

# NORTHERN TERRITORY OF AUSTRALIA

## CEMETERIES REGULATIONS

As in force at 30 March 1998

### Table of provisions

1	Citation .....	1
2	Commencement .....	1
3	Definitions .....	1
4	Common seal of Board .....	1
5	Powers of curators .....	2
6	Remuneration of curator .....	2
7	Fees and charges .....	2
8	Prescribed fee under section 29(1) of Act .....	2
9	Notice board .....	3
10	Cemetery register .....	3
11	Cemetery plan .....	3
12	Inspection of register and plan .....	4
13	Licences for funerals .....	4
14	Burial times .....	4
15	Burial with permit .....	4
16	Procedure for obtaining burial permit .....	4
17	Burial in allocated grave .....	5
18	Certificate of exclusive right of burial .....	5
19	Double burials in grave .....	6
19A	Multiple burials .....	7
20	Military graves .....	7
21	Burial in vault .....	7
22	Digging of graves .....	7
23	Depth of graves .....	8
24	Lawn burial areas .....	8
26	Erection of structures .....	8
27	Monuments, inscriptions, &c., alterations or renewals .....	9
28	Masons and other workmen .....	9
29	Interference with allotments .....	9
30	Visiting hours .....	9
31	Person in cemetery at night .....	10
32	Planting of trees, covering of graves, &c. ....	10
33	Vehicles .....	10
34	Traffic .....	10
34A	Animals .....	11
35	Offences .....	11
36	Offence and penalty .....	11
36A	Regulatory offences .....	12
37	Removal of offenders .....	12
38	Posting of regulations .....	12

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## **Schedule**

### **ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 30 March 1998

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## CEMETERIES REGULATIONS

### Regulations under the *Cemeteries Act*

#### 1 Citation

These Regulations may be cited as the *Cemeteries Regulations*.

#### 2 Commencement

These Regulations shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Definitions

In these Regulations, unless the contrary intention appears:

**grave** means a burial place formed in the ground by excavation and without any internal wall of brickwork, stonework or other artificial lining.

***lawn burial area*** means a separate portion of a public cemetery set apart as a lawn burial area pursuant to regulation 24.

***the Act*** means the *Cemeteries Act*.

***vault*** means any underground burial place other than a grave.

#### 4 Common seal of Board

- (1) The common seal of a Board shall not be affixed to any instrument or document except in pursuance of a resolution passed at a meeting of the Board and in the presence of 2 members of the Board who shall sign the instrument or document.
- (2) A person dealing with a Board shall not be bound or concerned to see or inquire as to the authority under which any instrument or document is sealed or as to whether the seal was affixed to that instrument or document, or that instrument or document was signed, as required by this regulation.

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## **5 Powers of curators**

A curator shall have power to do anything necessary for the upkeep, maintenance, improvement and management of the public cemetery for which he has been appointed and to do anything incidental thereto and, without limiting the generality of the foregoing, a curator shall have, in respect of the cemetery for which he has been appointed, the same powers, functions and duties with respect to the granting of exclusive rights of burial as a Board has in respect of the public cemetery for which it has been appointed.

## **6 Remuneration of curator**

A curator of a public cemetery (not being an officer or employee of the Public Service of the Commonwealth or an employee as defined in the *Public Sector Employment and Management Act*) shall receive such remuneration as the Minister determines.

## **7 Fees and charges**

- (1) A fee or charge payable under the Act or these Regulations shall be a debt due to:
  - (a) where the fee or charge is payable in respect of:
    - (i) the grant of an annual licence to an undertaker to undertake funerals;
    - (ii) the undertaking of funerals; or
    - (iii) a service or facility provided under the Act,  
at a public cemetery in respect of which a Board is appointed – that Board; or
  - (b) in any other case – the Territory, recoverable in any court of competent jurisdiction.
- (2) A Board or curator of a public cemetery may remit wholly or in part, or postpone payment of, any fee or charge payable under the Act or these Regulations.

## **8 Prescribed fee under section 29(1) of Act**

The prescribed fee for the purposes of subsection (1) of section 29 of the Act is \$10.

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**9 Notice board**

The Board or curator of a public cemetery shall erect and maintain in good order and condition a notice board in a conspicuous place within the cemetery showing:

- (a) the name of the cemetery;
- (b) the hours during which the cemetery is open to the public; and
- (c) the name of the Chairman of the Board or of the curator and the address of the office of the Board or curator.

**10 Cemetery register**

Each Board and each curator shall, in respect of the public cemetery in respect of which it or he has been appointed, cause to be kept a register in which shall be entered:

- (a) the name, sex, age, country of birth, occupation immediately prior to death, place of residence immediately prior to death, date of death and date of burial of any deceased person whose body is buried in the cemetery, together with the number of and particulars identifying the allotment in which the body is buried, the depth of the grave in which the body is buried, whether a lead lined coffin was used for the burial, descriptive particulars (including the date of erection) of any monument, tombstone, headstone, tablet, gravestone or other structure erected on the grave, and the name of the minister of religion who officiated at the burial ceremony;
- (b) particulars of any exclusive right of burial granted, including the number or numbers of the allotment or allotments in respect of which the right was granted and the name and address of the grantee; and
- (c) particulars of the burial of any still-born child.

**11 Cemetery plan**

- (1) Each Board and each curator shall cause to be prepared a plan of the public cemetery in respect of which it or he has been appointed showing the lay-out of the cemetery, including:
  - (a) the subdivision and proposed subdivision of the cemetery; and
  - (b) the location and number of each allotment.
- (2) The plan shall be kept at the office of the Board or curator.

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**12            Inspection of register and plan**

Any person may, upon payment to the Board or curator of a public cemetery of a fee of 25 cents, inspect at any reasonable time the register kept in accordance with regulation 10 or the plan prepared in accordance with regulation 11 in respect of that cemetery.

**13            Licences for funerals**

- (1) A person shall not, except under licence granted by the Minister under section 39A of the Act, undertake a funeral or accept a fee for the undertaking of a funeral in a cemetery in respect of which a curator has been appointed under section 38 of the Act.
- (2) An application for a licence under section 39A of the Act shall be in writing and shall be forwarded to the Minister, accompanied by a fee of \$10.

**14            Burial times**

- (1) Subject to subregulation (2), a public cemetery shall be open for the burial of deceased persons from 8 o'clock in the morning to 5.30 o'clock in the afternoon each day.
- (2) The Board or curator of a public cemetery may, upon application by any person, permit a burial to take place in the cemetery at any time during which the cemetery is open to the public.

**15            Burial with permit**

A person shall not bury the body of a deceased person in a public cemetery unless a permit for the burial of that body has been obtained from the Board or curator of that cemetery.

**16            Procedure for obtaining burial permit**

- (1) A Board or curator of a public cemetery shall not issue a permit for the burial of the body of a deceased person in the cemetery except upon production to the Board or curator of:
  - (a) a notice of interment in accordance with Form 1 in the Schedule;
  - (b) particulars of the length, breadth and depth of the coffin to be used for the burial of the body; and

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- (c) either of the following documents, namely:
- (i) a notice under section 34(1) of the *Births, Deaths and Marriages Registration Act* duly signed in accordance with that section; or
  - (ii) an instrument under the hand of a coroner for the Territory authorizing the burial of the body in the Territory.
- (2) In the application of subregulation (1) in the case of the burial of the body of a person who died outside the Territory:
- (a) a notice, signed by a person duly qualified and entitled to practise as a medical practitioner at the place where the person died, stating that he has, in accordance with the law of that place, signed a certificate of death with respect to the death of the person, has the same force and effect as a notice referred to in subparagraph (i) of paragraph (c) of subregulation (1); and
  - (b) an instrument under the hand of a coroner or a person performing the functions of a coroner at the place where the person died authorizing, in accordance with the law of that place, the burial of the body of the person at that place has the same force and effect as an instrument referred to in subparagraph (ii) of paragraph (c) of subregulation (1).

## **17 Burial in allocated grave**

A person shall not bury the body of a deceased person in a public cemetery except in the particular grave allocated by the Board or curator of that cemetery for the burial of that body.

## **18 Certificate of exclusive right of burial**

- (1) Where a Board or curator of a public cemetery grants to a person an exclusive right of burial in a grave, vault or burial ground comprising one or more allotments in the cemetery, it or he shall issue to that person a certificate in accordance with Form 2 in the Schedule.
- (2) An exclusive right of burial may be transferred, and, upon production to the Board or curator of:
  - (a) the certificate referred to in subregulation (1) relating to that exclusive right of burial; and
  - (b) evidence of the transfer of that exclusive right of burial,

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the Board or curator shall, subject to subregulation (3):

- (c) record the transfer in the register kept in respect of the cemetery by virtue of regulation 10;
  - (d) note the transfer upon the certificate; and
  - (e) deliver up the certificate to the transferee.
- (3) The Board or curator of a public cemetery may refuse to record or note a transfer of an exclusive right of burial to a person who is already the holder of an exclusive right of burial in respect of that cemetery.
- (4) A transfer of an exclusive right of burial shall not confer any rights against the Board or curator of the public cemetery in which the allotment or allotments the subject of the right is or are situated unless and until it has been noted on the certificate in accordance with subregulation (2).
- (5) The Board or curator of a public cemetery may, upon being satisfied that a certificate of exclusive right of burial has been lost or destroyed, and upon payment of a fee of 50 cents, issue a duplicate certificate.
- (6) A Board or curator of a public cemetery may accept the surrender of an exclusive right of burial and may refund to the person surrendering his right an amount not exceeding three-fourths of the fee paid in respect of the right.

## **19 Double burials in grave**

- (1) A person shall not be entitled to have an allotment in a public cemetery which has already been used for the burial of the body of a deceased person re-opened for the purpose of a second burial therein unless he is the holder of an exclusive right of burial in respect of that allotment or produces to the Board or curator of the cemetery the written consent of the holder of that right, or, if the holder is dead, of the lawful successor to the holder.
- (2) Not more than 2 adults shall be buried in any one allotment, and the upper surface of a coffin shall not in any case be less than 3 feet 6 inches below the natural surface of the soil on the grave.
- (3) For the purpose of subregulation (2), 2 children under the age of 10 years shall be deemed to be one adult.

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- (5) Where a grave is re-opened for the purpose of a second burial therein, the excavation shall be so made as to leave a layer of earth not less than 6 inches in thickness above the upper surface of the coffin of the first burial.

**19A Multiple burials**

Notwithstanding regulation 19, the Minister may, subject to such conditions as he thinks fit, give his approval for the burial of a person in an allotment in which 2 adults, within the meaning of that regulation, are already buried, and that person may be buried in that allotment accordingly.

**20 Military graves**

Notwithstanding anything contained in these Regulations, only one body shall be buried in each of any allotments that are set apart pursuant to subsection (1) of section 7 of the Act for the burial of deceased persons referred to in paragraph (b) or (c) of that section.

**21 Burial in vault**

- (1) A person shall not bury, or cause or suffer to be buried, the body of a deceased person in a vault unless:
- (a) the vault consists of brick or stone set in cement and covered by a slate, stone, concrete or glass slab;
  - (b) the body is encased in wood;
  - (c) the wooden encasement is enclosed in lead and hermetically sealed; and
  - (d) the whole is enclosed in a coffin.
- (2) The undertaker who supplies the coffin for a burial in a vault shall, at the time of the burial, furnish to the Board or curator of the cemetery at which the burial takes place, a statement in writing under his hand to the effect that the provisions of subregulation (1) have been complied with in respect of the burial.

**22 Digging of graves**

The Board or curator of a public cemetery shall have the control and management of the digging of all graves in the cemetery.

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**23 Depth of graves**

- (1) Subject to subregulation (2) a grave dug in a public cemetery shall be of a depth of not less than:
  - (a) 5 feet where the deceased person whose body is to be buried in the grave was, at the date of his death, less than 8 years of age; and
  - (b) 6 feet in any other case.
- (2) A grave dug on an allotment in respect of which an exclusive right of burial has been granted shall be of a depth of not less than 7 feet 6 inches.

**24 Lawn burial areas**

- (1) Subject to this regulation, the Board or curator of a public cemetery may set apart as a lawn burial area any separate portion of the cemetery.
- (2) The Board or curator shall not exercise its or his powers under subregulation (1) so as to reduce below a reasonable area the area of the cemetery in which, subject to the provisions of these Regulations, a monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure may be erected.
- (3) A person shall not erect on or place in a lawn burial area any structure other than a tablet of the type approved by the Board or curator.

**26 Erection of structures**

- (1) A person shall not erect any monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure in a public cemetery:
  - (a) unless an application in writing for permission to do so has been made to the Board or curator of the cemetery, accompanied by a fee of \$3;
  - (b) unless a plan and particulars thereof have been submitted to and approved by the Board or curator; and
  - (c) otherwise than in accordance with the plan and particulars so approved.

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- (2) The erection of any monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure in a public cemetery shall be carried out to the satisfaction of the Board or curator of the cemetery.

**27        Monuments, inscriptions, &c., alterations or renewals**

The Board or curator of a public cemetery may remove, alter or repair any monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure in the cemetery, or any inscription thereon which, in its or his opinion, is dangerous, unsightly or in disrepair, or has not been erected in accordance with a plan and particulars approved by the Board or curator.

**28        Masons and other workmen**

- (1) Any mason or other workman who performs any work in, on or to any monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure in a public cemetery shall, to the satisfaction of the Board or curator of the cemetery, clear away all refuse, rubbish and unsightly material resulting from that work, and shall make good all damage done by him or his servants.
- (2) If the mason or other workman fails to clear away any refuse, rubbish or unsightly material, or to make good any damage done by him or his servants, in accordance with subregulation (1) within such time as the Board or curator thinks reasonable, the Board or curator may clear away that refuse, rubbish or unsightly material or make good that damage and any expense incurred by the Board or curator in so doing shall be a debt due by the mason or other workman to the Board or curator, payable on demand, and recoverable in any court of competent jurisdiction.

**29        Interference with allotments**

A person shall not, without the written authority of the Board or curator of a public cemetery, interfere with any allotment in the cemetery unless he is the holder of an exclusive right of burial in respect of that allotment or the authorized servant or agent of the holder of that right.

**30        Visiting hours**

A public cemetery shall be open to the public from sunrise to sunset each day.

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**31      Person in cemetery at night**

A person shall not, without the consent in writing of the Board or curator of a public cemetery, enter, remain or be in the cemetery at any time between sunset on any day and sunrise on the next succeeding day.

**32      Planting of trees, covering of graves, &c.**

A person shall not, without the consent of the Board or curator of a public cemetery:

- (a) plant a tree or shrub in the cemetery;
- (b) cover a grave in the cemetery with tiles, cement, chips or any other covering; or
- (c) place an inscription on a monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure in the cemetery.

**33      Vehicles**

A person shall not:

- (a) except for the purpose of a burial ceremony, drive any hearse or mourning coach of any kind within a public cemetery;
- (b) draw heavy materials over any road or path within the cemetery while the road or path is wet; or
- (c) use in the cemetery any handcart the wheel tyres of which may, in the opinion of the Board or the curator of the cemetery, be detrimental to, or to the appearance of, the surface of the earth in the cemetery.

**34      Traffic**

A person shall not:

- (a) disobey a direction of a servant of a Board or a curator of a public cemetery with respect to:
    - (i) the parking of a vehicle; or
    - (ii) the route or direction upon or in which any vehicle shall proceed,
- in the cemetery; or

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- (b) fail to comply with the provisions of any notice erected by the Board or curator with respect to pedestrian or vehicular traffic in the cemetery.

#### **34A Animals**

A person shall not suffer or permit an animal to trespass in a cemetery.

#### **35 Offences**

A person shall not, in a public cemetery:

- (a) sell or buy any article or thing;
- (b) distribute any handbill, card, circular or advertisement other than of a religious nature concerned with a particular burial;
- (c) take part in any meeting other than of a religious or commemorative character or in connection with a burial;
- (d) disturb any funeral service or burial ceremony, whether by working in the neighbourhood or otherwise;
- (e) discharge any firearm, except at a military funeral;
- (f) wantonly damage or disturb any real or personal property or disturb flowers or other tokens;
- (g) throw, cast or lay, or cause to be thrown, cast or laid, in or upon the cemetery, any refuse or rubbish, except in receptacles provided for the purpose, or any offensive, noxious or dangerous matter;
- (h) commit any breach of the peace or nuisance, or otherwise offend against decency or decorum;
- (i) injure or interfere with any trees or shrubs;
- (j) erect any wooden structure or fence; or
- (k) without the authority of the Board or curator of the cemetery disturb or interfere with any grave.

#### **36 Offence and penalty**

Any person who contravenes or fails to comply with any provision of these Regulations shall be guilty of an offence punishable upon conviction by a fine not exceeding \$100.

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**36A      Regulatory offences**

An offence of contravening or failing to comply with regulation 15, 21 or 26 is a regulatory offence.

**37          Removal of offenders**

Any person who, in a public cemetery, commits an offence against or contravenes any provision of these Regulations may forthwith be removed from the cemetery by the Board or curator of the cemetery, any officer or servant of the Board or curator or any constable or officer of police.

**38          Posting of regulations**

The Board or curator of a public cemetery shall cause a copy of these Regulations to be posted and kept posted in a conspicuous place in the cemetery as near as practicable to the main entrance to the cemetery.

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**Schedule**

FORM 1

regulation 16

NORTHERN TERRITORY OF AUSTRALIA

*Cemeteries Act*

NOTICE OF INTERMENT

To the .....  
(Board or curator)

at.....  
(Location of cemetery)

Names of deceased .....

Address (immediately prior to death) of deceased .....

Age of deceased .....

Sex of deceased .....

Marital status of deceased .....

Date of death .....

Place of death .....

Manner of death .....

Dated this                      day of                      , 19 .

(Signature of applicant for burial permit)

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FORM 2

regulation 18(1)

NORTHERN TERRITORY OF AUSTRALIA

*Cemeteries Act*

CERTIFICATE OF A GRANT OF EXCLUSIVE RIGHT OF BURIAL

I, .....  
(Full name of Board or curator)

..... for the public cemetery  
(Board or curator)

situated at .....  
(Location and name of cemetery)

certify that the right to burial allotment(s) numbered .....  
on the plan of the said cemetery has/have been reserved to  
.....  
(Name of grantee)

The burial allotment(s) has/have been reserved for the burial of  
.....

Dated this                      day of                      , 19   .

Curator  
Board of Trustees

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

#### ***Cemeteries Regulations (SL No. 11, 1967)***

Notified	15 March 1967
Commenced	6 March 1968 ( <i>Gaz</i> 11, 6 March 1968, p 58)

#### ***Amendments of the Cemeteries Regulations (SL No. 3, 1968)***

Notified	28 February 1968
Commenced	6 March 1968 (r 1, r 2 <i>Cemeteries Regulations</i> (SL No. 11, 1967) and <i>Gaz</i> 11, 6 March 1968, p 58)

#### ***Ordinances Revision Ordinance 1973 (Act No. 87, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973

#### ***Transfer of Powers (Further Provisions) Ordinance 1977 (Act No. 51, 1977)***

Assent date	9 December 1977
Commenced	1 January 1978 (s 2)

#### ***Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)***

Assent date	1 July 1978
Commenced	1 July 1978 (s 2)

#### ***Amendment of the Cemeteries Regulations (SL No. 84, 1982)***

Notified	31 December 1982
Commenced	31 December 1982

#### ***Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)***

Assent date	28 November 1983
Commenced	1 January 1984 (s 2)

#### ***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date	30 June 1993
Commenced	1 July 1993 (s 2)

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***Amendment of Cemeteries Regulations (SL No. 37, 1995)***

Notified	8 November 1995
Commenced	8 November 1995

***Births, Deaths and Marriages Registration (Consequential Amendments) Act 1996 (Act No. 27, 1996)***

Assent date	28 June 1996
Commenced	1 January 1997 (s 2)

**Amending Legislation**

***Statute Law Revision Act 1998 (Act No. 11, 1998)***

Assent date	30 March 1998
Commenced	30 March 1998

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

s 8 *Transfer of Powers (Self-Government) Ordinance 1978* (Act No. 54, 1978)

**4 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the list of amendments to this reprint) are made by section 11 of the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: regulations 3, 4, 8, 12, 13, 14, 16, 18, 19, 21, 22, 23, 24, 26, 28, 36 and Schedule.

**5 LIST OF AMENDMENTS**

r 6	amd No. 3, 1968, r 2; Act No. 51, 1977, s 4; Act No. 54, 1978, s 6; Act No. 28, 1993, s 3(2)
r 7	sub No. 3, 1968, r 3 amd Act No. 54, 1978, s 6
r 13	amd Act No. 51, 1977, s 4; Act No. 54, 1978, s 6
r 16	sub No. 3, 1968, r 4 amd Act No. 27, 1996, s 7(2)
r 19	amd No. 37, 1995
r 19A	ins No. 84, 1982, r 1
r 25	rep No. 3, 1968, r 5
r 34	amd No. 3, 1968, r 6
r 34A	ins No. 3, 1968, r 7
r 35	amd No. 3, 1968, r 8
r 36A	ins Act No. 68, 1983, s 54
sch	amd No. 3, 1968, r 9