

Version No. 002
Safety on Public Land Act 2004
Act No. 109/2004

Version incorporating amendments as at 25 August 2005

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Safety on Public Land Act 2004
Act No. 109/2004

Version incorporating amendments as at 25 August 2005

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes

The main purposes of this Act are—

- (a) to provide for public safety in State forests by providing for the establishment and enforcement of public safety zones;
- (b) to amend the **Forests Act 1958** with respect to powers of committees of management in reserved forests;
- (c) to consequentially amend the **Conservation, Forests and Lands Act 1987**.

2. Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.

3. Definitions

In this Act—

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

"public safety zone" means an area of State forest to which a public safety zone declaration by the Secretary under section 4 applies;

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Part 1—Preliminary

s. 3

"public safety zone declaration" means a declaration by the Secretary under section 4;

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

"State forest" has the same meaning as it has in the **Forests Act 1958**;

"transport authority" means—

- (a) a road authority within the meaning of the **Road Management Act 2004**;
- (b) a rail corporation, a train operator or a tram operator under the **Rail Corporations Act 1996**;
- (c) a person operating a regular passenger service within the meaning of the **Public Transport Competition Act 1995** under the authority of a service contract within the meaning of that Act;
- (d) the Director within the meaning of the **Transport Act 1983**;
- (e) a person to whom section 61, 62, 63, 64, 65, 66 or 67 of the **Rail Corporations Act 1996** applies;
- (f) an employee, agent or contractor of a person referred to in paragraphs (a) to (e) when carrying out duties or functions pursuant to that employment, agency or contract;

"utility" means—

- (a) an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like

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services under the authority of an Act of Victoria or the Commonwealth;

- (b) any person who under the **Pipelines Act 1967** is—
- (i) permitted to own or use a pipeline;
or
 - (ii) licensed to construct or operate a pipeline;
- (c) an employee, agent or contractor of a person referred to in paragraphs (a) to (b) when carrying out duties or functions pursuant to that employment, agency or contract.
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Part 2—Public Safety Zone Declarations

s. 4

PART 2—PUBLIC SAFETY ZONE DECLARATIONS

4. Declaration of public safety zone

- (1) The Secretary may declare an area of State forest to be a public safety zone.
- (2) A declaration under sub-section (1) may be for all or any of, or any combination of, the following purposes—
 - (a) the conservation of flora or fauna;
 - (b) the protection of soil or water;
 - (c) the protection of natural, cultural or historical values;
 - (d) public recreational activities;
 - (e) scientific, research or education purposes;
 - (f) fire operations;
 - (g) timber harvesting operations;
 - (h) the maintenance of public safety;
 - (i) any other prescribed purpose.
- (3) A declaration under sub-section (1) may apply, adopt or incorporate any matter contained in any document formulated, issued, prescribed or published by any person, whether—
 - (a) wholly or partially or as amended by the declaration; or
 - (b) as formulated, issued, prescribed or published at the time the declaration is made or at any time before then; or
 - (c) as formulated, issued, prescribed or published from time to time.

S. 4(3)
inserted by
No. 48/2005
s. 5.

5. Contents of declaration

- (1) A public safety zone declaration must specify—
- (a) the area to which the declaration applies; and
 - (b) the purpose for which the area has been declared a public safety zone; and
 - (c) subject to section 6, the period for which the area has been declared a public safety zone, whether—
 - (i) for a limited time period; or
 - (ii) by reference to a season or seasons; and
 - (d) the times or periods during which access to the public safety zone is restricted or prohibited; and
 - (e) the activities that are permitted, prohibited or restricted in the public safety zone; and
 - (f) the restrictions or conditions (if any) applying to the public safety zone.
- (2) A public safety zone declaration may exempt specified persons or classes of person from its operation.

6. Public safety zone declaration for timber harvesting operations not to exceed 12 months

In making a public safety zone declaration for the purposes of timber harvesting operations, the Secretary must not specify a period under section 5(1) which exceeds 12 months.

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Part 2—Public Safety Zone Declarations

s. 7

7. Declaration to be published

S. 7(1)
substituted by
No. 48/2005
s. 6.

- (1) A public safety zone declaration must be published in the Government Gazette.

S. 7(1A)
inserted by
No. 48/2005
s. 6.

- (1A) The Secretary must cause notice of the making of a public safety zone declaration to be published—
- (a) in a newspaper circulating generally in the State; and
 - (b) in a newspaper (if any) circulating generally in the area affected by the declaration.

S. 7(1B)
inserted by
No. 48/2005
s. 6.

- (1B) A notice published under sub-section (1A) must include details of where the public safety zone declaration may be inspected.

S. 7(1C)
inserted by
No. 48/2005
s. 6.

- (1C) The Secretary must cause a public safety zone declaration to be available for inspection by the public—
- (a) at the head office of the Department of Sustainability and Environment and the regional office of the Department of Sustainability and Environment (if any) in the area affected by the declaration; and
 - (b) on the Internet.
- (2) A public safety zone declaration takes effect—
- (a) from the date it is published in the Government Gazette; or
 - (b) if a later date is specified in the declaration, from that later date.

8. Notice of proposed declarations for more than 12 months

- (1) The Secretary must cause notice to be given of a proposed declaration of a public safety zone for a continuous period of more than 12 months.
- (2) The notice must be published—
 - (a) in a newspaper circulating generally in the State; and
 - (b) in a newspaper (if any) circulating generally in the area proposed to be declared a public safety zone.
- (3) The notice must—
 - (a) specify the area proposed to be declared; and
 - (b) specify the purpose for which the area is proposed to be declared; and
 - (c) specify the period for which the area is proposed to be declared; and
 - (d) state that submissions on the proposed declaration may be made to the Secretary not later than the date specified in the notice, being not less than 21 days after the date of the notice.
- (4) The Secretary must consider any submissions under sub-section (3) before making a public safety zone declaration.

9. Declaration of public safety zone does not apply to certain persons

A public safety zone declaration does not apply to—

- (a) the Secretary; or
- (b) an authorised officer; or

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Part 2—Public Safety Zone Declarations

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- (c) a person or class of person exempted by the declaration in accordance with section 5(2); or
 - (d) a utility engaged in the carrying out of its functions in a State forest; or
 - (e) a transport authority engaged in the carrying out of its functions in a State forest; or
 - (f) a person or class of person authorised under section 10 to be in a public safety zone.

10. Authorisation to be in public safety zone

- (1) The Secretary may authorise a person or class of person to be in a public safety zone.
- (2) An authorisation under this section—
 - (a) must be in writing; and
 - (b) is subject to the terms and conditions specified in the authorisation.

11. Notice to be displayed on or near site

- (1) The Secretary must ensure that a notice specifying that an area is a public safety zone and the restrictions applying to that area is conspicuously displayed on or near the area to which a public safety zone declaration applies.
- (2) The fact that a notice is not displayed on or near a public safety zone in accordance with this section does not affect the liability of any person for a contravention of this Act.

PART 3—OFFENCES AND ENFORCEMENT

12. Offence to remove or destroy notice or barrier

- (1) A person must not unlawfully alter, obliterate, deface, remove or destroy a notice displayed in accordance with section 11.

Penalty: 50 penalty units.

- (2) A person must not unlawfully break down, damage or destroy a barrier or fence which has been erected to prohibit or restrict access to a public safety zone.

Penalty: 50 penalty units.

13. Offences in public safety zones

- (1) A person who is not authorised to do so must not carry out any activity in a public safety zone in contravention of a public safety zone declaration.

Penalty: 20 penalty units.

- (2) A person who is not authorised to do so must not contravene any restriction or condition applying to a public safety zone which is specified in the public safety zone declaration.

Penalty: 20 penalty units.

14. Direction to leave public safety zone

- (1) Subject to sub-section (2), an authorised officer may direct a person to leave a public safety zone if the authorised officer—

(a) has informed the person that he or she is in a public safety zone; and

(b) has requested that person to leave the public safety zone and that person has refused to leave.

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Part 3—Offences and Enforcement

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- (2) An authorised officer must—
- (a) produce proof of his or her identity and official status before exercising a power under sub-section (1); and
 - (b) inform the person that—
 - (i) the authorised officer is empowered to direct the person to leave the public safety zone; and
 - (ii) it is an offence to fail to comply with the direction.
- (3) A person who is not authorised under this Act to be in a public safety zone must comply with a direction under this section.
- Penalty: 20 penalty units.
- (4) It is not an offence for a person to fail to comply with a direction under this section if the authorised officer did not comply with sub-section (2).

15. Offence to re-enter public safety zone

A person who is not authorised under this Act to be in a public safety zone must not, contrary to a direction of an authorised officer under section 14—

- (a) re-enter a public safety zone; or
- (b) attempt to re-enter a public safety zone.

Penalty: 20 penalty units.

16. Entitlements under miners rights and tourist fossicking authorities

Despite anything to the contrary in Part 5 of the **Mineral Resources Development Act 1990**, the holder of a miner's right or a tourist fossicking authority under that Part of that Act is not entitled to re-enter a public safety zone in contravention of a direction of an authorised officer under section 14.

17. 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, 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 sub-section (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 sub-section (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.

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Part 3—Offences and Enforcement

s. 18

(4) If a person states a name and address in response to a request under sub-section (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 sub-section (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 sub-section (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 18 before making the request.

18. Authorised officers must identify themselves

An authorised officer must produce proof of his or her identity and official status—

(a) before exercising a power under section 17;
and

(b) at any time during the exercise of a power under section 17, if asked to do so.

19. Direction to produce authorisation under section 10

- (1) An authorised officer may direct a person who is, or who belongs to a class which is, subject to an authorisation under section 10 to produce that authorisation for inspection—
- (a) immediately; or
 - (b) within 7 days at a place determined by the authorised officer.
- (2) A person must comply with a direction under this section.

Penalty: 5 penalty units.

20. 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.

Penalty: 60 penalty units.

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Part 4—General

s. 21

PART 4—GENERAL

See:
Act No.
6254.
Reprint No. 8
as at
1 January
2003
and
amending
Act Nos
97/2003,
12/2004 and
48/2004.
LawToday:
www.dms.
dpc.vic.
gov.au

21. Powers of committees of management of reserved forests under the Forests Act 1958

After section 50(5)(ba) of the **Forests Act 1958**
insert—

"(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;"

22. Statute law revision—Forests Act 1958

In the **Forests Act 1958—**

(a) in section 64(5), for "Chief Administrator"
substitute "Secretary";

(b) in section 99(29), **omit** "the **Local Government Act 1958**,".

23. Relevant law under Conservation, Forests and Lands Act 1987

In Schedule 1 to the **Conservation, Forests and Lands Act 1987**, after "**Reference Areas Act 1978**." **insert** "**Safety on Public Land Act 2004**,".

24. Regulations

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

(a) prescribing purposes for which a public safety zone may be declared;

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Part 4—General

s. 24

(b) any other matter or thing that is required or permitted by this Act to be prescribed or that is necessary to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made under this Act—

(a) may be of general or limited application;

(b) may differ according to differences in time, place or circumstance;

S. 24(2)(b)
amended by
No. 48/2005
s. 7(a).

(c) may apply, adopt or incorporate any matter contained in any document formulated, issued, prescribed or published by any person, whether—

S. 24(2)(c)
inserted by
No. 48/2005
s. 7(b).

(i) wholly or partially or as amended by the regulations; or

(ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or

(iii) as formulated, issued, prescribed or published from time to time.

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Endnotes

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 17 November 2004

Legislative Council: 14 December 2004

The long title for the Bill for this Act was "to facilitate the management of public safety in State forests by providing for the establishment and enforcement of public safety zones in State forests, to amend the **Forests Act 1958** and consequentially amend the **Conservation, Forests and Lands Act 1987** and for other purposes."

The **Safety on Public Land Act 2004** was assented to on 21 December 2004 and came into operation 22 December 2004.

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Safety on Public Land Act 2004** by Acts and subordinate instruments.

Environment and Water Legislation (Miscellaneous Amendments) Act 2005, No. 48/2005

<i>Assent Date:</i>	24.8.05
<i>Commencement Date:</i>	Ss 5–7 on 25.8.05: s. 2
<i>Current State:</i>	This information relates only to the provision/s amending the Safety on Public Land Act 2004

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Endnotes

3. Explanatory Details

No entries at date of publication.