

Authorised Version No. 130

Forests Act 1958

No. 6254 of 1958

Authorised Version incorporating amendments as at
12 September 2018

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Forests Act 1958

No. 6254 of 1958

Authorised Version incorporating amendments as at
12 September 2018

An Act to consolidate the Law for the Management and
Protection of State Forests.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

1 Short title and commencement

This Act may be cited as the **Forests Act 1958**,
and shall come into operation on a day to be fixed
by proclamation of the Governor in Council
published in the Government Gazette.

2 Repeals and savings

- (1) The Acts mentioned in the First Schedule to this
Act to the extent thereby expressed to be repealed
are hereby repealed accordingly.
- (2) Except as in this Act expressly or by necessary
implication provided—
 - (a) all persons things and circumstances
appointed or created by or under either of the
repealed Acts or existing or continuing under
either of such Acts immediately before the
commencement of this Act shall under and
subject to this Act continue to have the same
status operation and effect as they

respectively would have had if such Acts had not been so repealed;

- (b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status operation or effect of any proclamation regulation order application determination direction lease licence permit authority appointment covenant condition notice excision dedication acquisition map plan fee liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under either of such Acts before the commencement of this Act; nor shall such repeal affect the Commonwealth and States Financial Agreements Acts or any liability in respect of any advance made under the **State Forests (Timber Salvage) Loan and Application Act 1939**.

No. 6073 s. 3.

3 Definitions

- (1) In this Act, unless inconsistent with the context or subject-matter—

accepted recommendation means—

S. 3(1) def. of *accepted recommendation* inserted by No. 19/2018 s. 103(a).

- (a) in relation to a report under section 23 or 26E of the **Victorian Environmental Assessment Council Act 2001**—
- (i) the most recent Government response to the report published under section 25(4) or 26G(4) of that Act (if any); or
- (ii) if such a Government response has been amended by an amendment published under section 26(5) or 26H(5) of that

Act, that most recent response as amended; or

- (b) if there is no response to which paragraph (a)(i) or (ii) applies, the most recent (if any) relevant recommendation of the Land Conservation Council under section 5(1) of the **Land Conservation Act 1970** (as in force immediately before its repeal) applying to the land, of which notice has been given by the Governor in Council under section 10(3) of that Act (as so in force);

Act includes any regulation thereunder;

applicable work program means a work program (within the meaning of the **Emergency Management Act 2013**) that applies to the Secretary;

S. 3(1) def. of *applicable work program* inserted by No. 73/2010 s. 48, amended by No. 73/2013 s. 85(a).

appointed land, in relation to a Traditional Owner Land Management Board, has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *appointed land* inserted by No. 62/2010 s. 115(1).

authorised officer means a person appointed as an authorised officer for the purposes of this Act under—

S. 3(1) def. of *authorised officer* inserted by No. 41/1987 s. 103(Sch. 4 item 24.1), substituted by No. 68/2016 s. 166.

- (a) Part 9 of the **Conservation, Forests and Lands Act 1987**; or
- (b) Part 3 of the **Victorian Fisheries Authority Act 2016**;

S. 3(1) def. of
*bee site
licence area*
inserted by
No. 12/2016
s. 20.

bee site licence area has the same meaning as it
has in the **Land Act 1958**;

S. 3(1) def. of
*bee site
licensee*
inserted by
No. 12/2016
s. 20.

bee site licensee has the same meaning as it has in
the **Land Act 1958**;

S. 3(1) def. of
*campfire or
barbeque*
inserted by
No. 82/2009
s. 33.

campfire or barbeque means a fire lit or kindled
for the purpose of preparing meals or
providing personal comfort, and includes a
fire lit or kindled in an appliance designed
and manufactured for cooking or heating;

cattle includes bulls cows oxen heifers calves
steers horses mares geldings colts fillies
asses mules pigs rams wethers ewes lambs
goats and kids;

S. 3(1) def. of
*Central Plan
Office*
inserted by
No. 60/2005
s. 34,
amended by
No. 70/2013
s. 4(Sch. 2
item 20.1),
repealed by
No. 53/2017
s. 76.

* * * * *

S. 3(1) def. of
Chairman
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.3).

* * * * *

*	*	*	*	*	S. 3(1) def. of <i>Chief Administrator</i> inserted by No. 41/1987 s. 103(Sch. 4 item 24.2), repealed by No. 76/1998 s. 10(1)(a)(i).
<i>Chief Fire Officer</i> means the person employed under section 61A;					
*	*	*	*	*	S. 3(1) def. of <i>Chief Fire Officer</i> inserted by No. 73/2010 s. 48.
<i>declared area</i> has the same meaning as in the Planning and Environment Act 1987 ;					
*	*	*	*	*	S. 3(1) defs of <i>Commission</i> and <i>Commissioner</i> repealed by No. 41/1987 s. 103(Sch. 4 item 24.3).
<i>Department</i> has the same meaning as in the Conservation, Forests and Lands Act 1987 ;					
*	*	*	*	*	S. 3(1) def. of <i>Department</i> amended by No. 10087 s. 3(1)(Sch. 1 item 73(a)), substituted by No. 41/1987 s. 103(Sch. 4 item 24.4).
*	*	*	*	*	S. 3(1) def. of <i>Director-General</i> inserted by No. 41/1987 s. 103(Sch. 4 item 24.5), repealed by No. 76/1998 s. 10(1)(a)(i).

S. 3(1) def. of
*Emergency Management
Commissioner*
inserted by
No. 73/2013
s. 85(b).

Emergency Management Commissioner has the same meaning as it has in section 3 of the **Emergency Management Act 2013**;

S. 3(1) def. of
fallen or felled trees
inserted by
No. 46/2012
s. 3(a).

fallen or felled trees includes parts of fallen or felled trees;

S. 3(1) def. of
film friendly principles
inserted by
No. 51/2014
s. 9(Sch. 2
item 4.1).

film friendly principles has the same meaning as in the **Filming Approval Act 2014**;

S. 3(1) def. of
film permit
inserted by
No. 51/2014
s. 9(Sch. 2
item 4.1).

film permit has the same meaning as in the **Filming Approval Act 2014**;

S. 3(1) def. of
fire protected area
amended by
No. 6976
s. 2(1)(c),
S.R. No.
258/1974
reg. 3,
Nos 8587
s. 2(1)(a)(i)(ii),
57/1995 s. 46.

fire protected area means any land which is—

- (a) within any State forest;
- (b) within any national park;
- (c) (unless excised pursuant to an Order under subsection (3) of this section or affected by a declaration made under subsection (4) of this section) within 1.5 kilometres of—
 - (i) any reserved forest or any area of unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment;

- (ii) any national park; or
- (iii) any protected public land;
- (d) within any protected public land;

fire services agency has the same meaning as in the **Emergency Management Act 2013**;

S. 3(1) def. of *fire services agency* inserted by No. 73/2010 s. 48, amended by No. 73/2013 s. 85(d).

* * * * *

S. 3(1) def. of *Fire Services Commissioner* inserted by No. 73/2010 s. 48, repealed by No. 73/2013 s. 85(c).

* * * * *

S. 3(1) def. of *fire services reform action plan* inserted by No. 73/2010 s. 48, repealed by No. 73/2013 s. 85(c).

firewood includes parts of trees made up into bundles stacks cords or loads or cut up in the manner in which it is usual to cut wood for burning and includes refuse wood generally;

firewood collection area means an area of State forest determined by the Secretary in accordance with section 57U to be a firewood collection area;

S. 3(1) def. of *firewood collection area* inserted by No. 46/2012 s. 3(a).

S. 3(1) def. of
*firewood
collection
season*
inserted by
No. 46/2012
s. 3(a).

firewood collection season, in relation to a
firewood collection area, means—

- (a) a period referred to in section 57S if the period has not been varied under section 57T; or
- (b) if the period referred to in section 57S has been varied under section 57T, the period as so varied;

S. 3(1) def. of
*forest
management
area*
inserted by
No. 82/1990
s. 3(a),
amended by
No. 76/1998
s. 10(1)(a)(iii),
repealed by
No. 48/2004
s. 109(a).

* * * * *

S. 3(1) def. of
forest officer
repealed by
No. 41/1987
s 103(Sch 4
item 24.6).

* * * * *

S. 3(1) def. of
*forest
produce*
amended by
No. 6976
s. 2(1)(a),
substituted by
No. 48/2004
s. 97(2)(a),
amended by
No. 46/2012
s. 3(b).

forest produce means—

- (a) all parts of trees or plants, including any parts below the ground;
- (b) the products of trees or plants, whether or not those products have become separated from those trees or plants prior to being harvested and includes—
 - (i) honey;
 - (ii) beeswax;

-
- (iii) oil distilled from any species of eucalypt;
- (iv) firewood;
- (c) stone, gravel, limestone, lime, salt, sand, loam, clay or brick-earth—
- but does not include—
- (d) gold, silver, metals or minerals; or
- (e) subject to any specific provision to the contrary, timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**;

*	*	*	*	*	S. 3(1) def. of <i>forest produce</i> amended by No. 6976 s. 2(1)(b), repealed by No. 48/2004 s. 97(2)(b).
*	*	*	*	*	S. 3(1) def. of <i>hardwood sawlog</i> inserted by No. 82/1990 s. 3(b), amended by No. 76/1998 s. 10(1)(a)(iv), repealed by No. 48/2004 s. 109(a).
*	*	*	*	*	S. 3(1) def. of <i>hardwood sawlog supply level</i> inserted by No. 82/1990 s. 3(b), repealed by No. 48/2004 s. 109(a).

S. 3(1) def. of *incident management operating procedures* inserted by No. 73/2010 s. 48, substituted by No. 73/2013 s. 85(e).

incident management operating procedures has the same meaning as it has in section 3 of the **Emergency Management Act 2013**;

S. 3(1) def. of *Inspector-General for Emergency Management* inserted by No. 73/2013 s. 85(b).

inflammable material includes any sawdust offcuts bark stubble scrub or timber liable to be consumed by fire;

Inspector-General for Emergency Management has the same meaning as it has in section 3 of the **Emergency Management Act 2013**;

S. 3(1) def. of *joint management plan* inserted by No. 62/2010 s. 115(1).

joint management plan has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *land manager* inserted by No. 19/2018 s. 103(a).

land manager means—

- (a) for land that is Parks Victoria recorded land, Parks Victoria; or
- (b) for all other land, the Secretary;

S. 3(1) defs of *lease licence permit* or *authority* amended by Nos 41/1987 s. 103(Sch. 4 item 24.7), 76/1998 s. 10(1)(a)(iv), 19/2018 s. 103(b).

lease licence permit or *authority* means any lease licence permit or authority respectively granted under any Act by the Governor in Council or any Minister or under this Act by the Governor in Council, the Minister or the land manager or any person authorized by the Governor in Council, the Minister or the land manager in that behalf;

liquid fuel, gaseous fuel or chemical solid fuel includes any manufactured fuel which can be ignited;

S. 3(1) def. of *liquid fuel, gaseous fuel or chemical solid fuel* inserted by No. 82/2009 s. 33.

* * * * *

S. 3(1) defs of *Minister and Minister of Lands* repealed by No. 10087 s. 3(1)(Sch. 1 item 73(b)).

national park means land that is or is part of a park within the meaning of the **National Parks Act 1975**;

S. 3(1) def. of *national park* amended by No. 6976 s. 2(1)(d), substituted by No. 7065 s. 2(Sch.), amended by No. 8210 s. 13, substituted by No. 8702 s. 55(4).

Parks Victoria has the same meaning as in the **Parks Victoria Act 2018**;

S. 3(1) def. of *Parks Victoria* inserted by No. 19/2018 s. 103(a).

Parks Victoria recorded land has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *Parks Victoria recorded land* inserted by No. 19/2018 s. 103(a).

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

S. 3(1) def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 67.1).

prescribed means prescribed by this Act or any regulation thereunder;

S. 3(1) def. of
*prohibited
period*
amended by
Nos 6976
s. 2(1)(e), 8587
s. 2(1)(b).

prohibited period means—

- (a) with respect to any State forest protected public land or national park—the whole year;
- (b) with respect to any fire protected area other than a State forest protected public land or national park—a period declared by the Minister as hereinafter provided;

S. 3(1) def. of
*protected
forest*
amended by
Nos 6794 s. 5,
96/1994
s. 55(a).

protected forest includes all unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment and every unused road and every water frontage as defined in the **Land Act 1958**;

S. 3(1) def. of
*protected
public land*
inserted by
No. 8587
s. 2(1)(c),
amended by
Nos 9114
s. 22(a),
61/1993
s. 34(a),
35/1998
s. 15(1).

protected public land means any lands of the Crown not being within a State forest or a national park declared to be protected public land pursuant to the provisions of subsection (1) of section 62 of this Act or deemed to be protected public land pursuant to subsection (1A) of section 62;

S. 3(1) def. of
*reserved
forest*
substituted by
No. 6976
s. 2(1)(f).

regulations means regulations under this Act;

reserved forest means reserved forest within the meaning of subsection (1) of section forty-two of this Act;

scrub includes trees bushes plants and undergrowth of all kinds and sizes whether alive or dead and whether standing or not standing, and also includes any part of any such trees bushes plants or undergrowth whether severed or not severed;

Secretary means the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *Secretary* inserted by No. 76/1998 s. 10(1)(a)(ii).

solid fuel includes—

S. 3(1) def. of *solid fuel* inserted by No. 82/2009 s. 33.

- (a) vegetation, wood, coal, coke;
- (b) manufactured solid combustible material made from vegetation, wood, coal or coke, including but not limited to, paper, cardboard, sawdust or coal or coke by-products;

State Crisis and Resilience Council has the same meaning as it has in section 3 of the **Emergency Management Act 2013**;

S. 3(1) def. of *State Crisis and Resilience Council* inserted by No. 73/2013 s. 85(b).

State forest or ***forest*** includes reserved forests and protected forests;

Statement of Planning Policy has the same meaning as in the **Planning and Environment Act 1987**;

S. 3(1) def. of *Statement of Planning Policy* inserted by No. 17/2018 s. 13.

Strategic Action Plan has the same meaning as it has in section 3 of the **Emergency Management Act 2013**;

S. 3(1) def. of *Strategic Action Plan* inserted by No. 73/2013 s. 85(b).

stubble includes stubble hay straw and herbage whether alive or dead and whether standing or not standing;

S. 3(1) def. of *sustainable yield rate* inserted by No. 82/1990 s. 3(c), repealed by No. 48/2004 s. 109(a).

* * * * *

timber includes fallen trees felled trees and all wood whether sawn split hewn or otherwise fashioned;

S. 3(1) def. of *timber supply period* inserted by No. 82/1990 s. 3(d), repealed by No. 48/2004 s. 109(a).

* * * * *

S. 3(1) def. of *tour operator licence* inserted by No. 40/2009 s. 18.

tour operator licence means a licence granted under section 57F.

S. 3(1) def. of *traditional owner group entity* inserted by No. 62/2010 s. 115(1), amended as *traditional owner group* by No. 4/2013 s. 33(1).

traditional owner group has the same meaning as in the **Traditional Owner Settlement Act 2010**;

S. 3(1) def. of *Traditional Owner Land Management Board* inserted by No. 62/2010 s. 115(1).

Traditional Owner Land Management Board has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

tree or *trees* includes trees shrubs bushes
seedlings saplings and reshoots whether alive
or dead;

VicForests has the same meaning as it has in
section 3 of the **Conservation, Forests and
Lands Act 1987**;

S. 3(1) def. of
VicForests
inserted by
No. 48/2004
s. 97(1).

Victorian Plantations Corporation has the same
meaning as in the **Victorian Plantations
Corporation Act 1993**;

S. 3(1) def. of
*Victorian
Plantations
Corporation*
inserted by
No. 61/1993
s. 34(b).

working plan means a detailed scheme for the
control and regulation of the working of a
forest or any part thereof and for ensuring
the maintenance of a sustained yield of forest
produce therefrom;

S. 3(1) def. of
working plan
amended by
No. 49/2017
s. 76(1).

Yarra protection principles has the same meaning
as in the **Yarra River Protection (Wilip-gin
Birrarung murrong) Act 2017**;

S. 3(1) def. of
*Yarra
protection
principles*
inserted by
No. 49/2017
s. 76(2).

Yarra River land has the same meaning as in
the **Yarra River Protection (Wilip-gin
Birrarung murrong) Act 2017**;

S. 3(1) def. of
*Yarra River
land*
inserted by
No. 49/2017
s. 76(2).

Yarra Strategic Plan has the same meaning as
in the **Yarra River Protection (Wilip-gin
Birrarung murrong) Act 2017**;

S. 3(1) def. of
*Yarra
Strategic Plan*
inserted by
No. 49/2017
s. 76(2).

Yarra Strategic Plan area has the same meaning
as in the **Yarra River Protection (Wilip-gin
Birrarung murrong) Act 2017**.

S. 3(1) def. of
*Yarra
Strategic Plan
area*
inserted by
No. 49/2017
s. 76(2).

S. 3(2)
amended by
Nos 6976
s. 2(2), 8587
s. 2(2).

(2) The Minister may from time to time by notice published in the Government Gazette declare any period to be a prohibited period in respect of any fire protected area (other than a State forest protected public land or national park) and, without affecting the generality of the foregoing, may from time to time by notice so published declare different prohibited periods in respect of different parts of any fire protected area (other than a State forest protected public land or national park), and any declaration so made may subsequently be revoked amended or varied by the Minister by notice so published.

S. 3(3)
amended by
Nos 9417 s. 2,
10087 s. 3(1)
(Sch. 1
item 74).

(3) The Governor in Council may on the joint recommendation of the Minister and the Minister for Police and Emergency Services at any time by Order published in the Government Gazette excise from any fire protected area the whole or part of any urban fire districts proclaimed as such under the **Country Fire Authority Act 1958** or any corresponding previous enactment.

S. 3(4)(a)
inserted by
No. 6976
s. 2(3),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.8),
76/1998
s. 10(1)(b).

(4) (a) The Minister after consultation with the Secretary—

S. 3(4)(a)(i)
amended by
S.R. No.
258/1974
reg. 4,
No. 8587
s. 2(3).

(i) may from time to time by notice published in the Government Gazette declare that any land within 1.5 kilometres of any reserved forest or of any area of unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment or of any national park or of any protected

public land shall not be a fire protected area; and

(ii) may by notice so published revoke or from time to time amend or vary any declaration so made.

(b) No such declaration or revocation shall be made unless notice of the Minister's intention to make it has been given to the Minister for Police and Emergency Services not less than fourteen days before the making thereof and published in a newspaper circulating in the locality in which the land to be affected is situated.

S. 3(4)(b)
amended by
No. 9417 s. 2.

Note

Land under this Act may be the subject of a land use activity agreement within the meaning of Part 4 of the **Traditional Owner Settlement Act 2010**.

Note to s. 3
inserted by
No. 62/2010
s. 115(2).

3A Application of Road Management Act 2004

(1) A road under this Act is a road for the purposes of the **Road Management Act 2004** but is a public road for the purposes of that Act only if the road is a public road within the meaning it has in section 3(1) of the **Road Management Act 2004**.

S. 3A
inserted by
No. 12/2004
s. 157.

(2) The relevant road authority for the purposes of the **Road Management Act 2004** is, subject to any regulations for the purpose of section 37(1)(c) of the **Road Management Act 2004**—

(a) the person or body nominated for the purposes of this section in a notice published in the Government Gazette by the Minister administering this Act; or

(b) if no notice is published, the Secretary to the Department of Environment and Primary Industries.

S. 3A(2)(b)
amended by
No. 70/2013
s. 4(Sch. 2
item 20.2).

S. 3B
inserted by
No. 6/2010
s. 25(5)(Sch. 2
item 4) (as
amended by
No. 45/2010
s. 6).

3B Transport Integration Act 2010

This Act is interface legislation within the meaning of the **Transport Integration Act 2010**.

S. 3C
inserted by
No. 51/2014
s. 9(Sch. 2
item 4.2).

3C Filming Approval Act 2014

This Act is filming approval legislation within the meaning of the **Filming Approval Act 2014**.

S. 3D
inserted by
No. 67/2016
s. 31(1).

3D Traditional owner agreement for natural resources

- (1) If a traditional owner group entity has an agreement under Part 6 of the **Traditional Owner Settlement Act 2010**, any provision of this Act that provides for an offence for carrying out an agreed activity (other than a provision specified in subsection (2)) does not apply to a member of the traditional owner group—
 - (a) who is bound by the agreement; and
 - (b) who is carrying out an agreed activity to which the offence applies in accordance with the agreement and on land to which the agreement applies.
- (2) For the purposes of subsection (1) the following provisions are specified—
 - (a) section 63(1), (2), (4) and (6);
 - (b) section 64(2) and (4)(c);
 - (c) section 65(1) and (3);
 - (d) section 66;
 - (e) section 66A;
 - (f) section 66B;

- (g) section 67;
 - (h) section 68;
 - (i) section 75;
 - (j) section 95(2);
 - (k) section 95A.
- (3) For the purposes of this section—
- (a) a reference in subsection (1) to this Act does not include a reference to the regulations; and
 - (b) to avoid doubt, subsection (1) does not prevent a provision of the regulations from providing for an offence for carrying out an agreed activity.

S. 3D(3)
inserted by
No. 38/2017
s. 62.

Department of Conservation, Forests and Lands

Heading
preceding s. 4
substituted by
No. 10087
s. 3(1)(Sch. 1
item 75).

4 Forest produce is property of the Crown

- (1) All forest produce in State forest is the property of the Crown.
- (2) Property in forest produce only passes from the Crown to another person in accordance with this Act.

S. 4
amended by
No. 10087
s. 3(1)(Sch. 1
item
76(a)–(c)),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.9),
new s. 4
inserted by
No. 48/2004
s. 98.

- (2A) Despite subsection (2), forest produce that is nectar, honey or beeswax may pass from the Crown to another person in accordance with the **Land Act 1958**.

S. 4(2A)
inserted by
No. 12/2016
s. 21.

S. 4(3)
inserted by
No. 54/2010
s. 79.

- (3) A right of any person (other than the Crown) to property in forest produce does not include a carbon sequestration right within the meaning of the **Climate Change Act 2010**.

No. 6073 s. 5.

5 Business of the Secretary

S. 5(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.10),
76/1998
s. 10(1)(b).

- (1) The Secretary shall subject to this Act have the exclusive control and management of—

S. 5(1)(b)
amended by
No. 48/2004
s. 99(1).

- (a) all matters of forest policy;
- (b) subject to Part 4 of the **Sustainable Forests (Timber) Act 2004**, the granting issuing and enforcing of all leases licences permits or authorities under this Act or any corresponding previous enactment;

S. 5(1)(c)
amended by
No. 48/2004
s. 99(2).

- (c) subject to Part 4 of the **Sustainable Forests (Timber) Act 2004**, the collection and recovery of all rents fees royalties charges and revenue under this Act whether in respect of leases licences permits or authorities granted before or after the commencement of this Act; and

- (d) the administration generally of this Act.

S. 5(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.11),
repealed by
No. 97/2003
s. 3.

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S. 5(3)
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.12).

* * * * *

6 Minister, Secretary or Parks Victoria not to control mining

Apart from section 7, nothing in this Act shall be construed as giving to the Minister for the time being administering the **Conservation, Forests and Lands Act 1987**, the Secretary, Parks Victoria or any authorised officer any powers duties or authorities with regard to doing work as defined in the **Mineral Resources (Sustainable Development) Act 1990**.

No. 6073 s. 6.
S. 6 (Heading) inserted by No. 19/2018 s. 104(1).
S. 6 amended by Nos 10087 s. 3(1)(Sch. 1 item 77), 41/1987 s. 103(Sch. 4 items 24.13–24.15), 92/1990 s. 128(Sch. 1 items 12.1–12.3), 76/1998 s. 10(1)(b), 74/2000 s. 3(Sch. 1 item 52.1), 63/2006 s. 61(Sch. item 16), 19/2018 s. 104(2).

7 Restriction on cutting or removing timber or forest produce

- (1) Despite the **Mineral Resources (Sustainable Development) Act 1990** or any licence, right or authority under that Act, no person shall cut or remove any timber or forest produce in any State forest except in accordance with the regulations under this Act.

No. 6073 s. 7.
S. 7(1) amended by Nos 92/1990 s. 128(Sch. 1 item 12.4), 63/2006 s. 61(Sch. item 16).

S. 7(2)
amended by
Nos 6976 s. 3,
9936 s. 106(1),
6/1987
s. 5(1)(Sch.
item 5),
41/1987
s. 103(Sch. 4
item 24.16),
92/1990
s. 128(Sch. 1
items 12.5–
12.7), 76/1998
s. 10(1)(c)(i),
63/2006
s. 61(Sch.
item 16),
19/2018
s. 105(1).

- (2) Despite the **Mineral Resources (Sustainable Development) Act 1990** or any licence, right or authority under that Act the exercise of any rights to do work as defined in that Act within a State forest shall be subject to such conditions for the protection of the ecological condition of native forests as are prescribed or as the land manager considers appropriate to impose in any particular case.

S. 7(3)
inserted by
No. 86/1993
s. 41(1),
amended by
Nos 76/1998
s. 10(1)(c)(ii),
63/2006
s. 61(Sch.
item 16),
19/2018
s. 105(2).

- (3) The Minister must not submit to the Governor in Council regulations proposed to be made under subsection (1) or (2), and the land manager must not impose any conditions under subsection (2), that prohibit or restrict, or require any consent or other authority to, the carrying out of exploration or mining within the meaning of the **Mineral Resources (Sustainable Development) Act 1990** on any restricted Crown land within the meaning of that Act unless the Minister or the land manager (as the case requires) has consulted with the Minister administering that Act in relation to the content of the proposed regulations or conditions.

No. 6073 s. 8.

8 Power to Governor in Council to except certain areas from occupation under leases, licences etc.

- (1) The Governor in Council by notice published in the Government Gazette may—
- (a) except any reserved forest or any specified portion thereof from occupation under any lease licence permit or authority granted under this Act; and
 - (b) revoke or amend such notice.

- (2) Save to the extent to which such notice is amended no reserved forest or portion thereof so excepted and no lands included in the reserved forest or portion thereof so excepted shall after such exception be occupied or continue to be occupied under any such lease licence permit or authority under this Act until such exception is revoked.

* * * * *

Ss 9–17
repealed.¹

Powers and duties of the Secretary

Heading
preceding
s. 18
amended by
Nos 96/1994
s. 56(b),
74/2000
s. 3(Sch. 1
item 52.2).

18 General powers of Secretary and Parks Victoria

No. 6073 s. 18.

Subject to this Act the land manager shall protect State forests and shall have the control and management of—

S. 18
(Heading)
inserted by
No. 19/2018
s. 106(1).

- (a) State forests and plantations nurseries forest schools and industrial undertakings carried on under this Act and the forest produce of other Crown lands as provided in this Act; and

S. 18
amended by
Nos 9549
s. 2(1)(Sch.
item 63),
41/1987
s. 103(Sch. 4
item 24.18),
76/1998
s. 10(1)(d),
19/2018
s. 106(2).

- (b) the establishment maintenance improvement and renewal of forests plantations and tree-nurseries and the distribution of trees therefrom and all tree-planting—

S. 18(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.18).

S. 18(b)(ii)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 78),
12/2004
s. 158(1).

- (i) on Crown lands not vested in any corporation or trustees or not under the control or management of any council or committee of management; or
- (ii) on public roads (other than freeways and arterial roads within the meaning of the **Road Management Act 2004**)—

when such tree-planting is subsidized by grants from the Consolidated Fund or the Forestry Fund or by gifts of trees from the Government or the Secretary.

S. 18AA
inserted by
No. 19/2018
s. 107.

18AA Responsibilities of the Secretary in State forest that is Parks Victoria recorded land

Despite any other provision of this Act, the Secretary has responsibility for the following matters in any State forest that is Parks Victoria recorded land—

- (a) all matters relating to fire;
- (b) timber harvesting and the cutting or taking away of fallen or felled trees for domestic use as firewood;
- (c) the power to enter into an agreement under section 28.

S. 18A
(Heading)
inserted by
No. 19/2018
s. 108(1).

18A Secretary and Parks Victoria to manage reserve land

S. 18A
inserted by
No. 9280 s. 2.

S. 18A(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.19),
76/1998
s. 10(1)(d).

- (1) Where any land temporarily or permanently reserved under section 4 of the **Crown Land (Reserves) Act 1978** is placed under the control and management of the Secretary pursuant to

section 18(1) of that Act the Secretary shall control manage and use the land for the purposes for which it is reserved.

(1A) The Secretary must control, manage and use land placed under the control and management of the Secretary under section 18(1B) of the **Crown Land (Reserves) Act 1978** for the purposes for which it is reserved.

S. 18A(1A)
inserted by
No. 60/2005
s. 35(1).

(1B) Parks Victoria must control, manage and use land placed under the control and management of Parks Victoria under section 18(1B) of the **Crown Land (Reserves) Act 1978** for the purposes for which it is reserved.

S. 18A(1B)
inserted by
No. 19/2018
s. 108(2).

(2) Subject to this section—

S. 18A(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.19),
76/1998
s. 10(1)(d),
60/2005
s. 35(2).

(a) the provisions of this Act, other than sections 42(6), 42(8), 47 and 49; and

(b) any regulations applying to and in relation to reserved forests generally—

shall apply to and in relation to the land under the control and management of the Secretary under subsection (1) as if the land were reserved forest.

(2A) Subject to this section—

S. 18A(2A)
inserted by
No. 60/2005
s. 35(3),
amended by
Nos 54/2008
s. 24, 19/2018
s. 108(3).

(a) the provisions of—

(i) this Act, other than sections 42(6), 42(8), 47 and 49; and

(ii) the **Sustainable Forests (Timber) Act 2004**, other than Part 3; and

(iii) the **Safety on Public Land Act 2004**; and

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(b) any regulations made under those provisions of those Acts and any regulations applying to and in relation to reserved forest generally—

apply to and in relation to the land to which subsection (1A) or (1B) applies as if the land were reserved forest and as if the land has been set aside and declared to be a forest park under section 50.

S. 18A(3)
substituted by
No. 60/2005
s. 35(4).

(3) Section 51 applies to—

(a) any land to which subsection (1) applies as if section 51 authorises the granting of a lease for the use of a kiosk, cafe or store or for scientific research or for a ski tow but for no other purpose; and

S. 18A(3)(b)
amended by
No. 19/2018
s. 108(3).

(b) any land to which subsection (1A) or (1B) applies as if section 51 authorises the granting of a lease for any purpose that is not detrimental to the purpose for which the land is reserved.

S. 18A(3A)
inserted by
No. 60/2005
s. 35(5),
amended by
Nos 35/2010
s. 24(Sch. 6
item 2),
19/2018
s. 108(3).

(3A) Section 52 applies to the land to which subsection (1A) or (1B) applies as if section 52 does not authorise the granting of a licence under section 52(1A)(d), (e), (f) or (g) for the purposes of sawlog or pulpwood production.

S. 18A(3B)
inserted by
No. 60/2005
s. 35(5),
amended by
No. 19/2018
s. 108(3).

(3B) Section 21 applies to the land to which subsection (1A) or (1B) applies as if section 21 does not authorise the Secretary to exercise any of the Secretary's powers under section 21(1)(a), (b), (c) or (d) for the purposes of sawlog or pulpwood production.

- (4) Notwithstanding subsections (1) and (2), where land is subject to an accepted recommendation the Secretary may give effect to the recommendation even if the recommendation conflicts with the purpose for which the land is reserved.

S. 18A(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.19),
76/1998
s. 10(1)(d),
19/2018
s. 108(4).

18B Obligations of Secretary and Parks Victoria in relation to Yarra River land

S. 18B
(Heading)
amended by
No. 19/2018
s. 109(1).

S. 18B
inserted by
No. 49/2017
s. 77.

- (1) The land manager—

S. 18B(1)
amended by
No. 19/2018
s. 109(2).

- (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the land manager when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and

S. 18B(1)(a)
amended by
No. 19/2018
s. 109(2).

- (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the land manager, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.

S. 18B(1)(b)
amended by
No. 19/2018
s. 109(2).

- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the land manager in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**.

S. 18B(2)
amended by
No. 19/2018
s. 109(3).

S. 18C
inserted by
No. 17/2018
s. 14.

18C Obligations of Secretary in relation to declared areas

- (1) The Secretary, when performing a function or duty or exercising a power under this Act in relation to a declared area—
 - (a) must not act inconsistently with any part of a Statement of Planning Policy that is expressed to be binding on the Secretary; and
 - (b) must have regard to those parts of the Statement of Planning Policy not expressed to be binding on the Secretary; and
 - (c) must have regard to the principles set out in section 46AZL of the **Planning and Environment Act 1987**.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Secretary in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**.

No. 6073 s. 19.

19 Power to place forest produce on catchment areas under control of Secretary

- (1) The Governor in Council may by Order published in the Government Gazette direct that the forest produce on any catchment area now or hereafter managed or controlled by any Authority under the **Water Act 1989** shall with the consent of such Authority subject to such conditions as the Governor in Council thinks fit be placed under the control and management of the Secretary.

S. 19(1)
amended by
Nos 6976
s. 4(a),
41/1987
s. 103(Sch. 4
item 24.20),
81/1989
s. 3(Sch. item
17.1), 76/1998
s. 10(1)(d).

S. 19(2)
inserted by
No. 6976
s. 4(a),
repealed by
No. 48/2004
s. 100(1).

* * * * *

**20 Other powers and duties of Secretary and Parks
Victoria**

(1) Subject to this Act the Secretary shall out of the moneys available for the purpose make provision for the following, namely—

- (a) the preparation and carrying out of all forest surveys including such as are necessary for the demarcation of forests and for working plans;
- (b) plans works and plant for the establishment maintenance improvement and renewal of natural forests and plantations of indigenous and exotic trees and plants and for harvesting timber-crops and other forest produce and for the prevention and suppression of fires within fire protected areas;
- (c) plans works and plant for the utilisation of forest produce for the market and for the conversion manufacture and sale of forest produce and by-products thereof;

* * * * *

- (d) the preparation and issue of plans and publications for the advancement of forestry generally and for the encouragement of tree-planting on municipal and private land;
- (e) the training of authorised officers the conduct of research work and the collection of statistics in connexion with forestry; and

(ea) the promotion of technical knowledge in relation to any aspect of forestry;

No. 6073 s. 20.

S. 20
(Heading)
inserted by
No. 19/2018
s. 110(1).
S. 20
amended by
Nos 9861
s. 3(1),
41/1987
s. 103(Sch. 4
item 24.21),
31/1994
s. 3(Sch. 1
item 30.1),
76/1998
s. 10(1)(d),
19/2018
s. 110(2) (ILA
s. 39B(1)).

S. 20(1)(ca)
inserted by
No. 6976
s. 4(b)(i),
repealed by
No. 48/2004
s. 100(2).

S. 20(1)(e)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.22).

S. 20(1)(ea)
inserted by
No. 6976
s. 4(b)(ii).

S. 20(1)(g)
inserted by
No. 6976
s. 4(b)(iii),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.21),
76/1998
s. 10(1)(d).

- (f) the provision of facilities for public recreation and for the protection of native flora and fauna in State forests;
- (g) the promotion of good relations between the Secretary and the public.

S. 20(2)
inserted by
No. 19/2018
s. 110(2).

- (2) Subject to this Act, for Parks Victoria recorded land, Parks Victoria may make provision for the following out of the moneys available for the purpose—
 - (a) facilities for public recreation and for the protection of native flora and fauna in State forests; and
 - (b) the promotion of good relations between Parks Victoria and the public.

No. 6073 s. 21.

21 Special powers of Secretary and Parks Victoria

S. 21
(Heading)
inserted by
No. 19/2018
s. 111(1).

S. 21(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.23),
76/1998
s. 10(1)(e)(i).

- (1) Subject to this Act the Secretary may—
 - (a) permit the taking or converting of any timber or other forest produce in any State forest at not less than such minimum rates or amounts as are prescribed by or under this Act;
 - (b) take and sell any timber or forest produce in any State forest;
 - (c) convert any such timber into logs sawn timber or merchantable articles and sell the same;

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- (d) convert any such forest produce into merchantable articles and sell the same;
- (e) construct and maintain roads tracks and tramways and other works for the transport of timber, including timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, forest produce and merchantable articles and purchase tramways and other works for such purposes and operate tramways or works so constructed or purchased and purchase rent or charter and use vehicles and vessels with the necessary motive power;

S. 21(1)(e)
amended by
No. 48/2004
s. 101(1).

* * * * *

S. 21(1)(e)
Proviso
repealed by
No. 9765 s. 10.

* * * * *

S. 21(1)(ea)
inserted by
No. 8035 s. 3,
amended by
Nos 8587
s. 3(a), 9416
s. 2(1),
41/1987
s. 103(Sch. 4
item 24.23),
76/1998
s. 10(1)(e)(i),
repealed by
No. 19/2018
s. 111(2).

* * * * *

S. 21(1)(eb)
inserted by
No. 9416
s. 2(2),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.23),
76/1998
s. 10(1)(e)(ii),
repealed by
No. 19/2018
s. 111(2).

- (f) construct purchase or rent and operate sawmills and other mills and kilns and depots for seasoning timber and purchase or rent machinery and plant for the purposes of this section; and
- (g) purchase cattle and depasture them on State forests and sell such cattle.

S. 21(1AA)
inserted by
No. 48/2004
s. 101(2).

- (1AA) The Secretary must not exercise a power under subsection (1)(a), (b) or (c) in respect of vested timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**.

S. 21(1A)
inserted by
No. 8587
s. 3(b),
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.23,
24.24),
76/1998
s. 10(1)(e)(i),
substituted by
No. 19/2018
s. 111(3).

- (1A) Subject to this Act, the land manager, for any State forest, may—
- (a) close by the erection of barriers either temporarily or, with the approval of the Governor in Council, permanently, the whole or any part of a relevant road, track, tramway or other works; or
 - (b) subject to any conditions, limitations and restrictions as are prescribed or as the land manager considers appropriate to impose, permit the use of any closed relevant road, track, tramway or other works by specified persons or for specified purposes or both; or
 - (c) without limiting paragraph (a), may authorise any authorised officer, either generally or in a particular case, to close to vehicular traffic any relevant road, track, tramway or other works by the erection of barriers, if the authorised officer considers it to be dangerous for use by the public.

S. 21(1B)
inserted by
No. 19/2018
s. 111(3).

- (1B) For the purposes of subsection (1A), **relevant road, track, tramway or other works** means any road, track, tramway or other works—
- (a) constructed or maintained by the land manager; or

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- (b) under the control of the land manager.
- (2) The power to sell given by this section includes the power to sell by public auction or by tender or at not less than the rates or amounts prescribed by or under this Act.
- (3) The powers conferred on the Secretary under this Act to construct purchase or operate tramways shall notwithstanding anything in any Act include power—
- S. 21(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.23),
76/1998
s. 10(1)(e)(i).
- S. 21(3)(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.25).
- (a) to construct any such tramway or any part thereof on along or across any road or (where such tramway is proposed to be constructed wholly or partly on Crown land other than a State forest) on any route in or through such Crown land;
- (b) to purchase any such tramway constructed wholly or partly on along or across any road;
or
- (c) to operate any such tramway.
- * * * * *
- S. 21(4)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.23),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.26).
- (5) Notwithstanding anything in this section no tramway or part thereof (as the case may be) proposed to be constructed pursuant to this section along any road which is under the care and management of any municipal council shall be so constructed unless with the consent of the said council or (failing such consent being given within three months after the receipt by the council of an application therefor) of the Governor in Council.
- S. 21(5)
amended by
No. 13/1990
s. 40(a).

No. 6073 s. 22.

22 Working plans for State forests

S. 22(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.27),
76/1998
s. 10(1)(f)(i).

- (1) The Secretary—
 - (a) shall prepare and cause to be put into operation working plans with respect to the control, maintenance, improvement, protection from destruction or damage by fire or otherwise, and removal of forest produce in and from each State forest and any part thereof;
 - (b) may from time to time revise any such working plan and shall cause the revised working plan to be put into operation; and
 - (c) forthwith after the preparation or revision of any such working plan shall submit the same to the Minister.
- (2) Any such working plan shall specify the detailed plans for the protection of the area from fire and may specify—
 - (a) the maximum area from which forest produce may be taken annually;
 - (b) the maximum quantity of forest produce that may be disposed of annually;
 - (c) the silvicultural operations necessary to ensure the regeneration of the best species of forest trees on areas which have been cut over; and
 - (d) such other matters as the Secretary considers appropriate.

S. 22(2)(c)
amended by
Nos 6976
s. 4(c), 9549
s. 2(1)(Sch.
item 62).

S. 22(2)(d)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.27),
76/1998
s. 10(1)(f)(ii).

- (3) Subsection (1) does not apply to State forest that is Parks Victoria recorded land except for the following matters—
- (a) the protection from destruction or damage by fire or otherwise; or
 - (b) timber harvesting on the land and the harvesting is subject to an accepted recommendation.

S. 22(3)
inserted by
No. 19/2018
s. 112.

* * * * *

Ss 23–26
repealed.²

26A Power to establish board of forestry education

The Governor in Council may by regulations made under this Act establish a board of forestry education and the regulations shall provide for the inclusion of the nominees of the Secretary among the members of the board.

S. 26A
inserted by
No. 6976
s. 5(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.29),
76/1998
s. 10(1)(g).

26B Conduct of forestry schools and sharing of facilities

- (1) The Secretary may co-operate with any university or college of advanced or tertiary education in conducting forest schools or courses of education or training in forestry and may share with any such university or college any land, buildings or other facilities belonging to the Secretary or managed or controlled by the Secretary.
- (2) For the purposes of subsection (1) the Secretary may enter into any agreement or arrangement with any university or college with respect to the conduct of any forest school or course of education or training in forestry or for sharing any land, building or other facilities.

S. 26B
inserted by
No. 9417 s. 4.

S. 26B(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.30),
76/1998
s. 10(1)(g).

S. 26B(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.30),
76/1998
s. 10(1)(g).

(3) Every agreement or arrangement referred to in subsection (2) shall be in writing and shall be subject to such conditions, limitations and restrictions as are prescribed or the Minister thinks fit to impose.

S. 27
amended by
Nos 6976
s. 5(b)(i)(ii),
9019
s. 2(1)(Sch.
items 74, 76),
9416 s. 3,
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.31).

* * * * *

S. 27A
inserted by
No. 8035 s. 4.

27A Employment of persons who are not public servants

(1) The Secretary or any committee of management or other authority created by this Act may employ persons or classes of persons who are not employed under Part 3 of the **Public Administration Act 2004**.

S. 27A(1)
amended by
Nos 9019
s. 2(1)(Sch.
item 76),
41/1987
s. 103(Sch. 4
item 24.32),
substituted by
No. 76/1998
s. 10(2),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 83).

* * * * *

S. 27A(2)
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.33).

Heading
preceding
s. 28
repealed by
No. 96/1994
s. 56(c).

* * * * *

28 Management agreements with Traditional Owner Land Management Boards

- (1) The Secretary may enter into a management agreement with a Traditional Owner Land Management Board for or relating to—
 - (a) the management of any land that is reserved forest and that is appointed land of that Board; or
 - (b) the carrying out of specified functions, powers or duties in relation to the management of any land that is reserved forest and that is appointed land of that Board.
- (2) The Secretary must consult with Parks Victoria before entering into a management agreement under subsection (1) in relation to Parks Victoria recorded land.
- (3) In entering into a management agreement under subsection (1), the Secretary must have regard to any agreement entered into under Division 5 of Part 8A of the **Conservation, Forests and Lands Act 1987** in relation to the land.
- (4) If an agreement under subsection (1)—
 - (a) provides for a Traditional Owner Land Management Board to manage any land that is reserved forest and that would otherwise be managed by Parks Victoria under this Act or any other enactment, Parks Victoria does not have power to manage that land, to the extent of the agreement; or
 - (b) provides for a Traditional Owner Land Management Board to carry out any function, power or duty in relation to any land that is reserved forest and that would otherwise be carried out by Parks Victoria, Parks Victoria does not have power to carry

S. 28
amended by
No. 9019
s. 2(1)(Sch.
item 76),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.34),
new s. 28
inserted by
No. 82/2009
s. 34,
amended by
No. 62/2010
s. 116,
substituted by
No. 19/2018
s. 113.

out that function, power or duty, to the extent of the agreement.

- (5) Subsection (4) has effect despite any provision of this Act or any other enactment to the contrary.

Heading preceding s. 29 repealed by No. 96/1994 s. 56(c).

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S. 29 repealed by No. 41/1987 s. 103(Sch. 4 item 24.34), new s. 29 inserted by No. 73/2010 s. 49.

29 Power to authorise Chief Fire Officer to perform fire related activities

The Secretary may, in writing, authorise the Chief Fire Officer to perform any functions of the Secretary in respect of fire related activities in every State forest, national park or on protected public land.

Ss 30–37 repealed.³

* * * * *

Purchase or taking of lands

No. 6073 s. 38.

38 Power to acquire compulsorily land for certain forest purposes

S. 38(1) amended by Nos 7228 s. 7(Sch. 4 Pt 12(a)), 7674 s. 3(a), S.R. No. 258/1974 reg. 5, Nos 121/1986 s. 112, 41/1987 s. 103(Sch. 4 item 24.38), 76/1998 s. 10(1)(h).

- (1) The Minister may purchase by agreement or compulsorily acquire any land required for the purposes of the Secretary—
- (a) for securing ingress egress and regress to and from any reserved or protected forest;
 - (b) for the use maintenance or transmission of mechanical hydraulic or electric power as a means of transporting forest produce or for operating or lighting any sawmill plant or machinery or other industrial undertaking in a State forest; or

Forests Act 1958
No. 6254 of 1958
Purchase or taking of lands

(c) for the construction of tramways roads or tracks in or in the vicinity of any State forest—

to an extent not exceeding 20 metres in width over the whole length of the land required for any such purpose.

(2) The Minister may purchase by agreement or compulsorily acquire any land required—

S. 38(2)
amended by
Nos 7228
s. 7(Sch. 4
Pt 12(a)), 7674
s. 3(a),
121/1986
s. 112.

(a) for the due conservation and proper working of State forests and plantations;

(b) for the protection of State forests and plantations from sand-drifts upon such land;
or

(c) for the prevention or minimising of erosion by rivers streams rain or wind of the soil of State forests or plantations by the planting of such land with trees or grasses or otherwise.

(2A) The Governor in Council may by Order published in the Government Gazette dedicate any land purchased or compulsorily acquired under subsection (2) as a reserved forest.

S. 38(2A)
inserted by
No. 7674
s. 3(b),
amended by
No. 121/1986
s. 112.

(3) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—

S. 38(3)
amended by
Nos 7228
s. 7(Sch. 4
Pt 12(a)), 7674
s. 3(a),
substituted by
No. 121/1986
s. 112.

(a) the **Forests Act 1958** is the special Act; and

(b) the Minister is the Authority.

* * * * *

S. 38(4)
repealed by
No. 121/1986
s. 112.

Ss 38A, 39
repealed.⁴

* * * * *

Naming &c., Victorian timber &c.

No. 6073 s. 40.

40 Power to make regulations as to classification grading and naming of Victorian timbers etc.

- (1) The Governor in Council may make regulations for or with respect to the classification grading and naming for the purposes of this Act of any timbers obtained from trees grown in Victoria whether indigenous or not (hereinafter called *Victorian timber*) and of any other forest produce.
- (2) On any sale or in any contract for the sale of Victorian timber of any kind or of any forest produce of any kind every person who on or after a date to be proclaimed for the purpose by the Governor in Council by proclamation published in the Government Gazette knowingly describes any such kind of timber or forest produce—
 - (a) by any other name than the name prescribed as the true name of such kind of timber or forest produce by the regulations; or
 - (b) as being of any other class or grade of such kind of timber or forest produce than the class or grade prescribed by the regulations for timber or forest produce of that kind of the same average quality—

S. 40(2)
amended by
No. 10235
s. 3(b).

shall be liable to a penalty of not more than 5 penalty units.

State forests

41 Reserved forest and the Land Act 1958

- (1) Notwithstanding anything contained in the **Land Act 1958** it shall not be lawful for the Governor in Council by virtue of the said Act at any time to increase or diminish the area of any reserved forest or to grant a right to occupy as a residence area or a lease or licence of or in respect of any Crown land within any reserved forest.
- (2) Nothing in subsection (1) affects the ability of the Minister administering the **Land Act 1958** to grant a bee site licence over reserved forest in accordance with that Act.

No. 6073 s. 41.

S. 41
(Heading)
inserted by
No. 12/2016
s. 22(1).

S. 41
amended by
Nos 6976
s. 7(1)(a),
12/2016
s. 22(2) (ILA
s. 39B(1)).

S. 41(2)
inserted by
No. 12/2016
s. 22(2).

42 Reserved forests

- (1) Subject to any adjustment of boundaries made as hereinafter provided and subject to any excision made under any repealed Act or enactment—
- (a) all unoccupied Crown land within the areas mentioned in the Second Schedule to this Act;
- (b) all land dedicated as permanent forests or as timber reserves before the commencement of the **Forests (Further Amendment) Act 1962** pursuant to any enactment repealed by that Act or any corresponding previous enactment; and
- (c) all land dedicated pursuant to this Act after the said commencement as reserved forests—

S. 42(1)
substituted by
No. 6976
s. 7(1)(b).

shall be reserved forests.

Forests Act 1958
No. 6254 of 1958
State forests

S. 42(2)
amended by
No. 6976
s. 7(1)(c).

(2) A reserved forest or any part thereof shall not be alienated either wholly or in part for any estate in fee simple or for any lesser estate save as hereinafter expressly provided.

S. 42(3)
amended by
No. 6976
s. 7(1)(c).

(3) Every conveyance and alienation of a reserved forest or any part thereof in contravention of this section shall be absolutely void as well as against Her Majesty as against all other persons whomsoever.

S. 42(4)
amended by
Nos 6976
s. 7(1)(c),
86/1993
s. 41(2),
48/2004
s. 102(1),
63/2006
s. 61(Sch.
item 16),
12/2016
s. 23(1).

(4) Subject to subsections (4A) and (4B), except under and pursuant to this Act no lease or licence or permit or authority (other than for carrying out exploration or mining within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**) shall be granted or issued over or in respect of any reserved forest.

S. 42(4A)
inserted by
No. 48/2004
s. 102(2).

(4A) Nothing in subsection (4) prevents an allocation order under the **Sustainable Forests (Timber) Act 2004** being made in respect of a reserved forest.

S. 42(4B)
inserted by
No. 12/2016
s. 23(2).

(4B) Nothing in subsection (4) prevents a bee site licence being granted under the **Land Act 1958** over reserved forest.

S. 42(5)
amended by
No. 96/1994
s. 55(b)(i)(ii).

(5) For the purposes of this and the next succeeding section Crown land shall be deemed to be unoccupied notwithstanding that a grazing licence or an agricultural licence has either before or after the commencement of this Act been granted by the Governor in Council or the Minister in respect of the whole or any part thereof.

(6) The Governor in Council may at any time on the joint recommendation of the Minister and the Minister administering the **Mineral Resources (Sustainable Development) Act 1990** excise either temporarily or permanently from any reserved forest any portion thereof which is required for public use as mineral or medicinal springs, or for reservation for visitors to any waterfalls, caves, or places of natural beauty or interest or as health resorts or for sites for townships or for State schools, or for providing roads and means of access thereto or for irrigation purposes or water supply purposes. Any land so excised for water supply purposes may be vested by the Governor in Council (subject to such terms conditions and reservations as he may think fit) in any Authority under the **Water Act 1989**.

S. 42(6)
amended by
Nos 6976
s. 7(1)(c), 9549
s. 2(1)(Sch.
item 64),
10087
s. 3(1)(Sch. 1
item 80),
81/1989
s. 3(Sch.
item 17.2),
46/1998
s. 7(Sch. 1),
6/2009 s. 52.

(7) No Order in Council may be made under the preceding subsection until a copy of such proposed order has been published in the Government Gazette and been laid before Parliament for at least one month, and until a copy of such proposed order has been forwarded to each member of Parliament.

(8) Notwithstanding anything in this section the Governor in Council may acquire by exchange of land dedicated as a reserved forest—

- (a) any alienated land or any Crown land licensed or leased with an inchoate right of purchase; or
- (b) any land, public or private, and whether vested in trustees or otherwise—

S. 42(8)
amended by
Nos 6976
s. 7(1)(c), 7740
s. 2(a)(b),
10087
s. 3(1)(Sch. 1
item 81),
41/1987
s. 103(Sch. 4
items. 24.41,
24.42),
76/1998
s. 10(1)(h).

and may execute the proper conveyances accordingly, and may by Order published in the Government Gazette dedicate the land as a reserved forest but no Order in Council for the acquisition by exchange of any Crown land

licensed or leased with an inchoate right of purchase shall be made unless on the recommendation of the Secretary.

- (9) For the purposes of this and the next succeeding section and of dedication of areas of unoccupied mountainous Crown lands pursuant to this Act, Crown land shall be deemed to be unoccupied notwithstanding that—
- (a) (whether before or after the commencement of this Act) such land or any part thereof has been under the **Mines Act 1958** or any corresponding previous enactment or under Division eleven of Part I of the **Land Act 1958** or any corresponding previous enactment—
- (i) registered or granted as a residence area; or
- (ii) occupied as a residence area or under a business licence; or
- (b) after the commencement of the **Forests Act 1907** a lease or licence of or a permit in respect of such land or any part thereof has been granted pursuant to section fifty-one or section fifty-two of this Act or any corresponding previous enactment.

Ss 43, 44
repealed by
No. 6976
s. 7(1)(d).

* * * * *

45 Future dedication of Crown land as reserved forests

S. 45(1)
substituted by
No. 6976
s. 7(1)(e),
amended by
No. 10087
s. 3(1)(Sch. 1
item 82(a)).

- (1) The Governor in Council may on the recommendation of the Minister at any time by Order published in the Government Gazette dedicate any area of Crown land as a reserved forest.

(2) Without prejudice to the powers contained in subsection (1) the Governor in Council may subject to this Act upon the joint recommendation of the Minister, the Minister for the time being administering the **Water Act 1989** and the Minister for the time being administering the **Mineral Resources (Sustainable Development) Act 1990** and after the publication of notice of intention to dedicate the same as provided in section 46 dedicate as reserved forests all or any of the areas of unoccupied mountainous Crown lands forming the upper watersheds of permanent streams within Victoria.

S. 45(2)
amended by
Nos 6976
s. 7(1)(f), 8587
s. 5(a)(b), 9549
s. 2(1)(Sch.
item 65),
10081 s. 5(1),
10087
s. 3(1)(Sch. 1
item 82(b)),
41/1987
s. 103(Sch. 4
item 24.43),
74/2000
s. 3(Sch. 1
item 52.3),
48/2004
s. 102(3),
63/2006
s. 61(Sch.
item 16).

46 Notice of intention to dedicate

Before any land is so dedicated notice of intention to dedicate the same shall be published in some newspaper circulating in the neighbourhood wherein such land is situate.

No. 6073 s. 46.
S. 46
amended by
No. 9615 s. 4.

47 Power to acquire land for forests

The Governor in Council may acquire by exchange or if so authorized by Parliament may acquire by purchase or resumption or otherwise any alienated land or any land licensed or leased with an inchoate right of purchase (and in the case of the acquisition of land by exchange may execute the proper conveyances accordingly) and may by Order published in the Government Gazette dedicate the same as a reserved forest.

No. 6073 s. 47.
S. 47
amended by
Nos 6976
s. 7(1)(g), 7740
s. 3.

48 Power to acquire private land for forests

(1) Notwithstanding anything contained in the last preceding section or in any Act the Governor in Council may without further or other authority than this Act purchase for the Crown any land which at any time is required by the Department

No. 6073 s. 48.
S. 48(1)
amended by
Nos 6976
s. 7(1)(h), 9615
s. 5.

for the purposes of this Act, whether such land is alienated from the Crown or is land held under a licence or lease from the Crown with an inchoate right of purchase and may by Order published in the Government Gazette dedicate the same as a reserved forest. Not more than \$3 000 000⁵ shall be expended under this subsection in any one financial year without the express sanction of Parliament.

S. 48(2)
amended by
Nos 7740 s. 4,
10087
s. 3(1)(Sch. 1
item 83),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.44).

* * * * *

No. 6073 s. 49.
S. 49
(Heading)
inserted by
No. 48/2004
s. 103(1).

49 Excisions from reserved forest

S. 49(1)
amended by
Nos 9549
s. 2(1)(Sch.
item 66),
10081 s. 5(1),
10087
s. 3(1)(Sch. 1
item 84(a)(b)),
41/1987
s. 103(Sch. 4
item 24.45),
92/1990
s. 128(Sch. 1
item 12.8),
74/2000
s. 3(Sch. 1
item 52.3),
48/2004
s. 103(2)(a),
63/2006
s. 61(Sch.
item 16).

- (1) Notwithstanding anything in the **Land Act 1958** or this Act, on the application of the Minister made after reference in writing to and consultation with the Minister for the time being administering the **Water Act 1989** and the Minister for the time being administering the **Mineral Resources (Sustainable Development) Act 1990**, the Governor in Council by Order made without the special authority of an Act of Parliament other than this Act may authorize the excision of any area of land described in the Order permanently from any reserved forest; and a copy of every such Order shall be published in the Government Gazette.

Forests Act 1958
No. 6254 of 1958
State forests

* * * * *

S. 49(2)
amended by
Nos 7228
s. 7(Sch. 4
Pt 12(b)),
10087
s. 3(1)(Sch. 1
item 85),
41/1987
s. 103(Sch. 4
item 24.46),
76/1998
s. 10(1)(h),
repealed by
No. 48/2004
s. 103(2)(b).

(3) On the fourteenth day after the publication of the copy of any such Order in the Government Gazette, such Order shall come into force, whereupon—

(a) the area of land therein described in the reserved forest shall on a date to be specified in such Order be excised from the reserved forest as if it had been excised therefrom by Act of Parliament and thereupon the said area of land shall be deemed to be and may be dealt with as unoccupied Crown land.

S. 49(3)(a)
amended by
No. 48/2004
s. 103(3)(a).

* * * * *

S. 49(3)(b)
amended by
No. 6976
s. 7(1)(i),
repealed by
No. 48/2004
s. 103(3)(b).

50 Power to declare land in reserved forests to be a forest park etc.

S. 50
substituted by
No. 6976 s. 8.

(1) The Governor in Council may by Order published in the Government Gazette at any time set aside and declare to be a forest park state park regional park multi-purpose park wilderness education area historic area flora and fauna reserve flora reserve scenic reserve alpine reserve roadside reserve or a reserve for any other purpose any land being the

S. 50(1)
amended by
Nos 8587
s. 6(a)(i)(ii),
9019
s. 2(1)(Sch.
item 77), 9417
s. 5(1), 9615
s. 6.

whole or any portion of a reserved forest and may at any time by the like Order revoke or vary any Order so made.

S. 50(2)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.47,
24.48),
76/1998
s. 10(1)(i)(ii),
19/2018
s. 114(1).

- (2) Where pursuant to subsection (1) of this section any land is set aside which is subject to a licence or permit granted under this Act for the grazing of cattle the Minister may after giving not less than three months' notice in writing to the holder of the licence or permit of the Minister's intention to do so cancel the licence or permit so far as it relates to that land and all rights and privileges conferred by the licence or permit with respect to that land shall cease accordingly.

S. 50(3)
amended by
No. 7740
s. 5(a)(b),
substituted by
No. 9416
s. 4(1),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

- (3) (a) The Minister on the recommendation of the Secretary may appoint to be a committee of management or an advisory committee in relation to any land set aside pursuant to the provisions of subsection (1)—

(i) any three or more persons;

(ii) any municipal council or any councillor;

(iii) any board, committee, commission, trust or other body corporate or unincorporate established by or under any Act for a public purpose;

(iv) a company within the meaning of the Corporations Act that—

(A) is taken to be registered in Victoria; and

S. 50(3)(a)(ii)
substituted by
No. 13/1990
s. 40(b).

S. 50(3)(a)(iv)
substituted by
Nos 9699
s. 23, 44/2001
s. 3(Sch.
item 49).

(B) is registered under section 150, or has a licence in force under section 151, of that Act;

(v) any combination of such persons and bodies;

(vi) any one of the corporations or bodies referred to in subparagraph (ii), (iii) or (iv) together with an authorised officer—

S. 50(3)(a)(vi)
amended by
Nos 96/1994
s. 56(e),
74/2000
s. 3(Sch. 1
item 52.4).

and may at any time remove any of those persons or bodies from office.

(b) Where a corporation is appointed under this subsection with some other person or body to be a committee under this section the corporation shall appoint one of its members to act as the agent of the corporation for all purposes.

(4) The members of a committee of management or an advisory committee appointed under this section who are not employees in the public service shall subject to such conditions as he may determine be entitled to receive such travelling allowances as are fixed by the Governor in Council.

S. 50(4)
amended by
Nos 8587
s. 6(b),
76/1998
s. 10(1)(i)(iii).

(4A) A committee of management appointed under subsection (3), that is constituted by Parks Victoria, by instrument, may delegate to any of the following persons or bodies any function, power or duty of the committee of management under this Act, other than this power of delegation—

S. 50(4A)
inserted by
No. 19/2018
s. 114(2).

(a) a member of Parks Victoria;

(b) a committee, established under the **Parks Victoria Act 2018**, consisting only of members of Parks Victoria;

- (c) the chief executive officer or an employee, or class of employee, of Parks Victoria;
- (d) the Secretary;
- (e) a person or a class of person employed under the **Public Administration Act 2004** in the administration of this Act.

S. 50(5)
substituted by
No. 7205
s. 2(a).

- (5) The Governor in Council may make regulations for or with respect to—

S. 50(5)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(3).

- (a) the care protection and management of such land by the land manager or the committee of management;

S. 50(5)(aa)
inserted by
No. 9417
s. 5(2)(a).

- (aa) regulating the entry upon such land of persons and prohibiting or regulating the entry upon such land of vehicles and the landing of helicopters and other aircraft and prescribing the periods during which persons, vehicles, helicopters or other aircraft may remain upon or over that land;

S. 50(5)(ab)
inserted by
No. 9417
s. 5(2)(a).

- (ab) regulating and controlling the use of such land by the public and prescribing conditions to be observed by persons using such land;
- (b) the preservation of good order and decency therein;

S. 50(5)(ba)
inserted by
No. 9417
s. 5(2)(b),
amended by
No. 41/1987
s. 103(Sch. 4
item 24.49).

- (ba) prohibiting or restricting the bringing upon any such land or allowing the entry thereon of any animal included in a specified class of animals or imposing conditions subject to compliance with which such an animal is permitted to be brought into, allowed to enter or to remain upon such land and where

- regulations are in force prohibiting the bringing into or entry upon that land of specified animals the regulations may permit an authorised officer, where he is satisfied upon reasonable grounds that an animal has been brought into or entered upon that land in contravention of these regulations and is at large upon the land, to shoot or otherwise destroy the animal speedily and without causing it unnecessary suffering;
- (bb) the setting aside of areas of that land for specific purposes, including prohibiting or regulating—
- (i) access to and entry onto those areas; and
 - (ii) activities in, or the use of, those areas;
- (c) the provision of services on such land by the land manager or the committee of management and the conditions under which any service so provided shall be available to or be used by any person;
- (ca) the carrying out of works and improvements on such land by the land manager or the committee of management;
- (cb) the health and safety of persons on such land or occupying or using any building or any part of a building thereon;
- S. 50(5)(bb)**
inserted by
No. 109/2004
s. 21.
- S. 50(5)(c)**
substituted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(3).
- S. 50(5)(ca)**
inserted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(3).
- S. 50(5)(cb)**
inserted by
No. 7340
s. 2(a).

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S. 50(5)(cc)
inserted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(3).

(cc) the inspection and approval by the land manager or committee of management of plans and specifications for buildings or extensions or alterations to buildings required or permitted to be erected or made on such land under any lease licence or permit granted under section fifty-one or section fifty-two of this Act and the supervision by the land manager or committee of management of the erection or making thereof;

S. 50(5)(cd)
inserted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(3).

(cd) the giving to the land manager or committee of management before any such building extension or alteration is commenced of security by way of a deposit of money or otherwise for the proper carrying out and completion of the work and the amount or value of the security;

S. 50(5)(e)
substituted by
No. 7340
s. 2(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
48/2004
s. 104(1),
19/2018
s. 114(3)
(4)(b)(c).

(d) the employment of officers servants and workmen by the committee of management;

(e) the imposition collection and receipt of tolls fees rents or other charges by the land manager or the committee of management for or in respect of—

(i) entry upon such land or any specified part thereof;

(ii) use of such land or any part thereof or any improvement thereon;

S. 50(5)(e)(iii)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(3).

(iii) the construction and maintenance on such land by the land manager or the committee of management of roads or streets drainage works sewerage works water supply works and electricity supply works;

(iv) the supply of water and electricity and any other service whatever (whether of a similar or different kind) provided by the land manager or the committee of management on such land or in connexion with the use of such land or any building or improvement thereon; and

S. 50(5)(e)(iv) amended by Nos 41/1987 s. 103(Sch. 4 item 24.47), 76/1998 s. 10(1)(i)(i), 19/2018 s. 114(3).

(v) the examination and approval of plans for any new building or any extension or alteration to any building to be erected or made under any lease licence or permit granted under section 51 or 52—

S. 50(5)(e)(v) amended by No. 19/2018 s. 114(4)(a).

but so that no toll fee rent or charge imposed by any regulation made under subparagraphs (i), (ii) or (iii) shall be payable by any person who holds a lease licence or permit in respect of any such land which was granted under section 52(1)(a)(ii), (iii) or (iv);

(f) the expenditure of any moneys received by the land manager or the committee of management in respect of any such land.

S. 50(5)(f) amended by Nos 41/1987 s. 103(Sch. 4 item 24.47), 76/1998 s. 10(1)(i)(i), 19/2018 s. 114(3).

(5A) The Minister must not submit to the Governor in Council regulations proposed to be made under subsection (5) that prohibit or restrict, or require the consent of the Minister to, the carrying out of exploration or mining within the meaning of the **Mineral Resources (Sustainable Development) Act 1990** on land set aside under subsection (1) that is restricted Crown land within the meaning of that Act unless the Minister has consulted with the Minister administering that Act in relation to the content of the proposed regulations.

S. 50(5A) inserted by No. 9936 s. 106(2), substituted by No. 86/1993 s. 41(3), amended by No. 63/2006 s. 61(Sch. item 16).

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S. 50(6)
inserted by
No. 7205
s. 2(b),
substituted by
No. 7674 s. 4,
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(5).

- (6) Any moneys received by the land manager pursuant to any regulation made under this section shall be paid into a special trust fund kept in the Treasury for the purpose, and shall be available for—
- (a) the repayment of loans made for the provision of services and the carrying out of works and improvements on any such land, the payment of interest on such loans and the maintenance and extension of such services works and improvements; and
 - (b) the provision and extension of other services and carrying out maintaining and extending other works and improvements on any such land.

S. 50(7)
inserted by
No. 9416
s. 4(2),
amended by
No. 11/2001
s. 3(Sch.
item 27),
repealed by
No. 48/2004
s. 104(2).

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S. 50(8)
inserted by
No. 9416
s. 4(2),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
19/2018
s. 114(6).

- (8) A lessee or licensee of land within any reserve or the holder of any licence or permit relating to a reserve shall be liable to pay to the committee of management of the reserve or to the land manager (as the case requires) such amount as is fixed either generally or in any particular case by the committee of management with the approval of the Secretary or by the land manager and approved by the Minister—

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| (a) as an appropriate contribution towards the costs incurred by the committee or the land manager in providing facilities, amenities and services for that lessee, licensee or holder and the operation and maintenance of any such facilities, amenities and services or for community purposes; | S. 50(8)(a) amended by Nos 41/1987 s. 103(Sch. 4 item 24.47), 76/1998 s. 10(1)(i)(i), 19/2018 s. 114(7). |
| (b) as an annual contribution towards the costs incurred by the committee or by the land manager in providing operating and maintaining any such facilities, amenities and services or any one or more or any combination of any such activities. | S. 50(8)(b) amended by Nos 41/1987 s. 103(Sch. 4 item 24.47), 76/1998 s. 10(1)(i)(i), 19/2018 s. 114(7). |
| (9) Amounts payable under subsection (8) shall be payable as prescribed by the regulations and may in default of payment be recovered as a debt due to the Crown. | S. 50(9) inserted by No. 9416 s. 4(2). |
| (10) The Governor in Council may— | S. 50(10) inserted by No. 9417 s. 5(3) (as amended by No. 9549 s. 2(1)(Sch. item 68)). |
| (a) annually appoint a registered company auditor to audit the accounts and records of any committee of management; or | S. 50(10)(a) amended by No. 13/1990 s. 40(c), substituted by No. 48/2004 s. 104(3). |
| (b) in respect of any particular committee of management, direct that the accounts of the committee of management be audited by the Auditor-General and, if so— | S. 50(10)(b) substituted by No. 93/1997 s. 28(Sch. item 14), amended by No. 53/1999 s. 26(Sch. item 12(a)). |

S. 50(10)(b)(i)
amended by
No. 53/1999
s. 26(Sch.
item 12(b)).

- (i) the Auditor-General and any person assisting the Auditor-General has in respect of the audit all the powers conferred on the Auditor-General by any law relating to the audit of the Public Account; and
- (ii) the committee of management must pay to the Consolidated Fund an amount determined by the Auditor-General to defray the costs and expenses of the audit.

S. 50(11)
inserted by
No. 48/2004
s. 104(4).

- (11) A registered company auditor appointed under subsection (10)(a) is entitled to be paid by the committee of management such remuneration as the Governor in Council determines.

S. 50AA
inserted by
No. 62/2010
s. 117.

50AA Revocation and further setting aside and declaration of land

- (1) If a land agreement provides that land that is the subject of the agreement is to be set aside and declared for the purpose specified in the agreement, the Minister may recommend to the Governor in Council that any determination under section 50 in respect of the land be revoked and that the land be set aside and declared for the purposes set out in the recommendation.
- (2) On receiving a recommendation of the Minister under subsection (1), the Governor in Council may, by Order in Council, revoke any determination under section 50 in respect of the land and set aside and declare the land for the purposes set out in the Order in Council.
- (3) The Minister must take all reasonable steps to make a recommendation under subsection (1), to give effect to the land agreement.

- (4) This section has effect despite anything to the contrary in any other provision of this Act.
- (5) In this section *land agreement* has the same meaning as in the **Traditional Owner Settlement Act 2010**.

50A Secretary may accept gift of certain lands subject to conditions

S. 50A
inserted by
No. 9417 s. 6.

- (1) Where it appears to the Secretary that any land offered as a gift or devise under this section would be suitable for setting aside under section 50 if the land were reserved forest the Secretary may accept a gift or devise of the land subject to a condition entitling the donor or testator or a nominee of the donor or testator to occupy the land during the lifetime of the donor or nominee or for any other specified period where in the opinion of the Secretary it is expedient to do so for or in connexion with giving effect to the objects of this Act.

S. 50A(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.50),
76/1998
s. 10(1)(j).

- (2) Where the Secretary accepts land under subsection (1) the Governor in Council may set aside and declare the land to be a park or reserve under section 50(1) in all respects as if the land were reserved forest and may by the like Order revoke or vary any Order so made.

S. 50A(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.50),
76/1998
s. 10(1)(j).

- (3) Upon a declaration being made under subsection (2) the provisions of section 50, subsections (3), (4) and (5) shall extend and apply to the land declared but any regulations made under that section shall be subject to and have regard to the condition referred to in subsection (1) upon which the land was given by the donor.

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Heading preceding s. 51 substituted by No. 62/2010 s. 118.

No. 6073 s. 51.

S. 51 amended by Nos 6842 s. 3, 6976 s. 9, 7740 s. 6, S.R. No. 258/1974 reg. 6, Nos 41/1987 s. 103(Sch. 4 item 24.51), 76/1998 s. 10(1)(j), 48/2004 s. 105, substituted by No. 40/2009 s. 19.

S. 51(1) amended by No. 19/2018 s. 115.

51 Leases of land in reserved forests

- (1) The Minister may lease any Crown land in a reserved forest for a term of not more than 21 years for any purpose that the land manager recommends.
- (2) The Minister may lease any Crown land in a reserved forest for a term of more than 21 years but not more than 65 years, if the Minister is satisfied that—
 - (a) the proposed use, development, improvements or works that are specified in the lease are of a substantial nature and of a value which justifies a longer term lease; and
 - (b) the granting of a longer term lease is in the public interest.
- (3) A lease under this section is subject to—
 - (a) the covenants, terms and conditions that are determined by the Minister; and
 - (b) the payment of royalties as determined by the Minister.

- (4) The Minister may, for the purposes of entering into a lease of any Crown land in a reserved forest under this section, enter into an agreement to lease that land.
- (5) If the Minister enters into an agreement to lease Crown land in a reserved forest under subsection (4) and the agreement to lease grants a right to occupy land for a period of time, that period and the period of any lease entered into consequent on the agreement must not, when added together, exceed the maximum lease term permitted under this section.

52 Licences and permits with respect to forests

No. 6073 s. 52.

- (1) The Minister may grant a licence or permit for a term of not more than 20 years, subject to any covenants, terms and conditions that may be prescribed, any additional covenants, terms and conditions that the Minister considers appropriate to impose in a particular case, and the payment of any rent, fees, royalties or charges that the Minister may determine.

S. 52(1)
amended by
Nos 6976
s. 10(1)(a)(b),
7205 s. 3(a),
S.R. No.
258/1974
reg. 7(a)–(c),
Nos 9615 s. 7,
41/1987
s. 103(Sch. 4
items 24.52,
24.53),
substituted by
No. 90/1989
s. 10,
amended by
No. 76/1998
s. 10(1)(k)(i)(ii),
substituted by
No. 40/2009
s. 20,
amended by
No. 80/2009
s. 105(1).

- (1A) A licence or permit granted under this section in respect of Crown land in a reserved forest may be for any one or more of the following purposes that is specified in the licence or permit—
- (a) to graze cattle;
- (b) to graze cattle under agistment;

S. 52(1A)
inserted by
No. 40/2009
s. 20,
amended by
No. 80/2009
s. 105(2).

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- (c) to occupy an area of not more than 2000 hectares for the exclusive cutting of timber;
- (d) to thin, cut and remove timber;
- S. 52(1A)(e)
amended by
No. 80/2009
s. 105(2).
- (e) to cut forest produce specified in the licence or permit;
- S. 52(1A)(f)
amended by
No. 80/2009
s. 105(2).
- (f) to dig forest produce specified in the licence or permit;
- S. 52(1A)(g)
amended by
Nos 80/2009
s. 105(2),
12/2016
s. 24(a).
- (g) subject to paragraph (i), to take away forest produce specified in the licence or permit;
- (h) to occupy for residence an area of not more than 0.4 hectares;
- S. 52(1A)(i)
amended by
No. 12/2016
s. 24(b).
- (i) any purpose for which a licence may be granted under Subdivision 2 of Division 9 of Part I of the **Land Act 1958**, except a bee site licence within the meaning of that Act;
- (j) any other purpose whatever relating to or connected with a state forest or forest produce.
- S. 52(1B)
inserted by
No. 40/2009
s. 20,
amended by
No. 80/2009
s. 105(3).
- (1B) A licence or permit granted under this section to enter protected forest may be for any one or more of the following purposes that is specified in the licence or permit—
- S. 52(1B)(a)
amended by
No. 80/2009
s. 105(3).
- (a) to cut forest produce specified in the licence or permit;
- S. 52(1B)(b)
amended by
No. 80/2009
s. 105(3).
- (b) to dig forest produce specified in the licence or permit;

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| (c) to take away forest produce specified in the licence or permit. | S. 52(1B)(c) amended by No. 80/2009 s. 105(3). |
| (1C) A licence or permit granted under this section to enter land set aside in section 50(1), may be for any one or more of the following purposes that is specified in the licence or permit—
(a) to provide accommodation;
(b) to store goods and liquid fuels;
(c) to sell goods and liquid fuels;
(d) to erect ski lifts;
(e) to operate ski lifts;
(f) to provide any other facility or service which the Minister considers appropriate. | S. 52(1C) inserted by No. 40/2009 s. 20, amended by No. 80/2009 s. 105(4).

S. 52(1C)(f) amended by No. 19/2018 s. 116. |
| (1D) A licence or permit to which subsection (1C) applies must not be for an area of more than 1.25 hectares unless the Minister has approved the granting of the licence or permit for a greater area. | S. 52(1D) inserted by No. 40/2009 s. 20. |
| (2) The Minister must not grant a licence or permit under this section in respect of vested timber resources within the meaning of the Sustainable Forests (Timber) Act 2004 . | S. 52(2) amended by Nos 9416 s. 5, 10087 s. 3(1)(Sch. 1 item 86), 41/1987 s. 103(Sch. 4 item 24.52), repealed by No. 41/1987 s. 103(Sch. 4 item 24.54), new s. 52(2) inserted by No. 48/2004 s. 106, amended by No. 80/2009 s. 105(5). |

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<p>S. 52(3) amended by Nos 41/1987 s. 103(Sch. 4 item 24.55), 76/1998 s. 10(1)(k)(i), 80/2009 s. 105(6).</p>	<p>(3) No permit or licence granted under this Act shall be transferable except with the authority in writing of the Minister.</p>
<p>S. 52(4) amended by No. 6976 s. 10(2).</p>	<p>(4) Any holder of a licence or permit granted under this section who fails to comply with the prescribed covenants terms and conditions relating to his licence or permit shall be guilty of an offence against this Act.</p>
<p>S. 52(5) inserted by No. 6976 s. 10(3), amended by Nos 7205 s. 3(b), 41/1987 s. 103(Sch. 4 items 24.52, 24.56), 76/1998 s. 10(1)(k)(i), substituted by No. 80/2009 s. 105(7).</p>	<p>(5) The Minister may suspend or cancel any licence or permit where the holder of the licence or permit has failed to comply with a prescribed covenant, term or condition of the licence or permit or any covenant, term or condition imposed by the Minister on the licence or permit.</p>
<p>S. 52(6) inserted by No. 6976 s. 10(3), amended by Nos 41/1987 s. 103(Sch. 4 item 24.52), 76/1998 s. 10(1)(k)(i), repealed by No. 48/2004 s. 107.</p>	<p>* * * * *</p>
<p>New s. 52A inserted by No. 82/2009 s. 35, repealed by No. 46/2012 s. 4.</p>	<p>* * * * *</p>

52AA No compensation payable or proceedings able to be taken

S. 52AA
inserted by
No. 48/2004
s. 108.

On the repeal of section 52(6) by section 107 of the **Sustainable Forests (Timber) Act 2004**—

- (a) despite anything to the contrary in section 14 of the **Interpretation of Legislation Act 1984**, any entitlement, right or purported right in existence immediately before that repeal in respect of the granting of any further licence or permit for a licence or permit of a kind referred to in section 52(6) as in force immediately before its repeal ceases to exist; and
- (b) the holder of a licence or permit of a kind referred to in section 52(6) is not entitled to have that licence or permit renewed or reissued, whether any entitlement, right or purported right to do so arose under section 52(6), a term or condition of the licence or permit or in any other manner; and
- (c) no proceedings may be taken—
 - (i) in respect of any loss, damage or injury resulting from or arising out of—
 - (A) the loss of any entitlement, right or purported right referred to in paragraph (a) or (b); or
 - (B) the enactment of this section; or
 - (ii) to seek a renewal, reissue or grant of a licence or permit, whether arising under any entitlement, right or purported right to do so under section 52(6), a term or condition of the licence or permit or in any other manner; and

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- (d) no compensation is payable in respect of any loss, damage or injury resulting from or arising out of—
- (i) the loss of any entitlement, right or purported right referred to in paragraph (a) or (b); or
 - (ii) the enactment of this section.

S. 52A
inserted by
No. 82/1990
s. 4,
amended by
Nos 76/1998
s. 10(1)(l),
97/2003 s. 4,
repealed by
No. 48/2004
s. 109(b).

* * * * *

Ss 52B, 52C
inserted by
No. 82/1990
s. 4,
amended by
No. 76/1998
s. 10(1)(l),
repealed by
No. 48/2004
s. 109(b).

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Ss 52D, 52E
inserted by
No. 82/1990
s. 4,
repealed by
No. 48/2004
s. 109(b).

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S. 52F
inserted by
No. 82/1990
s. 4,
amended by
No. 76/1998
s. 10(1)(m),
repealed by
No. 48/2004
s. 109(b).

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53 Power to submit certain leases licences or permits to auction or tender No. 6073 s. 53.

- (1) Before any lease under section 51 or any licence or permit under section 52 is granted, the right to such lease, if the land manager so recommends, or (as the case may be) the right to such licence or permit may be offered, subject to the regulations, for sale by auction or by tender and the rental of the said lease and the royalties dues or charges payable with respect to forest produce by the holder of the said lease licence or permit shall in that case be fixed thereby. S. 53(1) amended by Nos 6976 s. 11(a), 41/1987 s. 103(Sch. 4 item 24.57), 76/1998 s. 10(1)(n)(i), 19/2018 s. 117.
- (2) For the purposes of this Act royalty on timber may be assessed, as the Secretary considers appropriate, on timber standing or in the log or on the quantity of merchantable timber produced after conversion from the log. S. 53(2) amended by Nos 6976 s. 11(b), 41/1987 s. 103(Sch. 4 item 24.57), 76/1998 s. 10(1)(n)(ii).
- (3) The contents of timber cut for milling purposes and measured in the log shall be calculated on the quarter girth system or such other system as is prescribed.

54 Lease etc. with respect to timber to contain condition as to insurance against loss by fire No. 6073 s. 54.

Every lease of any area for saw-milling purposes and every licence or permit to occupy a special area for the exclusive cutting of timber or to thin out and remove trees or to cut and take away timber may contain a covenant or condition in the prescribed form to insure in the name of the Secretary, when required by the Secretary, against loss by fire or otherwise any timber upon which on the removal thereof from a State forest any royalties dues or charges may be payable to the Secretary, and the amount of such insurance shall be at least sufficient to cover the royalties dues

S. 54 amended by Nos 41/1987 s. 103(Sch. 4 item 24.58), 76/1998 s. 10(1)(o).

and charges estimated by the Secretary to be so payable on such timber.

No. 6073 s. 55.

55 No compensation for improvements

Upon the expiration of the term of any lease licence or permit under this Act or any corresponding previous enactment no compensation for any improvements upon the land comprised therein shall be payable by the Crown to the outgoing lessee licensee or grantee of such permit. Such lessee or licensee or grantee of such permit unless otherwise provided in his lease or licence or permit shall be entitled to remove any fences or buildings erected by him or to dispose of them to any incoming tenant or grantee of a permit.

No. 6073 s. 56.

S. 56
amended by
No. 7674 s. 5,
substituted by
No. 7740 s. 7,
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.59),
76/1998
s. 10(1)(o),
48/2004 s. 110,
19/2018 s. 118.

56 Dealing with interest in leased land

Any person may with the consent of the Minister given on the recommendation of the land manager assign sublet or transfer the person's right title and interest in the whole or any part of any land which is the subject of a lease granted under this Act or any corresponding previous enactment.

No. 6073 s. 57.

57 Restriction of rights of lessees and licensees

The holder of a lease or licence of or grantee of a permit with respect to any land under this Act or any corresponding previous enactment shall not fell cut destroy injure or remove any tree or timber on such land unless expressly authorized by his lease licence or permit so to do and then only in accordance with such authorization.

57A Land to be managed consistently with joint management plan

If any appointed land of a Traditional Owner Land Management Board constitutes the whole or a part of reserved forest, the person responsible for the management of that appointed land under this Act must ensure that the land is managed in a way that is not inconsistent with any joint management plan for the land.

S. 57A inserted by No. 7499 s. 46, amended by S.R. No. 258/1974 reg. 8, repealed by No. 67/1995 s. 58(Sch. 1 item 8) (as amended by No. 74/2000 s. 3(Sch. 1 item 45)), new s. 57A inserted by No. 62/2010 s. 119.

57B Lease of land to a generation company

S. 57B inserted by No. 79/1995 s. 32.

- (1) The Minister may grant or renew a lease to a generation company of any area of land in reserved forest which is used for the purposes of the generation of electricity for supply or sale.
- (2) A lease under subsection (1)—
 - (a) must be granted in writing; and
 - (b) is subject to any terms and conditions determined by the Minister.
- (3) A lease under subsection (1) may be granted—
 - (a) without being limited to a particular stratum of land; or
 - (b) for a stratum of land.
- (4) The Minister must not grant a lease under subsection (1) for a stratum of land unless he or she is satisfied that—

S. 57B(1) amended by No. 48/1996 s. 29(1).

S. 57B(2)(b) amended by No. 48/1996 s. 29(1).

S. 57B(3) inserted by No. 48/1996 s. 29(2).

S. 57B(4) inserted by No. 48/1996 s. 29(2).

- (a) each lessee for the time being under the lease can obtain reasonable access to and use of the land to be leased; and
- (b) the granting of the lease would not interfere with the exercise of rights by the registered proprietor, lessee or licensee of other land; and
- (c) provision has been made (in the lease or otherwise) for any necessary rights of support of the stratum or other land or of any building or structure erected or to be erected on those lands; and
- (d) provision has been made (in the lease or otherwise) for any necessary rights for the passage or provision of services (including drainage, sewerage, or the supply of water, gas, electricity or telephone) to or through the stratum, where those rights are necessary for the reasonable enjoyment of the stratum or other land.

S. 57B(5)
inserted by
No. 48/1996
s. 29(2).

- (5) The granting under subsection (1) of a lease of a stratum of land is conclusive proof of compliance with subsection (4) in respect of the lease.

S. 57B(6)
inserted by
No. 55/1997
s. 27(1),
amended by
No. 69/2000
s. 53(1).

- (6) In this section, *generation company* has the same meaning as in the **Electricity Industry Act 2000**.

S. 57C
inserted by
No. 79/1995
s. 32.

57C Issue of licences over land to a generation company

S. 57C(1)
amended by
No. 48/1996
s. 30.

- (1) The Minister may grant or renew a licence to a generation company of any area of land in reserved forest which is used for the purposes of the generation of electricity for supply or sale.

- (2) A licence under subsection (1)—
- (a) must be granted in writing; and
 - (b) is subject to the terms and conditions determined by the Minister.

S. 57C(2)(b)
amended by
No. 48/1996
s. 30.

- (3) In this section, *generation company* has the same meaning as in the **Electricity Industry Act 2000**.

S. 57C(3)
inserted by
No. 55/1997
s. 27(2),
amended by
No. 69/2000
s. 53(2).

57D Agreement with electricity company—reserved forest

S. 57D
inserted by
No. 79/1995
s. 32,
amended by
No. 48/1996
s. 31(1)
(a)(b)(2),
substituted by
No. 55/1997
s. 26.

- (1) The Minister may enter into an agreement with an electricity company—
- (a) to manage and control; or
 - (b) to carry out duties functions and powers related to the company's purpose in—

any area of reserved forest, other than any area that is a reference area under the **Reference Areas Act 1978**, that is used for the purposes of or in connection with the company's purpose.

- (2) An agreement under subsection (1)—
- (a) must be in writing;
 - (b) may be amended from time to time or terminated by further written agreement between the parties; and
 - (c) must contain provisions with respect to the protection and conservation of the land subject to the agreement.

(3) In this section—

S. 57D(3)
def. of
*electricity
company*
amended by
No. 69/2000
s. 53(3).

electricity company means a generation company,
transmission company or distribution
company within the meaning of the
Electricity Industry Act 2000;

company's purpose means—

- (a) in relation to an electricity company
that is a generation company, the
generation of electricity for the
purposes of supply or sale;
- (b) in relation to an electricity company
that is a transmission company, the
transmission of electricity;
- (c) in relation to an electricity company
that is a distribution company, the
distribution or supply of electricity.

Heading
preceding
s. 57E
inserted by
No. 40/2009
s. 21.

Tour operator licences

S. 57E
inserted by
No. 40/2009
s. 21.

57E Offence to conduct organised tour or recreational activity on Crown land in reserved forest if unlicensed

- (1) A person must not conduct an organised tour or
recreational activity for profit on Crown land in a
reserved forest unless that person holds a tour
operator licence.

Penalty: In the case of a natural person,
20 penalty units;

In the case of a body corporate,
100 penalty units.

- (2) Subsection (1) does not apply to a person who conducts an activity on Crown land in a reserved forest and who holds a lease, licence (other than a tour operator licence) or permit under this Act or the regulations to conduct that particular activity.
- (3) On the recommendation of the Minister, the Governor in Council may, by Order published in the Government Gazette, exempt classes of persons from the requirement to hold a tour operator licence under subsection (1).

57F Grant of tour operator licence

S. 57F
inserted by
No. 40/2009
s. 21.

- (1) The land manager may grant a licence to a person to conduct an organised tour or recreational activity for profit on Crown land in a reserved forest to a person who has applied under section 57G.
- (2) The land manager may grant a licence under subsection (1) for a period not exceeding 10 years.

S. 57F(1)
amended by
No. 19/2018
s. 119.

S. 57F(2)
amended by
No. 19/2018
s. 119.

57G Application for tour operator licence

S. 57G
inserted by
No. 40/2009
s. 21.

- (1) A person may apply for a tour operator licence to the land manager in respect of the land on which the proposed tour or recreational activity is to take place.
- (2) An application under subsection (1) must be accompanied by the fee payable for the first year of the licence as determined in accordance with the regulations unless the regulations otherwise provide.

S. 57G(1)
amended by
No. 19/2018
s. 120.

- (3) The fee paid by a person under subsection (2) must be refunded to the person if the person is not granted a tour operator licence under section 57F.

S. 57H
inserted by
No. 40/2009
s. 21.

57H Requirement to pay annual licence fee after grant of tour operator licence

- (1) If the regulations provide for the determination of an annual licence fee for a tour operator licence or a class of tour operator licence, the holder of such a licence must pay the fee determined in accordance with the regulations in respect of each year for which the licence is in force.
- (2) A licence fee to which subsection (1) applies is payable at the time specified in the regulations.

S. 57I
inserted by
No. 40/2009
s. 21.

57I Tour operator licence conditions

A licence granted under section 57F is subject to—

- (a) any conditions, determined by the land manager, that are specified or referred to in the licence; and
- (b) any prescribed conditions.

S. 57I(a)
amended by
No. 19/2018
s. 121.

57J Contravention of condition an offence

The holder of a tour operator licence must not contravene the conditions of the licence.

Penalty: In the case of a natural person,
20 penalty units;

In the case of a body corporate,
100 penalty units.

S. 57J
inserted by
No. 40/2009
s. 21.

S. 57K
inserted by
No. 40/2009
s. 21.

57K Variation of tour operator licence

- (1) The holder of a tour operator licence may apply to the land manager for a variation of the licence or a condition of the licence.

S. 57K(1)
amended by
No. 19/2018
s. 122(1).

- | | |
|--|--|
| (2) On receiving an application under subsection (1), the land manager may vary the licence or condition in accordance with the application. | S. 57K(2)
amended by
No. 19/2018
s. 122(1). |
| (3) A variation made by the land manager under subsection (2) has effect on the land manager giving written notice of the variation to the licence holder. | S. 57K(3)
amended by
No. 19/2018
s. 122(2). |
| (4) The land manager may vary a tour operator licence, or vary a condition of that licence, of the land manager's own motion if the land manager is of the opinion that a variation is required. | S. 57K(4)
amended by
No. 19/2018
s. 122(3). |
| (5) A variation made by the land manager under subsection (4) has effect on the land manager giving written notice of the variation to the licence holder. | S. 57K(5)
amended by
No. 19/2018
s. 122(2). |

57L Suspension of tour operator licence

S. 57L
inserted by
No. 40/2009
s. 21.

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|--|---|
| (1) If the land manager is satisfied that there are reasonable grounds to do so, the land manager may suspend the tour operator licence by notice in writing given to the holder of the licence. | S. 57L(1)
amended by
No. 19/2018
s. 123. |
| (2) A suspension under this section has effect—

(a) from the time specified in the notice under subsection (1), which must be no earlier than the day after the day the notice is given; and

(b) subject to section 57M, for the period (not exceeding 90 days) specified in the notice. | |

- (3) In addition to the details required under subsection (2), a notice of suspension of licence given under subsection (1) must—
- (a) state that the holder of the tour operator licence may make submissions regarding the suspension under section 57M;
 - (b) specify a date or period by which the submissions must be made.

S. 57M
inserted by
No. 40/2009
s. 21.

57M Making submissions on suspension

S. 57M(1)
amended by
No. 19/2018
s. 124.

- (1) The holder of a tour operator licence whose licence has been suspended under section 57L may make written submissions in respect of that suspension to the land manager within the period specified in the notice of suspension of licence.

S. 57M(2)
amended by
No. 19/2018
s. 124.

- (2) The land manager must review the decision to suspend the licence on receipt of any submissions made under subsection (1).

S. 57M(3)
amended by
No. 19/2018
s. 124.

- (3) In carrying out a review under subsection (2), the land manager—
- (a) must have regard to the submissions made under subsection (1); and
 - (b) may decide to continue, revoke or amend the suspension.

S. 57M(4)
amended by
No. 19/2018
s. 124.

- (4) The land manager must notify the person whose licence has been suspended of the outcome of review.

S. 57N
inserted by
No. 40/2009
s. 21.

57N Cancellation of tour operator licence

S. 57N(1)
amended by
No. 19/2018
s. 125(1).

- (1) The land manager may cancel a tour operator licence if the land manager is satisfied on reasonable grounds that—

- (a) the holder of the licence has been found guilty of an offence against this Act or the regulations; or
 - (b) the holder of the licence has contravened a condition of the licence.
- (2) Before cancelling a tour operator licence, the land manager must—
- S. 57N(2)
amended by
No. 19/2018
s. 125(1).**
- (a) notify the holder of the licence that the land manager proposes to cancel the licence; and
 - (b) allow the holder of the licence an opportunity to make either oral or written submissions.
- (3) Submissions under subsection (2) must be made within the period specified in the notice.
- (4) In making a decision as to whether or not to cancel a tour operator licence, the land manager must—
- S. 57N(4)
amended by
No. 19/2018
s. 125(2).**
- (a) have regard to any submissions made under subsection (2) within the period specified in the notice; and
 - (b) must notify the holder of the land manager's decision.
- S. 57N(4)(b)
amended by
No. 19/2018
s. 125(3).**
- (5) The cancellation of a licence has effect from the time specified in the notice of the land manager's decision under subsection (4), which must be after the day on which the notice is given.
- S. 57N(5)
amended by
No. 19/2018
s. 125(4).**

Heading
preceding
s. 57O
inserted by
No. 46/2012
s. 5.

Cutting or taking away fallen or felled trees for domestic use as firewood

S. 57O
inserted by
No. 46/2012
s. 5.

57O Definitions

In sections 57P to 57ZF—

nominating person means a person who—

- (a) in accordance with section 57R
nominates another person to cut and
take away fallen or felled trees; or
- (b) in accordance with section 21M of the
Crown Land (Reserves) Act 1978
nominates another person to cut and
take away fallen or felled trees;

nominee means a person nominated—

- (a) in accordance with section 57R to cut
and take away fallen or felled trees on
behalf of the nominating person; or
- (b) in accordance with section 21M of the
Crown Land (Reserves) Act 1978 to
cut and take away fallen or felled trees
on behalf of the nominating person.

S. 57P
inserted by
No. 46/2012
s. 5.

57P No application to timber resources

Nothing in sections 57Q to 57ZF applies to fallen
or felled trees that are timber resources within the
meaning of the **Sustainable Forests (Timber)
Act 2004**.

S. 57Q
inserted by
No. 46/2012
s. 5.

57Q Offence to cut or take away fallen or felled trees outside firewood collection area and season

- (1) A person must not cut or take away 2 cubic metres
or less of fallen or felled trees in State forest.

Penalty: 20 penalty units.

Forests Act 1958
No. 6254 of 1958
Cutting or taking away fallen or felled trees for
domestic use as firewood

- (2) A person must not cut or take away more than 2 cubic metres of fallen or felled trees in State forest.
- Penalty: 50 penalty units or imprisonment for 1 year or both.
- (3) Subsections (1) and (2) do not apply to a person who—
- (a) cuts or takes away fallen or felled trees in State forest in accordance with a lease, licence, permit or authorisation held by the person under this Act or any other Act; or
 - (b) cuts or takes away fallen or felled trees in State forest in accordance with the regulations or regulations under any other Act.
- (4) Subsections (1) and (2) do not apply to a person who cuts or takes away fallen or felled trees if—
- (a) the person cuts or takes away the fallen or felled trees—
 - (i) in a firewood collection area; and
 - (ii) during a firewood collection season applying to that area; and
 - (b) the person cuts or takes away the fallen or felled trees for domestic use as firewood in the person's household or in a nominating person's household.

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S. 57Q(5)
amended by
No. 4/2013
s. 33(2),
repealed by
No. 67/2016
s. 31(2).

S. 57R
inserted by
No. 46/2012
s. 5.

57R Person may nominate another to cut and take away fallen or felled trees for firewood

- (1) A person who is unable to cut and take away fallen or felled trees may nominate another person to cut and take away fallen or felled trees on his or her behalf.
- (2) A nomination under subsection (1) must—
 - (a) be made in the prescribed form; and
 - (b) specify the maximum amount (not exceeding 16 cubic metres) of fallen or felled trees that may be cut and taken away by the nominee in a financial year.
- (3) A person must not specify a maximum amount of fallen or felled trees in a nomination if that amount would exceed 16 cubic metres for a financial year when added to all maximum amounts specified in—
 - (a) any other nominations made by the person, whether under this section or section 21M of the **Crown Land (Reserves) Act 1978**; and
 - (b) any nominations made by members of the person's household, whether under this section or section 21M of the **Crown Land (Reserves) Act 1978**.

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (4) A person must not nominate another person to cut and take away fallen or felled trees other than for domestic use as firewood in the nominating person's household.

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (5) A person nominated to cut and take away fallen or felled trees must not request or accept payment or reward for the cutting and taking away of fallen or felled trees.

Penalty: 50 penalty units or imprisonment for 1 year or both.

57S Firewood collection season

S. 57S
inserted by
No. 46/2012
s. 5.

Subject to section 57T, the following firewood collection seasons apply in each financial year to a firewood collection area—

- (a) the period commencing on 1 September and ending on 30 November; and
- (b) the period commencing on 1 March and ending on 30 June.

57T Secretary may vary firewood collection season

S. 57T
inserted by
No. 46/2012
s. 5.

- (1) The Secretary may make a determination varying the commencement date or end date of a firewood collection season in a particular financial year as it applies to—
 - (a) all firewood collection areas; or
 - (b) all firewood collection areas located in a specified region of the State.
- (2) The Secretary must not make a determination under subsection (1) unless the Secretary considers the variation is necessary because of a condition, or likely condition, of fire danger that poses risk, or is likely to pose risk, to public safety.
- (3) A determination varying a firewood collection season must be published in the Government Gazette.

- (4) A determination varying a firewood collection season comes into operation on—
 - (a) the date on which it is published in the Government Gazette; or
 - (b) any later date specified in the determination.

S. 57U
inserted by
No. 46/2012
s. 5.

57U Secretary may determine firewood collection areas

- (1) The Secretary may determine an area of State forest to be a firewood collection area.
- (2) A determination under subsection (1) must identify the area of State forest to which it applies by reference to a plan lodged in the Central Plan Office.
- (3) For the purposes of subsection (2), the determination may apply, adopt or incorporate any matter contained in any document formulated, issued, prescribed or published by any person, whether—
 - (a) wholly or partly; or
 - (b) as formulated, issued, prescribed or published at the time the determination was made or at any time before that time.
- (4) If the Secretary is satisfied that it is necessary for management of the supply of fallen or felled trees for domestic use as firewood in a region of the State, a determination of a firewood collection area located in that region may specify a class or classes of persons who may, or whose nominees may, cut and take away fallen or felled trees in that firewood collection area.

- (5) The Secretary may—
 - (a) amend a determination made under subsection (1);
 - (b) revoke a determination made under subsection (1), including by providing for a date of revocation in the determination.
- (6) A determination of a firewood collection area, or an amendment or revocation of a determination, must be published in the Government Gazette.
- (7) A determination of a firewood collection area, or an amendment or revocation of a determination, comes into operation on—
 - (a) the date on which it is published in the Government Gazette; or
 - (b) any later date specified in the determination.

57V Identification of firewood collection areas

- (1) As soon as practicable after a determination made under section 57U(1) comes into operation, the Secretary must cause signs or notices informing the public of the determination to be displayed at the firewood collection area in such a place and manner that the signs or notices are reasonably likely to be seen by any person entering the area.
- (2) As soon as practicable after an amendment of a determination made under section 57U(1) comes into operation, the Secretary must cause the signs or notices displayed at the firewood collection area to be amended.
- (3) As soon as practicable after a determination made under section 57U(1) is revoked, the Secretary must cause the removal of signs or notices displayed at the firewood collection area.

S. 57V
inserted by
No. 46/2012
s. 5.

- (4) If the determination specifies a class or classes of person who may cut and take away, or whose nominees may cut and take away, fallen or felled trees in a firewood collection area, the signs or notices must include that information.
- (5) If the firewood collection area is located in a region to which a determination under section 57ZA(1) applies, the signs or notices must state the maximum amount of fallen or felled trees that may be cut and taken away in a financial year in firewood collection areas in that region for domestic use as firewood in a household.

S. 57W
inserted by
No. 46/2012
s. 5.

57W Offence to cut or take away fallen or felled trees in firewood collection area unless a class member or nominated by class member

- (1) If a determination of a firewood collection area under section 57U specifies a class or classes of persons who may cut and take away fallen or felled trees in that area, a person must not, in that area during a firewood collection season, cut or take away 2 cubic metres or less of fallen or felled trees unless—
 - (a) the person is a member of a class specified in the determination; or
 - (b) the person is a nominee and the nominating person is a member of a class specified in the determination.

Penalty: 20 penalty units.

- (2) If a determination of a firewood collection area under section 57U specifies a class or classes of persons who may cut and take away fallen or felled trees in that area, a person must not, in that area during a firewood collection season, cut or take away more than 2 cubic metres of fallen or felled trees unless—

- (a) the person is a member of a class specified in the determination; or
- (b) the person is a nominee and the nominating person is a member of a class specified in the determination.

Penalty: 50 penalty units or imprisonment for 1 year or both.

57X Offences as to amount of fallen or felled trees cut or taken away in a day

S. 57X
inserted by
No. 46/2012
s. 5.

- (1) A person must not, in any one or more firewood collection areas during a firewood collection season applying to the area or areas, cut or take away more than 2 cubic metres but less than 4 cubic metres of fallen or felled trees in a day.

Penalty: 20 penalty units.

- (2) A person must not, in any one or more firewood collection areas during a firewood collection season applying to the area or areas, cut or take away 4 cubic metres or more of fallen or felled trees in a day.

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (3) Subsections (1) and (2) apply whether or not the person cuts or takes away fallen or felled trees as a nominee.

- (4) In this section and sections 57Y to 57ZB—

firewood collection area includes a firewood collection area determined under section 21P of the **Crown Land (Reserves) Act 1978**;

firewood collection season includes a firewood collection season within the meaning of the **Crown Land (Reserves) Act 1978**.

S. 57Y
inserted by
No. 46/2012
s. 5.

57Y Household limit of fallen or felled trees cut or taken away in a financial year

In a financial year, a person must not, in any one or more firewood collection areas during firewood collection seasons applying to the area or areas, cut or take away fallen or felled trees for domestic use as firewood in that person's household if the amount of fallen or felled trees previously cut or taken away (or nominated to be cut and taken away by nominees) in that financial year in any one or more firewood collection areas during firewood collection seasons applying to the area or areas for domestic use as firewood in that person's household is 16 cubic metres or more.

Penalty: 50 penalty units or imprisonment for 1 year or both.

S. 57Z
inserted by
No. 46/2012
s. 5.

57Z Household limit of fallen or felled trees cut and taken away in a financial year—offences relating to nominations

(1) In a financial year, a person must not nominate another person under section 57R to cut or take away fallen or felled trees for domestic use as firewood in that person's household if the amount of fallen or felled trees previously cut or taken away (or nominated to be cut and taken away by nominees) in that financial year in any one or more firewood collection areas during firewood collection seasons applying to the area or areas for domestic use as firewood in that person's household is 16 cubic metres or more.

Penalty: 50 penalty units or imprisonment for 1 year or both.

(2) In a financial year, a nominating person must not specify in a nomination under section 57R an amount of fallen or felled trees that, when added to the amount of fallen or felled trees previously

cut or taken away (or nominated to be cut and taken away by nominees) in that financial year in any one or more firewood collection areas during firewood collection seasons applying to the area or areas for domestic use as firewood in that person's household would exceed 16 cubic metres.

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (3) In a financial year, a nominee must not in any one or more firewood collection areas during firewood collection seasons applying to the area or areas, cut or take away fallen or felled trees for domestic use as firewood in the nominating person's household if, in that financial year, the nominee has previously cut or taken away the amount of fallen or felled trees specified as the maximum amount in the nomination under section 57R.

Penalty: 50 penalty units or imprisonment for 1 year or both.

57ZA Secretary may determine amount of fallen or felled trees cut and taken away in certain regions

**S. 57ZA
inserted by
No. 46/2012
s. 5.**

- (1) The Secretary may determine the amount of fallen or felled trees that, in any financial year, may be cut and taken away in any one or more firewood collection areas in a region for domestic use as firewood in a household.
- (2) Before making a determination setting the amount, the Secretary must be satisfied that the determination is necessary for management of the supply of fallen or felled trees for domestic use as firewood in the region.
- (3) A determination under subsection (1) must specify—
- (a) the region in which it applies; and

- (b) the amount (being less than 16 cubic metres) of fallen or felled trees that may be cut and taken away in firewood collection areas in that region for domestic use as firewood in a financial year.
- (4) The Secretary must not make a determination under subsection (1) relating to a financial year after the commencement of a firewood collection season in that financial year.
- (5) A determination under subsection (1) must be published in the Government Gazette.

S. 57ZB
inserted by
No. 46/2012
s. 5.

57ZB Offence to exceed regional limit

- (1) In a financial year, a person must not in any one or more firewood collection areas to which a determination under section 57ZA(1) applies during firewood collection seasons applying to the area or areas, cut or take away fallen or felled trees for domestic use as firewood in that person's household if, in that financial year, the amount of fallen or felled trees previously cut or taken away in the area or areas during firewood collection seasons applying to the area or areas for domestic use as firewood in that person's household has reached at least the limit set in the determination under section 57ZA(1).

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (2) In a financial year, a nominee must not in any one or more firewood collection areas to which a determination under section 57ZA(1) applies during firewood collection seasons applying to the area or areas, cut or take away fallen or felled trees for domestic use as firewood in the nominating person's household if, in that financial year, the amount of fallen or felled trees previously cut or taken away by the nominee in

the area or areas during firewood collection seasons applying to the area or areas for domestic use as firewood in the nominating person's household has reached at least the limit of fallen or felled trees set in the determination under section 57ZA(1).

Penalty: 50 penalty units or imprisonment for 1 year or both.

57ZC Offence as to sale of fallen or felled trees

S. 57ZC
inserted by
No. 46/2012
s. 5.

- (1) A person must not sell fallen or felled trees that the person has cut or taken away in a firewood collection area during a firewood collection season.

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (2) A nominating person must not sell fallen or felled trees that that person's nominee has cut or taken away in a firewood collection area during a firewood collection season.

Penalty: 50 penalty units or imprisonment for 1 year or both.

57ZD Offences relating to conduct in a firewood collection area

S. 57ZD
inserted by
No. 46/2012
s. 5.

- (1) A person must not, in a firewood collection area during a firewood collection season, cut or take away fallen or felled trees that are visibly hollow.

Penalty: 20 penalty units.

- (2) A person must not, in a firewood collection area during a firewood collection season, cut or take away fallen or felled trees growing moss or fungi.

Penalty: 20 penalty units.

- (3) A person must not, in a firewood collection area during a firewood collection season, fell, cut, chop, break off, dent, scrape or push over a

standing tree (whether living or dead) that has a diameter of up to 15 centimetres at a height of 1.3 metres above the ground.

Penalty: 50 penalty units.

- (4) A person must not, in a firewood collection area during a firewood collection season, fell, cut, chop, break off, dent, scrape or push over a standing tree (whether living or dead) that has a diameter of 15 centimetres or more at a height of 1.3 metres above the ground.

Penalty: 50 penalty units or imprisonment for 1 year or both.

S. 57ZE
inserted by
No. 46/2012
s. 5.

57ZE Production of nomination if requested by authorised officer

A nominee must not, without reasonable excuse, fail to produce the nomination form if requested by an authorised officer.

Penalty: 5 penalty units.

S. 57ZF
inserted by
No. 46/2012
s. 5,
amended by
No. 67/2016
s. 31(3)(a).

57ZF No offence if authorised by licence or authorisation etc. or regulations

Sections 57W, 57X, 57Y, 57ZB, 57ZC and 57ZD do not apply to a person who—

- (a) cuts or takes away fallen or felled trees in State forest in accordance with a lease, licence, permit or authorisation held by the person under this Act or any other Act; or
- (b) cuts or takes away fallen or felled trees in State forest in accordance with the regulations or regulations under any other Act.

S. 57ZF(2)
amended by
No. 4/2013
s. 33(3),
repealed by
No. 67/2016
s. 31(3)(b).

* * * * *

Protected forests

58 Proclamation of protected forests

No. 6073 s. 58.

- (1) The Minister may at any time proclaim any unoccupied Crown land to be a protected forest and may at any time alter or revoke any such proclamation.
- (2) Such proclamation or alteration or revocation shall have no force or effect until published in the Government Gazette.
- (3) Subject to any leases or licences granted under any Act relating to Crown lands—
 - (a) for protected forest that is Parks Victoria recorded land—
 - (i) all forest produce other than fallen or felled trees in a firewood collection area is under the control and management of Parks Victoria; and
 - (ii) forest produce that is fallen or felled trees in a firewood collection area is under the control and management of the Secretary; and
 - (b) for all other protected forest, all forest produce is under the control and management of the Secretary.
- (3A) Subject to subsection (3), Crown land in a protected forest—
 - (a) that is Parks Victoria recorded land, is subject to the control and management of Parks Victoria; and
 - (b) that is not Parks Victoria recorded land, is subject to the control and management of, as the case requires—
 - (i) the Minister administering the **Land Act 1958**; or

S. 58(1)
amended by
No. 10087
s. 3(1)(Sch. 1
item 87(a)).

S. 58(3)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 87(a)),
41/1987
s. 103(Sch. 4
item 24.60),
76/1998
s. 10(1)(o),
substituted by
No. 19/2018
s. 126.

S. 58(3A)
inserted by
No. 19/2018
s. 126.

- (ii) the Minister administering the **Crown Land (Reserves) Act 1978**; or
- (iii) another other person or body who has the control and management of the land under this Act, the **Crown Land (Reserves) Act 1978** or any other Act.
- (4) (a) Any specified area of a protected forest may by Order of the Governor in Council on the recommendation of the Minister be placed under the administration control and management of the Secretary for a specified period.
- S. 58(4)(a) amended by Nos 10087 s. 3(1)(Sch. 1 item 87(b)), 41/1987 s. 103(Sch. 4 item 24.60), 76/1998 s. 10(1)(o).
- (b) During such period the Secretary shall have the control and management of and be responsible for the forest produce in such specified area.
- S. 58(4)(b) amended by Nos 41/1987 s. 103(Sch. 4 item 24.60), 76/1998 s. 10(1)(o).
- (c) In every other respect except as otherwise provided all Crown land within such area shall be subject to the control of the Minister administering the **Land Act 1958**.
- S. 58(4)(c) amended by No. 10087 s. 3(1)(Sch. 1 item 87(c)).
- (d) The Governor in Council on the recommendation of the Minister may at any time revoke either wholly or partly any Order made under this subsection.
- S. 58(4)(d) amended by No. 10087 s. 3(1)(Sch. 1 item 87(d)).
- (5) In this section and any corresponding previous enactment and in any proclamation or declaration made under this section or any corresponding previous enactment any reference to unoccupied Crown land shall be deemed to include and always to have included a reference to Crown lands in respect of which any grazing licence or an agricultural licence has or had been granted pursuant to Division eight of Part I of the **Land**
- S. 58(5) amended by No. 96/1994 s. 55(c).

Act 1958 or any corresponding previous enactment.

- (6) Nothing in this section prevents an allocation order under the **Sustainable Forests (Timber) Act 2004** being made in respect of a protected forest.

S. 58(6)
inserted by
No. 48/2004
s. 111(1).

59 Protected trees in protected forests

No. 6073 s. 59.

- (1) No person shall fell girdle ringbark injure destroy or remove any growing tree or any timber in any protected forest without a permit in writing from the Secretary.

S. 59(1)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.61,
24.62),
76/1998
s. 10(1)(c).

- (1A) Subsection (1) does not apply to timber which is timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, if that timber is harvested in accordance with that Act.

S. 59(1A)
inserted by
No. 48/2004
s. 111(2).

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S. 59(1B)
inserted by
No. 46/2012
s. 6,
amended by
No. 4/2013
s. 33(4),
repealed by
No. 67/2016
s. 31(2).

- (1C) Subsection (1) does not apply to a person who cuts or takes away fallen or felled trees in accordance with section 57Q(4).

S. 59(1C)
inserted by
No. 46/2012
s. 6.

- (2) Nothing in this section shall prohibit any person in authorized occupation under any Act relating to Crown lands under any lease or licence of or any permit with respect to any area of protected forest from using in accordance with his lease licence or permit any timber which is necessary for fencing such area or for the domestic use of such person and the members of his household.

S. 59(3)
repealed by
No. 45/2009
s. 10.

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No. 6073 s. 60.

60 Reserved trees in protected forests

The Governor in Council may by Order published in the Government Gazette declare that any tree or kind or class of trees growing in any forest and mentioned in such order shall be a reserved tree or reserved kind or class of trees.

No. 6073 s. 61.
S. 61
amended by
No. 45/2009
s. 11.

61 Penalty for cutting reserved trees

Every person who fells cuts destroys injures or removes any tree which is so reserved or which belongs to any kind or class of trees so reserved in any forest shall be guilty of an offence against this Act.

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S. 61A
inserted by
No. 73/2010
s. 50,
amended by
No. 70/2013
s. 4(Sch. 2
item 20.3).

61A Chief Fire Officer

There is to be a Chief Fire Officer of the Department of Environment and Primary Industries employed under Part 3 of the **Public Administration Act 2004**.

S. 61B
inserted by
No. 73/2010
s. 50,
amended by
No. 70/2013
s. 4(Sch. 2
item 20.4).

61B Functions of Chief Fire Officer

The Chief Fire Officer of the Department of Environment and Primary Industries has the following functions—

- (a) to exercise any functions authorised by the Secretary in respect of fire related activities in every State forest, national park or on protected public land;

- (b) any other function conferred on the Chief Fire Officer by or under this or any other Act.

61C Immunity

S. 61C
inserted by
No. 73/2010
s. 50.

- (1) The Chief Fire Officer of the Department of Environment and Primary Industries is not personally liable for any thing done or omitted to be done in good faith—

S. 61C(1)
amended by
No. 70/2013
s. 4(Sch. 2
item 20.5).

- (a) in the exercise of a power or the discharge of a duty under this Act or the regulations or any other Act or regulations made under that Act; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act or the regulations or any other Act or regulations made under that Act.

- (2) Any liability resulting from an act or omission that would but for subsection (1) attach to the Chief Fire Officer of the Department of Environment and Primary Industries attaches to the Secretary.

S. 61C(2)
amended by
No. 70/2013
s. 4(Sch. 2
item 20.5).

61D Emergency Management Victoria

The Secretary must, in performing its functions and exercising its powers under section 62(2)(a), collaborate and consult with Emergency Management Victoria.

S. 61D
inserted by
No. 73/2010
s. 50,
substituted by
No. 73/2013
s. 86 (as
amended by
No. 41/2014
s. 14).

S. 61E
inserted by
No. 73/2010
s. 50,
substituted by
No. 73/2013
s. 86 (as
amended by
No. 41/2014
s. 14).

**61E Compliance with operational standards of
Emergency Management Commissioner**

The Secretary must use its best endeavours to carry out its functions in accordance with the operational standards developed by the Emergency Management Commissioner under the **Emergency Management Act 2013**.

S. 61EA
inserted by
No. 73/2013
s. 86 (as
amended by
No. 41/2014
s. 14).

**61EA Report on compliance with operational standards
developed by the Emergency Management
Commissioner**

- (1) The Secretary must, at the expiration of each period of 6 months, report in writing on the action it has taken during the preceding 6 months to comply with the operational standards developed by the Emergency Management Commissioner under the **Emergency Management Act 2013**.
- (2) A copy of the report prepared by the Secretary under subsection (1) must be given to the Emergency Management Commissioner.

S. 61EB
inserted by
No. 73/2013
s. 86 (as
amended by
No. 41/2014
s. 14).

61EB Strategic Action Plan

- (1) The Secretary must implement the applicable work program to give effect to the Strategic Action Plan.
- (2) The Secretary must prepare a written report on the progress made, and achievements attained, by the Secretary to give effect to the Strategic Action Plan at intervals determined by the State Crisis and Resilience Council.
- (3) The intervals must not be less than one a year.
- (4) The Secretary must give a copy of a report prepared by the Secretary under subsection (2) to the State Crisis and Resilience Council and the Inspector-General for Emergency Management.

61F Compliance with incident management operating procedures	S. 61F inserted by No. 73/2010 s. 50.
The Secretary must comply with any incident management operating procedures.	
62 Declaration of protected public lands	S. 62 substituted by No. 8587 s. 7.
(1) On the recommendation of the Minister the Governor in Council may by Order published in the Government Gazette declare any lands of the Crown not being within a State forest or a national park to be protected public land and may by the like Order revoke or vary any Order so made.	S. 62(1) amended by No. 10087 s. 3(1)(Sch. 1 item 88).
(1A) Where—	S. 62(1A) inserted by No. 9114 s. 22(b).
* * * * *	S. 62(1A)(a) repealed by No. 64/2004 s. 35.
(b) the land is being managed by Parks Victoria pursuant to an agreement under section 19A or 19C of the National Parks Act 1975 , the land shall be deemed to be protected public land;	S. 62(1A)(b) amended by Nos 10073 s. 15, 41/1987 s. 116(9), 66/2000 s. 55(a), 19/2018 s. 127(1).
(c) the land is being managed by Parks Victoria pursuant to section 19AA, 19E or 32AA of the National Parks Act 1975 , the land shall be deemed to be protected public land for as long as Parks Victoria manages the land pursuant to section 19AA, 19E or 32AA (as the case requires);	S. 62(1A)(c) inserted by No. 9247 s. 17, amended by Nos 10166 s. 22(a)(b), 46/1998 s. 7(Sch. 1), 66/2000 s. 55(b)(i)(ii), 19/2018 s. 127(2).

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S. 62(1A)(d)
inserted by
No. 9247 s. 17,
amended by
No. 41/1987
s. 116(9),
substituted by
Nos 66/2000
s. 55(c),
50/2002 s. 27,
amended by
No. 60/2005
s. 36,
substituted by
No. 19/2018
s. 127(3).

- (d) the land is placed under the control and management of—
- (i) Parks Victoria under section 18(1A) of the **Crown Land (Reserves) Act 1978** for the purposes of section 19B of the **National Parks Act 1975**; or
 - (ii) the Secretary under section 18(1) or (1B) of the **Crown Land (Reserves) Act 1978** for the purposes of section 18A of the **Forests Act 1958**; or
 - (iii) Parks Victoria under section 18(1B) of the **Crown Land (Reserves) Act 1978** for the purposes of section 18A of the **Forests Act 1958**—

the land is taken to be protected public land;

S. 62(1A)(e)
inserted by
No. 9974 s. 43,
amended by
No. 61/1993
s. 34(c),
substituted by
No. 89/1997
s. 72(1).

- (e) the land is under the control and management of an Alpine Resort Management Board within the meaning of the **Alpine Resorts (Management) Act 1997** or is under the control and management of the Alpine Resorts Co-ordinating Council within the meaning of that Act, the land shall be deemed to be protected public land for so long as a Board or the Council manages the land; or

S. 62(1A)(f)
inserted by
No. 61/1993
s. 34(c),
repealed by
No. 35/1998
s. 15(2).

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| * | * | * | * | * | S. 62(1B)
inserted by
No. 96/1994
s. 53,
repealed by
No. 89/1997
s. 72(2). |
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| (2) Despite anything to the contrary in any other Act or law, the Secretary must carry out proper and sufficient work in State forests, national parks and on protected public land— | | | | | S. 62(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.63),
76/1998
s. 10(1)(o),
substituted by
No. 73/2010
s. 51. |
| (a) for the immediate prevention and suppression of fire; and | | | | | |
| (b) for the planned prevention of fire. | | | | | |
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 | | | | | |
| (3) The Secretary must not carry out work of a kind specified under subsection (2)(b) on protected public land not managed and controlled by the Secretary, unless the Secretary has consulted about the work proposed to be undertaken with the person or body responsible, under the Act under which the land is managed and controlled, for the management and control of the land. | | | | | S. 62(3)
inserted by
No. 73/2010
s. 51,
substituted by
No. 7/2012
s. 25. |
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| 62AA Duty to warn the community | | | | | S. 62AA
inserted by
No. 73/2010
s. 52. |
| (1) The Secretary must issue warnings and provide information in relation to fires in State forests, national parks and on protected public land if— | | | | | |
| * | * | * | * | * | S. 62AA(1)(a)
repealed by
No. 73/2013
s. 87(a). |
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| (b) the Secretary considers that the issuing of warnings or the provision of information is necessary for the purposes of protecting life and property. | | | | | |

S. 62AA(2)
amended by
No. 73/2013
s. 87(b).

- (2) The Secretary must have regard to any guidelines, procedures or operating protocols issued by the Emergency Management Commissioner under section 44 of the **Emergency Management Act 2013** for the purposes of carrying out a duty under subsection (1).

S. 62A
inserted by
No. 48/2004
s. 112.

62A Secretary may apply and use fire for land and resource management

- (1) Subject to this Act, the Secretary may, in a State forest or national park, or on protected public land, apply and use fire for the following purposes—
- (a) as part of silvicultural activities undertaken in the State forest or on protected public land;
 - (b) to control pest animals and pest plants in the State forest, national park or on protected public land;
 - (c) to maintain, manage, protect or enhance the ecology of, or land or vegetation in, the State forest, national park or on protected public land.
- (2) In applying and using fire in a State forest or national park, or on protected public land, the Secretary must have regard to any relevant Code of Practice.

S. 62B
inserted by
No. 48/2004
s. 112.

62B Agreement required for Secretary to apply or use fire in national parks or on protected public land

The Secretary must not apply or use fire in a national park or on protected public land for any purpose set out in section 62A(1) unless the person or body that has management and control of the national park or protected public land agrees to its application or use.

62C Secretary may enter into agreements and arrangements relating to the prevention and suppression of fires and recovery from fires

The Secretary may enter into an agreement or arrangement with any person or body in Victoria or elsewhere—

- (a) for assistance in the prevention and suppression of fire and recovery from fire;
- (b) relating to research into the prevention and suppression of fire and recovery from fire;
- (c) for training in relation to the prevention and suppression of fire and recovery from fire;
- (d) for the supply of fire fighting equipment and apparatus and systems used in the prevention and suppression of fire and recovery from fire;
- (e) for the provision by the Secretary of goods or services relating to the prevention and suppression of fire and recovery from fire.

S. 62C
(Heading)
amended by
No. 19/2018
s. 128(1).

S. 62C
inserted by
No. 48/2004
s. 112.

S. 62C(a)
amended by
No. 19/2018
s. 128(2).

S. 62C(b)
amended by
No. 19/2018
s. 128(2).

S. 62C(c)
amended by
No. 19/2018
s. 128(2).

S. 62C(d)
amended by
No. 19/2018
s. 128(2).

S. 62C(e)
amended by
No. 19/2018
s. 128(2).

63 Restrictions as to lighting etc. fires in certain areas

- (1) Every person who in any State forest protected public land or national park—
 - (a) in circumstances in which he is required by the regulations to have the written authority of an authorised officer to light a fire in the open air and without being thereunto directed by an authorised officer lights kindles or maintains or knowingly or negligently causes to be lit kindled or

No. 6073 s. 63.

S. 63(1)
amended by
Nos 8587 s. 8,
8945 s. 7(a)(i),
9464 s. 2(a)(i),
10235 s. 3(c).

S. 63(1)(a)
substituted by
Nos 6976
s. 12(1)(a),
7065
s. 2(Sch.),
amended by
No. 41/1987
s. 103(Sch. 4
item 24.64).

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- maintained any fire in the open air without having such authority or without complying with any condition specified in the authority;
- S. 63(1)(aa) inserted by No. 6976 s. 12(1)(a), amended by No. 8945 s. 2(a).
- (aa) in or in relation to the lighting kindling maintaining or extinguishing of any fire in the open air fails to comply with any relevant regulations;
- S. 63(1)(b) amended by No. 74/2000 s. 3(Sch. 1 item 52.5).
- (b) does not observe all reasonable precautions to prevent the spread of and damage by any fire lit kindled or maintained by him or to his knowledge by his agent or employee; or
- S. 63(1)(c) amended by No. 74/2000 s. 3(Sch. 1 item 52.5).
- (c) leaves any fire lit kindled or maintained by him or to his knowledge by his agent or employee or otherwise without previously taking all reasonable precautions to prevent it spreading or causing injury—
- shall be liable to a penalty of not more than 100 penalty units or to imprisonment for a term of not more than two years or to both such penalty and imprisonment.
- S. 63(2) amended by Nos 8587 s. 8, 8945 s. 7(a)(ii), 9464 s. 2(a)(ii), 10235 s. 3(d).
- (2) Every person who in any fire protected area, not being a State forest protected public land or a national park—
- S. 63(2)(a) substituted by Nos 6976 s. 12(1)(b), 7065 s. 2(Sch.), amended by No. 41/1987 s. 103(Sch. 4 item 24.64).
- (a) during the prohibited period in circumstances in which he is required by the regulations to have the written authority of an authorised officer to light a fire in the open air and without being thereunto directed by an authorised officer lights kindles or maintains or knowingly or negligently causes to be lit kindled or maintained any fire in the open air without having such authority or without complying with any condition specified in the authority;

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- (aa) at any time in or in relation to the lighting kindling maintaining or extinguishing of any fire in the open air fails to comply with any relevant regulations; **S. 63(2)(aa) inserted by No. 6976 s. 12(1)(b), amended by No. 8945 s. 2(b).**
- (b) at any time does not observe all reasonable precautions to prevent the spread of and damage by any fire lit kindled or maintained by him or to his knowledge by his agent or employee; or **S. 63(2)(b) amended by No. 74/2000 s. 3(Sch. 1 item 52.5).**
- (c) at any time leaves any fire lit kindled or maintained by him or to his knowledge by his agent or employee or otherwise without previously taking all reasonable precautions to prevent it spreading or causing injury— **S. 63(2)(c) amended by No. 74/2000 s. 3(Sch. 1 item 52.5).**
- shall be liable to a penalty of not more than 50 penalty units or to imprisonment for a term of not more than one year or to both such penalty and imprisonment.
- (3) Where any authorised officer or any police officer directs the owner or occupier of or person residing on and having charge and control of any private land (including any Crown land leased with an inchoate right of purchase) within 3 kilometres of the boundary of any State forest protected public land or national park— **S. 63(3) amended by S.R. No. 258/1974 reg. 9, Nos 8587 s. 8, 41/1987 s. 103(Sch. 4 item 24.64), 37/2014 s. 10(Sch. item 67.2).**
- (a) to extinguish any fire on such land; or
- (b) to take such steps as the authorised officer or police officer directs to extinguish such fire or prevent the same from spreading or causing injury— **S. 63(3)(b) amended by Nos 41/1987 s. 103(Sch. 4 item 24.65), 37/2014 s. 10(Sch. item 67.2).**

such owner occupier or person (whether or not he has been authorized or directed by an authorised officer to light kindle or maintain such fire and

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whether or not such fire was lit kindled or maintained in accordance with this Act or the regulations or any other Act or any permit or direction granted or given pursuant to any other Act) shall forthwith extinguish such fire or take such steps accordingly.

S. 63(4)
amended by
Nos 8945
s. 7(a)(iii),
9464
s. 2(a)(iii),
10235 s. 3(e).

- (4) Every such owner occupier or person when so directed as aforesaid—
- (a) who fails neglects or refuses to extinguish such fire forthwith or to take forthwith such steps as aforesaid; or
 - (b) who purports to carry out such directions but does so in such a manner that the fire is not extinguished and breaks out or is likely to break out subsequently—

shall be liable to a penalty of not more than 50 penalty units or to imprisonment for a term of not more than one year or to both such penalty and imprisonment.

S. 63(5)
amended by
Nos 8945
s. 7(a)(iv),
41/1987
s. 103(Sch. 4
items 24.64,
24.66),
76/1998
s. 10(1)(p)(i)(ii),
74/2000
s. 3(Sch. 1
item 52.6),
37/2014
s. 10(Sch.
item 67.2).

- (5) A reward of not more than \$500⁶ may be paid by the Secretary with the approval of the Minister to any person (not being a police officer or an authorised officer or a person employed in the Department) who gives such information as leads to a conviction under this section.

S. 63(6)(a)
amended by
Nos 8247 s. 5,
41/1987
s. 103(Sch. 4
item 24.64).

- (6) (a) Any authorised officer may (with or without warrant) with any assistance he requires take into custody any person who is found offending against any of the provisions of this section and who refuses to give his name

or address when called upon to do so by any authorised officer.

(b) Such person shall be taken before a bail justice or the Magistrates' Court to be dealt with according to law.

S. 63(6)(b) amended by No. 57/1989 s. 3(Sch. item 81.1).

(c) Every such person found offending as aforesaid who gives a false name or address when called upon to give his name or address shall be guilty of an offence against this Act.

(7) Any person who is convicted of an offence against this section may on conviction in addition be ordered by the court to pay to the Crown in respect of any damage or injury and the costs of fire suppression occasioned or caused by the commission of such offence such amount as is fixed by the court after taking the evidence on oath of an authorised officer as to the nature and extent of such damage or injury and fire suppression, and in default of payment of such amount the same may be recovered by the informant in the same manner as the penalty may be recovered.

S. 63(7) amended by No. 41/1987 s. 103(Sch. 4 item 24.64).

(8) Any amount ordered by the court pursuant to subsection (7) of this section to be paid in respect of the costs of fire suppression shall when paid or recovered be paid into the Consolidated Fund.

S. 63(8) inserted by No. 6976 s. 12(1)(c), amended by No. 9861 s. 3(1).

64 Absolute prohibition of use of fire when acute fire danger exists

No. 6073 s. 64.

(1) Whenever the Secretary reports to the Minister that a condition of acute fire danger exists or is likely to exist in any fire protected area or part of a fire protected area the Minister may by notice—

S. 64(1) amended by Nos 41/1987 s. 103(Sch. 4 item 24.67), 76/1998 s. 10(1)(q).

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amended by
No. 48/2004
s. 113(1)(a).

- (a) prohibit absolutely the use of fire in the open air in any such fire protected area or part of a fire protected area (as the case may be); and
- (b) suspend any or all leases licences permits registrations or authorities granted under this Act for the felling conversion or removal of forest produce in so far as the same are operative in any such fire protected area or part of a fire protected area (as the case may be); and

S. 64(1)(c)
inserted by
No. 48/2004
s. 113(1)(b).

- (c) suspend any timber harvesting operations within the meaning of the **Sustainable Forests (Timber) Act 2004** being undertaken under that Act in so far as those operations are being undertaken in any such fire protected area or part of a fire protected area (as the case may be)—

for such period as is specified in such notice.

S. 64(2)
amended by
Nos 8945
s. 7(b)(i), 9464
s. 2(b)(i),
10235 s. 3(f).

- (2) Every person who contrary to the provisions of any such notice during the period to which such notice relates—
 - (a) lights kindles or maintains or knowingly or negligently causes or permits to be lit kindled or maintained any fire in the open air in any fire protected area or part of a fire protected area (as the case may be) to which such notice relates; or

S. 64(2)(b)
amended by
No. 48/2004
s. 113(2)(a).

- (b) fells converts or removes forest produce in or from any such fire protected area or part of a fire protected area (as the case may be); or

- (c) undertakes under the **Sustainable Forests (Timber) Act 2004** any timber harvesting operations within the meaning of that Act in any such fire protected area or part of a fire protected area (as the case may be)—

S. 64(2)(c)
inserted by
No. 48/2004
s. 113(2)(b).

shall be liable to a penalty of not more than 100 penalty units or to imprisonment for a term of not more than two years or to both such penalty and imprisonment.

- (3) Every notice under subsection (1) of this section—

- (a) shall be published either—
- (i) in some newspaper or newspapers generally circulating in the locality to which the notice relates; or
 - (ii) by means of a broadcast from a broadcasting station in the State of Victoria—

but may be published in both such ways;

- (b) may be revoked amended or varied by a subsequent notice published as aforesaid; and
- (c) shall subject to any amendment or variation thereof remain in operation, unless revoked, until the expiration of the period to which it relates:

Provided that the revocation or expiration of any such notice shall not affect the previous operation of this section or of such notice or of anything duly done or suffered thereunder or any liability incurred thereunder or any penalty or punishment imposed in respect of any offence committed thereunder or any legal proceeding in respect of any such liability penalty or punishment aforesaid, and any such legal proceeding may be instituted

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continued or enforced and any such penalty or punishment may be imposed as if such notice had not been revoked or had not expired.

S. 64(4)(a)
amended by
Nos 6976
s. 14(a),
41/1987
s. 103(Sch. 4
item 24.68).

- (4) (a) The Minister may from time to time by notice published in the Government Gazette specify the names of authorised officers for the purposes of this subsection; and every authorised officer so specified shall thereupon be authorized, in any case where he is of opinion that a condition of acute fire danger exists in any district under his control, by notice to direct any person who is engaged within any fire protected area or upon any land which is affected by a declaration made under subsection (4) of section three of this Act in any of the operations of felling logging snigging skidding sledging or other like operation or in the operation of driving any steam engine or steam locomotive, to suspend or cause to be suspended all or any of such operations until such time as such suspension is revoked by such officer by a like notice.

S. 64(4)(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.68).

- (b) Notice for the purpose of this subsection may be given by any such authorised officer—
- (i) by writing signed by such officer and delivered to the person to whom it is directed or to any manager of such person or other person in charge of or engaged in the conduct of such operation; or
 - (ii) by telephone or radiophone message to any of the said persons.

S. 64(4)(c)
amended by
Nos 8945
s. 7(b)(ii), 9464
s. 2(b)(ii),
10235 s. 3(g).

- (c) Any person who contravenes or fails to comply with any such direction given as aforesaid shall be liable to a penalty of not more than 100 penalty units or to

imprisonment for a term of not more than two years or to both such penalty and imprisonment.

(d) The provisions of this subsection shall be read and construed as in aid of and not in derogation from the provisions of the other subsections of this section.

(5) In any proceedings for an offence against subsection (2) of this section a certificate signed by the Secretary to the effect that a notice was published by means of a broadcast pursuant to subsection (3) of this section shall be prima facie evidence of the facts set out therein.

S. 64(5)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.69),
109/2004
s. 22(a).

65 Enforcement of burning off etc. near State forest or national park

No. 6073 s. 65.

(1) Any authorised officer if he deems it necessary so to do for the prevention of fire may in writing direct any owner or occupier or person or body of persons having the control or management of any land within 1.5 kilometres of the boundary of any State forest protected public land or national park—

S. 65(1)
amended by
No. 6870
s. 2(a), S.R.
No. 258/1974
reg. 10(a),
Nos 8587 s. 8,
41/1987
s. 103(Sch. 4
item 24.71).

(a) to remove, destroy by burning or abate in any manner directed, a fire hazard on such land;

S. 65(1)(a)
substituted by
No. 8035
s. 7(a).

(b) where the Secretary within the State forest or protected public land or national park and adjoining any such land has carried out or is carrying out any work for fire prevention or control—to carry out on such land adjoining and within 50 metres of the boundary of the State forest protected public land or national park similar work for fire prevention or control as directed by the authorised officer.

S. 65(1)(b)
amended by
S.R. No.
258/1974
reg. 10(b),
Nos 41/1987
s. 103(Sch. 4
item 24.70),
96/1994
s. 56(f),
76/1998
s. 10(1)(q).

Forests Act 1958
No. 6254 of 1958
Prevention of and protection from fire

S. 65(2)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(2) The Secretary may aid and co-operate with any such owner occupier person or body in carrying out any such removal destruction abatement or work where the Secretary deems it necessary and desirable so to do.

(3) If any such owner occupier person or body fails or neglects to comply with any direction under this section—

(a) such owner occupier or person or the members of such body shall be guilty of an offence against this Act; and

(b) the Secretary may cause to be carried out the removal destruction abatement or work directed to be carried out.

S. 65(3)(b)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(4) Where any such land is unoccupied and the owner thereof is unknown or cannot be promptly found the Secretary may cause to be carried out the removal destruction abatement or work directed to be carried out.

S. 65(4)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(5) Where the Secretary causes any removal destruction abatement or work to be carried out pursuant to this section—

S. 65(5)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(a) the Secretary may recover the costs thereof in any court of competent jurisdiction from any owner or occupier of such land;

S. 65(5)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

Forests Act 1958
No. 6254 of 1958
Prevention of and protection from fire

- (b) in the case of land other than Crown land, until paid or recovered such costs shall be and remain a charge on the land and if not paid within six months after demand such costs shall bear interest at the rate of Six per centum per annum from the date of demand;
- (c) the Secretary must furnish to the Registrar of Titles a certificate of charge under the seal of the Secretary describing the land charged and setting out particulars of the title to the land and stating that there are costs payable under this section in respect of the land; and
- (ca) the Registrar of Titles must make a recording of the certificate in the Register; and
- (d) until any such costs together with any interest are paid no sale or transfer of the land on which the same are charged shall be made or registered.
- (5A) When the amount set out in a certificate under subsection (5) together with any interest is paid, the Registrar of Titles, on lodgment of a certificate of discharge under the seal of the Secretary, must delete the recording of the charge from the Register or make a recording in the Register of the discharge.
- (6) Nothing in this section shall apply with respect to any land vested in or under the control of the Melbourne and Metropolitan Board of Works.
- (7) In any legal proceedings under the provisions of this section and in addition to any other method of proof available evidence that the person

S. 65(5)(c) amended by Nos 41/1987 s. 103(Sch. 4 items 24.70, 24.72), 76/1998 s. 10(1)(q), substituted by No. 85/1998 s. 24(Sch. item 25.1) (as amended by No. 76/1998 s. 15).

S. 65(5)(ca) inserted by No. 85/1998 s. 24(Sch. item 25.1).

S. 65(5A) inserted by No. 85/1998 s. 24(Sch. item 25.2) (as amended by No. 76/1998 s. 15).

S. 65(7) inserted by No. 6870 s. 2(b).

proceeded against is rated in respect of any land to any general rate for the municipality within which the land is situated shall unless the contrary is proved be evidence that that person is the owner or occupier (as the case may be) of that land.

No. 6073 s. 66.
S. 66
amended by
Nos 9576
s. 11(1),
48/2004 s. 114.

66 Placing inflammable material for the purpose of causing fire etc.

Any person who in any fire protected area during the prohibited period for the purpose of causing any fire and with intent thereby to injure any forest produce, timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** or any property puts or places any match or inflammable material or combustible substance matter or thing in such a position that—

- (a) a fire is likely to be caused; or
- (b) the match material substance matter or thing may be ignited exploded or set on fire either from the action of the sun's rays or by friction or by any other means whatsoever—

shall whether such fire is caused or not be guilty of an indictable offence and being convicted thereof shall be liable to imprisonment for a term of not more than ten years.

S. 66A
inserted by
No. 82/2009
s. 36.

66A Offence to leave certain campfires or barbeques unattended

- (1) The person in charge of a campfire or barbeque using solid fuel and that is in the open air in a regulated fire area must not—
 - (a) be outside the line of sight of the campfire or barbeque; or
 - (b) be more than 50 metres from the perimeter of the campfire or barbeque.

Penalty: 100 penalty units.

- (2) In this section and in sections 66B and 66C, *regulated fire area* means any State forest, protected public land or national park.

66B Offences as to having clear areas around certain campfires or barbeques

S. 66B
inserted by
No. 82/2009
s. 36.

- (1) A person must not light, kindle or maintain a campfire or barbeque, that uses solid fuel and that is in the open air in a regulated fire area, unless the ground and airspace within a distance of 3 metres from the outer perimeter and uppermost point of the fire are clear of flammable material.

Penalty: 100 penalty units.

- (2) A person must not light, kindle or maintain a campfire or barbeque, that uses liquid fuel, gaseous fuel or chemical solid fuel and that is in the open air in a regulated fire area, unless the ground and airspace within a distance of 1.5 metres from the outer perimeter and uppermost point of the fire are clear of flammable material.

S. 66B(2)
amended by
No. 29/2011
s. 3(Sch. 1
item 41).

Penalty: 100 penalty units.

66C Offence as to campfires or barbeques above a certain size

S. 66C
inserted by
No. 82/2009
s. 36.

- (1) A person must not light, kindle or maintain a campfire or barbeque, that uses solid fuel and that is in the open air in a regulated fire area, if—
- (a) the area of the campfire or barbeque is more than one square metre in any direction; or
 - (b) a dimension of any piece of the solid fuel that is being used in the campfire or barbeque is more than one metre—

unless the person is authorised to do so in writing by an authorised officer.

Penalty: 100 penalty units.

- (2) An authorised officer may give an authorisation in writing for the purpose of subsection (1).

No. 6073 s. 67.

67 Duty to prevent spread of fire etc.

S. 67(1)
amended by
Nos 6976
s. 13, 8587
s. 8, 41/1987
s. 103(Sch. 4
item 24.73),
37/2014
s. 10(Sch.
item 67.2).

- (1) Every person who finds any fire burning in any State forest protected public land or national park or in any fire protected area during any period when there is danger of the spread of fire shall do everything that is reasonably within his power to prevent such fire from spreading and shall as soon as practicable report the existence of such fire to the nearest authorised officer or police officer.

S. 67(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.73),
37/2014
s. 10(Sch.
item 67.2).

- (2) When any fire is unlawfully burning on any land in any fire protected area during the prohibited period the occupier of such land shall take all reasonable measures at his own expense to extinguish such fire and shall as soon as practicable report the existence of such fire to the nearest authorised officer or police officer.

S. 67(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.73),
48/2004
s. 115(1),
37/2014
s. 10(Sch.
item 67.2).

- (3) Every person who holds a lease licence permit or authority under this Act or is employed by any person holding any such lease licence permit or authority or is employed by the State of Victoria or who is a timber harvester shall furnish as soon as practicable to the nearest authorised officer or police officer any information he may possess regarding any outbreak of fire during the prohibited period in any fire protected area.

S. 67(4)
inserted by
No. 48/2004
s. 115(2).

- (4) In subsection (3) *timber harvester* means a person—
- (a) who has entered into an agreement with VicForests under the **Sustainable Forests (Timber) Act 2004** for the harvesting and sale of timber resources or the harvesting or sale of timber resources within the meaning of that Act; or

(b) undertaking timber harvesting operations within the meaning of that Act.

68 Secretary may carry out clearing and preventive burning

S. 68 substituted by No. 8945 s. 3.

Where a person fails to carry out any clearing or preventive burning as and within the period (if any) required by the regulations—

(a) he shall be guilty of an offence against this Act; and

(b) the Secretary may carry out any of the required clearing and preventive burning and recover from him in any court of competent jurisdiction the cost thereof.

S. 68(b) amended by Nos 41/1987 s. 103(Sch. 4 item 24.74), 76/1998 s. 10(1)(q).

* * * * *

No. 6073 s. 69. S. 69 amended by Nos 6976 s. 14(b), 41/1987 s. 103(Sch. 4 item 24.75), 76/1998 s. 10(1)(q), repealed by No. 48/2004 s. 116(1).

70 Provisions relating to offences against fire prevention provisions

No. 6073 s. 70.

(1) None of the fire prevention provisions of this Act shall derogate from any other of the fire prevention provisions of this Act or from any penal provisions of any other Act or enactment relating to fires or the careless negligent or criminal use of fire.

Forests Act 1958
No. 6254 of 1958
Prevention of and protection from fire

(2) Without affecting the generality of the provisions of this Act as to prosecutions for any offence, any prosecution for an offence against the fire prevention provisions of this Act may be brought—

S. 70(2)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.76),
37/2014
s. 10(Sch.
item 67.3).

(a) by any police officer or any authorised officer; or

S. 70(2)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.77),
76/1998
s. 10(1)(r)(i)(ii).

(b) by any employee in the Department or other person appointed by the Secretary in writing for that purpose.

S. 70(3)
amended by
Nos 7876
s. 2(3),
16/1986 s. 30,
repealed by
No. 57/1989
s. 3(Sch.
item 81.2).

* * * * *

(4) In this section *fire prevention provisions of this Act* means—

S. 70(4)(a)
amended by
No. 48/2004
s. 116(2).

(a) sections 63 to 68 of this Act; and

S. 70(4)(b)
amended by
Nos 6976
s. 12(2), 8945
s. 4(a)–(c).

(b) any regulations under any of the said sections or under paragraphs (13)(13A)(13B)(13C)(13D)(16)(17)(17A)(29) or (30) of section ninety-nine as extended by section 99A.

71 Liability of Secretary for damage caused by fire

(1) The Secretary shall be liable for any damage caused by any fire which was lit kindled or maintained by or on behalf of the Secretary or any authorised officer and which was negligently permitted to spread.

No. 6073 s. 71.
S. 71(1)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.78,
24.79),
76/1998
s. 10(1)(s).

(2) Where any person incurs any liability in consequence of damage caused by any fire lit kindled or maintained by such person on the direction of the Secretary or of any authorised officer the Secretary shall indemnify such person from such liability if such person—

S. 71(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.79),
76/1998
s. 10(1)(s).

(a) obeyed and complied with the regulations and all directions of the Secretary and of any authorised officer with respect to such fire; and

S. 71(2)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.78,
24.79),
76/1998
s. 10(1)(s).

(b) did not cause or permit the spread of such fire by any wilful or negligent act or omission.

72 Immunity provision

(1) This section applies to—

(a) an authorised officer;

S. 72
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.80,
24.81),
76/1998
s. 10(1)(s),
repealed by
No. 48/2004
s. 116(4),
new s. 72
inserted by
No. 5/2012
s. 116.

(b) a person employed under section 27 or 28 of the **Parks Victoria Act 2018**;

S. 72(1)(b)
amended by
No. 19/2018
s. 129.

- (c) a person employed in the Department under Part 3 of the **Public Administration Act 2004** by the Department Head of the Department within the meaning of that Act;
 - (d) a person engaged by the Secretary under section 62C.
- (2) A person to whom this section applies is not personally liable for any thing done or omitted to be done in good faith—
- (a) in the exercise of a power or the discharge of a duty under this Act relating to fire management activities; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act relating to fire management activities.
- (3) Any liability resulting from an act or omission that would but for subsection (2) attach to a person to whom this section applies attaches to the Secretary.
- (4) For the purposes of this section—
- fire management activity* means any activity performed for the purposes of the prevention and suppression of fire, including planned burning, and includes any activity performed pursuant to—
- (a) section 20(b), so far as that provision relates to the prevention and suppression of fires within fire protected areas; or
 - (b) section 62(2); or
 - (c) section 62AA.

Maps

73 Deposit of maps showing alterations in forests

No. 6073 s. 73.

- (1) Maps showing any land excised from or added to any reserved forest by the Governor in Council or any alteration of the boundaries of any reserved forest shall within one month of the making of any such excision or addition or alteration be signed by the Minister and deposited with the Clerk of the Parliaments:

S. 73(1)
amended by
Nos 6976
s. 7(1)(j), 7228
s. 7(Sch. 4
Pt 12(c)),
10087
s. 3(1)(Sch. 1
item 89).

Provided that if the Governor in Council is satisfied that any such map was, through inadvertence or any unavoidable circumstance, not signed and deposited as aforesaid within one month after the making of such an excision or addition or alteration, and the Surveyor-General or the person for the time being acting as the Surveyor-General certifies that the map is an original map truly showing the land so excised or added or altered, the Governor in Council may at any time after the making of such excision or addition or alteration authorize such map to be signed by the Minister and deposited with the Clerk of the Parliaments, and such map may be so signed and deposited accordingly.

S. 73(1)
Proviso
amended by
No. 10087
s. 3(1)(Sch. 1
item 89).

- (2) All maps or parts thereof certified under the hand of the Surveyor-General or the person for the time being acting as Surveyor-General to be copies of original maps or of parts thereof deposited with the Clerk of the Parliaments for the purposes of or pursuant to this Act or any corresponding previous enactment shall be admissible in evidence in any court of justice or before any person having by law or by consent of parties authority to hear receive and examine evidence and shall be prima

facie evidence for the same purposes and to the same extent as the originals thereof if they had been produced. All courts of justice and persons having by law or by consent of parties authority to hear receive and examine evidence shall take judicial notice of the signature of the Surveyor-General or the person for the time being acting as Surveyor-General affixed to any certificate under this section.

- (3) The provisions of subsection (2) of this section shall with such alterations modifications and substitutions as are necessary extend and apply to all maps or parts thereof—
- (a) certified under the hand of the Surveyor-General or the person for the time being acting as the Surveyor-General to be reproductions of such original maps or parts thereof but drawn correctly to a larger scale than such originals; and
 - (b) accompanied by copies of the original maps or parts thereof drawn to the same scale as the original maps or parts thereof and certified as provided for in subsection (2) of this section.

General

No. 6073 s. 74.

74 Power for Magistrates' Court to order removal of unauthorized buildings etc. in reserved forest

S. 74(1)
amended by
Nos 6976
s. 15(a), 7876
s. 2(3),
41/1987
s. 103(Sch. 4
item 24.82),
57/1989
s. 3(Sch.
item 81.3).

- (1) Where buildings huts fences dams weirs installations or standing crops are found within a reserved forest and—
- (a) the owner or occupier thereof does not on demand produce any lease licence permit or authority therefor; or

(b) after reasonable inquiries made by an authorised officer the owner or occupier thereof cannot be found—

S. 74(1)(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.82).

then on the hearing of the complaint of an authorised officer the Magistrates' Court may fix a time within which such buildings huts fences dams weirs installations or crops shall be removed.

(2) If such removal is not effected within the time so fixed all such buildings huts fences dams weirs installations or crops shall thereupon become the property of the Crown and shall be disposed of as the Minister may direct.

S. 74(2)
amended by
No. 6976
s. 15(a).

(3) In any case where after such inquiries the owner or occupier has not been found it shall be sufficient service of the notice of removal if a copy thereof is posted on some conspicuous part of the land on which the buildings huts fences dams weirs installations or crops are found.

S. 74(3)
amended by
No. 6976
s. 15(a).

75 Production of licence etc. on demand

Every person who does within any forest any act for which under the provisions of this Act a lease licence permit or authority is required shall upon being required so to do by an authorised officer or by a police officer produce such lease licence permit or authority and if on being so required he within a reasonable time fails without lawful excuse so to do he shall be liable to a penalty of not more than 5 penalty units.

No. 6073 s. 75.
S. 75
amended by
Nos 10235
s. 3(h),
41/1987
s. 103(Sch. 4
item 24.83),
46/2012 s. 7,
37/2014
s. 10(Sch.
item 67.4).

No. 6073 s. 76.

76 As to injuring trees on Crown lands the subject of a grazing licence

S. 76(1)
amended by
No. 96/1994
s. 55(d)(i)(ii).

(1) No person shall ringbark sapring or girdle or otherwise kill destroy damage or injure any growing tree on any Crown lands the subject of a grazing licence or an agricultural licence under Division eight of Part I of the **Land Act 1958** or any corresponding previous enactment except in pursuance of a permit so to do granted under this Act.

S. 76(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.84),
76/1998
s. 10(1)(i)(ii).

(2) Notwithstanding anything in any Act the Secretary or any person authorized by the Secretary in that behalf may grant in respect of any such lands or any portion thereof permits to ringbark sapring or girdle or otherwise kill or destroy growing trees thereon for such period as the Secretary considers appropriate and subject to such conditions as are contained in the permit or as in the opinion of the Secretary are necessary or expedient or as are prescribed.

S. 76(3)
amended by
Nos 7876
s. 2(3), 10235
s. 3(i), 57/1989
s. 3(Sch.
item 81.4).

(3) Every person who ringbarks saprings or girdles or otherwise kills destroys damages or injures any growing tree in contravention of this section or knowingly causes or suffers the same to be done shall be liable to a penalty of not more than 1 penalty unit in respect of each tree and to pay full compensation in respect of each tree so ringbarked sapringed or girdled or otherwise killed destroyed damaged or injured at its full market value, to be determined by the Magistrates' Court.

77 Prohibition of cutting etc. timber etc. on certain roads without authority of Secretary

No. 6073 s. 77.

(1) Subject to subsections (1A) and (1B), notwithstanding anything in any Act or any by-law local law lease licence permit right or authority thereunder (but, with respect to freeways and arterial roads within the meaning of the **Road Management Act 2004**, subject to the provisions of that Act) no person shall without the authority in writing of the Secretary mark bark ringbark sapling girdle fell cut split break or otherwise kill destroy damage or injure or remove the whole or any part of any tree sapling shrub underwood or timber in or upon so much of any road as passes through or is within any State forest or is between and adjoining any State forests.

S. 77(1) amended by Nos 9921 s. 255, 41/1987 s. 103(Sch. 4 item 24.85), 13/1990 s. 40(d), 76/1998 s. 10(1)(u), 12/2004 s. 158(2), 48/2004 s. 117(1), 46/2012 s. 8(1).

(1A) Subsection (1) does not apply to timber which is timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, if that timber is harvested in accordance with that Act.

S. 77(1A) inserted by No. 48/2004 s. 117(2).

(1B) Subsection (1) does not apply to fallen or felled trees in or on a road that is in a firewood collection area, if the fallen or felled trees are cut or taken away in accordance with section 57Q(4).

S. 77(1B) inserted by No. 46/2012 s. 8(2).

(2) The Secretary may grant any such authority in accordance with the regulations and on payment of such fee as is prescribed.

S. 77(2) amended by Nos 41/1987 s. 103(Sch. 4 item 24.85), 76/1998 s. 10(1)(u).

(3) Every person who is guilty of any contravention of or failure to comply with this section or any such regulation shall be liable to a penalty of not more than 50 penalty units.

S. 77(3) amended by Nos 9416 s. 6(1), 10235 s. 3(j).

S. 77(4)
amended by
Nos 9921
s. 255, 13/1990
s. 40(e),
12/2004
s. 158(3).

- (4) Notwithstanding anything in this or any other Act (other than the **Road Management Act 2004**) a municipal council shall have the control and management of all trees saplings shrubs underwood and timber in or upon any road (except so much of any road as passes through or is within any State forest or is between and adjoining any State forests) under the care and management of such council:

S. 77(4)
Proviso
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
13/1990
s. 40(f),
76/1998
s. 10(1)(u).

Provided that if a municipal council cuts or obtains any timber in or upon so much of any such road as is on or adjoins any boundary of any State forest (not being a road between and adjoining any State forests) such timber shall be so cut or obtained and all debris resulting from the cutting or obtaining of such timber shall be burnt or otherwise disposed of to the satisfaction of the Secretary and at such time or times as the Secretary directs.

S. 77(5)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
13/1990
s. 40(f),
76/1998
s. 10(1)(u).

- (5) Notwithstanding anything in this Act, for the purposes of construction of or repairs to any road culvert or bridge, a municipal council may without payment of any royalty fee due or charge cut or obtain timber in or upon so much of any road under the care and management of such council as passes through or is within any State forest or is between and adjoining any State forests: Provided that all timber so cut or obtained shall be cut or obtained and all debris resulting from the cutting or obtaining of such timber shall be burnt or otherwise disposed of to the satisfaction of the Secretary and at such time or times as the Secretary directs.

S. 77(6)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
76/1998
s. 10(1)(u).

- (6) The Secretary may for the purposes only of protecting any State forest from fire cut and remove the whole or any part of any tree sapling shrub underwood or timber in or upon so much of any road as is on or adjoins any boundary of such

State forest: Provided that nothing in this subsection shall be deemed to restrict the powers of the Secretary with respect to any part of any road which is between and adjoining any State forests.

- (7) Subsections (5) and (6) are not subject to the **Road Management Act 2004** and prevail over that Act to the extent of any inconsistency.

S. 77(7)
inserted by
No. 12/2004
s. 158(4).

78 Power of authorised officer

No. 6073 s. 78.

* * * * *

S. 78(1)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.86),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.87).

- (2) If any person within a reserved forest does any act or commits any offence for which he is liable to a conviction under any Act relating to Crown lands or under any Act whatsoever providing for the punishment of offences such person may in respect of such act or offence be proceeded against by any authorised officer.

S. 78(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.86).

* * * * *

S. 78(3)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.88),
repealed by
No. 89/1994
s. 37.

- (4) Every authorised officer shall so far as is necessary for the purpose of carrying out the provisions of this Act have all the like power and authority as is for the time being by law exercisable by persons appointed as authorised officers under the **Conservation, Forests and Lands Act 1987** for the purposes of the **Land**

S. 78(4)
amended by
No. 41/1987
s. 103(Sch. 4
items 24.86,
24.89).

Act 1958 in respect of any Crown lands (other than reserved forests).

S. 78(5)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.86),
substituted by
No. 84/2001
s. 5.

- (5) Every authorised officer may in the performance of his or her duties—
- (a) sell by auction any forest produce; and
 - (b) for the purposes of section 53 of this Act submit licences or permits referred to in that section to public auction.

No. 6073 s. 79.

79 Power to direct route for removal etc. of forest produce

S. 79(1)
amended by
Nos 6976
s. 15(b)(i),
41/1987
s. 103(Sch. 4
item 24.90),
48/2004
s. 118(1).

- (1) Any authorised officer may give directions regarding the route road or track in or by which any forest produce or timber resources may be removed or taken through any part of a forest whether by land or water.

S. 79(1A)
inserted by
No. 12/2016
s. 25.

- (1A) An authorised officer may give directions regarding the route, road or track by which a bee site licensee accesses the bee site licence area.

S. 79(2)
amended by
Nos 6976
s. 15(b)(ii),
41/1987
s. 103(Sch. 4
item 24.90),
48/2004
s. 118(1),
37/2014
s. 10(Sch.
item 67.4).

- (2) Any authorised officer or police officer may stop or detain any forest produce or timber resources within the boundaries of any forest or upon any Crown land or public highway.

(3) Where any authorised officer or police officer has reason to believe that any forest produce or timber resources has been cut removed or otherwise dealt with contrary to the provisions of this Act or the **Sustainable Forests (Timber) Act 2004** (as the case requires) he may seize the same and place a distinctive brand thereon and such forest produce or timber resources shall thereupon become and remain the property of the Crown unless within one month from the date of seizure the Magistrates' Court orders to the contrary and fixes the ownership. Where the Minister is of opinion that it is desirable in the public interest to at once dispose of any forest produce or timber resources so seized and branded he may so order without waiting for any order of the court.

S. 79(3)
amended by
Nos 7876
s. 2(3),
41/1987
s. 103(Sch. 4
item 24.90),
57/1989
s. 3(Sch.
item 81.5),
48/2004
s. 118(1)(2),
37/2014
s. 10(Sch.
item 67.4).

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S. 79(4)
amended by
No. 7876
s. 2(3),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.91).

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S. 79(5)
amended by
Nos 48/2004
s. 118(1),
68/2009
s. 97(Sch.
item 60.1),
repealed by
No. 46/2012
s. 9(1).

(6) A person must not remove or take any forest produce or timber resources through or from any forest contrary to any direction given under subsection (1).

S. 79(6)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.92),
48/2004
s. 118(1),
substituted by
No. 46/2012
s. 9(2).

Penalty: 20 penalty units.

S. 79(6A)
inserted by
No. 46/2012
s. 9(2).

- (6A) A person must not, without the authority in writing of an authorised officer, remove or take any forest produce or timber resources from any forest—
- (a) after 30 minutes after sunset on any day; or
 - (b) before 30 minutes before sunrise on any day.
- Penalty: 20 penalty units.

S. 79(7)
inserted by
No. 48/2004
s. 118(3).

- (7) In this section *timber resources* has the same meaning as it has in the **Sustainable Forests (Timber) Act 2004**.

No. 6073 s. 80.
S. 80
amended by
No. 6976
s. 16(a).

80 Payment of dues and charges

S. 80(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.93),
37/2014
s. 10(Sch.
item 67.4).

- (1) All forest produce cut or obtained in a forest upon which under the provisions of this Act any royalties dues or charges are payable shall until the payment thereof remain the property of the Crown and may be seized and detained or removed by any authorised officer or police officer until such royalties dues and charges have been paid, and in default of payment within ten days of the seizure may by direction of the Minister be disposed of or destroyed.

S. 80(2)
inserted by
No. 6976
s. 16(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.94),
76/1998
s. 10(1)(u).

- (2) Where forest produce which was cut by or on behalf of a person being the holder of any lease licence permit or authority under this Act is sold by direction of the Minister pursuant to subsection (1) of this section the Secretary shall, after deducting therefrom all royalties dues and charges owing by that person to the Secretary in respect of that or any other forest produce and the costs of seizing detaining removing and selling that forest produce, pay the proceeds of the sale to that person.

(3) This section applies to timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act as if—

S. 80(3)
inserted by
No. 48/2004
s. 119.

- (a) a reference to *forest produce* were a reference to *timber resources* within the meaning of that Act; and
- (b) a reference to the Secretary or the Crown were a reference to VicForests; and
- (c) a reference to *the Minister* were a reference to the Minister for Agriculture within the meaning of that Act; and
- (d) a reference to *this Act* were a reference to the **Sustainable Forests (Timber) Act 2004**.

(4) If a provision of the **Sustainable Forests (Timber) Act 2004** is inconsistent with this section as applied by subsection (3), the provision of the **Sustainable Forests (Timber) Act 2004** prevails.

S. 80(4)
inserted by
No. 48/2004
s. 119.

81 Unbranded forest produce to be deemed to belong to Crown

No. 6073 s. 81.
S. 81
amended by
Nos 7876
s. 2(3),
57/1989
s. 3(Sch.
item 81.6),
81/1989
s. 3(Sch.
item 17.3).

All forest produce unbranded or from or on which the brands have been accidentally obliterated altered or defaced by fire or otherwise and which is found adrift on any waterway or lying unclaimed in any State forest shall be deemed to be the property of the Crown unless any person within three months from the time of the Crown taking possession of such forest produce proves his right and title thereto. All claims of ownership to such forest produce shall be decided by the Magistrates' Court.

No. 6073 s. 82.
S. 82
amended by
No. 48/2004
s. 120 (ILA
s. 39B(1)).

82 Presumption as to ownership of forest produce

S. 82(1)
amended by
No. 46/2012
s. 10(1).

(1) In any proceedings under this Act with respect to any forest produce other than timber, such forest produce shall until the contrary is shown be deemed to be the property of the Crown.

S. 82(1A)
inserted by
No. 46/2012
s. 10(2).

(1A) In any proceedings under this Act with respect to forest produce that is timber, the forest produce is, in the absence of evidence to the contrary, taken to be the property of the Crown.

S. 82(2)
inserted by
No. 48/2004
s. 120.

(2) This section applies to timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act as if—

- (a) a reference to *forest produce* were a reference to *timber resources* within the meaning of that Act; and
- (b) a reference to the Crown were a reference to VicForests; and
- (c) a reference to *this Act* were a reference to the **Sustainable Forests (Timber) Act 2004**.

S. 82(3)
inserted by
No. 48/2004
s. 120.

(3) If a provision of the **Sustainable Forests (Timber) Act 2004** is inconsistent with this section as applied by subsection (2), the provision of the **Sustainable Forests (Timber) Act 2004** prevails.

83 Search warrant for secreted forest produce

No. 6073 s. 83.
S. 83
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.95),
57/1989
s. 3(Sch. item
81.7(a)(b)),
48/2004
s. 121(a)(b),
46/2012 s. 11
(ILA s. 39B(1)),
37/2014
s. 10(Sch.
item 67.4).

- (1) On the evidence on oath or by affidavit of any authorised officer or police officer stating his belief that forest produce or timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act, liable to the payment of any royalty fees dues or charges under this Act or the **Sustainable Forests (Timber) Act 2004** (as the case requires), is secreted in any place other than a forest the Magistrates' Court may issue a warrant to search for such forest produce or timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act.
- (2) On the evidence on oath or by affidavit of any authorised officer or police officer stating his or her belief that timber that has been cut, removed or otherwise dealt with contrary to the provisions of this Act are secreted in any place other than a forest the Magistrates' Court may issue a warrant to search for such timber.

S. 83(1)
amended by
No. 37/2014
s. 10(Sch.
item 67.4).

S. 83(2)
inserted by
No. 46/2012
s. 11,
amended by
No. 37/2014
s. 10(Sch.
item 67.4).

No. 6073 s. 84.
S. 84
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.96,
24.97),
76/1998
s. 10(1)(u),
19/2018 s. 130.

84 Restriction on dealings by authorised officers

No authorised officer or other person appointed or employed by the Secretary or Parks Victoria shall as principal or agent trade in any forest produce or become beneficially interested in any lease or licence of any land within any forest or in any permit or other authority or in any contract for working any forest produce in any forest.

No. 6073 s. 85.
S. 85
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.98),
76/1998
s. 10(1)(u),
19/2018 s. 131.

85 Agistment fees chargeable for cattle in reserved forest

The owner of all cattle found depasturing within any part of a reserved forest not held or occupied by such owner under a grazing lease or licence or permit under this Act or any corresponding previous enactment shall be charged therefor by the land manager agistment fees at such rates as may be prescribed.

Ss 86, 87
repealed.⁷

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No. 6073 s. 88.

88 Penalty for unauthorised occupation or depasturing on reserved forests

S. 88(1)
amended by
Nos 6976
s. 17(a)(i)–(iii),
10235
s. 3(k)(i)–(iii).

- (1) Every person who is found in unauthorized occupation of any reserved forest or any part thereof or who knowingly and wilfully depastures any cattle thereon without authority in that behalf shall be liable to the penalties following (that is to say): For the first offence not more than 2 penalty units, for the second offence after an interval of fourteen clear days from the date of the previous conviction not more than 4 penalty units, and for any subsequent offence after a like interval not more than 9 penalty units.

(2) On the conviction of any person for an offence against this section any authorised officer may when so authorized by the Minister take all such steps as are necessary to dispossess the offender from and recover possession of the land of which he has been in unauthorized occupation.

S. 88(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.101).

(3) Whether such person is or is not prosecuted under this section all or any buildings fences or improvements erected or made or occupied or used by him without lawful authority or permission may forthwith be taken possession of for the Crown or removed by any authorised officer.

S. 88(3)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.101).

89 Unbranded wild cattle to belong to Crown

No. 6073 s. 89.

(1) All unbranded wild cattle at any time depasturing on any reserved forest and having no reputed or apparent owner shall be and be deemed and taken to be the property of the Crown; and it shall be lawful for the land manager to cause the same to be sold or disposed of in such a manner as the Governor in Council directs.

S. 89(1)
amended by
Nos 6976
s. 17(b), 9615
s. 8(a)(b),
41/1987
s. 103(Sch. 4
item 24.102),
76/1998
s. 10(1)(u),
19/2018 s. 132.

(2) The purchaser of any such cattle on obtaining the written authority of the land manager for that purpose shall be at liberty, within such time and in such a manner as is mentioned in such authority with necessary and proper assistance to shoot or take possession of such cattle, and for that purpose may enter upon any reserved forest where the same may be depasturing.

S. 89(2)
amended by
Nos 6976
s. 17(b),
41/1987
s. 103(Sch. 4
item 24.102),
76/1998
s. 10(1)(u),
19/2018 s. 132.

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S. 90
repealed by
No. 7835 s. 8.

No. 6073 s. 91.

S. 91
(Heading)
inserted by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.1(a)).

S. 91
amended by
Nos 9993
s. 20(1)(a)(b),
46/1998
s. 7(Sch. 1),
24/2006
s. 6.1.2(Sch. 7
item 19.1(b)–
(d)), 58/2007
s. 53.

S. 91(a)
amended by
Nos 9549
s. 2(1)(Sch.
item 67),
41/1987
s. 103(Sch. 4
item 24.103),
46/1998
s. 7(Sch. 1),
76/1998
s. 10(1)(u),
24/2006
s. 6.1.2(Sch. 7
item 19.1(b)),
58/2007 s. 53.

91 Plantations for Government schools

Where the Department of Education and Early Childhood Development has arranged for the establishment of plantations of forest trees and plants (whether on lands vested in the Minister administering the **Education and Training Reform Act 2006** or otherwise) and the planting and care thereof by Government School pupils and teachers and members of school councils under the **Education and Training Reform Act 2006**, or in any cases where such school councils are committees of management of Government School forest plantations under section 92—

- (a) the Secretary may provide from the nurseries of the Secretary, free of cost, trees plants and seedlings for use in connexion with such plantations under such conditions as are agreed upon by the Secretary and the Secretary to the Department of Education and Early Childhood Development;

- (b) there may, notwithstanding anything in this Act, be paid out of the moneys available for the purpose any sums (not exceeding in the aggregate in all cases the sum of \$1000⁸ in any one year) towards meeting the cost of obtaining materials required to be used in the initial establishment of such plantations, and such sums may be expended for that purpose in such manner as is agreed upon by the Secretary and the Secretary to the Department of Education and Early Childhood Development; and
- (c) any municipal council may apply any portion of the municipal fund of the municipal council for the purposes of any such plantation situate within the municipal district of the municipal council or, with the consent of the Governor in Council, may apply any portion of the said fund for the purposes of any such plantation situate outside the said municipal district.

S. 91(b)
amended by
Nos 9549
s. 2(1)(Sch.
item 67), 9861
s. 3(1),
41/1987
s. 103(Sch. 4
item 24.103),
31/1994
s. 3(Sch. 1
item 30.2),
46/1998
s. 7(Sch. 1),
76/1998
s. 10(1)(u),
24/2006
s. 6.1.2(Sch. 7
item 19.1(b)),
58/2007 s. 53.

S. 91(c)
amended by
No. 13/1990
s. 40(i)–(k).

92 Management of Government school plantation

No. 6073 s. 92.
S. 92
(Heading)
inserted by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.2(a)).

- (1) Notwithstanding anything to the contrary in section 14 of the **Crown Land (Reserves) Act 1978**, in the case of any lands which are reserved pursuant to section 4 of that Act for the purpose of a Government school forest plantation the school council of the Government school shall be the committee of management of those lands for the purposes of that Act.

S. 92(1)
amended by
Nos 6547 s. 2,
9212 s. 2(2),
substituted by
No. 9993
s. 20(2)(a),
amended by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.2(b)).

Forests Act 1958
No. 6254 of 1958
General

S. 92(2)
substituted by
No. 9993
s. 20(2)(a),
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.104,
24.105),
76/1998
s. 10(1)(u),
24/2006
s. 6.1.2(Sch. 7
item 19.2(b)).

(2) The Secretary may set aside for the purpose of a Government school forest plantation any portion of a reserved forest, and where the Secretary does so the school council of the Government school shall be the committee of management of that portion of the reserved forest for the purposes of this Act.

S. 92(3)
amended by
Nos 9212
s. 2(2), 9993
s. 20(2)(b).

(3) Notwithstanding anything in the **Crown Land (Reserves) Act 1978** or this Act any school council which is a committee of management pursuant to subsection (1) or (2) (as the case may be) in addition to its powers under the **Crown Land (Reserves) Act 1978** or this Act (as the case may be), may—

(a) sell or otherwise dispose of or arrange for the sale or disposal of the timber produced from such forest plantation; and

(b) expend the proceeds thereof for such school purposes as are approved by the Minister administering Part 2.3 of the **Education and Training Reform Act 2006**.

S. 92(3)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
24/2006
s. 6.1.2(Sch. 7
item 19.2(c)).

S. 92(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.104),
76/1998
s. 10(1)(u).

(4) On the recommendation of the Secretary the Governor in Council may make regulations for or with respect to—

(a) the inspection of such forest plantations or of any plantations of forest trees and plants established under the last preceding section of this Act;

(b) the thinning and cutting down of trees in any such plantations; and

(c) generally, all things necessary or convenient to be prescribed for carrying into effect the purposes of this section.

(5) In this section and in section 91, *school council* means a school council constituted under Part 2.3 of the **Education and Training Reform Act 2006**.

S. 92(5) inserted by No. 9993 s. 20(2)(c) (as amended by No. 10087 s. 3(1)(Sch. 1 item 42)), amended by No. 24/2006 s. 6.1.2(Sch. 7 item 19.2(d)).

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S. 93 repealed by No. 6976 s. 18.

94 Returns by saw-millers

No. 6073 s. 93.

(1) Whenever required by the Secretary or by any person thereto authorized in writing by the Secretary (either generally or in any particular case) the owner of every sawmill shall furnish in the prescribed manner such information and particulars as are required from him concerning the intake and the output of timber of all classes and species from such sawmill.

S. 94(1) amended by Nos 41/1987 s. 103(Sch. 4 item 24.106), 76/1998 s. 10(1)(u).

(2) Every owner of a saw-mill aforesaid shall forthwith fill up any form sent to or left with or for him for the purposes of this section.

(3) Any owner of a sawmill aforesaid who in contravention of this section—

(a) refuses or fails to forthwith furnish information and particulars when required to do so pursuant to this section;

(b) fails or refuses to forthwith fill up any form sent to or left with or for him for the purposes of this section; or

(c) furnishes information or particulars which is or are not correct—

shall be guilty of an offence against this Act.

S. 94(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.106),
76/1998
s. 10(1)(u).

(4) The forms which are required to be filled in for the purposes of this section shall from time to time be prepared by the Secretary and approved by the Governor in Council.

S. 94(5)
inserted by
No. 6976 s. 19.

(5) For the purpose of this section *owner of a sawmill* means owner of any business in which by any industrial operation timber whether obtained from a State forest or elsewhere in Victoria is fashioned or converted in or from the log (except into fire-wood) and *sawmill* means machine sawmill factory or premises by which or in which any such timber is so fashioned or converted.

S. 94A
inserted by
No. 7205 s. 4,
amended by
Nos 7332
s. 2(Sch. 1
item 23), 7340
s. 3, S.R.
No. 258/1974
reg. 11(a)(b),
Nos 8587
s. 9(1)–(7),
8892
s. 2(a)–(c),
9549
s. 2(1)(Sch.
item 63), 9861
s. 3(1),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.107).⁹

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S. 94B
inserted by
No. 9416 s. 7,
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.107).

95 Powers of entry by authorized officers etc.

No. 6073 s. 94.

(1) The Secretary shall for the purposes of this Act and the regulations thereunder have power by itself or any of its officers or any person (authorized by the Secretary in writing either generally or in any particular case) together with such workmen vehicles and equipment as the Secretary or any such officer or person deems necessary to enter at any time into and upon any building or land for the purposes of—

S. 95(1)
amended by
Nos 6976
s. 20, 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

- (a) executing any work or exercising any power or making any inspection authorized to be executed exercised or made by the Secretary or any such officer or person under this Act or the regulations thereunder;
- (b) ascertaining whether the provisions of this Act and regulations with respect to the prevention or extinguishing of fires are being complied with; or
- (c) taking or directing to be taken all lawful steps for preventing or extinguishing fires:

S. 95(1)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

Provided that except so far as the purposes mentioned in paragraphs (b) and (c) of this subsection are concerned the Secretary or any such officer or person shall not make any such entry upon occupied premises unless with the consent of the occupier until after the expiration of twenty-four hours' notice of intention to enter given to the occupier.

S. 95(1)
Proviso
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

S. 95(2)
amended by
Nos 10235
s. 3(l), 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

- (2) Every person who at any time obstructs the Secretary or any such officer or person in the performance of anything which the Secretary or such officer or person is empowered to do under this section shall be liable to a penalty of not more than 10 penalty units.

S. 95A
inserted by
No. 48/2004
s. 122.

95A Requirement to give name and address

- (1) If an authorised officer believes on reasonable grounds that a person has committed or is committing an offence against this Act or the regulations, the officer may ask the person to state his or her name and ordinary place of residence or business.
- (2) In making a request under subsection (1), the authorised officer must inform the person of the grounds for the authorised officer's belief that the person has committed or is committing the offence.
- (3) A person must not, in response to a request under subsection (1)—
- (a) refuse or fail to comply with the request without a reasonable excuse for doing so; or
 - (b) state a name that is false in a material detail; or
 - (c) state an address that is not the full and correct address of his or her ordinary place of residence or business.

Penalty: 5 penalty units.

- (4) If a person states a name and address in response to a request under subsection (1) and the authorised officer suspects on reasonable grounds that the stated name and address may be false, the officer may request the person to produce evidence of the correctness of the name and address.

- (5) A person to whom a request under subsection (4) is made must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

- (6) It is not an offence for a person to fail to comply with a request under subsection (1) or (4)—
- (a) if the authorised officer did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request; or
 - (b) if the authorised officer did not identify himself or herself in accordance with section 95B before making the request.

95B Authorised officers must identify themselves

S. 95B
inserted by
No. 48/2004
s. 122.

An authorised officer must produce proof of his or her identity and official status—

- (a) before exercising a power under section 95A; and
- (b) at any time during the exercise of a power under section 95A, if asked to do so.

95C Power to remove abandoned goods

S. 95C
inserted by
No. 48/2004
s. 122.

- (1) An authorised officer may remove, or cause the removal of, any goods which the authorised officer reasonably believes have been abandoned in a State forest.
- (2) Subject to subsection (3), an authorised officer must store the goods referred to in subsection (1) in a safe place and manner for not less than 28 days.
- (3) An authorised officer may remove and immediately destroy or dispose of goods referred to in subsection (1) if—

- (a) the goods are perishable; or
 - (b) the goods are dangerous.
- (4) Nothing in this section affects the operation of any other Act or law affecting the removal, destruction or disposal of goods.

Note

Other legislation of the State and Commonwealth may deal with the disposal of goods for example, the **Dangerous Goods Act 1985**.

S. 95D
inserted by
No. 48/2004
s. 122.

95D Owner to be sought and goods returned

- (1) An authorised officer must make reasonable enquiries to ascertain the rightful owner of goods removed and stored under section 95C before the end of 7 days after those goods are stored.
- (2) If the rightful owner of the goods is ascertained, the authorised officer must take reasonable steps to notify the rightful owner as to when and from where the goods can be collected.
- (3) The rightful owner of goods removed and stored under section 95C may apply at the office of the authorised officer who removed the goods for the return of those goods before they are dealt with under section 95E.

S. 95E
inserted by
No. 48/2004
s. 122.

95E What if goods are not collected or claimed?

- (1) An authorised officer may dispose of goods removed and stored under section 95C in any manner he or she thinks fit if—
 - (a) those goods are not collected or claimed within a reasonable time after the rightful owner has been notified under section 95D(2); or
 - (b) the rightful owner cannot be found.

- (2) If goods removed and stored under section 95C are disposed of by sale, the proceeds of the sale must be paid into the Consolidated Fund.

95F Power to seize items

S. 95F
inserted by
No. 48/2004
s. 122.

- (1) If an authorised officer believes on reasonable grounds that a person has committed or is committing an offence against this Act or the regulations, the authorised officer may seize any item used or being used by that person in the commission of the offence.
- (2) If an authorised officer seizes an item under this section, the authorised officer must immediately give the person a written receipt for the item seized indicating—
- (a) the nature of the item seized; and
 - (b) the date and time that the authorised officer took possession of the item; and
 - (c) the name of the authorised officer who seized the item and the address where the item will be held.

95G Return of seized items

S. 95G
inserted by
No. 48/2004
s. 122.

- (1) An authorised officer who seizes an item under section 95F must—
- (a) as soon as practicable after seizing the item, inform the person from whom the item was seized of that person's right to have it returned; and
 - (b) ensure that the item is returned to the person from whom it was seized within 90 days after the date on which it was seized.
- (2) A person from whom an item was seized may apply at the office of the authorised officer who seized the item for its return within 90 days after it was seized.

- (3) This section does not apply if proceedings for an offence against the Act or the regulations in relation to which the item was seized have been commenced within 90 days of the item being seized.

S. 95H
inserted by
No. 48/2004
s. 122.

95H Recovery of seized item and compensation

If an item seized under section 95F has not been returned to the person from whom it was seized, and—

- (a) proceedings are not instituted for an offence against this Act or the regulations in relation to the seized item within 90 days of the seizure; or
- (b) after proceedings have been instituted and completed, the accused is not found guilty—

S. 95H(b)
amended by
No. 68/2009
s. 97(Sch.
item 60.2)

the person from whom the item was seized is entitled to recover the seized item, or, if it has been destroyed, compensation equal to the market value of the item at the time of the seizure.

S. 95I
inserted by
No. 48/2004
s. 122.

95I Forfeiture to Crown

- (1) An item seized under section 95F that is not returned to the person from whom it was seized within 12 months after being so seized is forfeited to the Crown.
- (2) If any seized item is forfeited to the Crown under subsection (1)—
- (a) the Minister may direct that it be disposed of in any manner that the Minister thinks fit; and
- (b) if it is sold, the proceeds of the sale must be paid into the Consolidated Fund.

95J Court may order forfeiture to the Crown

S. 95J
inserted by
No. 48/2004
s. 122.

- (1) A court which finds a person guilty of an offence against this Act or the regulations may order that any item used in the commission of the offence be forfeited to the Crown.
- (2) If an item is forfeited to the Crown under subsection (1)—
 - (a) the Minister may direct that the item be disposed of in any manner that the Minister thinks fit; and
 - (b) if the Minister directs that the item is to be disposed of by sale, the proceeds of the sale must be paid into the Consolidated Fund.

96 Offences

No. 6073 s. 95.
S. 96
amended by
Nos 9416
s. 6(2), 10235
s. 3(m).

Every person who commits or attempts to commit or aids or abets any person who commits or attempts to commit any of the following offences shall be liable to imprisonment for a term of not more than one year or to a penalty of not more than 50 penalty units, or to both such imprisonment and penalty—

- (a) counterfeits upon any tree or timber or unlawfully affixes to any forest produce a mark used by authorised officers to indicate that such produce is the property of the Crown or that it may be lawfully cut or removed;
- (b) without due authority makes or causes to be made or uses or causes to be used or has in his possession a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by authorised officers to indicate that forest produce is the property of the Crown or that it may be lawfully cut or removed;

S. 96(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.111).

S. 96(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.111).

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S. 96(d)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.109),
76/1998
s. 10(1)(u),
19/2018 s. 133.

- (c) counterfeits or without due authority issues any licence permit or order for the cutting removal or sale of forest produce;
- (d) unlawfully alters obliterates defaces pulls up removes or destroys any boundary mark or any stamp mark sign licence permit or order used or issued by any officer or person appointed or employed by the land manager;

S. 96(e)
amended by
No. 8587
s. 10(a).

- (e) unlawfully cuts breaks throws down or in anywise destroys or damages any building barrier or fence of any description whatsoever or any wall stile or gate or any part thereof respectively in or enclosing any forest or who unlawfully cuts through or breaks down or otherwise destroys the bank dam or wall or any part of any lake or any natural or artificial reservoir or pond of water within or partly within and adjoining any forest;

S. 96(f)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.110,
24.112),
48/2004
s. 123(1)(a)(b).

- (f) corrupts or attempts to corrupt by promises offers gifts or presents any authorised officer for the purpose of obtaining a favourable report recommendation certificate valuation or royalty assessment whether in respect of any place employment sale auction lease licence permit authority or any other benefit whatsoever, or for the purpose of obtaining abstention on the part of any authorised officer from any act which forms part of his duties or refuses or fails to comply with any lawful direction of an authorised officer;

S. 96(g)
amended by
No. 41/1987
s. 103(Sch. 4
items 24.110,
24.113).

- (g) being an authorised officer accepts any bribe or receives any gift or present in connexion with the performance of the functions of his office;

- (h) does or causes to be done any act, matter or thing (that is not an act, matter or thing to which section 57E applies), for which a licence (other than a tour operator licence) or permit may be issued under this Act, without that licence (other than a tour operator licence) or permit; **S. 96(h) substituted by No. 40/2009 s. 22.**
- (i) without the written authority of an authorised officer removes from any area or from any lands within any State forest any timber or forest produce without previously paying the proper royalty or fee due thereon; **S. 96(i) amended by No. 41/1987 s. 103(Sch. 4 item 24.110).**
- (j) cuts splits fells obtains or removes any forest produce on or from any lands within any forest or on or from any portion of any forest not specified in any licence or permit issued to him under the provisions of this Act;
- (k) removes from any forest without the written authority of an authorised officer any timber (other than timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**) before the same has been branded by an authorised officer; **S. 96(k) amended by Nos 41/1987 s. 103(Sch. 4 item 24.110), 48/2004 s. 123(2).**
- (l) furnishes an authorised officer with a false or incorrect statement of any forest produce cut split felled or removed by him or by any agent or employee of his on which royalties dues or charges are payable to the Crown; **S. 96(l) amended by Nos 41/1987 s. 103(Sch. 4 item 24.110), 74/2000 s. 3(Sch. 1 item 52.7).**
- (m) under cover of a miner's right within any forest cuts splits fells obtains or removes any timber (including timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**) for sale; **S. 96(m) amended by No. 48/2004 s. 123(3).**

- S. 96(n)
amended by
No. 48/2004
s. 123(4).
- (n) marks barks ringbarks saprings girdles fells or otherwise kills destroys damages or injures any tree or plant contrary to the provisions of this Act or any regulation or the **Sustainable Forests (Timber) Act 2004**;
- S. 96(o)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.110).
- (o) is found in possession of any forest produce without having been authorised by an authorised officer to cut or remove the same;
- S. 96(p)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.110).
- (p) without being authorized by an authorised officer deposits or causes to be deposited in any reserved forest any waste products or refuse matter of farms or dairies or otherwise or any night-soil manure or rubbish or the carcass of any dead cattle;
- S. 96(q)
inserted by
No. 8587
s. 10(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.109),
76/1998
s. 10(1)(u),
19/2018 s. 133.
- (q) drives a vehicle upon any road track tramway or other work constructed or maintained by the land manager which is closed for use by the public.
- S. 96A
inserted by
No. 48/2004
s. 124.
- 96A Offence to hinder or obstruct an authorised officer**
- A person must not, without reasonable excuse, hinder or obstruct an authorised officer who is exercising that authorised officer's duties or powers under this Act or the regulations.
- Penalty: 60 penalty units.
- S. 96B
inserted by
No. 48/2004
s. 124.
- 96B Offence to threaten or abuse an authorised officer**
- A person must not threaten or abuse an authorised officer who is exercising that authorised officer's duties or powers under this Act or the regulations.
- Penalty: 60 penalty units.

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S. 96C
inserted by
No. 62/2010
s. 120,
amended by
No. 4/2013
s. 33(5),
repealed by
No. 67/2016
s. 31(2).

96D Offences not to apply for cutting or taking away fallen or felled trees for domestic use as firewood

S. 96D
inserted by
No. 46/2012
s. 12.

- (1) Section 96(h), (j), (k) and (o) do not apply to a person if the person cuts or takes away fallen or felled trees in accordance with section 57Q(4).
- (2) Section 96(o) does not apply to a person in possession of forest produce that is fallen or felled trees if the fallen or felled trees were cut or taken away by a nominee of the person in accordance with section 57Q(4).

96E Certain offences not to apply if acting under and in accordance with levee maintenance permit

S. 96E
inserted by
No. 53/2014
s. 10.

- (1) Section 96(h) does not apply to a person if the person cuts or digs forest produce without a licence issued under section 52 for the purpose referred to in subsection (1A)(e) or (f) or (1B)(a) or (b) of that section while acting under and in accordance with a levee maintenance permit within the meaning of the **Water Act 1989**.
- (2) Section 96(j) does not apply to a person in respect of the cutting, splitting or felling of forest produce by that person without a licence issued under section 52 for the purpose referred to in subsection (1A)(e) or (1B)(a) of that section while acting under and in accordance with a levee maintenance permit within the meaning of the **Water Act 1989**.

- (3) Section 96(o) does not apply to a person in respect of the cutting of forest produce by that person if the person cuts forest produce under and in accordance with a levee maintenance permit within the meaning of the **Water Act 1989**.

S. 96F
inserted by
No. 53/2014
s. 10.

96F Offence to construct, remove, alter, or carry out maintenance on, a levee within reserved forest

- (1) A person must not—
- (a) construct, remove or alter a levee within reserved forest; or
 - (b) carry out maintenance on a levee within reserved forest.

Penalty: Level 8 imprisonment (12 months maximum) or a level 8 fine (120 penalty units maximum) or both.

- (2) Subsection (1)(a) and (b) do not apply to a person if the person constructs, removes, alters, or carries out maintenance on, a levee—
- (a) in the performance of a function under this Act or the regulations; or
 - (b) that the person is authorised under this Act or the regulations to construct, remove, alter or carry out maintenance on in the performance of a function under another Act or regulations made under another Act.

S. 96F(2A)
inserted by
No. 43/2015
s. 36.

- (2A) Subsection (1)(a) does not apply to a person if the person constructs, removes or alters a levee in accordance with section 32AC of the **Victoria State Emergency Service Act 2005**.
- (3) Subsection (1)(b) does not apply to a person if the person carries out maintenance on a levee under and in accordance with a levee maintenance permit.

(4) In this section—

levee has the same meaning as in Part 5AA of the
Water Act 1989;

levee maintenance permit has the same meaning
as in the **Water Act 1989**;

maintenance has the same meaning as in
Part 5AA of the **Water Act 1989**.

97 General penalty for offence against Act

No. 6073 s. 96.

(1) Every person who contravenes or causes the
contravention of or neglects or fails to comply
with any of the provisions of this Act shall be
guilty of an offence against this Act and shall for
every such offence be liable on conviction to a
penalty expressly imposed in this Act for such
offence.

(2) Any person guilty of an offence against this Act
for which no penalty is expressly imposed shall be
liable to a penalty of not more than 50 penalty
units or to imprisonment for a term of not more
than one year or to both such penalty and
imprisonment.

S. 97(2)
amended by
Nos 9416
s. 6(3), 10235
s. 3(n).

* * * * *

S. 97(3)(4)
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.114).

**98 Limitation of Supreme Court's jurisdiction—
Sustainable Forests (Timber) Act 2004**

It is the intention of section 52AA to alter or vary
section 85 of the **Constitution Act 1975**.

S. 98
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.115),
new s. 98
inserted by
No. 48/2004
s. 125.

Regulations

No. 6073 s. 98.

99 Regulations

The Governor in Council may make regulations not inconsistent with the provisions of this Act for all or any of the following purposes, namely:

- (1) Prescribing the form of leases licences permits or authorities and the terms covenants and conditions under which such leases shall be granted or cease and determine or such licences permits or authorities shall be issued and cancelled or withdrawn and the mode of applying for any such lease licence permit or authority;
- (2) Prescribing the rate or amount of rentals royalties fees dues and charges payable in respect of any lease or licence or for any permit or authority;
- (3) Reserving any area of any reserved forest from the operation of any lease licence permit or authority;
- (4) Reserving from the operation of any lease or licence under this Act any area of a reserved forest required for the agistment of draught cattle used by any person holding a lease or licence or permit or authority under this Act;
- (5) Prohibiting except under licence or permit the depasturing of cattle within and the regulation of the passage of cattle through any reserved forest;
- (6) Prohibiting except under licence or permit the making of temporary clearings for any description of cultivation;

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- (7) Regulating the temporary prohibition of grazing over specified areas of reserved forests in order to preserve the young trees and seedlings growing on such areas;
- (8) Prescribing the mode in which any forest produce is to be branded or marked, and the mode in which such brands, or marks may be registered with the Secretary; **S. 99(8) amended by Nos 41/1987 s. 103(Sch. 4 item 24.116), 74/2000 s. 3(Sch. 1 item 52.8).**
- (9) Prescribing the kinds sizes and quantities of any forest produce which may be cut or removed in or from any forest and prohibiting the removal of any forest produce until branded by an authorised officer if so prescribed; **S. 99(9) amended by No. 41/1987 s. 103(Sch. 4 item 24.117).**
- (10) Prescribing any acts which may not be done within a forest without a lease or licence or permit or authority for the doing of such act;
- (11) Prescribing such annual succession of areas over which timber cutting and grazing rights may be exercised as shall be deemed most favourable for forest conservation;
- (12) Providing for the making of declarations or statements by licensees or any other persons as to the quantity and description of timber and forest produce obtained taken delivery of hauled removed hewn sawn or otherwise treated or transported or consigned by road rail or water and as to the place where any timber or forest produce was obtained and as to the place to which any timber or forest produce is consigned;
- (13) Regulating the burning off of inflammable material and the lighting and use of fires and the use of any engine, boiler or other device or equipment which is capable, in the course **S. 99(13) amended by No. 96/1994 s. 54.**

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- of its ordinary use, of igniting a fire, within any fire protected area or any specified portion thereof;
- S. 99(13A) inserted by No. 6976 s. 21(a), amended by No. 41/1987 s. 103(Sch. 4 item 24.117).
- (13A) Providing for and regulating the giving by authorised officers of written authority to light fires in any fire protected area or any part thereof and prescribing the circumstances in which such authority may be given;
- S. 99(13B) inserted by No. 6976 s. 21(a), amended by No. 41/1987 s. 103(Sch. 4 item 24.117).
- (13B) Prescribing conditions to be specified in any written authority to light a fire and authorizing authorised officers to specify conditions therein at their discretion;
- S. 99(13C) inserted by No. 6976 s. 21(a), amended by No. 41/1987 s. 103(Sch. 4 item 24.117).
- (13C) Prohibiting the lighting or maintaining of fires in any fire protected area or any part thereof without the written authority of an authorised officer;
- S. 99(13D) inserted by No. 8945 s. 5(a).
- (13D) The extinguishment of fires lit kindled maintained or used in a fire protected area;
- (14) Regulating the establishment of Government timber depots, the terms and conditions for the use of same;
- S. 99(15) amended by Nos 41/1987 s. 103(Sch. 4 item 24.116), 76/1998 s. 10(1)(u), 48/2004 s. 126, 19/2018 s. 134.
- (15) Regulating traffic through reserved forests, and the prevention of trespass on or in any portion of a State forest which is fenced and providing for the safety and protection of roads tracks and tramways constructed or maintained by the land manager, and the operation of vehicles and the transportation of timber, including timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, sand stone gravel and other materials thereon;

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- (16) Regulating camping and the establishment and conduct of recreation grounds and camping areas in State forests and prescribing the conditions on which the same may be used by persons; **S. 99(16) amended by No. 8587 s. 11(a).**
- (17) The—
- (a) measures (including the clearing of land and the burning of inflammable material) to be taken or carried out;
 - (b) facilities equipment apparatus or other things to be provided—
- in fire protected areas for the prevention and suppression of fire or the protection of life and property from fire;
- (17A) The maintenance of works facilities equipment apparatus and other things constructed or provided pursuant to the Act or the regulations in fire protected areas for the prevention and suppression of fire or the protection of life and property from fire; **S. 99(17A) inserted by No. 8945 s. 5(b).**
- * * * * *
- (18) Prescribing the terms and conditions under which persons may be appointed as trainees and the positions to which trainees may be appointed and regulating the training of persons so appointed; **S. 99(18) amended by No. 6976 s. 21(b).**

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S. 99(19)
substituted by
No. 6976
s. 21(c),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.116),
76/1998
s. 10(1)(u).

(19) The establishment of a board of forestry education and the organisation of a system of education and training in scientific forestry and prescribing and regulating the powers and functions of the Board and the Secretary in connexion with that system;

S. 99(19A)
inserted by
No. 6976
s. 21(c).

(19A) Prescribing the fees which members of the board of forestry education who are not engaged in full time employment as officers of the Crown or the public service or as members or officers of any public statutory corporation shall be entitled to receive;

S. 99(19B)
inserted by
No. 6976
s. 21(c).

(19B) Prescribing the fees to be paid by persons entering upon or pursuing any course of training or entering for any examination or for any certificate or diploma;

S. 99(19C)
inserted by
No. 7740 s. 8,
amended by
Nos 8587
s. 11(b),
41/1987
s. 103(Sch. 4
item 24.116),
76/1998
s. 10(1)(u),
repealed by
No. 48/2004
s. 100(2).

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S. 99(20)
amended by
No. 9212
s. 2(2).

(20) The protection of trees in Crown lands reserved under the **Crown Land (Reserves) Act 1978** from sale permanently for the purposes of public parks or gardens or for the recreation convenience and amusement of the people and vested in trustees and whether there is a committee of management of such lands or not; and regulating or prohibiting the cutting or removal of such trees and other forest produce;

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- (21) Prescribing such annual cutting sections as are deemed necessary under a working plan;
- (22) Prescribing the procedure for the sale by auction or by tender of rights to leases licences or permits or of forest produce and enabling upset prices or minimum royalties dues or charges to be fixed;
- (23) Prescribing the fees or deposits to be paid with any application or tender;
- (24) Providing for the inspecting of timber and other forest produce for export and for local use, and prescribing the forms and certificates to be used, the fees to be paid and the brands or marks to be used;
- (25) Prescribing rules for the grading of timber for export and for local use;
- (26) Regulating the export of prescribed species of timber or other forest produce;
- (26A) Prescribing standards for the treatment by preservative of timber (whether grown in Victoria or not) which is sold or offered for sale in Victoria; S. 99(26A)
inserted by
No. 6976
s. 21(d).
- (26B) Prohibiting the sale or offering for sale as timber treated with preservative any timber which has not been treated with preservative or which has not been treated in accordance with the prescribed standards or regulations with respect thereto; S. 99(26B)
inserted by
No. 6976
s. 21(d).
- * * * * * S. 99(27)
repealed by
No. 48/2004
s. 116(4).

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Regulations

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|---|---|
| <p>S. 99(28)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.116),
76/1998
s. 10(1)(u).</p> | <p>(28) Providing for the keeping by the Secretary of a register of the names addresses and occupations of all persons engaged or employed in any industry in any State forest;</p> |
| <p>S. 99(29)
amended by
Nos 9921
s. 255, 12/2004
s. 158(5),
109/2004
s. 22(b),
6/2010
s. 203(1)
(Sch. 6
item 23) (as
amended by
No. 45/2010
s. 22).</p> | <p>(29) Regulating or prohibiting the carrying or use of dangerous matches and fire-arms in State forests and national parks, and subject to the provisions of the Transport (Compliance and Miscellaneous) Act 1983 and the Road Management Act 2004 the use of steam engine locomotives and traction engines in State forests and national parks, and generally for the protection of State forests and national parks from damage by fire;</p> |
| <p>S. 99(30)
amended by
No. 6976
s. 21(e).</p> | <p>(30) Regulating or prohibiting the destruction shooting hunting pursuing or snaring of animals or birds in any reserved forest;</p> |
| <p>S. 99(31)
amended by
Nos 8945
s. 7(c), 9464
s. 2(c), 10235
s. 3(o).</p> | <p>(31) Prescribing either generally or particularly penalties not exceeding 50 penalty units for breaches of any regulations;</p> |
| <p>S. 99(32)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.117),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.118).</p> | <p style="text-align: center;">* * * * *</p> |
| | <p>(33) Prescribing any matters required or permitted or necessary or expedient to be prescribed for carrying this Act into effect, and generally for carrying into effect the objects of this Act.</p> |

For the purposes of this section the expression *dangerous matches* means any matches other than those so made as to strike only on a preparation affixed to the containing box or to a box containing the same description of matches.

99A Regulation-making powers

S. 99A
inserted by
No. 8945 s. 6,
amended by
No. 97/2003
s. 5 (ILA
s. 39B(1)).

(1) Regulations under paragraphs (13)(13A)(13B)(13C)(13D)(17) or (17A) of section 99 may—

S. 99A(1)
amended by
No. 48/2004
s. 116(3).

(a) be general or varied or be restricted in operation according to time place persons or circumstances and whether any such time place person or circumstance is determined or ascertainable before at or after the making of the regulation;

(b) authorize the Secretary, an employee in the Department or an authorised officer by notice in writing given to a person—

S. 99A(1)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(i) to grant a full or partial exemption from any regulation subject to such reasonable conditions (if any) the Secretary, employee or authorised officer considers appropriate and to revoke any such exemption;

S. 99A(1)(b)(i)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.121),
76/1998
s. 10(1)(v)(i)
(iii).

(ii) to require that specified measures facilities equipment apparatus or other things be taken carried out or provided;

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S. 99A(1)(b)(iii)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.121),
76/1998
s. 10(1)(v)(i)
(iii).

(iii) to grant permits or authorities subject to such reasonable conditions (if any) the Secretary, employee or authorised officer considers appropriate and to revoke any such permit or authority;

S. 99A(1)(c)
amended by
No. 9427
s. 6(1)(Sch. 5
item 68).

(c) require that—

S. 99A(1)(c)(i)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(i) any act matter or thing be done carried out or provided within a time or in a manner specified by or to the satisfaction of the Secretary, an employee in the Department or an authorised officer;

S. 99A(1)(c)(ii)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(ii) any work matter or thing be approved by or of a type kind or class approved by the Secretary, an employee in the Department or an authorised officer;

S. 99A(1)(d)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(d) confer on the Secretary, an employee in the Department or an authorised officer any discretionary power in relation to the regulations;

S. 99A(1)(e)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(e) leave any matter or thing to be determined from time to time by the Secretary, an employee in the Department or an authorised officer.

(2) Regulations made under this Act may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method, formulated, issued, prescribed or published by any other person, whether—

S. 99A(2)
inserted by
No. 97/2003
s. 5.

- (a) wholly or partially or as amended by the regulations; or
- (b) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
- (c) as formulated, issued, prescribed or published from time to time.

(3) Any regulations made under this Act for or with respect to the issuing of film permits must not be inconsistent with the film friendly principles.

S. 99A(3)
inserted by
No. 51/2014
s. 9(Sch. 2
item 4.3).

100 Power to make regulations as to eradication etc. of tree pests, diseases in timber etc.

No. 6073 s. 99.

(1) The Governor in Council may make regulations for or with respect to—

- (a) securing—
 - (i) the treatment of diseased trees;
 - (ii) the eradication of diseases of trees;
 - (iii) the treatment of timber affected with disease;
 - (iv) the prevention and eradication of diseases in timber—

whether any such trees are or any such timber is upon or in any State forest or wherever situate in Victoria;

- (b) prescribing penalties (not exceeding 9 penalty units in any case) for the breach of any regulation under this section; and

S. 100(1)(b)
amended by
No. 10235
s. 3(p).

(c) generally, prescribing all matters and things necessary or convenient to be prescribed for carrying into effect the purposes of this section.

(2) In this section unless inconsistent with the context or subject-matter—

S. 100(2)
def. of
disease
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.122),
76/1998
s. 10(1)(w).

disease means any disorder affecting trees or timber and which on the recommendation of the Secretary the Governor in Council from time to time by proclamation in the Government Gazette declares to be a disease within the meaning of this section and whether or not caused by or consisting of the presence of insects or fungus;

diseased means affected with disease;

S. 100(2)
def. of
fungus
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.122),
76/1998
s. 10(1)(w).

fungus means any fungus or any tree parasite or timber parasite whatever which on the recommendation of the Secretary the Governor in Council from time to time by proclamation in the Government Gazette declares to be a fungus within the meaning of this section;

S. 100(2)
def. of
insect
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.122),
76/1998
s. 10(1)(w).

insect means any insect whatever which on the recommendation of the Secretary the Governor in Council from time to time by proclamation in the Government Gazette declares to be an insect within the meaning of this section, and includes any such insect in whatever stage of existence the same may be and any eggs of any such insect;

timber includes any timber imported into Victoria;

tree means any tree (within the meaning of this Act) of any genus species or variety usually growing in a forest, and includes every part of such a tree.

- (3) This section shall be read and construed as in aid of and not in derogation from the provisions of the **Catchment and Land Protection Act 1994** or of the **Plant Health and Plant Products Act 1995** or of any other enactment relating to the subject-matter hereof.

S. 100(3)
amended by
Nos 52/1994
s. 97(Sch. 3
item 13),
51/1995 s. 75.

100A Tour operator licence regulations

S. 100A
inserted by
No. 40/2009
s. 23.

- (1) The Governor in Council may make regulations for or with respect to—
- (a) the fees payable in respect of tour operator licences including—
 - (i) requirements for fees to be paid annually; and
 - (ii) methods for calculating fees, including by reference to the following—
 - (A) numbers of persons that may participate in or have participated in tours; and
 - (B) classes of persons that may participate in or have participated in tours; and
 - (b) prescribing tour operator licence conditions.
- (2) A power conferred by subsection (1) to make regulations providing for the imposition of fees in respect of tour operator licences may be exercised by providing for all or any of the following matters—
- (a) specific fees;
 - (b) maximum fees;
 - (c) minimum fees;

- (d) fees that vary according to the class of licence to which they apply;
 - (e) the manner of payment of fees, including the payment of fees by instalment;
 - (f) the time at which, or by which, fees are to be paid.
- (3) Regulations made under this Act in respect of tour operator licences may—
- (a) leave any matter or thing to be decided by a specified person or class of person; and
 - (b) provide for the exemption of persons or a class of persons from any of the regulations providing for the imposition of fees; and
 - (c) provide for the reduction, waiver or refund, in whole or in part, of the fees fixed by regulations made under this section; and
 - (d) provide, in specified circumstances, for the reinstatement or payment, in whole or in part, of any fee reduced, waived or refunded in accordance with the regulations.
- (4) Without limiting subsection (3), if the regulations provide for a reduction, waiver or refund, in whole or in part, of a fee pursuant to subsection (3), the reduction, waiver or refund—
- (a) may be expressed to apply either generally or specifically—
 - (i) in respect of certain matters or classes of matters;
 - (ii) in respect of certain persons or classes of persons;

100B Regulations for cutting or taking away fallen or felled trees in firewood collection areas during firewood collection seasons

S. 100B
inserted by
No. 46/2012
s. 13.

- (1) The Governor in Council may make regulations for or with respect to cutting or taking away fallen or felled trees in firewood collection areas during firewood collection seasons, including regulations for or with respect to—
 - (a) days on which fallen or felled trees may be cut or taken away; and
 - (b) the manner in which fallen or felled trees may be cut or taken away; and
 - (c) use of vehicles and equipment in firewood collection areas; and
 - (d) protection of the environment in firewood collection areas; and
 - (e) public safety in firewood collection areas.
- (2) The regulations—
 - (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstance; and
 - (c) may impose penalties not exceeding 20 penalty units for contravention of the regulations.

Transitional provisions

Heading
preceding
s. 101
inserted by
No. 60/2005
s. 37.

101 Continuation of licences and leases—2005 Act

- (1) On and from the commencement of Part 4 of the 2005 Act—
 - (a) any licence granted under section 52; or

S. 101
repealed by
No. 6886 s. 3,
new s. 101
inserted by
No. 60/2005
s. 37.

- (b) any permit granted under section 52—
over the forest park land, being a licence or permit existing immediately before that commencement, continues in force and may be dealt with as a licence or permit under section 52 until its expiry.
- (2) On and from the commencement of Part 4 of the 2005 Act any lease granted under section 51 over the forest park land, being a lease existing immediately before that commencement, continues in force and may be dealt with as a lease under section 51 until its expiry.
- (3) On and from the commencement of Part 4 of the 2005 Act any lease or licence granted under the **Land Act 1958** over the forest park land, being a lease or licence existing immediately before that commencement, continues in force and may be dealt with as a lease or licence (as the case requires) under the **Land Act 1958** until its expiry.
- (4) On and from the commencement of Part 4 of the 2005 Act any lease or licence granted under the **Crown Land (Reserves) Act 1978** over the forest park land, being a lease or licence existing immediately before that commencement, continues in force and may be dealt with as a lease or licence (as the case requires) under the **Crown Land (Reserves) Act 1978** until its expiry.
- (5) In this section and in section 102—
forest park land means the land placed under the control and management of the Secretary under section 18(1B) of the **Crown Land (Reserves) Act 1978**;
2005 Act means the **National Parks (Otways and Other Amendments) Act 2005**.

101A Tour operator licence offence

S. 101A
inserted by
No. 40/2009
s. 24.

(1) In this section—

2009 Act means the **Crown Land Acts Amendment (Lease and Licence Terms) Act 2009**.

(2) A person who conducts an organised tour or recreational activity for profit on Crown land in a reserved forest without a tour operator licence on or after the commencement of section 21 of the 2009 Act, is not guilty of an offence under section 57E if the person applies for a tour operator licence within 4 months from the commencement of section 21 of the 2009 Act.

(3) Subsection (2) applies to a person referred to in that subsection who makes a tour operator licence application referred to in that subsection until the tour operator licence application of the person is finally determined.

102 Once only harvesting of pines in Otway Forest Park

S. 102
inserted by
No. 60/2005
s. 37.

The amendment to section 18A by section 35(5) of the 2005 Act does not apply to the land shown hatched on the plan lodged in the Central Plan Office and numbered LEGL./05–346 for the purposes of harvesting, once only, pines existing on that land at the commencement of the 2005 Act for the purposes of sawlog or pulpwood production.

103 Transitional provision—Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009

S. 103
inserted by
No. 45/2009
s. 12.

The amendments made to sections 59 and 61 by Part 5 of the **Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009**, only apply to proceedings for an offence that are commenced after the commencement of that Part 5.

S. 104
inserted by
No. 12/2016
s. 26.

104 Transitional provision—Crown Land Legislation Amendment (Canadian Regional Park and Other Matters) Act 2016

- (1) A licence or permit granted under section 52(1) for a purpose relating to apiculture and in force immediately before the commencement of section 24 of the **Crown Land Legislation Amendment (Canadian Regional Park and Other Matters) Act 2016** continues in force subject to its terms and conditions on and after that commencement until the earliest of the following occurs—
 - (a) the licence or permit expires;
 - (b) the licence or permit is cancelled;
 - (c) a bee site licence is granted under section 142 of the **Land Act 1958** to the holder of the licence or permit granted under section 52(1) in respect of more or less the same land.
- (2) A licence or permit referred to in subsection (1) is taken to be granted for a purpose relating to apiculture if it permits the holder of the licence or permit—
 - (a) to keep bee hives on the land described in the licence or permit; or
 - (b) to enable the licensee's or permittee's bees to forage over the land described in the licence or permit for nectar or pollen.

S. 105
inserted by
No. 19/2018
s. 135.

105 Transitional provision—Parks Victoria Act 2018

- (1) If, immediately before the Parks Victoria commencement, the old body holds an appointment as a committee of management under section 50(3), on the Parks Victoria commencement—

- (a) Parks Victoria is taken to be appointed as the committee of management in substitution of the old body; and
 - (b) all rights, property and assets that, immediately before the Parks Victoria commencement, were vested in the old committee of management vest in the new committee of management; and
 - (c) all debts, liabilities and obligations of the old committee of management existing immediately before the Parks Victoria commencement become debts, liabilities and obligations of the new committee of management; and
 - (d) the new committee of management is substituted as a party to any proceedings pending in any court or tribunal to which the old committee of management was a party immediately before the Parks Victoria commencement; and
 - (e) the new committee of management is substituted as a party to any contract or arrangement entered into by or on behalf of the old committee of management and in force immediately before the Parks Victoria commencement.
- (2) In this section—

new committee of management means the committee of management as taken to be appointed under subsection (1)(a);

old body means Parks Victoria within the meaning of the **Parks Victoria Act 1998** as in force before its repeal;

old committee of management means the committee of management holding appointment immediately before the Parks Victoria commencement;

Parks Victoria commencement means the day on which the **Parks Victoria Act 2018** comes into operation.

Forests Act 1958
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Schedules

Schedules

First Schedule

S. 2

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
6073	Forests Act 1957	The whole.
6148	Forests (Mount Bulla Lease) Act 1957	The whole.

Second Schedule—Reserved forests

Ss 3, 42.
Sch. 2
substituted by
Nos 6976
s. 7(1)(k), 7228
s. 7(Sch. 4
Pt 12(d)),
10087
s. 3(1)(Sch. 1
item 90).

The areas of Crown lands delineated by projections bearing a distinguishing colour or shading on maps—

- (a) sealed with the seal of the Board of Land and Works before 15 March 1965;
- (b) signed by the Minister of Lands on or after 15 March 1965 and before 1 September 1983; or
- (c) signed by the Minister for Conservation, Forests and Lands on or after 1 September 1983—

and deposited with the Clerk of the Parliaments and described—

- (d) where the maps were sealed and deposited before 18 December 1962—as permanent forests or as timber reserves; or
- (e) in any other case—as reserved forests.

Sch. 3
repealed by
No. 6976
s. 7(1)(l),
new Sch. 3
inserted by
No. 82/1990
s. 5,
amended by
GG 16.1.97
p. 128,
repealed by
No. 48/2004
s. 109(c).

* * * * *

Sch. 4
amended by
Nos 6976
s. 22, 7547
s. 3, 7876
s. 2(3), 8945
s. 8,
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.123).

* * * * *

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 Act 1958** was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 892.

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 section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

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

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

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

- **Punctuation**

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

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection 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 an Act 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 an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Forests Act 1958** by Acts and subordinate instruments.

Public Officers Salaries and Allowances Act 1958, No. 6471/1958 (as amended by No. 6489/1958)

Assent Date: 9.12.58
Commencement Date: 1.7.58: s. 1(2)
Current State: All of Act in operation

Statute Law Revision Act 1959, No. 6547/1959

Assent Date: 20.10.59
Commencement Date: 1.4.59: s. 1(2)
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1960, No. 6624/1960

Assent Date: 1.6.60
Commencement Date: 21.2.60: s. 1(2)
Current State: All of Act in operation

Land (Unused Roads and Water Frontages) Act 1961, No. 6794/1961

Assent Date: 8.11.61
Commencement Date: 1.4.63: Government Gazette 20.3.63 p. 620
Current State: All of Act in operation

Crown Leases Act 1961, No. 6842/1961

Assent Date: 19.12.61
Commencement Date: 19.12.61
Current State: All of Act in operation

Forests (Amendment) Act 1962, No. 6870/1962

Assent Date: 2.5.62
Commencement Date: 2.5.62
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962

Assent Date: 8.5.62
Commencement Date: 1.8.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

Forests (Further Amendment) Act 1962, No. 6976/1962

Assent Date: 18.12.62
Commencement Date: 18.12.62
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1963, No. 7054/1963

Assent Date: 26.11.63
Commencement Date: Ss 12–14 on 12.5.63: s. 1(2)(b); ss 2–11 on 1.7.63: s. 1(2)(a); s. 1 on 26.11.63
Current State: All of Act in operation

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Statute Law Revision Act 1963, No 7065/1963

Assent Date: 3.12.63
Commencement Date: 3.12.63
Current State: All of Act in operation

Forests (Amendment) Act 1964, No. 7205/1964

Assent Date: 15.12.64
Commencement Date: 15.12.64
Current State: All of Act in operation

Public Lands and Works Act 1964, No. 7228/1964

Assent Date: 15.12.64
Commencement Date: 15.3.65: Government Gazette 11.3.65 p. 557
Current State: All of Act in operation

Statute Law Revision Act 1965, No. 7332/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65: subject to s. 3.
Current State: All of Act in operation

Forests (Amendment) Act 1965, No. 7340/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1965, No. 7356/1965

Assent Date: 14.12.65
Commencement Date: Ss 12–14 on 4.7.65: s. 1(3); ss 2–11 on 1.12.65:
s. 1(2); s. 1 on 14.12.65
Current State: All of Act in operation

Extractive Industries Act 1966, No. 7499/1966

Assent Date: 20.12.66
Commencement Date: 15.5.68: Government Gazette 10.4.68 p. 1129
Current State: All of Act in operation

Instruments (Corporate Bodies Contracts) Act 1967, No. 7547/1967

Assent Date: 17.3.67
Commencement Date: 1.7.67: Government Gazette 21.6.67 p. 2027
Current State: All of Act in operation

Judges and Public Officers Salaries Act 1967, No. 7581/1967

Assent Date: 21.11.67
Commencement Date: 1.7.67: s. 1
Current State: All of Act in operation

Forests (Amendment) Act 1968, No. 7674/1968

Assent Date: 18.4.68
Commencement Date: 18.4.68
Current State: All of Act in operation

Forests (Amendment) Act 1968, No. 7740/1968

Assent Date: 2.12.68
Commencement Date: 23.1.69: Government Gazette 22.1.69 p. 125
Current State: All of Act in operation

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Local Government Act 1969, No. 7835/1969

Assent Date: 20.5.69
Commencement Date: S. 9 on 1.6.69; rest of Act on 21.5.69: Government Gazette 21.5.69 p. 1504
Current State: All of Act in operation

Justices (Amendment) Act 1969, No. 7876/1969

Assent Date: 25.11.69
Commencement Date: 1.4.70 (*except* ss 3, 5, 6, 7(k)(m)–(o)); ss 3, 5, 6, 7(k)(m)–(o) on 1.7.70: Government Gazette 25.2.70 p. 463
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1970, No. 7954/1970

Assent Date: 7.4.70
Commencement Date: 1.1.70: s. 2
Current State: All of Act in operation

Forests (Amendment) Act 1970, No. 8035/1970

Assent Date: 8.12.70
Commencement Date: 8.12.70
Current State: All of Act in operation

Statutory Salaries Act 1970, No. 8082/1970

Assent Date: 22.12.70
Commencement Date: 22.12.70
Current State: All of Act in operation

National Parks (Amendment) Act 1971, No. 8210/1971

Assent Date: 14.12.71
Commencement Date: 14.12.71
Current State: All of Act in operation

Crimes (Powers of Arrest) Act 1972, No. 8247/1972

Assent Date: 6.4.72
Commencement Date: 1.7.72: Government Gazette 28.6.72 p. 2360
Current State: All of Act in operation

Forests (Amendment) Act 1974, No. 8587/1974

Assent Date: 30.10.74
Commencement Date: 20.11.74: Government Gazette 20.11.74 p. 4032
Current State: All of Act in operation

National Parks Act 1975, No. 8702/1975

Assent Date: 16.5.75
Commencement Date: 1.12.75: Government Gazette 26.11.75 p. 3888
Current State: All of Act in operation

Forests (Advances) Act 1976, No. 8892/1976

Assent Date: 16.11.76
Commencement Date: 16.11.76
Current State: All of Act in operation

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Forests (Fire Prevention and Protection) (Amendment) Act 1976, No. 8945/1976

Assent Date: 14.12.76
Commencement Date: 14.12.76
Current State: All of Act in operation

Statute Law Revision Act 1977, No. 9019/1977

Assent Date: 17.5.77
Commencement Date: 17.5.77: subject to s. 2(2)
Current State: All of Act in operation

National Parks (Amendment) Act 1978, No. 9114/1978

Assent Date: 16.5.78
Commencement Date: 16.5.78
Current State: All of Act in operation

Crown Land (Reserves) Act 1978, No. 9212/1978

Assent Date: 19.12.78
Commencement Date: 1.3.79: Government Gazette 21.2.79 p. 441
Current State: All of Act in operation

National Parks Act 1978, No. 9247/1978

Assent Date: 19.12.78
Commencement Date: S. 17 on 26.4.79: s. 1(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests (Reserved Land) Act 1979, No. 9280/1979

Assent Date: 10.7.79
Commencement Date: 1.8.79: Government Gazette 1.8.79 p. 2407
Current State: All of Act in operation

Forests (Amendment) Act 1980, No. 9416/1980

Assent Date: 20.5.80
Commencement Date: 20.5.80
Current State: All of Act in operation

Forests (Further Amendment) Act 1980, No. 9417/1980 (as amended by No. 9549/1981)

Assent Date: 20.5.80
Commencement Date: 20.5.80
Current State: All of Act in operation

Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80: subject to s. 6(2)
Current State: All of Act in operation

Forests (Penalties) Act 1980, No. 9464/1980

Assent Date: 16.12.80
Commencement Date: 16.12.80
Current State: All of Act in operation

Statute Law Revision Act 1981, No. 9549/1981

Assent Date: 19.5.81
Commencement Date: 19.5.81: subject to s. 2(2)
Current State: All of Act in operation

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Crimes (Classification of Offences) Act 1981, No. 9576/1981

Assent Date: 26.5.81
Commencement Date: 1.9.81: Government Gazette 26.8.81 p. 2799
Current State: All of Act in operation

Forests (Amendment) Act 1981, No. 9615/1981

Assent Date: 1.12.81
Commencement Date: 1.12.81
Current State: All of Act in operation

Companies (Consequential Amendments) Act 1982, No. 9699/1982

Assent Date: 5.1.82
Commencement Date: S. 23 on 1.7.82: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parliamentary Committees (Joint Investigatory Committees) Act 1982, No. 9765/1982

Assent Date: 13.7.82
Commencement Date: 25.8.82: Government Gazette 25.8.82 p. 2793
Current State: All of Act in operation

Public Account (Trust Funds) Act 1982, No. 9861/1982

Assent Date: 5.1.83
Commencement Date: 12.1.83: Government Gazette 12.1.83 p. 81
Current State: All of Act in operation

Transport Act 1983, No. 9921/1983

Assent Date: 23.6.83
Commencement Date: S. 255(Sch. 12) on 1.7.83: s. 1(2)(c)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Mines (Amendment) Act 1983, No. 9936/1983

Assent Date: 5.7.83
Commencement Date: 30.10.83: Government Gazette 5.10.83 p. 3293
Current State: All of Act in operation

Alpine Resorts Act 1983, No. 9974/1983

Assent Date: 29.11.83
Commencement Date: Ss 1–43, 44(2) on 28.3.84: Government Gazette 28.3.84 p. 977; rest of Act on 17.4.85: Government Gazette 17.4.85 p. 1101
Current State: All of Act in operation

Education (Amendment) Act 1983, No. 9993/1983 (as amended by No. 10087/1984)

Assent Date: 13.12.83
Commencement Date: S. 20 on 8.2.84: Government Gazette 8.2.84 p. 402
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

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No. 6254 of 1958
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National Parks (Amendment) Act 1984, No. 10073/1984

Assent Date: 15.5.84
Commencement Date: S. 15 on 15.5.84: s. 3(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Water (Central Management Restructuring) Act 1984, No. 10081/1984

Assent Date: 15.5.84
Commencement Date: 1.7.84: Government Gazette 20.6.84 p. 1937
Current State: All of Act in operation

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84
Commencement Date: 22.5.84: subject to s. 3(2)
Current State: All of Act in operation

National Parks (Further Amendment) Act 1984, No. 10166/1984

Assent Date: 20.11.84
Commencement Date: S. 22 on 18.12.84: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests and Country Fire Authority (Penalties) Act 1985, No. 10235/1985

Assent Date: 10.12.85
Commencement Date: 10.12.85
Current State: All of Act in operation

Courts Amendment Act 1986, No. 16/1986

Assent Date: 22.4.86
Commencement Date: S. 30 on 1.7.86: Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Land Acquisition and Compensation Act 1986, No. 121/1986

Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Coal Mines (Amendment) Act 1987, No. 6/1987

Assent Date: 28.4.87
Commencement Date: 11.5.87: Government Gazette 6.5.87 p. 1004
Current State: All of Act in operation

Conservation, Forests and Lands Act 1987, No. 41/1987

Assent Date: 19.5.87
Commencement Date: Ss 103(Sch. 4 items 24.1–24.123), 116(9) on 1.7.87: Government Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

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Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Water (Consequential Amendments) Act 1989, No. 81/1989

Assent Date: 5.12.89
Commencement Date: 1.11.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

Conservation, Forests and Lands Acts (Amendment) Act 1989, No. 90/1989

Assent Date: 5.12.89
Commencement Date: S. 10 on 5.12.89: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Local Government (Amendment) Act 1990, No. 13/1990

Assent Date: 8.5.90
Commencement Date: S. 40 on 8.5.90: s. 2(2)(a)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests (Timber Harvesting) Act 1990, No. 82/1990

Assent Date: 11.12.90
Commencement Date: 11.12.90
Current State: All of Act in operation

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 items 12.1–12.8) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Victorian Plantation Corporation Act 1993, No. 61/1993

Assent Date: 8.6.93
Commencement Date: S. 34 on 1.7.93: Government Gazette 24.6.93 p. 1596
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Mineral Resources Development (Amendment) Act 1993, No. 86/1993

Assent Date: 3.11.93
Commencement Date: S. 41 on 17.1.94: Government Gazette 16.12.93 p. 3317
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Act 1958
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Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 3(Sch. 1 items 30.1, 30.2) on 7.7.94: Government Gazette 7.7.94 p. 1878—see **Interpretation of Legislation Act 1984**
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Catchment and Land Protection Act 1994, No. 52/1994

Assent Date: 15.6.94
Commencement Date: S. 97(Sch. 3 item 13) on 15.12.94: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Impounding of Livestock Act 1994, No. 89/1994

Assent Date: 6.12.94
Commencement Date: 6.12.94
Current State: All of Act in operation

Crown Lands Acts (Amendment) Act 1994, No. 96/1994

Assent Date: 13.12.94
Commencement Date: Pt 1 (ss 1, 2) on 13.12.94: s. 2(1); rest of Act (ss 3–59) on 26.1.95: Government Gazette 26.1.95 p. 163
Current State: All of Act in operation

Plant Health and Plant Products Act 1995, No. 51/1995

Assent Date: 14.6.95
Commencement Date: S. 75 on 14.6.96: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Yarra Ranges and Other Amendments) Act 1995, No. 57/1995

Assent Date: 20.6.95
Commencement Date: S. 46 on 15.12.95: Government Gazette 14.12.95 p. 3488
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Extractive Industries Development Act 1995, No. 67/1995 (as amended by No. 74/2000)

Assent Date: 17.10.95
Commencement Date: Pt 1 (ss 1–7), s. 60(1)(2) on 17.10.95: s. 2(1); rest of Act on 1.6.96: Special Gazette (No. 60) 31.5.96 p. 4
Current State: All of Act in operation

Electricity Industry (Further Amendment) Act 1995, No. 79/1995

Assent Date: 28.11.95
Commencement Date: S. 32 on 28.11.95: Special Gazette (No. 116) 28.11.95 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Electricity Industry (Further Amendment) Act 1996, No. 48/1996

Assent Date: 26.11.96
Commencement Date: 26.11.96: s. 2
Current State: All of Act in operation

Electricity Industry (Further Miscellaneous Amendment) Act 1997, No. 55/1997

Assent Date: 21.10.97
Commencement Date: Ss 26, 27 on 21.10.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Alpine Resorts (Management) Act 1997, No. 89/1997

Assent Date: 9.12.97
Commencement Date: S. 72 on 30.4.98: Government Gazette 30.4.98 p. 926
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Audit (Amendment) Act 1997, No. 93/1997

Assent Date: 16.12.97
Commencement Date: S. 28(Sch. item 14) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Victorian Plantations Corporation (Amendment) Act 1998, No. 35/1998

Assent Date: 19.5.98
Commencement Date: S. 15 on 26.6.98: Government Gazette 25.6.98 p. 1561
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998, No. 76/1998

Assent Date: 10.11.98
Commencement Date: S. 10 on 15.12.98: s. 2(5)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Transfer of Land (Single Register) Act 1998, No. 85/1998 (as amended by No. 76/1998)

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 25) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Audit (Amendment) Act 1999, No. 53/1999

Assent Date: 14.12.99
Commencement Date: S. 26(Sch. item 12) on 1.1.00: Government Gazette
23.12.99 p. 2764
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Water Industry (Amendment) Act 2000, No. 66/2000

Assent Date: 8.11.00
Commencement Date: S. 55 on 15.4.99: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Electricity Industry Legislation (Miscellaneous Amendments) Act 2000,
No. 69/2000**

Assent Date: 21.11.00
Commencement Date: S. 53 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 52) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001,
No. 11/2001**

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 27) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 49) on 15.7.01: s. 2
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Auction Sales (Repeal) Act 2001, No. 84/2001

Assent Date: 11.12.01
Commencement Date: S. 5 on 1.1.03: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

National Parks (Box-Ironbark and Other Parks) Act 2002, No. 50/2002

Assent Date: 29.10.02
Commencement Date: S. 27 on 30.10.02: s. 2
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Forests and National Parks Acts (Amendment) Act 2003, No. 97/2003

Assent Date: 2.12.03
Commencement Date: Ss 3–5 on 3.12.03: s. 2
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: Ss 157, 158 on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Sustainable Forests (Timber) Act 2004, No. 48/2004

Assent Date: 16.6.04
Commencement Date: Ss 97, 98, 100(1), 103–105, 107, 108, 110, 112, 116, 122, 123(1), 124, 125 on 17.6.04: s. 2(1); ss 99, 101, 102, 106, 111, 113–115, 117–121, 123(2)–(4), 126 on 1.8.04: Government Gazette 29.7.04 p. 2120; s. 100(2) on 31.8.05: Government Gazette 14.7.05 p. 1550; s. 109 on 18.5.06: Government Gazette 18.5.06 p. 929
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Additions and Other Amendments) Act 2004, No. 64/2004

Assent Date: 12.10.04
Commencement Date: S. 35 on 13.10.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 83) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Safety on Public Land Act 2004, No. 109/2004

Assent Date: 21.12.04
Commencement Date: Ss 21, 22 on 22.12.04: s. 2
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Otways and Other Amendments) Act 2005, No. 60/2005

Assent Date: 20.9.05
Commencement Date: Ss 34–37 on 24.10.06: Special Gazette (No. 285) 24.10.06 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 19) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 16) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Education and Training Reform Miscellaneous Amendments Act 2007, No. 58/2007

Assent Date: 27.11.07
Commencement Date: S. 53 on 28.11.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks and Crown Land (Reserves) Acts Amendment Act 2008, No. 54/2008

Assent Date: 23.9.08
Commencement Date: S. 24 on 24.9.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Resources Industry Legislation Amendment Act 2009, No. 6/2009

Assent Date: 3.3.09
Commencement Date: S. 52 on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Crown Land Acts Amendment (Lease and Licence Terms) Act 2009, No. 40/2009

Assent Date: 5.8.09
Commencement Date: Ss 19, 20 on 6.8.09: s. 2(1); ss 18, 21–24 on 1.7.11: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009, No. 45/2009

Assent Date: 5.8.09
Commencement Date: Ss 10–12 on 6.8.09: s. 2
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 60) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Land Legislation Amendment Act 2009, No. 80/2009

Assent Date: 8.12.09
Commencement Date: S. 105 on 1.5.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parks and Crown Land Legislation Amendment (River Red Gums) Act 2009, No. 82/2009

Assent Date: 8.12.09
Commencement Date: Ss 34, 35 on 1.1.10: Government Gazette 17.12.09 p. 3338; ss 33, 36 on 1.7.10: Government Gazette 1.7.10 p. 1359
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: Ss 25(5)(Sch. 2 item 4), 203(1)(Sch. 6 item 23) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parks and Crown Land Legislation (Mount Buffalo) Act 2010, No. 35/2010

Assent Date: 15.6.10
Commencement Date: S. 24(Sch. 6 item 2) on 8.7.10: Government Gazette 8.7.10 p. 1518
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Climate Change Act 2010, No. 54/2010

Assent Date: 14.9.10
Commencement Date: S. 79 on 1.7.11: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Traditional Owner Settlement Act 2010, No. 62/2010

Assent Date: 21.9.10
Commencement Date: Ss 115–120 on 23.9.10: Special Gazette (No. 382) 22.9.10 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Fire Services Commissioner Act 2010, No. 73/2010

Assent Date: 19.10.10
Commencement Date: Ss 48–52 on 1.12.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 41) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Emergency Services Legislation Amendment Act 2012, No. 5/2012

Assent Date: 6.3.12
Commencement Date: S. 116 on 1.5.12: Special Gazette (No. 140) 1.5.12 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parks and Crown Land Legislation Amendment Act 2012, No. 7/2012

Assent Date: 6.3.12
Commencement Date: S. 25 on 1.9.12: Special Gazette (No. 291) 28.8.12 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests Amendment Act 2012, No. 46/2012

Assent Date: 21.8.12
Commencement Date: Ss 3–13 on 1.9.12: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Traditional Owner Settlement Amendment Act 2013, No. 4/2013

Assent Date: 19.2.13
Commencement Date: S. 33 on 8.3.13: Special Gazette (No. 70) 5.3.13 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 20) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Emergency Management Act 2013, No. 73/2013 (as amended by No. 41/2014)

Assent Date: 3.12.13
Commencement Date: Ss 85–87 on 1.7.14: Special Gazette (No. 148) 13.5.14 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014,
No. 37/2014**

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 67) on 1.7.14: Special Gazette
(No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Filming Approval Act 2014, No. 51/2014

Assent Date: 12.8.14
Commencement Date: S. 9(Sch. 2 item 4) on 1.3.15: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Water Amendment (Flood Mitigation) Act 2014, No. 53/2014

Assent Date: 12.8.14
Commencement Date: S. 10 on 1.3.15: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Emergency Management (Control of Response Activities and Other Matters)
Act 2015, No. 43/2015**

Assent Date: 22.9.15
Commencement Date: S. 36 on 19.9.16: Special Gazette (No. 284) 13.9.16
p. 1
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Crown Land Legislation Amendment (Canadian Regional Park and Other
Matters) Act 2016, No. 12/2016**

Assent Date: 5.4.16
Commencement Date: Ss 20–26 on 1.12.16: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Traditional Owner Settlement Amendment Act 2016, No. 67/2016

Assent Date: 15.11.16
Commencement Date: S. 31 on 1.5.17: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Victorian Fisheries Authority Act 2016, No. 68/2016

Assent Date: 15.11.16
Commencement Date: S. 166 on 1.7.17: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Justice Legislation Amendment (Court Security, Juries and Other Matters)
Act 2017, No. 38/2017**

Assent Date: 29.8.17
Commencement Date: S. 62 on 30.8.17: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Forests Act 1958
No. 6254 of 1958
Endnotes

Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017, No. 49/2017

Assent Date: 26.9.17
Commencement Date: Ss 76, 77 on 1.12.17: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parks and Crown Land Legislation Amendment Act 2017, No. 53/2017

Assent Date: 24.10.17
Commencement Date: S. 76 on 15.12.17: Special Gazette (No. 433) 12.12.17 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018, No. 17/2018

Assent Date: 29.5.18
Commencement Date: Ss 13, 14 on 30.5.18: s. 2
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parks Victoria Act 2018, No. 19/2018

Assent Date: 5.6.18
Commencement Date: Ss 103–135 on 12.9.18: Special Gazette (No. 386) 21.8.18 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Metric Conversion (Forests Act) Regulations 1974, S.R. No. 258/1974

Date of Making: 19.6.74
Date of Commencement: 30.6.74: reg. 1

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3 Amendments Not in Operation

This publication does not include amendments made to the **Forests Act 1958** by the following Act/s.

Oaths and Affirmations Act 2018, No. 6/2018

<i>Assent Date:</i>	27.2.18
<i>Commencement Date:</i>	S. 68(Sch. 2 item 58) not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the Forests Act 1958

At the date of this publication, the following provisions amending the **Forests Act 1958** were Not in Operation:

Amending Act/s:

Oaths and Affirmations Act 2018, No. 6/2018

Schedule 2—Further consequential amendments

58 Forests Act 1958

- 58.1 In section 63(7), after "oath" **insert** "or by affirmation".
- 58.2 In section 83(1) and (2), after "oath" **insert** "or by affirmation".

4 Explanatory details

¹ Ss 9–17:

Heading preceding s. 9 repealed by No. 96/1994 s. 56(a).

Ss 9, 10 repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 11 amended by Nos 6471 s. 3 (as amended by No. 6489 s. 4), 6624 s. 4(a)(b), 7054 s. 3(a)(b), 7356 s. 3(a)(b), 7581 s. 5(a)(b), 7954 s. 4(a)(b), 8082 s. 3(1), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 12 repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 13 amended by No. 9019 s. 2(1)(Sch. item 76), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

Ss 14, 15 repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 16 amended by Nos 9576 s. 11(1), 9615 s. 2, 10235 s. 3(a), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 17 amended by Nos 9019 s. 2(1)(Sch. item 76), 9615 s. 3(1)(a)(i)(ii)(b)(2), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

² Ss 23–26:

S. 23 amended by Nos 7674 s. 2, 8587 s. 4, 9417 s. 3(1)(a)(b)(2), repealed by No. 41/1987 s. 103(Sch. 4 item 24.28).

Ss 24–26 repealed by No. 41/1987 s. 103(Sch. 4 item 24.28).

³ Ss 30–37:

S. 30 amended by Nos 6976 s. 6(1), 9549 s. 2(1)(Sch. item 63), repealed by No. 9861 s. 3(1).

S. 31 amended by No. 6976 s. 6(2), repealed by No. 41/1987 s. 103(Sch. 4 item 24.34).

S. 32 amended by No. 8035 s. 5, repealed by No. 41/1987 s. 103(Sch. 4 item 24.34).

S. 32A inserted by No. 6976 s. 6(3), substituted by No. 9861 s. 3(1), repealed by No. 41/1987 s. 103(Sch. 4 item 24.35).

S. 32AA inserted by No. 9861 s. 3(1), repealed by No. 41/1987 s. 103(Sch. 4 item 24.36).

S. 33 amended by Nos 6976 s. 6(4), 9549 s. 2(1)(Sch. item 63), repealed by No. 41/1987 s. 103(Sch. 4 item 24.37).

Heading preceding s. 34 repealed by No. 96/1994 s. 56(c).

Ss 34–36 repealed by No. 41/1987 s. 103(Sch. 4 item 24.37).

S. 37 amended by No. 10087 s. 3(1)(Sch. 1 item 79), repealed by No. 41/1987 s. 103(Sch. 4 item 24.37).

⁴ Ss 38A, 39:

S. 38A inserted by No. 8035 s. 6, amended by No. 121/1986 s. 112, repealed by No. 41/1987 s. 103(Sch. 4 item 24.39).

Heading preceding s. 39 repealed by No. 96/1994 s. 56(d).

S. 39 amended by No. 9019 s. 2(1)(Sch. item 75), repealed by No. 41/1987 s. 103(Sch. 4 item 24.40).

⁵ S. 48(1): Refer to section 5 of the **Decimal Currency Act 1965**, No. 7315.

⁶ S. 63(5): See note 5.

⁷ Ss 86, 87:

S. 86 amended by Nos 9549 s. 2(1)(Sch. item 63), 41/1987 s. 103(Sch. 4 item 24.99), 13/1990 s. 40(g), repealed by No. 89/1994 s. 37.

S. 87 amended by Nos 41/1987 s. 103(Sch. 4 item 24.100), 13/1990 s. 40(h), repealed by No. 89/1994 s. 37.

⁸ S. 91(b): See note 5.

⁹ S. 94A (*repealed*): Section 114 of the **Conservation, Forests and Lands Act 1987**, No. 41/1987 reads as follows:

114 Continuation of section 94A of the Forests Act 1958

If before the date of commencement of item 24.107 of Schedule 4—

- (a) an advance was made; or
- (b) an agreement was entered into; or
- (c) a caveat was lodged—

under section 94A of the **Forests Act 1958**, that section as in force immediately before the date of commencement of that item continues to apply on and after that date to that advance, agreement or caveat, despite the repeal of that section by this Act.