

Authorised Version No. 001
Forests (Licences and Permits)
Regulations 2019

S.R. No. 130/2019

Authorised Version as at
7 December 2019

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Part 1—Preliminary

1 Objectives

The objectives of these Regulations are to prescribe—

- (a) certain acts which may not be done within State forests without a licence, permit or authority; and
- (b) the manner in which applications for licences and permits granted under section 52 of the **Forests Act 1958** must be made, and the terms and conditions of those licences and permits; and
- (c) the mode of branding of forest produce.

2 Authorising provision

These Regulations are made under section 99 of the **Forests Act 1958**.

3 Commencement

These Regulations come into operation on 7 December 2019.

4 Revocation

The Forests (Licences and Permits) Regulations 2009¹ are **revoked**.

5 Definitions

In these Regulations—

agistment licence or permit means a licence or permit to graze cattle under agistment granted under section 52(1A)(b) of the Act;

bull means an uncastrated male bovine over 9 months old;

grazing licence or permit means a licence or permit to graze cattle granted under section 52(1A)(a) of the Act;

the Act means the **Forests Act 1958**.

Part 2—Offences

6 Offences within State forest

- (1) In this regulation—

experimental area means an area in which scientific monitoring is undertaken for research purposes;

experimental equipment means an object or class of objects used to undertake scientific monitoring.

- (2) Within a State forest, a person must not, without the written authority of the Secretary—

(a) leave without properly closing and fastening a gate, slip, panel or portion of any fence within or on the boundary of the forest; or

(b) damage, destroy or remove a gate, panel, rail, cattle ramp, cattle pit or the hinge, lock, catch or fastening on a gate or gate post.

Penalty: 20 penalty units.

- (3) Within a State forest, a person must not, without the written authority of the Secretary, fell a tree which bears an inscribed survey mark or deface such a mark.

Penalty: 20 penalty units.

- (4) Within a State forest, a person must not, without the written authority of the Secretary, enter into and upon or remain in an experimental area, tree nursery, plantation or portion thereof which is fenced if the person knew or ought reasonably to have known that entry was prohibited.

Penalty: 20 penalty units.

- (5) Within a State forest, a person must not, without the written authority of the Secretary, damage or interfere with or hinder the operation of any experimental equipment used in connection with research activities.

Penalty: 20 penalty units.

- (6) Within a State forest, a person must not, without the written authority of the Secretary, sell or offer for sale any goods, things or services.

Penalty: 20 penalty units.

- (7) The Secretary may give written authority to a person or persons to do any one of the things otherwise prohibited by subregulation (2), (3), (4), (5) or (6).

- (8) A written authority given under subregulation (7)—

- (a) must state the acts or things to which it relates and the person or class of persons to whom it applies; and
- (b) is subject to any conditions specified in the written authority.

7 Entry of cattle into reserved forest

- (1) An owner or person in charge of cattle must not enter any part of a reserved forest with cattle or allow cattle to remain in any part of a reserved forest except in accordance with—

- (a) a licence or permit issued under the Act; or
- (b) a temporary permit issued under subregulation (2).

Penalty: 20 penalty units.

- (2) The Secretary may issue a temporary permit that—
- (a) authorises an owner or person in charge of cattle to do the following—
 - (i) enter a reserved forest, or part of a reserved forest, with cattle;
 - (ii) allow cattle to remain in any part of a reserved forest; and
 - (b) is subject to any conditions specified in the temporary permit.
- (3) The holder of a temporary permit referred to in subregulation (2) must comply with the restrictions and conditions set out in that temporary permit.

Penalty: 20 penalty units.

Part 3—Licences and permits

8 Applications for licences and permits

- (1) An application for a licence or permit under section 52 of the Act must be made to the Minister in the form approved by the Minister.
- (2) An application must—
 - (a) include the name and address of the applicant; and
 - (b) specify the purpose for which the licence or permit is required; and
 - (c) specify the area for which the licence or permit is required; and
 - (d) if requested by the Minister, specify any additional information relating to the application.

9 Conditions of all licences and permits

- (1) It is a condition of a licence or permit granted under section 52 of the Act that the holder of that licence or permit must ensure that any damage to, or obstruction of, the following in the area for which the licence or permit is granted that is caused by the holder or their employee is rectified by the holder at the holder's own expense to the satisfaction of, and within the time specified by, the Minister—
 - (a) a road;
 - (b) a track;
 - (c) a fire break;
 - (d) a culvert;
 - (e) a drain;
 - (f) a water race;
 - (g) a dam;

- (h) a building;
 - (i) a bridge;
 - (j) any other structure.
- (2) It is a condition of a licence or permit granted under section 52 of the Act that the holder of the licence or permit must ensure that any obstruction or pollution of any reservoir, river, stream or watercourse in the area for which the licence or permit is granted caused by the holder of the licence or permit or their employees is rectified by the holder of the licence or permit at their own expense to the satisfaction of, and within the time specified by, the Minister.
- (3) It is a condition of a licence or permit granted under section 52 of the Act that the holder of the licence or permit must pay to the Minister on demand, or by any date specified in the licence or permit, all royalties, dues, fees or charges determined by the Minister and payable in respect of the licence or permit.
- (4) It is a condition of a licence or permit granted under section 52 of the Act that the holder of the licence or permit must not, without the authority in writing of the Minister, sow any seed or attempt any cultivation or pasture improvement in the area for which the licence or permit is granted.
- (5) It is a condition of a licence or permit granted under section 52 of the Act that the holder of the licence or permit must not use any poison, insecticide or agricultural spray in the area for which the licence or permit is granted except in accordance with the written authority of the Minister.

- (6) It is a condition of a licence or permit granted under section 52 of the Act that—
- (a) the holder of the licence or permit must not, without the authority in writing of the Minister, construct or alter any landing, building, fence, gate, ramp, dam or other structure or improvement in the area for which the licence or permit is granted; and
 - (b) if such an authority has been granted by the Minister, the holder of the licence or permit must ensure that any landing, building, fence, gate, ramp, dam or other structure or improvement is constructed in accordance with the directions of the Minister.

10 Conditions of licences and permits to cut, dig or take away forest produce

- (1) It is a condition of a licence or permit granted under section 52 of the Act to cut, dig or take away forest produce that the holder of the licence or permit must ensure that only those trees, or groups of trees, that the Minister has branded or otherwise specified are felled or otherwise cut, dug or taken.
- (2) It is a condition of a licence or permit granted under section 52 of the Act to cut, dig or take away forest produce that the holder of the licence or permit must ensure that any requirements of the Minister with regard to the removal or disposal of any structure, debris, materials or residue arising from the cutting, digging or taking away of forest produce by the holder of the licence or permit in the location specified in the licence or permit are carried out to the satisfaction of, and within the time specified by, the Minister.

- (3) It is a condition of a licence or permit granted under section 52 of the Act to cut, dig or take away forest produce that the holder of the licence or permit must provide any information relating to the cutting, digging and taking away of forest produce that is requested in writing by the Minister, within 14 days of receiving the Minister's written request.

Note

It is an offence against the Act for the holder of a licence or permit granted under section 52 of the Act to fail to comply with a prescribed condition of that licence or permit: see section 52(4) of the Act.

11 Conditions of licences and permits to cut and take away forest produce

It is a condition of a licence or permit granted under section 52 of the Act to cut and take away forest produce that the holder of the licence or permit must comply with the requirements of the Code of Practice approved under the **Conservation, Forests and Lands Act 1987** and called the Code of Practice for Timber Production 2014 as amended from time to time.

Note

It is an offence against the Act for the holder of a licence or permit granted under section 52 of the Act to fail to comply with a prescribed condition of that licence or permit: see section 52(4) of the Act.

12 Declarations permitting holders of licences or permits to cut, dig or take away forest produce

- (1) The Minister at any time may request the holder of a licence or permit to cut, dig or take away forest produce granted under section 52 of the Act to make a declaration under this regulation.

- (2) A request under subregulation (1) must—
- (a) be in writing; and
 - (b) specify the period to which the declaration is to relate.
- (3) On receiving a request under subregulation (1), the holder of a licence or permit to cut, dig or take away forest produce granted under section 52 of the Act must—
- (a) make the declaration in a form approved by the Minister; and
 - (b) include in the declaration in respect of the specified period—
 - (i) the quantity and description of the forest produce cut, dug or taken away by the holder of the licence or permit; and
 - (ii) the marking or identification of that forest produce; and
 - (iii) the location from which that forest produce was taken; and
 - (iv) the place or places to which that forest produce is consigned.

Penalty: 10 penalty units.

- (4) The holder of a licence or permit to cut, dig or take away forest produce granted under section 52 of the Act must provide a declaration under this regulation to the Minister within 14 days after receiving a request under subregulation (1).

Penalty: 10 penalty units.

- (5) The holder of a licence or permit to cut, dig or take away forest produce granted under section 52 of the Act must not make a false or misleading statement in a declaration under this regulation.

Penalty: 10 penalty units.

13 Conditions of grazing licences and permits and agistment licences and permits

- (1) It is a condition of a grazing licence or permit and an agistment licence or permit that the holder of the licence or permit must not admit cattle or allow cattle to be admitted to an area of reserved forest unless prior notice has been given to an authorised officer.
- (2) It is a condition of a grazing licence or permit and an agistment licence or permit that the holder of the licence or permit must not admit a bull or allow a bull to be included amongst the cattle admitted to an area of reserved forest.
- (3) It is a condition of a grazing licence or permit and an agistment licence or permit that the holder of the licence or permit must notify the Minister within 14 days following the removal of any cattle from an area of reserved forest.
- (4) It is a condition of a grazing licence or permit and an agistment licence or permit that before any cattle are admitted to an area of reserved forest, the holder of the licence or permit must advise the Minister in writing of—
- (a) the number; and
 - (b) the sex; and
 - (c) the identification marks—
- of those cattle.

- (5) It is a condition of a grazing licence or permit and an agistment licence or permit that the holder of the licence or permit must obtain the written authority of the Minister before mustering any cattle that are depastured in an area of reserved forest.
- (6) It is a condition of a grazing licence or permit and an agistment licence or permit that the holder of the licence or permit must meet any costs associated with mustering or removal of any cattle that are depastured in an area of reserved forest.

Note

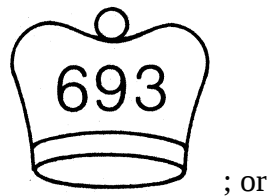
It is an offence against the Act for the holder of a licence or permit granted under section 52 of the Act to fail to comply with a prescribed condition of that licence or permit: see section 52(4) of the Act.

Part 4—Brands for forest produce

14 Brands for forest produce

For the purposes of section 99(24) of the Act, the brands to be used by authorised officers for the purpose of branding or marking forest produce are—

- (a) a crown brand with a number as illustrated—



- (b) a broad arrow brand as illustrated—



15 Use of crown brand

For the purposes of section 99(8) of the Act, an authorised officer may use the crown brand described in regulation 14(a)—

- (a) to mark trees as an indication that felling of those trees is approved; or
- (b) to indicate the release of forest produce which has been seized under the Act; or
- (c) to indicate that the removal of forest produce from State forest has been authorised under the Act; or
- (d) to indicate that a log has been graded by an authorised officer.

16 Use of broad arrow brand

For the purposes of section 99(8) of the Act, an authorised officer may use the broad arrow brand set out in regulation 14(b)—

- (a) to mark trees in a timber harvesting area which are not to be felled; or
- (b) to indicate forest produce which has been seized under the Act; or
- (c) to indicate that forest produce lawfully cut or obtained is not to be removed until the brand is obliterated with the crown brand by any authorised officer.

17 Licensee's brand

For the purposes of section 99(8) of the Act, the holder of a licence or permit to cut and take away forest produce granted under section 52 of the Act, if required to do so by the Secretary, must submit a distinctive brand for registration with the Secretary.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Forests (Licences and Permits) Regulations 2019, S.R. No. 130/2019 were made on 3 December 2019 by the Governor in Council under section 99 of the **Forests Act 1958**, No. 6254/1958 and came into operation on 7 December 2019; regulation 3.

The Forests (Licences and Permits) Regulations 2019 will sunset 10 years after the day of making on 3 December 2029 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

2 Table of Amendments

There are no amendments made to the Forests (Licences and Permits) Regulations 2019 by statutory rules, subordinate instruments and Acts.

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Reg. 4: S.R. No. 166/2009.

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 2019 is \$165.22.

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.

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 130/2019 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 11	Code of Practice for Timber Production 2014 published by the Department of Environment and Primary Industries under Part 5 of the Conservation, Forests and Lands Act 1987, as amended from time to time	The whole