

**Authorised Version No. 013**  
**Land Titles Validation Act 1994**

**No. 114 of 1994**

Authorised Version incorporating amendments as at  
20 September 2012

**TABLE OF PROVISIONS**

<i>Section</i>	<i>Page</i>
<b>PART 1—PRELIMINARY</b>	<b>1</b>
1 Purpose	1
2 Commencement	1
3 Definition	1
4 Definitions in Commonwealth Act	2
5 Act to bind Crown	2
<b>PART 2—VALIDATION OF PAST ACTS</b>	<b>3</b>
6 Validation of past acts attributable to the State	3
7 Category A past acts that are not public works	3
8 Category A past acts that are public works	3
9 Inconsistent category B past acts	3
10 Category C and D past acts	4
11 Extinguishment not of itself a right to eject from certain pastoral land	4
12 Preservation of beneficial reservations and conditions	4
13 Compensation because of validation of past act	5
<b>PART 2A—VALIDATION OF INTERMEDIATE PERIOD ACTS</b>	<b>6</b>
13A Validation of intermediate period acts attributable to the State	6
13B Category A intermediate period acts that are not public works	6
13C Category A intermediate period acts involving public works	6
13D Inconsistent category B intermediate period acts	7
13E Category C and D intermediate period acts	7
13F Preservation of beneficial reservations and conditions	7
13G Compensation	7

<i>Section</i>	<i>Page</i>
<b>PART 2B—CONFIRMATION OF PAST EXTINGUISHMENT OF NATIVE TITLE BY CERTAIN VALID OR VALIDATED ACTS</b>	<b>9</b>
13H Confirmation of extinguishment by acts other than acts consisting of public works	9
13I Confirmation of extinguishment by acts consisting of public works	9
13J Preservation of beneficial reservations and conditions	10
13K Confirmation of validity of use of certain Crown land	10
13L Confirmation of partial extinguishment of native title by previous non-exclusive possession acts	10
13M Preservation of beneficial reservations and conditions	11
13N Notification	12
13O Compensation	12
<b>PART 2C—VALIDATION OF FUTURE ACTS BY AGREEMENT</b>	<b>14</b>
13P How future acts may be validated	14
13Q Validation	15
<b>PART 3—CONFIRMATION OF RIGHTS</b>	<b>16</b>
14 Confirmation of ownership of natural resources	16
15 Confirmation of public access to beaches	16
16 Effect of confirmation	16
<b>PART 4—GENERAL</b>	<b>17</b>
17 Repeal	17
<b>ENDNOTES</b>	<b>18</b>
1. General Information	18
2. Table of Amendments	19
3. Explanatory Details	20

---

**Authorised Version No. 013**  
**Land Titles Validation Act 1994**

**No. 114 of 1994**

Authorised Version incorporating amendments as at  
20 September 2012

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1 Purpose**

The purpose of this Act is—

- (a) to validate, in accordance with the Native Title Act 1993 of the Commonwealth, past acts that are invalid because of the existence of native title;
- (b) to provide for compensation rights for the holders of native title which has been affected by past acts attributable to the State;
- (c) to confirm certain existing rights.

**S. 1(a)  
amended by  
No. 74/2000  
s. 3(Sch. 1  
item 68).**

**2 Commencement**

- (1) Part 1 comes into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.

**3 Definition**

In this Act—

***Commonwealth Act*** means the Native Title Act 1993 of the Commonwealth.

---

#### **4 Definitions in Commonwealth Act**

- (1) Words and expressions used in the Commonwealth Act and in this Act have the same meanings in this Act as they have in the Commonwealth Act.
- (2) Subsection (1) does not apply to the extent that the context or subject-matter otherwise indicates or requires.

#### **5 Act to bind Crown**

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

---

---

**PART 2—VALIDATION OF PAST ACTS**

**6 Validation of past acts attributable to the State**

Every past act attributable to the State is valid and is taken always to have been valid.

**7 Category A past acts that are not public works**

A category A past act attributable to the State that is not a past act to which section 229(4) (which deals with public works) of the Commonwealth Act applies extinguishes native title.

**8 Category A past acts that are public works**

(1) A category A past act—

- (a) attributable to the State; and
- (b) to which section 229(4) (which deals with public works) of the Commonwealth Act applies—

extinguishes native title in relation to the land or waters on which the public work concerned (on completion of its construction or establishment) was or is situated.

(2) If section 229(4)(a) (which deals with works completed after 1 January 1994) of the Commonwealth Act applies to the past act, the extinguishment is taken to have happened on 1 January 1994.

**9 Inconsistent category B past acts**

A category B past act—

- (a) attributable to the State; and

- (b) wholly or partly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests concerned—

extinguishes the native title to the extent of the inconsistency.

**10 Category C and D past acts**

The non-extinguishment principle applies to all category C and D past acts attributable to the State.

**11 Extinguishment not of itself a right to eject from certain pastoral land**

The extinguishment of native title effected by this Part does not by itself confer a right to eject or remove any Aboriginal persons who reside on or who exercise access over land or waters covered by a pastoral lease the grant, re-grant or extension of which is validated by this Part.

**12 Preservation of beneficial reservations and conditions**

If—

- (a) a past act attributable to the State contains a reservation or condition for the benefit of Aboriginal peoples or Torres Strait Islanders; or
- (b) the doing of a past act attributable to the State would affect rights or interests (other than native title rights and interests) of Aboriginal peoples or Torres Strait Islanders (whether arising under legislation, at common law or in equity and whether or not rights of usage)—

nothing in this Part affects that reservation or condition or those rights or interests.

---

**13 Compensation because of validation of past act**

- (1) Under section 20 of the Commonwealth Act, native title holders are entitled to compensation because of the validation of a past act attributable to the State if they would be so entitled under section 17(1) or (2) (entitlement to compensation) of the Commonwealth Act on the assumption that section 17 applied to acts attributable to the State.
  - (2) The compensation is payable by the State.
  - (3) Compensation shall be determined in accordance with the principles contained in Division 5 of Part 2 of the Commonwealth Act.
- 

S. 13(1)  
amended by  
No. 92/1998  
s. 4.

Pt 2A  
(Heading and  
ss 13A–13G)  
inserted by  
No. 92/1998  
s. 5.

**PART 2A—VALIDATION OF INTERMEDIATE PERIOD  
ACTS**

S. 13A  
inserted by  
No. 92/1998  
s. 5.

**13A Validation of intermediate period acts attributable to the State**

Every intermediate period act attributable to the State is valid and is taken always to have been valid.

S. 13B  
inserted by  
No. 92/1998  
s. 5.

**13B Category A intermediate period acts that are not public works**

- (1) A category A intermediate period act to which section 232B(2), (3) or (4) of the Commonwealth Act applies extinguishes native title in relation to the land or waters concerned.
- (2) Subsection (1) has effect subject to section 24EBA(6) of the Commonwealth Act.

S. 13C  
inserted by  
No. 92/1998  
s. 5.

**13C Category A intermediate period acts involving public works**

- (1) A category A intermediate period act to which section 232B(7) of the Commonwealth Act applies extinguishes native title in relation to the land or waters on which the public work concerned (on completion of its construction or establishment) was or is situated.
- (2) The extinguishment is taken to have happened when the construction or establishment began.
- (3) Subsection (1) has effect subject to section 24EBA(6) of the Commonwealth Act.



**13D Inconsistent category B intermediate period acts**

S. 13D  
inserted by  
No. 92/1998  
s. 5.

- (1) A category B intermediate period act that is wholly or partly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests concerned, extinguishes native title to the extent of the inconsistency.
- (2) Subsection (1) has effect subject to section 24EBA(6) of the Commonwealth Act.

**13E Category C and D intermediate period acts**

S. 13E  
inserted by  
No. 92/1998  
s. 5.

- (1) The non-extinguishment principle applies to all category C and D intermediate period acts.
- (2) Subsection (1) has effect subject to section 24EBA(6) of the Commonwealth Act.

**13F Preservation of beneficial reservations and conditions**

S. 13F  
inserted by  
No. 92/1998  
s. 5.

If—

- (a) an intermediate period act attributable to the State contains a reservation or condition for the benefit of Aboriginal peoples; or
- (b) the doing of an intermediate period act attributable to the State would affect rights or interests (other than native title rights and interests) of Aboriginal peoples (whether arising under legislation, at common law or in equity and whether or not rights of usage)—

nothing in section 13B, 13C, 13D or 13E affects that reservation or condition or those rights or interests.

**13G Compensation**

S. 13G  
inserted by  
No. 92/1998  
s. 5.

- (1) Under section 22G of the Commonwealth Act, native title holders are entitled to compensation because of the validation by this Act of an intermediate period act attributable to the State.

Land Titles Validation Act 1994  
No. 114 of 1994  
Part 2A—Validation of Intermediate Period Acts

**s. 13G**

- 
- (2) The compensation is payable by the State.
  - (3) Compensation is to be determined in accordance with the principles contained in Division 5 of Part 2 of the Commonwealth Act.
-

**PART 2B—CONFIRMATION OF PAST EXTINGUISHMENT  
OF NATIVE TITLE BY CERTAIN VALID OR VALIDATED  
ACTS**

Pt 2B  
(Heading and  
ss 13H–13O)  
inserted by  
No. 92/1998  
s. 5.

**13H Confirmation of extinguishment by acts other than  
acts consisting of public works**

S. 13H  
inserted by  
No. 92/1998  
s. 5.

- (1) If an act is a previous exclusive possession act under section 23B(2) of the Commonwealth Act (including because of section 23B(3)) and is attributable to the State—
  - (a) the act extinguishes any native title in relation to the land or waters covered by the freehold estate, Scheduled interest or lease concerned; and
  - (b) the extinguishment is taken to have happened when the act was done.
- (2) If this section applies to the act, sections 7, 9, 13B and 13D do not apply to the act.

**13I Confirmation of extinguishment by acts consisting  
of public works**

S. 13I  
inserted by  
No. 92/1998  
s. 5.

- (1) If an act is a previous exclusive possession act under section 23B(7) of the Commonwealth Act (which deals with public works) and is attributable to the State—
  - (a) the act extinguishes native title in relation to the land or waters on which the public work concerned (on completion of its construction or establishment) was or is situated; and
  - (b) the extinguishment is taken to have happened when the construction or establishment of the public work began.
- (2) If this section applies to the act, sections 8 and 13C do not apply to the act.

**s. 13J**

S. 13J  
inserted by  
No. 92/1998  
s. 5.

**13J Preservation of beneficial reservations and conditions**

If—

- (a) a previous exclusive possession act attributable to the State contains a reservation or condition for the benefit of Aboriginal peoples; or
- (b) the doing of a previous exclusive possession act attributable to the State would affect rights or interests (other than native title rights and interests) of Aboriginal peoples (whether arising under legislation, at common law or in equity and whether or not rights of usage)—

nothing in section 13H or 13I affects that reservation or condition or those rights or interests.

S. 13K  
inserted by  
No. 92/1998  
s. 5.

**13K Confirmation of validity of use of certain Crown land**

To avoid doubt, if an act is a previous exclusive possession act because of paragraph (b) of section 23B(9C) of the Commonwealth Act (which deals with grants to the Crown etc.), the use of the land or waters concerned as mentioned in that paragraph is valid.

S. 13L  
inserted by  
No. 92/1998  
s. 5.

**13L Confirmation of partial extinguishment of native title by previous non-exclusive possession acts**

- (1) Subject to subsection (2), if a previous non-exclusive possession act (see section 23F of the Commonwealth Act) is attributable to the State—
  - (a) to the extent that the act involves the grant of rights and interests that are not inconsistent with native title rights and interests in relation to the land or waters covered by the lease concerned, the rights and interests

granted, and the doing of any activity in giving effect to them, prevail over the native title rights and interests but do not extinguish them;

- (b) to the extent that the act involves the grant of rights and interests that are inconsistent with native title rights and interests in relation to the land or waters covered by the lease concerned—
  - (i) if, apart from this Act, the act extinguishes the native title rights and interests, the native title rights and interests are extinguished; and
  - (ii) in any other case, the native title rights and interests are suspended while the lease concerned, or the lease as renewed, re-made, re-granted or extended, is in force; and
- (c) any extinguishment under this subsection is taken to have happened when the act was done.
- (2) If the act is the grant of a pastoral lease or an agricultural lease to which section 7 applies, this section does not apply to the act.
- (3) If this section applies to the act, sections 7, 9, 10, 13D and 13E do not apply to the act.

**13M Preservation of beneficial reservations and conditions**

**S. 13M  
inserted by  
No. 92/1998  
s. 5.**

If—

- (a) a previous non-exclusive possession act attributable to the State contains a reservation or condition for the benefit of Aboriginal peoples; or

**s. 13N**

- (b) the doing of a previous non-exclusive possession act attributable to the State would affect rights or interests (other than native title rights and interests) of Aboriginal peoples (whether arising under legislation, at common law or in equity and whether or not rights of usage)—

nothing in section 13L affects that reservation or condition or those rights or interests.

**S. 13N**  
inserted by  
No. 92/1998  
s. 5.

**13N Notification**

In the case of a previous non-exclusive possession act to which section 23F(3)(c)(ii) of the Commonwealth Act applies—

- (a) notice must be given, in the way determined in writing by the Commonwealth Minister, to any—
  - (i) representative Aboriginal/Torres Strait Islander bodies; and
  - (ii) registered native title bodies corporate; and
  - (iii) registered native title claimants—in relation to the land or waters that will be affected by the act, about the doing or proposed doing of the act, or acts of that class, in relation to the land or waters concerned; and
- (b) they must be given an opportunity to comment on the act or class of acts.

**S. 13O**  
inserted by  
No. 92/1998  
s. 5.

**13O Compensation**

- (1) Under section 23J of the Commonwealth Act, native title holders are entitled to compensation for any extinguishment under this Part of their native title rights and interests by an act, but only to the extent (if any) that the native title rights and

interests were not extinguished otherwise than  
under this Act.

- (2) The compensation is payable by the State.
  - (3) Compensation is to be determined in accordance  
with the principles contained in Division 5 of  
Part 2 of the Commonwealth Act.
-

Pt 2C  
(Heading and  
ss 13P, 13Q)  
inserted by  
No. 92/1998  
s. 5.

S. 13P  
inserted by  
No. 92/1998  
s. 5.

## **PART 2C—VALIDATION OF FUTURE ACTS BY AGREEMENT**

### **13P How future acts may be validated**

Section 13Q applies if—

- (a) details are on the Register of Indigenous Land Use Agreements of an agreement that includes a statement to the effect that the parties agree to—
  - (i) the validating of a particular future act (other than an intermediate period act), or future acts (other than intermediate period acts) included in classes, that have already been done invalidly; or
  - (ii) the validating, subject to conditions, of a particular future act (other than an intermediate period act), or of future acts (other than intermediate period acts) included in classes, that have already been done invalidly;
- (b) the future act or class of acts is attributable to the State; and
- (c) the State is a party to the agreement; and
- (d) where, whether under the agreement or otherwise, a person other than the Crown in right of the Commonwealth or the State, is or may become liable to pay compensation in relation to the act or class of acts, that person is a party to the agreement.



---

**13Q Validation**

If the requirements of section 13P are satisfied in respect of a future act or class of future acts—

- (a) the act is valid and is taken always to have been valid; or
- (b) all acts included in the class are valid and are taken always to have been valid—

as the case may require.

---

**S. 13Q  
inserted by  
No. 92/1998  
s. 5.**

---

**PART 3—CONFIRMATION OF RIGHTS**

**14 Confirmation of ownership of natural resources**

- (1) The existing ownership of all natural resources owned by the State is confirmed.
- (2) All existing rights of the State to use, control and regulate the flow of water are confirmed.
- (3) All existing fishing access rights under State law are confirmed to prevail over other public or private fishing rights.

**15 Confirmation of public access to beaches**

Existing public access to and enjoyment of the following is confirmed—

- (a) waterways;
- (b) beds and banks or foreshores of waterways;
- (c) coastal waters;
- (d) beaches;
- (e) areas that were public places at the end of 31 December 1993.

**16 Effect of confirmation**

Any confirmation under section 14 or 15 does not extinguish or impair any native title rights and interests and does not affect any conferral of land or waters, or an interest in land or waters, under a law that confers benefits only on Aboriginal peoples or Torres Strait Islanders.

---

**PART 4—GENERAL**

**17 Repeal**

The **Land Titles Validation Act 1993** is  
**repealed.**

---

**No. 65/1993.**

---

## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 10 November 1994*

*Legislative Council: 13 December 1994*

The long title for the Bill for this Act was "A Bill to validate, in accordance with the Native Title Act 1993 of the Commonwealth, certain past acts, to make certain other provisions, to repeal the **Land Titles Validation Act 1993** and for other purposes."

The **Land Titles Validation Act 1994** was assented to on 20 December 1994 and came into operation as follows:

Part 1 on 20 December 1994: section 2(1); rest of Act on 31 December 1994: Government Gazette 22 December 1994 page 3382.

Land Titles Validation Act 1994  
No. 114 of 1994

Endnotes

---

## 2. Table of Amendments

This Version incorporates amendments made to the **Land Titles Validation Act 1994** by Acts and subordinate instruments.

---

### **Land Titles Validation (Amendment) Act 1998, No. 92/1998**

*Assent Date:* 24.11.98  
*Commencement Date:* Ss 3–5 on 24.11.98: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Titles Validation Act 1994**

### **Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 68) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Titles Validation Act 1994**

---

Land Titles Validation Act 1994  
No. 114 of 1994

<b>Endnotes</b>
-----------------

---

**3. Explanatory Details**

No entries at date of publication.