

TASMANIA

---

**ABORIGINAL LANDS (SETTLEMENT POINT  
CEMETERY) REGULATIONS 2019**

**STATUTORY RULES 2019, No. 18**

---

**CONTENTS**

1. Short title
2. Commencement
3. Interpretation
4. Application of revenue of cemetery
5. Religious or cultural ceremonies
6. Representative of religious or cultural group to have free access
7. Exercise of exclusive right of burial
8. Permission to erect monuments
9. Power to remove monuments
10. Register of burials
11. Hours for burials
12. Exhumation
13. Offences



## **ABORIGINAL LANDS (SETTLEMENT POINT CEMETERY) REGULATIONS 2019**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council and being satisfied that the Aboriginal Land Council of Tasmania has been consulted, make the following regulations under the *Aboriginal Lands Act 1995*.

Dated 8 April 2019.

C. WARNER  
Governor

By Her Excellency's Command,

J PETRUSMA  
Minister for Aboriginal Affairs

### **1. Short title**

These regulations may be cited as the *Aboriginal Lands (Settlement Point Cemetery) Regulations 2019*.

### **2. Commencement**

These regulations take effect on 15 April 2019.

### **3. Interpretation**

In these regulations –

*Act* means the *Aboriginal Lands Act 1995*;

*Aboriginal Lands (Settlement Point Cemetery) Regulations 2019*  
*Statutory Rules 2019, No. 18*

r. 3

---

***authorised representative***, in relation to a religious or cultural group, means a person authorised by the appropriate authority of the religious or cultural group to exercise spiritual or ceremonial functions in connection with the burial of the dead;

***cemetery*** means the Settlement Point cemetery shown in Plan 4806 in the Central Plan Register;

***Director of Public Health*** means the person appointed as Director of Public Health under section 6 of the *Public Health Act 1997*;

***exclusive right of burial*** means –

- (a) an exclusive right to be buried in the unallocated portion of the cemetery granted under section 37A of the Act; or
- (b) an exclusive right to be buried elsewhere in the cemetery granted by the Council, or the previous trustees of the cemetery, before the commencement of these regulations;

***monument*** includes a tombstone, plaque, tablet, cenotaph or any other structure or object intended to commemorate a deceased person;

*unallocated portion of the cemetery* means that portion, of the cemetery, shown bounded by heavy black lines on Plan 4806 in the Central Plan Register.

**4. Application of revenue of cemetery**

The Council is to make adequate provision for the maintenance and improvement of the cemetery out of any revenue received by it in respect of the cemetery.

**5. Religious or cultural ceremonies**

The Council is not to interfere, directly or indirectly, with the performance at the cemetery of any religious or cultural ceremony that relates to the mourning process or the burial of the dead and is in accordance with the rites or practices of the religious or cultural group performing the ceremony.

**6. Representative of religious or cultural group to have free access**

The Council is to permit an authorised representative of any religious or cultural group to –

- (a) have free access and admission to the cemetery; and
- (b) freely exercise functions in the cemetery in connection with the burial of the dead

r. 7

---

without any hindrance or disturbance by the Council or any other person.

**7. Exercise of exclusive right of burial**

- (1) A person who wishes to bury the body or human remains of a deceased person in the cemetery is to notify the Council and request approval from the Council for the burial.
- (2) A request for approval under subregulation (1) –
  - (a) may only be made in respect of a deceased person who is entitled to burial under an exclusive right of burial; and
  - (b) is to include the following information:
    - (i) the full name of the person making the request;
    - (ii) the residential or contact address of that person;
    - (iii) the full name of the deceased person;
    - (iv) the last place of residence of the deceased person, if known;
    - (v) the date of birth of the deceased person;
    - (vi) the date of death of the deceased person;

*Aboriginal Lands (Settlement Point Cemetery) Regulations 2019*  
*Statutory Rules 2019, No. 18*

r. 7

---

- (vii) the age of the deceased person at the date of his or her death;
  - (viii) the date of grant, if known, and details of the exclusive right of burial;
  - (ix) any further information the Council reasonably requires.
- (3) The Council may make the enquiries that it considers necessary in order to satisfy itself that the deceased person is a person entitled to be buried in the cemetery under the exclusive right of burial in respect of which the request for approval for burial is made.
- (4) If the Council is satisfied that the deceased person is entitled to be buried under the exclusive right of burial, it is to approve the request for burial subject to the conditions and restrictions it considers appropriate.
- (5) If the Council is not satisfied that the deceased person is entitled to be buried under the exclusive right of burial, it is to refuse to approve the request for burial.
- (6) The Council is to notify the person making the request for approval for burial under subregulation (1) of its decision under subregulation (4) or (5) and, if the request has been refused, is to give the person, in writing, reasons for the refusal.

r. 8

---

**8. Permission to erect monuments**

- (1) The Council may, subject to the terms and conditions it considers necessary, permit a monument to be erected or placed in the cemetery.
- (2) A person must not erect or place a monument in the cemetery except in accordance with a permission of the Council granted under subregulation (1).

Penalty: Fine not exceeding 5 penalty units.

**9. Power to remove monuments**

- (1) In this regulation –

*unauthorised monument* means any monument that –

- (a) has been erected or placed contrary to the terms and conditions on which the permission to erect or place it was granted; or
  - (b) is, in the opinion of the Council, unsafe.
- (2) The Council may, by notice in writing given to a person who erected or placed an unauthorised monument in the cemetery, require the person to –
    - (a) take it down and remove it; or

- (b) make it safe –  
within a reasonable time that is specified in the notice.
- (3) If a person to whom a notice in relation to an unauthorised monument is given under subregulation (2) fails to comply with the requirement, or the Council is unable, after making reasonable attempts, to find the person who erected or placed an unauthorised monument in the cemetery, the Council may –
  - (a) take the monument down and remove it or make the monument safe; and
  - (b) recover in any court of competent jurisdiction the reasonable cost of doing so from the person who erected or placed the monument in the cemetery.
- (4) The Council may exercise its powers under this regulation without notice if an unauthorised monument appears to be a danger to persons or property.

## **10. Register of burials**

The Council is to keep a register of burials and a plan of the cemetery.

## **11. Hours for burials**

A burial is to be carried out at the cemetery during the reasonable hours that the Council determines.

## **12. Exhumation**

- (1) The Council may, in writing, determine that a human body or human remains are to be, on the conditions, if any, specified in the determination, exhumed from any place of burial in the cemetery.
- (2) A determination under subregulation (1) is to be made only on the written request of the Director of Public Health and is to include the conditions, if any, about the exhumation that are required by the Director of Public Health.
- (3) The Director of Public Health, before making a request under subregulation (2), is to consult with the Council about the conditions to be imposed on the exhumation.
- (4) The Council is to ensure that, following an exhumation, the human body or human remains are reburied in the same place in the cemetery or, if this is not possible, in some other place in the cemetery.
- (5) The reburial is to be in accordance with the conditions determined by the Council on the advice of the Director of Public Health.
- (6) The Council is to ensure that any exhumation or reburial is carried out in accordance with any requirement of the Director of Public Health or any person supervising the work on the Director's behalf.
- (7) A person must not remove a human body or human remains from any place of burial in the

cemetery otherwise than in accordance with the determination and conditions specified under subregulation (1) and any requirements under subregulation (6).

Penalty: Fine not exceeding 10 penalty units.

### **13. Offences**

A person must not –

- (a) remove, damage, deface or otherwise interfere with any building, monument, memorial or other fixture or structure in the cemetery; or
- (b) damage, deface or otherwise interfere with any part of the grounds of the cemetery, including any plants, flowers or tokens placed in those grounds; or
- (c) remove any plants or flowers that are growing in the cemetery; or
- (d) in any manner, hinder or disturb the performance in the cemetery of any religious or cultural ceremony relating to the burial of human remains; or
- (e) sell any thing in the cemetery without the permission of the Council; or
- (f) carry on, promote or advertise a trade, profession or business in the cemetery without the permission of the Council; or

*Aboriginal Lands (Settlement Point Cemetery) Regulations 2019*  
*Statutory Rules 2019, No. 18*

**r. 13**

---

- (g) commit any breach of the peace or nuisance, or otherwise behave in an offensive manner, in the cemetery.

Penalty: Fine not exceeding 10 penalty units.

*Aboriginal Lands (Settlement Point Cemetery) Regulations 2019*  
*Statutory Rules 2019, No. 18*

---

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 9 April 2019.

These regulations are administered in the Department of Communities Tasmania.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations provide for certain rights and responsibilities in relation to Settlement Point Cemetery and are made consequentially on the repeal of the *Aboriginal Lands (Settlement Point Cemetery) Regulations 2009* under section 11 of the *Subordinate Legislation Act 1992*.