

Forestry Regulation 2012

As at 1 January 2013

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Forestry Act 2012*.

Minister for Primary Industries

Explanatory note

The object of this Regulation is to make provision with respect to the following matters under the *Forestry Act 2012*:

- (a) the control and management of forestry areas (ie State forests, timber reserves and flora reserves), including the control of fires and camping,
- (b) applications for licences, forest permits and forest leases and machinery matters relating to licences, permits and leases,
- (c) requiring persons who are contracted to harvest timber to hold a contractor licence issued by the Forestry Corporation,
- (d) the branding of timber,
- (e) miscellaneous offences, including interfering with timber harvesting or hauling equipment in forestry areas,
- (f) miscellaneous machinery matters that are required to give effect to the *Forestry Act 2012*.

This Regulation is made under the *Forestry Act 2012*, including section 92 (the general regulation-making power).

Clause 15 of Schedule 3 to the *Forestry Act 2012* provides that Part 2 (Requirements regarding the making of statutory rules) of the *Subordinate Legislation Act 1989* is taken to apply to the first regulation made under the *Forestry Act 2012* as if the Minister administering the *Subordinate Legislation Act 1989* had given a certificate under section 6 (1) (b) of that Act with respect to the regulation.

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Forestry Regulation 2012*.

2 Commencement

This Regulation commences on 1 January 2013 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation: "**contractor licence**" means a contractor licence issued under clause 35. "**machine**" means any device powered by an internal combustion engine, and includes a motor vehicle, a stationary engine, a chainsaw, or any felling, logging, welding or road making equipment. "**road**" includes a track, trail, bridge or causeway. "**the Act**" means the *Forestry Act 2012*. "**timber harvesting or hauling equipment**" means any equipment, plant, machinery or vehicle used in the felling, cutting, pushing, pulling, lifting or hauling of timber. "**use**" a machine includes operate or control the

machine. "**Western Division**" has the same meaning as in the *Crown Lands Act 1989*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Control and management of forestry areas

Division 1 – Control of forestry areas generally

4 Persons to leave forestry area when requested by authorised officer

(1) A person who:

(a) enters or remains in a forestry area in contravention of the Act or this Regulation, or

(b) while in a forestry area:

(i) causes inconvenience to any other person in the area, or

(ii) otherwise contravenes the Act or this Regulation,

must, on being requested to do so by an authorised officer, leave the area, or a part of the area, specified by the officer.

(2) Without limiting subclause (1), an authorised officer may request a person to leave a forestry area if:

(a) in the area:

(i) forestry operations are in progress, or

(ii) a bush fire is burning, or

(iii) in the opinion of the authorised officer, conditions of high fire danger exist, or

(iv) the Corporation is undertaking deliberate or controlled burning of any kind, or

(v) very wet or windy conditions exist, or

(vi) a road has been damaged, or

(vii) a road needs maintenance or protection as a result of adverse weather, and

(b) the authorised officer believes that:

(i) those activities or conditions constitute a danger or potential danger to the safety of persons or property, or

(ii) there is likely to be conflict with other uses of the area by other persons, or

(iii) there is a risk of a significant adverse impact on the area.

(3) The Corporation may erect or cause to be erected such enclosures, gates or ramps as it considers necessary for the purpose of preventing or restricting the entry of persons into the forestry area concerned.

(4) A person who fails to comply with a request under this clause is guilty of an offence.

Maximum penalty: 20 penalty units.

(5) Subclause (4) applies to a person irrespective of any provisions of a licence, forest permit or forest lease that the person holds in relation to the forestry area concerned.

(6) A person is guilty of an offence under this clause only if the authorised officer when making the request:

(a) discloses to the person that he or she is an authorised officer, and

(b) informs the person that failure to comply with the request is an offence under this Regulation.

(7) The reference in subclause (3) to the Corporation includes, in the case of a forestry area that is managed by a land manager other than the Corporation, a reference to that other land manager.

5 Removal of persons from forestry area

(1) An authorised officer may remove from a forestry area a person:

(a) who has entered or is remaining in the area in contravention of the Act or this Regulation, or

- (b) who is causing a nuisance or inconvenience to other persons in the area, or
 - (c) who otherwise contravenes the Act or this Regulation,
- and who fails to leave the area after being requested to do so by the officer.
- (2) The removal of a person under this clause does not prevent the person from being charged with an offence under clause 4.

6 Control of persons, vehicles and machines in forestry area

(1) The Corporation may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area, prohibit any one or more of the following from entering the area or a part of the area specified in the notice:

- (a) all persons or persons of a class,
- (b) all vehicles or vehicles of a class,
- (c) all machines or machines of a class.

(2) Any such prohibition may be for an indefinite period or for such period or periods as are specified in the notice.

(3) The Corporation may erect or authorise the erection of such enclosures, gates or ramps as it considers necessary for the purposes of such a prohibition.

(4) A person who, without the prior written permission of the Corporation:

- (a) enters a forestry area, or
- (b) drives a vehicle into a forestry area, or
- (c) drives a machine into a forestry area, or
- (d) having entered a forestry area, remains in, drives a vehicle in, or drives or uses a machine in, the area,

in contravention of a notice displayed in accordance with subclause (1) is guilty of an offence. Maximum penalty: 20 penalty units.

(5) The Corporation may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area or a part of a forestry area, fix the maximum speed at which any vehicle or machine, or any vehicle or machine of a class specified in the notice, may be driven in that area or that part of an area.

(6) A person who drives a vehicle or machine in a forestry area in excess of the speed specified in a notice displayed in accordance with subclause (5) is guilty of an offence. Maximum penalty: 20 penalty units.

(7) A person who drives or parks a vehicle in a forestry area is guilty of an offence if the vehicle is required by law:

- (a) to be registered but is not registered, or
- (b) to display a valid registration label but does not display any such label, or
- (c) to have a number-plate or registration plate but has no number-plate or registration plate or has its number-plate or registration plate covered or obscured.

Maximum penalty: 20 penalty units.

(8) Subclause (7) does not apply in relation to a vehicle that is timber harvesting or hauling equipment.

(9) In this clause: "**drive**" a vehicle or machine, includes ride, take or place the vehicle or machine. "**number-plate**" means a number-plate issued:

- (a) under the *Road Transport (Vehicle Registration) Act 1997*, or
- (b) by a competent authority of another jurisdiction.

"**registered**" means registered:

- (a) under the *Road Transport (Vehicle Registration) Act 1997*, or
- (b) by a competent authority of another jurisdiction, or
- (c) in New South Wales under the *Interstate Road Transport Act 1985* of the Commonwealth.

"**registration plate**" means a registration plate issued:

- (a) under the *Recreation Vehicles Act 1983*, or
- (b) by a competent authority of another jurisdiction.

"vehicle" includes a caravan or other trailer.

(10) A reference in this clause to the Corporation includes, in the case of a forestry area that is managed by a land manager other than the Corporation, a reference to that other land manager.

7 Reservation of forestry area for separate or exclusive use

(1) The Corporation may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area, reserve the area, for such periods as it thinks fit, for separate or exclusive use for any one or more of the following purposes:

- (a) recreational use and enjoyment,
- (b) enabling any person to exercise a right or privilege conferred by a licence, forest permit, forest lease or other authority issued or granted by the Corporation,
- (c) enabling any exercise or activity to be carried on by members of the Australian Defence Force,
- (d) enabling the Corporation to exercise any of its functions.

(2) The Corporation may erect or authorise the erection of such enclosures, gates or ramps as it considers necessary for the purposes of such a reservation.

(3) A person who, without the prior permission of the Corporation, enters or remains in an area set aside under this clause for separate or exclusive use is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) A reference in this clause to the Corporation includes, in the case of a forestry area that is managed by a land manager other than the Corporation, a reference to that other land manager.

8 Dangerous activities and damaging forests and reserves

(1) A person who, while in a forestry area, engages in any activity or recreational pursuit that involves risking the safety of the person or the safety of other persons or damaging the environment is guilty of an offence. Maximum penalty: 20 penalty units.

(2) Without limiting the generality of subclause (1), the activities and recreational pursuits to which that subclause applies include abseiling, base jumping, bungy jumping, rock climbing, caving, parachuting, white water boating, paragliding, parasailing and hang gliding.

(3) A person who, while in a forestry area:

- (a) causes damage to, interferes with or destroys vegetation (other than timber), or
- (b) obstructs, damages or interferes with a road or a drainage structure associated with a road, or
- (c) damages, obstructs or interferes with a drainage feature such as a watercourse or a drainage line, or
- (d) in a manner that does not involve committing an offence under section 38 (1) (b) of the Act--interferes with forest materials other than forest materials that are part of a road, or
- (e) erects a fence or other obstruction, or
- (f) obstructs or interferes with the flow of water in a watercourse, or
- (g) causes damage to, defaces, interferes with, destroys or removes a standard, sign, notice, barrier or device erected by the Corporation, or
- (h) causes damage to, defaces or destroys a building, enclosure, dam or other structure, or plant or equipment, of the Corporation or a lessee or licensee of the Corporation,

is guilty of an offence. Maximum penalty: 20 penalty units.

(4) However, an offence is not committed under this clause if the act in question:

- (a) is done with the prior written consent of the Corporation, or
- (b) is authorised by a licence, forest permit, forest lease or other authority issued or granted under the Act or this Regulation or under any other law.

(5) Damage caused to a road is not an offence under subclause (3) (b) if it was a natural

consequence of travelling over the road in accordance with any direction contained in a notice or control sign.

(6) In this clause: "**drainage structure**" includes a drain, drop down structure and dissipater, road drainage pipe, culvert and cross bank.

(7) A reference in this clause to the Corporation includes, in the case of a forestry area that is managed by a land manager other than the Corporation, a reference to that other land manager.

Division 2 – Fire

9 Definitions

In this Division:

"**fire**" means combustion of any kind, whether burning gas, liquid or solid fuel.

"**fireplace**" means the site or location in which a fire is lit, and includes a naturally occurring site or a fixed or portable barbecue.

"**flammable matter**" includes vegetable matter whether it is still growing or not.

"**light a fire**" in a forestry area includes light, maintain or use a fire in a forestry area, or cause a fire to be lit, maintained or used in a forestry area.

10 Lighting fire prohibited in forestry area

A person who lights a fire in a forestry area, other than in accordance with clause 11, is guilty of an offence.

Maximum penalty: 20 penalty units.

11 Authorised circumstances in which fire may be lit

(1) An employee of the Corporation may light a fire in a forestry area in the execution of the employee's duty.

(2) A person may light a fire in a forestry area if authorised to do so by a forest permit or by an authorised officer.

(3) A person may light a fire in a forestry area if the fire is in a part of a building, caravan or other vehicle, being a part that is specially constructed for containing a fire.

(4) A person may light a fire in a forestry area for preparing meals, for boiling water, for personal warmth, for repairing tools or for another similar purpose but only if:

(a) the site of the fire at any point is at least 4.5 metres from the nearest log, stump or tree, and the ground within 2 metres of the site of the fire at all points is cleared of all flammable matter, and

(b) the fire is lit in a fireplace of a kind approved by an authorised officer.

(5) A person may light a fire in a forestry area for the purpose of clearing trees, grass or other vegetation or material or for burning a firebreak but only if:

(a) the person has obtained authority to do so from an authorised officer, and

(b) the fire is lit in accordance with the conditions specified by an authorised officer.

(6) A person may light a fire in a forestry area for the purpose of processing timber, forest products or forest materials (but not for the purpose of destroying waste resulting from the processing of timber, forest products or forest materials) but only if the land within a minimum of 30 metres distance (or such other distance as may be specified or allowed by an authorised officer in the particular case) of all points of the site of the fire:

(a) has been cleared of all flammable matter, and

(b) is kept cleared of that matter until the fire has been extinguished.

- (7) A person may light a fire in a forestry area for the purpose of destroying waste resulting from the processing of timber, forest products or forest materials but only if:
- (a) the fire is lit in an incinerator from which the escape of all sparks and incandescent and burning material is prevented, or
 - (b) if an authorised officer is satisfied that such an incinerator is not available--the fire is lit with the permission of and in accordance with the written conditions specified by that officer.
- (8) The reference in subclause (1) to the Corporation includes, in the case of a forestry area that is managed by a land manager other than the Corporation, a reference to that other land manager.

12 Extinguishing fire in forestry area

- (1) A person who lights a fire in a forestry area must not leave the site of the fire, temporarily or otherwise, unless:
- (a) the fire is extinguished, or
 - (b) another person has undertaken to remain at that site to tend or extinguish the fire, or
 - (c) an authorised officer directs or permits the person to leave the site of the fire.
- (2) A person does not contravene subclause (1) merely because the person leaves the site of the fire temporarily in order to report the escape or escalation of the fire to a member of staff of the land manager of the forestry area or to obtain help.
- (3) A person who lights a fire in a forestry area must, if directed to do so by an authorised officer, take all reasonable steps to extinguish the fire.
- (4) A person who lights a fire in a forestry area must, if the fire escapes from the site at which it was lit or escalates so as to endanger any other person or any property, immediately take all reasonably practicable measures to ensure that the fire is extinguished.
- (5) A person who contravenes a provision of this clause is guilty of an offence. Maximum penalty: 20 penalty units.

13 Leaving lighted tobacco product or match in forestry area

A person who leaves or deposits in a forestry area a lighted cigarette or other lighted tobacco product or a lighted match is guilty of an offence.

Maximum penalty: 20 penalty units.

14 Use of machine in forestry area

- (1) A person who in a forestry area drives or uses a machine is guilty of an offence unless:
- (a) a spark arrester that is in a serviceable condition is securely fixed to the exhaust of the machine, and
 - (b) the fuel, electrical and braking systems and all combustion chambers, manifolds, exhaust pipes and expansion chambers of the machine and their joints are in all respects in safe working order, and
 - (c) the machine is free of surplus oil, dust impregnated with oil and vegetable matter.

Maximum penalty: 20 penalty units.

- (2) Subclause (1) (a) does not apply in respect of a motor vehicle.

15 Storage of liquid fuel in forestry area

- (1) A person who, while in a forestry area, stores liquid fuel is guilty of an offence unless the fuel is stored:
- (a) under, or for the purposes of carrying out an activity authorised by, a licence, forest permit, forest lease or other authority issued or granted under the Act or this Regulation, and

- (b) in accordance with any conditions relating to the storage of liquid fuel imposed by the licence, permit, lease or other authority.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to liquid fuel stored in the fuel tank of a machine.

16 Refuelling machine near flammable matter

A person must not, while in a forestry area, refuel a machine except at a location at which the ground is clear of all flammable matter for a distance of at least 1.5 metres from every part of the machine.

Maximum penalty: 20 penalty units.

17 Stopping dangerous operations in forestry area

- (1) An authorised officer who believes that a machine:
 - (a) that is in such mechanical condition as to create a danger of fire is being used in a forestry area, or
 - (b) is being used in such a way as to create a danger of fire in a forestry area,may direct the person who is using the machine to stop using it until such time as an authorised officer considers it can be safely used without creating such a danger.
- (2) A person who fails to comply with a direction under this clause is guilty of an offence. Maximum penalty: 20 penalty units.

18 Fire prevention measures in forestry area

- (1) If a building or group of buildings are located in a forestry area and are used in connection with forestry operations, the person who is carrying on the forestry operations must:
 - (a) ensure that a fire trail or fire break, that is cleared of all flammable matter to a width of not less than 4.5 metres, surrounds the building or group of buildings, and
 - (b) ensure that the fire trail or fire break is adequately maintained, and
 - (c) ensure that such burning (or such other protective operations in the vicinity of the building or group of buildings) as an authorised officer may direct from time to time is carried out, and
 - (d) ensure that:
 - (i) all flammable matter lying within 1.5 metres of the building or group of buildings is removed, and
 - (ii) the area is kept clear of all flammable matter.
- (2) A person who fails to comply with this clause is guilty of an offence. Maximum penalty: 20 penalty units.
- (3) In this clause: "**building**" includes a hut, tent, caravan or temporary dwelling.

19 Stopping certain activities in forestry area

- (1) An authorised officer may direct a person to stop carrying on an activity in a forestry area if the officer believes that the weather conditions are such that continuation of the activity is likely to cause the ignition or the spread of fire.
- (2) A person who is given such a direction is guilty of an offence if the person:
 - (a) fails to immediately comply with the direction, or
 - (b) resumes the activity before an authorised officer permits the activity to be resumed.

Maximum penalty: 20 penalty units.

- (3) This clause applies to a person to whom a direction under this clause is given even if the direction is inconsistent with the conditions or limitations specified in a licence, forest permit, forest lease or other authority issued or granted to the person under the Act or this Regulation.

- (4) A person is guilty of an offence under this clause only if the authorised officer when giving the direction:

- (a) discloses to the person that he or she is an authorised officer, and
- (b) informs the person that failure to comply with the direction is an offence under this Regulation.

20 Duties of holder of licences etc in forestry area

- (1) A person who holds a licence, small quantity authorisation, forest permit or forest lease that is issued or granted in respect of a forestry area:
 - (a) must take all reasonable precautions to prevent unauthorised damage by fire to the area, and
 - (b) must, on becoming aware of an outbreak of fire within the area, ensure that the outbreak is immediately reported to an employee of the Corporation, and
 - (c) must attempt to extinguish the fire or, if it cannot be extinguished, must attempt to prevent the fire from spreading.
- (2) A person who fails to comply with a requirement of this clause is guilty of an offence. Maximum penalty: 20 penalty units.
- (3) The reference in subclause (1) to the Corporation includes, in the case of a forestry area that is managed by a land manager other than the Corporation, a reference to that other land manager.

Division 3 – Camping

21 Camping in forestry area

- (1) The land manager of a forestry area may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of the forestry area:
 - (a) prohibit persons from camping in the area, or
 - (b) permit persons to camp in the area but only in accordance with conditions specified in the notice.
- (2) An authorised officer may give directions, in relation to any one or more of the following, to a person who is camping or proposing to camp in the forestry area:
 - (a) the number of persons who are allowed to camp,
 - (b) the duration for which camping in that area is allowed,
 - (c) the location and removal of the camp.
- (3) Directions under subclause (2) must not be inconsistent with the conditions specified in any notice displayed in relation to the area concerned.
- (4) A person who contravenes:
 - (a) a prohibition or conditions specified in a notice displayed in accordance with subclause (1), or
 - (b) a direction given in accordance with subclause (2),is guilty of an offence. Maximum penalty: 20 penalty units.

22 Charges for camping in forestry area

- (1) The land manager of a forestry area:
 - (a) may impose and collect charges for camping in the area, and
 - (b) may display notices at or in the vicinity of a road that provides access to the area to the effect that persons are prohibited from camping in the area unless they have paid to the land manager the required camping charge.
- (2) A person must not, if a notice is displayed in accordance with subclause (1) in relation to a forestry area, camp in the area unless the required camping charge has been paid to the land manager of the forestry area. Maximum penalty: 20 penalty units.
- (3) A court may, in addition to imposing a penalty for a contravention of this clause, make an order for the payment of the charge to which the contravention relates.

Part 3 – Licences, forest permits and forest leases

Division 1 – Applications and machinery matters

23 Definition

In this Division:

"licence" includes a contractor licence.

24 Application for licence

- (1) An application for a licence may be lodged at:
 - (a) the office of the Corporation located in the area to which the application relates, or
 - (b) any other place approved by the Corporation.
- (2) An application for a licence must:
 - (a) be in the form approved by the Corporation, and
 - (b) be accompanied by such application fee as may be determined by the Corporation.
- (3) Despite subclauses (1) and (2) (a), an application for a clearing licence to clear trees from Crown-timber land in the Western Division (other than Crown-timber land that is a State forest or timber reserve):
 - (a) is to be lodged at the office of the Western Lands Commissioner, and
 - (b) is not required to be in the approved form but must be made in writing.

25 Application for forest permit or forest lease

- (1) An application for a forest permit or forest lease may be lodged at:
 - (a) the office of the land manager of the forestry area to which the application relates, or
 - (b) any other place approved by the land manager.
- (2) An application for a forest permit or forest lease must be made in the form approved by the land manager of the forestry area to which the application relates.
- (3) An application for a forest lease must be accompanied by such application fee as may be determined by the land manager concerned. The fee for issuing a forest permit is determined by the relevant land manager under section 60 (1) of the Act.

26 Requirement for additional information

- (1) The Corporation may require an applicant for a licence to provide it with such further particulars with respect to the application as it considers necessary to determine the application.
- (2) The land manager of a forestry area may require an applicant for a forest permit or forest lease that relates to the area to provide the land manager with such further particulars with respect to the application as the manager considers necessary to determine the application.
- (3) The Corporation or land manager may refuse an application for a licence, or for a forest permit or forest lease, if a requirement under subclause (1) or (2) (as the case requires) is not complied with within a reasonable period.

27 Refusal to issue or grant licence, forest permit or forest lease

- (1) The Corporation may refuse to issue a licence for any reason that it considers appropriate.
- (2) The land manager of a forestry area may refuse to issue a forest permit, or to grant a forest lease, for any reason that the land manager considers appropriate.
- (3) Without limiting subclause (1) or (2), the Corporation or the land manager of forestry area may refuse to issue or grant a licence, forest permit or forest lease unless the applicant has deposited with the Corporation or the land manager (as the case requires) an amount of money as a guarantee for the payment of any amount (other than a penalty) that may become payable to the Corporation or land manager as a consequence of a contravention of any of the conditions or limitations of the licence, permit or lease.

28 Form of licence, forest permit or forest lease

- (1) A licence is, subject to subclause (2), to be in the form approved by the Corporation.
- (2) A timber licence, forest products licence or forest materials licence must describe the

locality from which the relevant timber, forest products or forest materials specified in the licence is or are authorised to be taken.

(3) A forest permit or forest lease is to be in the form approved by the land manager who issued or granted the permit or lease.

29 Variation of licence, forest permit or forest lease

(1) The Corporation may, by notice in writing served on the holder of a licence, add conditions or limitations to, or vary or revoke any existing conditions or limitations of, the licence.

(2) The land manager of a forestry area may, by notice in writing served on the holder of a forest permit or forest lease issued or granted by the land manager, add conditions or limitations to, or vary or revoke any existing conditions or limitations of, the permit or lease.

(3) However, any conditions or limitations added or varied under subclause (1) or (2) are void in so far as they are inconsistent with conditions or limitations of the licence, forest permit or forest lease concerned imposed by the Act or by this Regulation.

(4) A notice served under this clause may be served personally or by post but is not effective until 1 month after the day of service.

30 Transfer of licence, forest permit or forest lease

(1) An application for the Corporation's consent to the transfer of a timber licence, forest products licence or forest materials licence must:

- (a) be made in the form approved by the Corporation, and
- (b) be lodged at the office of the Corporation located in the area to which the application relates or at any other place approved by the Corporation, and
- (c) be accompanied by such fee as may be determined by the Corporation, and
- (d) be accompanied by any duty payable in relation to the transfer.

Section 39 (4) of the Act provides that a licence cannot be transferred except with the consent of the Corporation.

(2) An application for a land manager's consent to the transfer of a forest permit or forest lease issued or granted by the land manager must:

- (a) be made in the form approved by the land manager, and
- (b) be lodged at the office of the land manager or any other place approved by the land manager, and
- (c) be accompanied by such fee as may be determined by the land manager, and
- (d) be accompanied by any duty payable in relation to the transfer.

Sections 61 (8) and 62 (6) of the Act provide that a forest permit or forest lease cannot be transferred except with the consent of the land manager.

(3) The Corporation or the land manager may require the licence, forest permit or forest lease concerned to be lodged with the application or at some later time.

(4) An application under this clause may be withdrawn at any time before the Corporation or land manager notifies the transferor that the consent has been granted or refused.

(5) The withdrawal of an application under this clause must be in writing.

(6) If an application is withdrawn, the Corporation or the land manager may retain all or part of any fee for the application towards meeting any costs incurred in dealing with the application.

(7) The Corporation or the land manager is to notify the applicant in writing that the consent has been granted or refused (as the case may be).

31 Refusal of consent to transfer of licence, forest permit or forest lease

(1) The Corporation may refuse to give consent to the transfer of a licence for any reason that it considers appropriate.

(2) The land manager of a forestry area may refuse to give consent to the transfer of a forest permit or forest lease for any reason that the land manager considers appropriate.

(3) Without limiting subclause (1) or (2), the Corporation or the land manager of forestry area may refuse to give consent to the transfer of a licence, forest permit or forest lease in respect of which the transferor owes any amount of money to the Corporation or the land manager unless the Corporation or the land manager is satisfied that arrangements have been made for the payment of that amount.

32 Recording of consent to transfer

(1) If the Corporation consents to the transfer of a licence, it must record the consent by an appropriate endorsement:

- (a) either on the licence or by attaching to the licence a document containing the endorsement, and
- (b) in the records of the Corporation.

(2) If the land manager of a forestry area consents to the transfer of a forest permit or forest lease, the land manager must record the consent by an appropriate endorsement:

- (a) either on the permit or lease (as the case requires) or by attaching to the permit or lease a document containing the endorsement, and
- (b) in the records of the land manager.

33 Application to obtain duplicate licence, forest permit or forest lease

(1) A person may apply in writing to the Corporation for a duplicate licence if the licence held by the person has been lost or destroyed.

(2) If a forest permit or forest lease issued or granted by the land manager of a forestry area has been lost or destroyed, the person to whom the permit or lease was issued or granted may apply in writing to the land manager for a duplicate permit or lease.

(3) The Corporation or land manager may charge a fee for the issue of a duplicate licence, forest permit or forest lease.

(4) On receipt of an application under this clause, the Corporation or land manager must issue the applicant with a duplicate of the licence, forest permit or forest lease if satisfied that:

- (a) the licence, forest permit or forest lease concerned has been lost or destroyed, and
- (b) the applicant is the person entitled to hold that licence, permit or lease, and
- (c) any fee charged for the issue of the duplicate has been paid.

Division 2 – Contractor licences

34 Contractor licence required to harvest timber

(1) A person who is the holder of a relevant licence must ensure that every timber contractor who is engaged to harvest timber for the purpose of the licence is the holder of a contractor licence. Maximum penalty: 20 penalty units.

(2) A timber contractor who is engaged:

- (a) by the holder of a relevant licence, or
- (b) by the Corporation under an agreement to harvest timber,

must not harvest timber, or authorise or direct another person to harvest timber, for the purpose of the licence or under the agreement unless the timber contractor is the holder of a contractor licence. Maximum penalty: 20 penalty units.

(3) In this clause: "**engaged**" means engaged under a contract for the performance of services. "**harvest timber**" means cut, obtain or remove timber, forest products or forest materials. "**relevant licence**" means a timber licence, forest products licence or forest materials licence. "**timber contractor**" means a person who operates as a contractor to harvest timber and who engages or employs one or more other persons to perform the work involved.

35 Corporation may issue contractor licences

The Corporation may issue a contractor licence for such period, and subject to such conditions and limitations, as it thinks fit.

36 Suspension and cancellation of contractor licences

The Corporation:

- (a) may suspend a contractor licence if it believes on reasonable grounds that a condition or limitation of the licence has been contravened, and
- (b) may cancel the licence if, after giving the holder of the licence an opportunity to be heard, it finds that the condition or limitation has been contravened.

Division 3 – Special provisions relating to clearing licences

37 Fee to meet costs of supervising clearing operations

- (1) The Corporation may, as a condition of issuing a clearing licence to clear trees, require the payment of a fee to meet the costs to be incurred in supervising the operations to be undertaken under the licence.
- (2) The fee is to be an amount in accordance with a scale determined by the Corporation, but must not exceed \$1,000.

38 Licence holder may conduct further clearing operations

- (1) This clause applies if:
 - (a) the Corporation has issued a clearing licence authorising the clearing of trees on Crown-timber land located in the Eastern and Central Division or on a State forest or timber reserve located in the Western Division, and
 - (b) further work is proposed to be carried out within 10 years from the date of issue of the licence for the purpose of keeping the land concerned cleared of trees.
- (2) The holder of a clearing licence may carry out the work referred to in subclause (1) if the holder:
 - (a) notifies the Corporation, before starting the work, of the holder's intention to carry out the work, and
 - (b) carries out the work in accordance with any directions given by an authorised officer.
- (3) In this clause: "**Eastern and Central Division**" has the same meaning as in the *Crown Lands Act 1989*.

Part 4 – Branding of timber

39 Timber to be branded

- (1) A person who removes timber from land on which it was cut or obtained is guilty of an offence unless the timber:
 - (a) has been branded with the owner's brand and the letters "PP", or
 - (b) has been marked or identified in some other manner directed or approved by the Corporation for the purposes of this clause.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to the removal of timber from Crown-timber land.

40 Offence to misrepresent brands

A person who:

- (a) applies the letter "P", or causes that letter to be applied, to timber cut or obtained on Crown-timber land, or
 - (b) represents timber to be, or not to be, timber cut or obtained on Crown-timber land knowing that the timber has not or has been so cut or obtained,
- is guilty of an offence.

Maximum penalty: 20 penalty units.

41 Misuse of Corporation's brands

- (1) The brands comprising a broad arrow, and a broad arrow with the letters "FC" or

"RP" (with or without numbers or other symbols), are to be used by employees of the Corporation and persons acting with the authority of the Corporation, for the purposes of branding timber obtained from Crown-timber land.

(2) A person, other than a person referred to in subclause (1), who uses, for the purpose of branding timber:

(a) a brand specified in subclause (1), or

(b) any brand that consists partly of a brand so specified,

is guilty of an offence. Maximum penalty: 20 penalty units.

42 Unlawfully making, using or possessing branding instruments

(1) A person who, without the approval of the Corporation:

(a) uses or has possession of an instrument designed for use by employees of the Corporation for the purpose of branding timber, or

(b) makes, uses or has possession of an instrument purporting to be an instrument so designed,

is guilty of an offence. Maximum penalty: 20 penalty units.

(2) This clause does not apply to an employee of the Corporation.

43 Defacing brands

(1) A person who defaces, destroys or removes an identifying brand comprising a broad arrow (with or without letters, numerals or other symbols) that has been branded or marked on timber (including a tree or tree stump) by or at the direction of an employee of the Corporation is guilty of an offence. Maximum penalty: 20 penalty units.

(2) This clause does not apply to a person who is lawfully processing the timber.

Part 5 – Miscellaneous offences

44 Payment of resource acquisition fee or purchase price

(1) The holder of a timber licence, forest products licence or forest materials licence, or the purchaser of timber or timber products under an agreement with the Corporation, must pay to the Corporation the amount of resource acquisition fee due under the licence, or the purchase price payable under the agreement:

(a) within the period specified in any account issued by the Corporation that requires payment of that amount or purchase price, or

(b) within such extended period as the Corporation may allow.

(2) A person who, being the holder of a timber licence, forest products licence or forest materials licence, or the purchaser of timber or timber products under an agreement with the Corporation, fails to comply with subclause (1) is guilty of an offence. Maximum penalty: 20 penalty units.

45 Removing certain timber without Corporation's permission

(1) A person who is entitled:

(a) to take timber or products on or from Crown-timber land otherwise than under the authority of a timber licence or forest products licence, and

(b) to use the timber or forest products for the purpose of building or fencing or any other purpose,

may remove the timber or forest products from that land, but only with the written permission of the Corporation.

(2) A person referred to in subclause (1) who removes timber or products from Crown-timber land otherwise than in accordance with that subclause is guilty of an offence. Maximum penalty: 20 penalty units.

(3) In giving permission for the removal of timber or products, the Corporation may impose such conditions and limitations as it considers appropriate.

46 Failure to comply with directions of authorised officer

(1) A person to whom an authorised officer gives a direction:

(a) relating to the taking of timber or forest products by the person on or from

Crown-timber land, or
(b) relating to the taking of forest materials by the person from a State forest, must comply with the direction.

(2) A person who, without reasonable excuse, fails to comply with this clause is guilty of an offence. Maximum penalty: 20 penalty units.

47 Approaching or interfering with certain operations

(1) A person who:

(a) approaches within 100 metres of timber harvesting or hauling equipment being operated by a person in a forestry area, or

(b) interferes with timber harvesting or hauling equipment in a forestry area,

is guilty of an offence. Maximum penalty: 20 penalty units.

(2) A person who is an authorised person does not commit an offence under this clause.

(3) In this clause: "**authorised person**" means:

(a) an employee of the Corporation, or

(b) a person acting under the authority of a lease, licence, permit, delegation or other authority issued or granted by the Corporation, or

(c) an authorised officer, or

(d) a police officer, or

(e) a member of staff of any of the following while exercising functions as such a member of staff:

(i) the Office of Environment and Heritage,

(ii) the Department of Primary Industries,

(iii) the Department of Planning and Infrastructure,

(iv) the Office of the Environment Protection Authority.

"**interfere with**" timber harvesting or hauling equipment includes obstructing, defacing, climbing onto, or attaching something to, the equipment.

48 Failure to provide information

(1) An authorised officer may require a person who deals with timber, forest products or forest materials to provide the Corporation with a statement in the form approved by the Corporation:

(a) giving details of the quantity and description of timber, forest products or forest materials dealt with, or hewn, sawn or otherwise treated, or transported or consigned by road, rail or water by the person concerned during a specified period, and

(b) disclosing the land (whether Crown-timber land, other Crown land or other land) from which the timber, forest products or forest materials has or have been cut, obtained, removed or taken delivery of, and the place to which the timber, forest products or forest materials were consigned.

(2) A person of whom such a requirement is made must comply with the requirement within the period specified by the authorised officer who made the requirement.

(3) The person must also, if requested to do so by an authorised officer, support the statement with a statutory declaration as to its accuracy.

(4) A person who:

(a) without reasonable excuse, fails to comply with a requirement or request made under this clause, or

(b) in purporting to comply with the requirement or request, makes a statement that is, to the person's knowledge, false or misleading in a material respect,

is guilty of an offence. Maximum penalty: 20 penalty units.

(5) In this clause, "**deals with**", in relation to timber, forest products or forest materials, includes dealing with them by cutting, obtaining, removing or taking delivery of them.

49 Failure to provide forestry statistics

(1) The Corporation may, by notice in writing, require a person who is engaged in

dealing in timber or forest products to provide the Corporation with a statement showing the quantity and description of timber or forest products that the person has dealt with during the period specified in the request.

(2) A person to whom such a requirement is made must comply with the requirement within the period specified by the Corporation.

(3) A person who:

(a) without reasonable excuse, fails to comply with a requirement made under this clause, or

(b) in purporting to comply with the requirement, makes a statement that is, to the person's knowledge, false or misleading in a material respect,

is guilty of an offence. Maximum penalty: 20 penalty units.

(4) In this clause, "**dealing in**" includes buying, selling, milling and treating.

50 Contravening conditions or limitations of authorities

Any person who contravenes a condition or limitation of a licence, forest permit, forest lease or other authority issued or granted under the Act or this Regulation is guilty of an offence.

Maximum penalty: 20 penalty units.

Part 6 – Miscellaneous provisions

51 Information or other matter to be included in management plans for State forests

For the purposes of section 21 (3) of the Act, a management plan must contain the ecologically sustainable forest management strategy to be adopted by the Corporation in relation to the State forest to which the plan applies.

52 State forests, special management zones and flora reserves to be named and numbered

The Corporation must ensure that each of the following has a distinctive name and number:

(a) every State forest (including a State forest constituted under section 14 (4) of the Act),

(b) every special management zone,

(c) every flora reserve (whether or not the reserve comprises land dedicated as a State forest).

53 Public access to plans

The Corporation must ensure that copies of management plans for State forests and of the working plans for flora reserves, together with any amendments of such plans, are made publicly accessible on the website of the Corporation.

54 Delegation of certain functions

For the purposes of section 47 of the Act, the Corporation may delegate its functions under the Act and this Regulation:

(a) relating to the issuing of clearing licences (except in respect of State forests and timber reserves) to persons appointed as authorised officers under section 34 of the *Native Vegetation Act 2003*, and

(b) relating to the issuing of small quantity authorisations to any of the following persons or bodies:

(i) a public servant,

(ii) a police officer,

(iii) an officer or employee of a local council,

(iv) an employee or agent of Australia Post,

(v) an authority (within the meaning of the *Rural Lands Protection Act 1998*) or member of staff of the Livestock Health and Pest Authorities Division of the

Government Service.

55 Delegation of Minister's function of appointing authorised officers

For the purposes of section 90 of the Act, the chief executive officer of the Corporation is authorised as a person to whom the Minister may delegate the exercise of the following functions of the Minister:

- (a) the appointment under section 70 of the Act of employees of the Corporation as authorised officers,
- (b) the issuing of identification cards under section 72 of the Act to such authorised officers (including the signing of any such card).

56 Penalty notice offences

- (1) Each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence for the purposes of section 85 (1) of the Act.
- (2) For the purposes of section 85 (3) (a) of the Act, the prescribed amount of penalty for an offence dealt with under section 85 of the Act is the amount specified in Column 2 of Schedule 1 in relation to that offence.
- (3) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is prescribed as a penalty notice offence only if it is an offence of a kind so specified or only if it is committed in the circumstances so specified.

57 Period for dedicating land after objection to purchase

For the purposes of clause 4 (3) of Schedule 1 to the Act, the prescribed period is 12 months.

58 Prescribed form for releasing land from profit À prendre

For the purposes of clause 8 (1) of Schedule 1 to the Act, the prescribed form is the form set out in Schedule 2.

59 Savings

Any act, matter or thing that, immediately before the repeal of the *Forestry Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clause 56)

Column 1	Column 2
Offence	Penalty (\$)
	Forestry Act 2012
Section 38	100
Section 67	100
Section 68	500
	Forestry Regulation 2012
Clause 4 (4)	100
Clause 6 (4), (6) or (7)	100
Clause 7 (3)	100
Clause 8 (1) or (3)	100
Clause 10	550
Clause 12 (5)	250
Clause 13	350

Clause 14	350
Clause 15	250
Clause 16	250
Clause 17	550
Clause 18	250
Clause 19	550
Clause 20	550
Clause 21 (4)	100
Clause 22	100
Clause 34 (1) or (2)	100
Clause 39	100
Clause 40	100
Clause 41	100
Clause 42	100
Clause 43	100
Clause 45	100
Clause 46	100
Clause 47	1,000
Clause 50 (in the case of a timber licence or contractor licence)	1,000
Clause 50 (in any other case)	100

Schedule 2 Form

(Clause 58)

Forestry Act 2012

Certificate of release of land from profit Ã prendre

The land described below is land in respect of which a profit Ã prendre as to the timber and forest products on that land has been reserved to the Crown under clause 5 of Schedule 1 to the *Forestry Act 2012*. The Forestry Corporation of New South Wales now certifies, in accordance with clause 8 (1) of Schedule 1 to that Act, that the land is free from the profit Ã prendre.

Description of the land

Parish:

County:

Area:

Lot:

Deposited plan no:

Reference to title

Incomplete purchase no:

Land Division of:

Folio identifier:

Date:

Signature:

(For the Forestry Corporation of New South Wales)

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Forestry Regulation 2012 (681)*. LW 21.12.2012. Date of commencement, 1.1.2013, cl 2.