to leave the Gardens, or any area of the Gardens, the authorised officer or authorised person must—

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- (a) present—
- (i) in the case of an authorised officer, the authorised officer's identification card; or
  - (ii) in the case of an authorised person, the written authorisation under regulation 9; and
- (b) inform the person of the reason for making the direction; and
- (c) inform the person that it is an offence to fail to comply with a direction under subregulation (1).

- (3) A person must comply with a direction under subregulation (1).

Penalty: 5 penalty units.

### **9 Authorisation to give directions**

- (1) The Board may authorise a person employed or appointed under the Act to give directions under regulation 8(1) if satisfied that the person has the adequate skill and experience to do so.
- (2) An authorisation under subregulation (1) must be in writing.

### **10 Entry to Gardens**

A person must not enter or remain in an area of the Gardens that is closed to the public unless that person is attending a function or activity approved by the Board or the Director that is being conducted in that area of the Gardens.

Penalty: 5 penalty units.

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**PART 3—PROTECTION OF PLANTS AND GARDEN BEDS**

**11 Protection of plants**

A person must not climb upon a plant in the Gardens unless that person is acting in accordance with a Board determination.

Penalty: 20 penalty units.

**12 Protection of garden beds**

A person must not enter into or walk on any garden bed, display or collection of plants in the Gardens.

Penalty: 20 penalty units.

**13 Restriction on introduction of plants and other material**

A person must not knowingly bring or introduce into the Gardens any pathogen or plant, or any part of a plant unless that person does so—

- (a) for the purposes of plant identification, where that service is provided by the Board; or
- (b) in connection with any display, function or other activity approved by the Board; or
- (c) in accordance with a Board determination.

Penalty: 20 penalty units.

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**PART 4—PROTECTION AND MANAGEMENT OF ANIMALS**

**14 Protection of animals**

A person must not interfere with an animal in the Gardens unless that person has brought the animal into the Gardens in accordance with regulation 17.

Penalty: 20 penalty units.

**15 Protection of animal habitats**

A person must not damage, destroy, remove or otherwise interfere with the habitat of an animal, including a nest, bower, display mound, lair or burrow of an animal in the Gardens.

Penalty: 20 penalty units.

**16 Offering food to animals**

A person must not feed, offer food or offer any object as food to an animal in the Gardens unless the animal has been brought into the Gardens in accordance with regulation 17.

Penalty: 10 penalty units.

**17 Bringing animals into the Gardens**

A person must not bring an animal into, or allow an animal under that person's control to enter or remain in the Gardens unless—

- (a) the animal is brought in or allowed to remain in accordance with a Board determination; or
- (b) the animal is an assistance animal or an assistance dog.

Penalty: 10 penalty units.

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## **18 Removal of faeces from the Gardens**

A person who brings an animal into, or who allows an animal under the person's control to enter or remain in, the Gardens must pick up and remove from the Gardens any faeces deposited by that animal.

Penalty: 10 penalty units.

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**PART 5—CARE, PROTECTION AND MANAGEMENT OF  
THE GARDENS**

**19 Bringing prohibited items into the Gardens**

A person must not bring into, or possess, carry or use a prohibited item in the Gardens unless that person does so—

- (a) in connection with any display, function or other activity approved by the Board; or
- (b) in accordance with a Board determination.

Penalty: 20 penalty units.

**20 Removal of items from the Gardens**

- (1) The Board or Director may cause a prohibited item to be removed from the Gardens.
- (2) In addition to the power to remove a prohibited item under subregulation (1), the Board or Director may cause any item, matter or thing to be removed from the Gardens if the Board or the Director considers that the item, matter or thing may represent a threat—
  - (a) to an animal, person or plant in the Gardens;  
or
  - (b) to the State botanical collection.

**21 Protection of structures, facilities, equipment and natural features**

A person must not, in the Gardens, damage, deface, remove or displace any sign, structure, fence, gate, facility, equipment or natural feature.

Penalty: 20 penalty units.

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**22 Digging or removal of material**

A person must not, in the Gardens, dig or remove any gravel, shell, grit, mulch, sand, soil, stone or other similar material.

Penalty: 20 penalty units.

**23 Introduction of material**

A person must not knowingly bring or deposit into the Gardens any gravel, shell, grit, mulch, sand, soil, stone or other similar material.

Penalty: 20 penalty units.

**24 Climbing over gates, fences, barriers or hedges**

A person must not climb over, pass under or break through a gate, fence, barrier or hedge in the Gardens.

Penalty: 10 penalty units.

**25 Lighting of fires**

A person must not light a fire or use a flame in the Gardens except in a fireplace or barbeque provided for that purpose by the Board.

Penalty: 20 penalty units.

**26 Offence in relation to recreational or sporting activities in the Gardens**

A person must not engage in a recreational or sporting activity in the Gardens except in accordance with a Board determination.

Penalty: 10 penalty units.

**27 Dangerous activities**

A person must not in a manner that is likely to cause danger to a person or animal or damage a plant in the Gardens—

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

Penalty: 20 penalty units.

### **28 Public speaking**

A person must not, in the Gardens, preach, declaim, harangue or deliver any address in a manner that is likely—

- (a) to cause inconvenience or nuisance to a person in the Gardens; or
- (b) to disturb an animal in the Gardens.

Penalty: 10 penalty units.

### **29 Operating a sound producing device**

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

- (a) to cause inconvenience or nuisance to a person; or
- (b) to disturb an animal in the Gardens.

Penalty: 10 penalty units.

- (2) The Director may cause a sound producing device to be removed from the Gardens if the Director considers that the sound producing device is—

- (a) causing inconvenience or nuisance to a person; or
- (b) disturbing an animal in the Gardens.

**30 Obstructing an employee or agent of the Board**

A person must not, in the Gardens, obstruct or interfere with an employee or agent of the Board acting in the course of the employee's or agent's employment or duties.

Penalty: 20 penalty units.

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**PART 6—CAMPING AND OCCUPATION OF STRUCTURES**

**31 Camping**

A person must not camp or reside in the Gardens.

Penalty: 10 penalty units.

**32 Occupying a structure**

A person must not occupy a structure in the Gardens unless the structure has been provided for that purpose by the Board.

Penalty: 10 penalty units.

**33 Erecting a structure**

A person must not in the Gardens erect a structure or cause a structure to be erected.

Penalty: 10 penalty units.

**34 Removing a structure**

- (1) The Board may direct a person who erects or causes a structure to be erected in the Gardens to remove that structure.
- (2) A person must comply with a direction under subregulation (1).  
Penalty: 10 penalty units.
- (3) The Board may remove a structure if—
  - (a) a person fails to comply with a direction given under subregulation (1) in relation to that structure; or
  - (b) the owner of the structure is not known.
- (4) The Board must take all reasonable steps to notify the owner of a structure removed in accordance with subregulation (3) that the structure has been removed and will be disposed of within 28 days of the removal of the structure.

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- (5) If, after a period of 28 days from the date of a direction given under subregulation (1), the owner of the structure removed in accordance with subregulation (3) has not claimed that structure, the Board may dispose of the structure.
- (6) In the case of a structure whose owner is not known, if after a period of 28 days from the removal of the structure in accordance with subregulation (3) no person has claimed the structure, the Board may dispose of the structure.
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**PART 7—ORGANISED EVENTS AND COMMERCIAL  
ACTIVITIES**

**35 Organised events**

A person must not, in the Gardens, conduct any of the following organised events—

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

Penalty: 10 penalty units.

**36 Carrying on of trade or business**

A person must not, in the Gardens, carry on a trade or business including a trade or business that is authorised, permitted or licensed under any other Act or law.

Penalty: 20 penalty units.

**37 Commercial filming and photography**

A person must not, in the Gardens, do any of the following for commercial purposes—

- (a) take a still photograph;
- (b) record images by film, video, digital or other technology;
- (c) create an image, drawing or painting.

Penalty: 20 penalty units.

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**38 Advertising and soliciting**

- (1) A person must not, in the Gardens, solicit or collect money.

Penalty: 20 penalty units.

- (2) A person must not, in the Gardens, display a placard, sign or notice for the purposes of advertising.

Penalty: 20 penalty units.

- (3) A person must not, in the Gardens, hand out or disseminate advertising or promotional material, including pamphlets or handbills.

Penalty: 20 penalty units.

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**PART 8—VEHICLES**

**39 Offences in relation to vehicles**

- (1) A person must not, in the Gardens, park a vehicle except in accordance with a Board determination.  
Penalty: 10 penalty units.
- (2) A person must not, in the Gardens, use or operate a vehicle except in accordance with a Board determination.  
Penalty: 10 penalty units.
- (3) A person must not, in the Gardens, park, use or operate a vehicle in a manner that is not in accordance with the conditions specified by the Board in a Board determination.  
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 Board determination.Penalty: 10 penalty units.
- (5) A person must not use or operate a vehicle in the Gardens in a manner that damages that land.  
Penalty: 10 penalty units.
- (6) A person must not leave a vehicle in the Gardens in a manner that damages that land.  
Penalty: 10 penalty units.
- (7) A person must not cause or permit a vehicle to be parked or left standing in the Gardens if the vehicle obstructs a person or another vehicle—
  - (a) from entering or leaving a public access road; or

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- (b) from an area set aside for parking under a Board determination; or
  - (c) from an area set aside for the use or operation of vehicles under a Board determination.

Penalty: 10 penalty units.

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## ENDNOTES

### 1. General Information

The Royal Botanic Gardens Regulations 2014, S.R. No. 170/2014 were made on 21 October 2014 by the Lieutenant-Governor, as the Governor's Deputy, with the advice of the Executive Council under section 51 of the **Royal Botanic Gardens Act 1991**, No. 87/1991 and came into operation on 29 October 2014: regulation 3.

The Royal Botanic Gardens Regulations 2014 will sunset 10 years after the day of making on 21 October 2024 (see section 5 of the **Subordinate Legislation Act 1994**).

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## 2. Table of Amendments

There are no amendments made to the Royal Botanic Gardens Regulations 2014 by statutory rules, subordinate instruments and Acts.

### 3. Explanatory Details

<sup>1</sup> Reg. 4: S.R. No. 148/2004.

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#### 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.