

Authorised Version No. 053
Catchment and Land Protection Act 1994

No. 52 of 1994

Authorised Version incorporating amendments as at
1 October 2014

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Authorised Version No. 053
Catchment and Land Protection Act 1994
No. 52 of 1994

Authorised Version incorporating amendments as at
1 October 2014

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The following are the purposes of this Act—

- (a) to set up a framework for the integrated management and protection of catchments;
- (b) to encourage community participation in the management of land and water resources;
- (c) to set up a system of controls on noxious weeds and pest animals;
- (d) to repeal and amend various Acts concerning catchment and land management.

2 Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3) the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation within the period of 6 months beginning with and including the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

s. 3

3 Definitions

(1) In this Act—

S. 3
amended by
No. 12/2008
s. 73(1)(Sch. 1
item 5.2) (ILA
s. 39B(1)).

S. 3(1) def. of
*Adminis-
trative
Appeals
Tribunal*
repealed by
No. 52/1998
s. 311(Sch. 1
item 12.1).

S. 3(1) def. of
animal
inserted by
No. 48/2010
s. 3.

S. 3(1) def. of
*approved
roadside
weed and
pest animal
management
plan*
inserted by
No. 51/2013
s. 4(2).

* * * * *

animal means any animal (other than a human being), whether vertebrate or not, and includes—

- (a) mammals, birds, insects, reptiles, amphibians, fish, crustaceans and molluscs; and
- (b) the semen, ova or embryo of an animal (other than a human being) or any other substance or thing directly relevant to the reproduction of an animal (other than a human being); and
- (c) any other prescribed form of animal life, whether prescribed by reference to a species or in any other way;

approved roadside weed and pest animal management plan means the roadside weed and pest animal management plan approved by the Minister under section 22G;

authorised officer means a person appointed under Part 9 of the **Conservation, Forests and Lands Act 1987** to be an authorised officer for the purposes of this Act;

Authority means a Catchment Management Authority established under Part 2;

S. 3(1) def. of *Authority* inserted by No. 39/1998 s. 3(a).

* * * * *

S. 3(1) def. of *Board* repealed by No. 39/1998 s. 3(c).

catchment means an area which, through run-off or percolation, contributes to the water in a stream or stream system;

catchment management means the co-ordinated management of land and water resources, using catchments as a basis;

controlled pest animal means a controlled pest animal under Part 8;

Council means the Victorian Catchment Management Council established under Part 2;

S. 3(1) def. of *Council* amended by No. 39/1998 s. 3(b).

Crown land has the same meaning as in the **Conservation, Forests and Lands Act 1987** and includes land of the Crown managed by the Minister or the Secretary;

Department has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of
directions notice
inserted by
No. 67/2006
s. 3.

directions notice means a notice under
section 70B;

S. 3(1) def. of
domestic partner
inserted by
No. 85/2006
s. 149,
substituted by
No. 12/2008
s. 73(1)(Sch. 1
item 5.1).

domestic partner of a person in sections 18H
and 18L means—

- (a) a person who is in a registered
relationship with the person; or
- (b) an adult person to whom the person is
not married but with whom the person
is in a relationship as a couple where
one or each of them provides personal
or financial commitment and support of
a domestic nature for the material
benefit of the other, irrespective of their
genders and whether or not they are
living under the same roof, but does not
include a person who provides
domestic support and personal care to
the person—
 - (i) for fee or reward; or
 - (ii) on behalf of another person or an
organisation (including a
government or government
agency, a body corporate or a
charitable or benevolent
organisation);

S. 3(1) def. of
emergency
inserted by
No. 51/2013
s. 4(2).

emergency has the same meaning as in section
4(1) of the **Emergency Management Act
1986**;

established pest animal means an established pest
animal under Part 8;

farm animal means an animal farmed commercially for its meat, its skin or anything else produced by it;

function includes duty and power;

land includes soil, water, vegetation and fauna on land but excludes a mineral within the meaning of the **Mineral Resources (Sustainable Development) Act 1990** and petroleum;

S. 3(1) def. of *land* amended by No. 63/2006 s. 61(Sch. item 5.1).

land degradation means—

- (a) a decline in the quality or productive capacity of land; or
- (b) the infestation of land by noxious weeds or pest animals;

land management notice, except in Division 1 of Part 5, means a land management notice under Division 1 or an interim land management notice under Division 2 of that Part;

land owner means—

- (a) the registered proprietor of an estate in fee simple in land under the **Transfer of Land Act 1958**; or
- (b) the owner in fee simple of land alienated by the Crown and—
 - (i) in an identified folio under the **Transfer of Land Act 1958**; or
 - (ii) not under the **Transfer of Land Act 1958**—and not mortgaged; or
- (c) a person who has the equity of redemption in land alienated by the Crown and mortgaged and—

S. 3(1) def. of *land owner* amended by Nos 35/1998 s. 12(1), 85/1998 s. 24(Sch. item 8), 12/2004 s. 151(1), 51/2013 s. 4(1).

- (i) in an identified folio under the **Transfer of Land Act 1958**; or
- (ii) not under the **Transfer of Land Act 1958**; or

* * * * *

- (e) the occupier, under a lease, licence or other right, of Crown land; or
- (f) the Roads Corporation, if land is a freeway or an arterial road within the meaning of the **Road Management Act 2004**; or
- (g) the Director within the meaning of the **National Parks Act 1975**, for Crown land in a national park or park within the meaning of that Act; or
- (ga) the municipal council, if the land is a municipal road in the municipal district of that municipal council; or
- (h) for Crown land that is not referred to in paragraphs (e) to (ga) and that is managed by a Minister or public authority, that Minister or public authority;

land protection means measures intended to maintain or enhance the quality or productive capacity of land or protect it from infestation by pest animals or noxious weeds;

land use condition means a condition imposed under Division 3 of Part 4;

municipal council has the same meaning as Council in section 3(1) of the **Local Government Act 1989**;

S. 3(1) def. of *municipal council* inserted by No. 51/2013 s. 4(2).

municipal district has the same meaning as in section 3(1) of the **Local Government Act 1989**;

S. 3(1) def. of *municipal district* inserted by No. 51/2013 s. 4(2).

municipal road has the same meaning as in section 3(1) of the **Road Management Act 2004**;

S. 3(1) def. of *municipal road* inserted by No. 51/2013 s. 4(2).

nominated officer means each senior officer of an Authority who is nominated by the board of an Authority;

S. 3(1) def. of *nominated officer* inserted by No. 85/2006 s. 149.

noxious weed means—

- (a) a State prohibited weed; or
- (b) a regionally prohibited weed; or
- (c) a regionally controlled weed; or
- (d) a restricted weed;

pest animal means—

- (a) a restricted pest animal; or
- (b) an established pest animal;

* * * * *

S. 3(1) def. of *Pest Animal Advisory Committee* repealed by No. 39/1998 s. 3(c).

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 13.1).

S. 3(1) def. of
priority area
inserted by
No. 67/2006
s. 3.

primary production means agriculture, apiculture, aquaculture, forestry or horticulture;

priority area means an area declared to be a priority area under section 47A;

S. 3(1) def. of
priority area notice
inserted by
No. 67/2006
s. 3.

priority area notice means a notice under section 47A;

prohibited pest animal means a prohibited pest animal under Part 8;

public authority has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

region means a catchment and land protection region under Part 2;

regional catchment strategy means a regional catchment strategy under Division 1 of Part 4;

regionally controlled weed means a regionally controlled weed under Part 8;

regionally prohibited weed means a regionally prohibited weed under Part 8;

regulated pest animal means a regulated pest animal under Part 8;

S. 3(1) def. of
relative
inserted by
No. 85/2006
s. 149.

relative has the same meaning as in the **Water Act 1989**;

restricted pest animal means—

- (a) a prohibited pest animal; or
- (b) a controlled pest animal; or

(c) a regulated pest animal;

restricted weed means a restricted weed under Part 8;

return period, in relation to the ordinary return of a member of the Authority or a nominated officer in section 18L, means—

S. 3(1) def. of *return period* inserted by No. 85/2006 s. 149.

- (a) if the last return of the member or nominated officer was a primary return, the period between the date of the primary return and the next 30 June; or
- (b) if the last return of the member or nominated officer was an ordinary return, the period between the date of the ordinary return and the next 30 June;

road includes—

- (a) public highway, street, lane, footway, square, court, alley or right of way, whether a thoroughfare or not and whether accessible to the public generally or not; and
- (b) land reserved or proclaimed as a street or road under the **Crown Land (Reserves) Act 1978** or the **Land Act 1958**;

roadside means—

- (a) if a road is sealed, formed or graded, the area between the made surface of the road and the boundary of the land adjoining the road; or
- (b) in the case of an unmade road on land alienated in fee simple by the Crown or Crown land occupied under a lease or licence, the land so alienated or occupied; or

S. 3(1) def. of
*roadside
weed and
pest animal
management
plan*
inserted by
No. 51/2013
s. 4(2).

- (c) in the case of an unmade road on
Crown land not occupied under a lease
or licence, the half width of the road;

roadside weed and pest animal management plan
means the plan referred to in section 22A;

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

sell includes any of the following—

- (a) barter or exchange;
- (b) agree to sell or offer or expose for sale;
- (c) receive for sale;
- (d) have in possession for sale;
- (e) send, forward or deliver for sale;
- (f) advertise for sale;
- (g) sell for re-sale;
- (h) cause, permit or attempt any of the acts
or things mentioned in paragraphs (a)
to (g);
- (i) give away;

special area plan means a special area plan under
Division 2 of Part 4;

special water supply catchment area means land
declared to be a special water supply
catchment area under Division 2 of Part 4;

State prohibited weed means a State prohibited
weed under Part 8;

subordinate instrument has the same meaning as in the **Interpretation of Legislation Act 1984**;

S. 3(1) def. of *subordinate instrument* inserted by No. 85/2006 s. 149.

water resources means the quality, quantity, or rate of flow, of water;

waterway has the same meaning as in the **Water Act 1989**.

(2) For the purposes of the definition of *domestic partner* in subsection (1)—

S. 3(2) inserted by No. 12/2008 s. 73(1)(Sch. 1 item 5.2).

(a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and

(b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and

(c) a person is not a domestic partner of another person only because they are co-tenants.

4 Objectives of Act

The following are the objectives of this Act—

(a) to establish a framework for the integrated and co-ordinated management of catchments which will—

(i) maintain and enhance long-term land productivity while also conserving the environment; and

(ii) aim to ensure that the quality of the State's land and water resources and their associated plant and animal life are maintained and enhanced;

S. 4(d)
substituted by
No. 39/1998
s. 4.

-
- (b) to establish processes that can be used to assess the condition of the State's land and water resources and the effectiveness of land protection measures;
 - (c) to establish processes to encourage and support participation of land holders, resource managers and other members of the community in catchment management and land protection;
 - (d) to establish and support the operation of the Victorian Catchment Management Council and the Catchment Management Authorities;
 - (e) to provide for the control of noxious weeds and pest animals.

5 Crown to be bound

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

**PART 2—CATCHMENT AND LAND PROTECTION
ADVISORY SYSTEM**

Division 1—Victorian Catchment Management Council

Pt 2 Div. 1
(Heading and
ss 6–9)
substituted as
Pt 2 Div. 1
(Heading and
ss 6–9A) by
No. 39/1998
s. 5.

6 Establishment of Council

There is established a Council to be called the Victorian Catchment Management Council.

S. 6
substituted by
No. 39/1998
s. 5.

7 Constitution and membership of Council

S. 7
substituted by
No. 39/1998
s. 5.

- (1) The Council consists of not more than 10 members who are to be appointed by the Governor in Council on the recommendation of the Minister.
- (2) The following provisions apply to the membership of the Council—
 - (a) in recommending persons for appointment, the Minister must have regard to the need for the composition of the Council to reflect the major land and water uses in the State, including rural, urban, private and public uses; and
 - (b) in recommending persons for appointment the Minister must have regard to the need for the Council members to have between them experience and knowledge of land protection, water resource management, primary industry, environment protection and conservation and local government; and
 - (c) one member is to be a nominee of the Secretary.

s. 8

S. 8
substituted by
No. 39/1998
s. 5.

8 Chairperson of Council

One of the members of the Council is to be appointed by the Governor in Council as the chairperson of the Council.

S. 9
substituted by
No. 39/1998
s. 5.

9 Functions of Council

The functions of the Council are—

- (a) to advise the Minister and, if requested by any other Minister, that other Minister—
 - (i) on matters relating to catchment management which apply throughout the State; and
 - (ii) on the condition of the land and water resources of the State; and
 - (iii) on priorities for catchment management throughout the State; and
 - (iv) on priorities to be given on the need for research and investigation on matters related to catchment management which apply throughout the State;
- (b) to encourage the co-operation of persons and bodies involved in the management of land and water resources in furthering the objectives of this Act;
- (c) to promote community awareness and understanding of issues relating to catchment management;
- (d) to advise the Minister and provide information to the Minister on any matter referred to it by the Minister.

S. 9A
inserted by
No. 39/1998
s. 5.

9A Powers of Council

The Council may do anything necessary or convenient to enable it to carry out its functions.

Division 1A—Conditions of membership and procedure of Council

Pt 2 Div. 1A
(Heading and
ss 9B–9J)
inserted by
No. 39/1998
s. 5.

9B Terms of appointment of members

S. 9B
inserted by
No. 39/1998
s. 5.

- (1) A member of the Council holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment.
- (2) A member of the Council is eligible for re-appointment.
- (3) The instrument of appointment of a member of the Council may specify terms and conditions of appointment.
- (4) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

S. 9B(4)
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 26.1),
80/2006
s. 26(Sch.
item 8.1).

9C Resignation and removal of members

S. 9C
inserted by
No. 39/1998
s. 5.

- (1) A member of the Council may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (2) The Governor in Council may at any time remove a member of the Council from office.

9D Vacancies in membership

S. 9D
inserted by
No. 39/1998
s. 5.

If a member of the Council resigns or is removed from office, the Governor in Council, in accordance with this Act, may fill the vacant office.

s. 9E

S. 9E
inserted by
No. 39/1998
s. 5.

9E Committees

For the purposes of this Act, the Council may—

- (a) from its members, appoint any committees that it considers necessary and may abolish any such committee; and
- (b) determine the procedure of each committee.

S. 9F
inserted by
No. 39/1998
s. 5.

9F Fees and allowances of members

A member of the Council, other than a member who is an employee of the public service, is entitled to receive the fees, travelling and other allowances from time to time fixed by the Governor in Council in respect of that member.

S. 9G
inserted by
No. 39/1998
s. 5.

9G Presiding at Council meetings

- (1) The chairperson is to preside at all meetings of the Council at which the chairperson is present.
- (2) If the chairperson is absent from a meeting of the Council, the members present at the meeting must elect one of their members to preside at the meeting.

S. 9H
inserted by
No. 39/1998
s. 5.

9H Proceedings of Council

- (1) A person presiding at a meeting has a deliberative vote and, if the voting is equal, a second or casting vote.
- (2) At a meeting of the Council a question must not be decided unless there are present at least half the total number of persons who are for the time being members of the Council.
- (3) At a meeting of the Council, the decision on a question of the majority of the members of the Council present at the meeting is the decision of the Council.
- (4) Subject to this section, the Council may regulate its own proceedings.

9I Validity of decisions of Council

An act or decision of the Council is not invalid merely because of—

- (a) a defect or irregularity in, or in connection with, the appointment of a member; or
- (b) a vacancy in the membership of the Council, including a vacancy arising from the failure to appoint an original member.

S. 9I
inserted by
No. 39/1998
s. 5.

9J Report of Council

- (1) The Council must report to the Minister on the operation of this Act and the carrying out of its functions on or before 31 October in each year.
- (2) The fifth annual report of the Victorian Catchment Management Council, and each annual report at 5 yearly intervals thereafter, must include an assessment of the condition and management of land and water resources in Victoria.
- (3) The Minister must cause each report submitted to him or her under this section to be laid before each House of Parliament within 7 sitting days after receiving the report.

S. 9J
inserted by
No. 39/1998
s. 5.

Division 2—Catchment and land protection regions

Pt 2 Div. 2
(Heading)
substituted by
Nos 61/2003
s. 4, 85/2006
s. 150(1).

10 Areas and boundaries of catchment and land protection regions

- (1) The Governor in Council, on the recommendation of the Minister, may by Order—
 - (a) determine the areas of Victoria which are catchment and land protection regions and define their boundaries; or

s. 11

- (b) vary the boundaries of an existing region; or
 - (c) abolish a region.
- (2) The Minister must cause a copy of an Order under subsection (1) to be published in the Government Gazette and in a newspaper circulating generally within the relevant region as soon as possible after making the Order.
- (3) On the abolition of a region any Authority established for that region under this Division is abolished and its members go out of office and the Minister is its successor in law.

S. 10(3)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 1).

New Pt 2
Div. 3
(Heading)
inserted by
No. 85/2006
s. 151.

Division 3—Catchment Management Authorities

11 Establishment of Authorities

- (1) The Minister must, by instrument establish a Catchment Management Authority for each catchment and land protection region.
- (2) Each Catchment Management Authority established under subsection (1)—
- (a) is a body corporate with perpetual succession; and
 - (b) has an official seal; and
 - (c) may sue and be sued; and
 - (d) may acquire, hold and dispose of real and personal property; and
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of a Catchment Management Authority affixed to a document and, until the contrary is proved, must presume that it was duly affixed.

S. 11
amended by
No. 39/1998
s. 6(1)(2)
(Sch. 1
item 2),
substituted by
No. 85/2006
s. 151.

- (4) The official seal of each Catchment Management Authority must be kept in the custody that is directed by the Authority and must not be used, except as authorised by the Authority.

12 Functions powers and duties of Authorities

- (1) Each Authority has the following functions in respect of the region for which it has been appointed—
- (a) to prepare a regional catchment strategy for the region and to co-ordinate and monitor its implementation;
 - (b) to prepare special area plans for areas in the region and to co-ordinate and monitor their implementation;
 - (c) to promote the co-operation of persons and bodies involved in the management of land and water resources in the region in preparing and implementing the strategy and special area plans;
 - (d) to advise the Minister, and, if requested by any other Minister, that other Minister—
 - (i) on regional priorities for activities by and resource allocation to bodies involved in the management of land and water resources in the region; and
 - (ii) on guidelines for integrated management of land and water resources in the region; and
 - (iii) on matters relating to catchment management and land protection; and
 - (iv) on the condition of land and water resources in the region;

S. 12
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 3),
substituted by
No. 85/2006
s. 151.

- (e) to promote community awareness and understanding of the importance of land and water resources, their sustainable use, conservation and rehabilitation;
 - (f) to make recommendations to the Minister about the funding of the implementation of the regional catchment strategy and any special area plan;
 - (g) to make recommendations to the Minister and the Secretary about actions to be taken on Crown land managed by the Secretary to prevent land degradation;
 - (h) to advise the Minister and provide information to the Minister on any matter referred to it by the Minister;
 - (i) to carry out any other functions conferred on the Authority by or under this Act or any other Act.
- (2) Each Authority has power to do all things that are necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions, including any function delegated to it.
- (3) Subsection (2) is not to be taken to be limited by any other provision of this Act that confers a power on the Authority.
- (4) Each Authority has the duties conferred on it by or under this or any other Act.

13 Appointment of administrator

- (1) The Minister may, by determination, appoint an administrator to carry out the functions of the Authority, if an Authority fails or refuses to comply with a direction of the Minister under—

S. 13
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 4),
substituted by
No. 85/2006
s. 151.

-
- (a) section 19A; or
 - (b) section 307 of the **Water Act 1989**.
- (2) A determination of the Minister under subsection (1)—
- (a) must specify the term for the which the Administrator is appointed, which must not be more than 12 months;
 - (b) must set out reasons for the actions proposed in it; and
 - (c) must be published in the Government Gazette; and
 - (d) must be laid by the Minister before both Houses of Parliament within 5 sitting days of each House after the Order is made.
- (3) During the period for which an administrator is appointed under this section, the administrator acts in substitution for the board in performing the functions and duties of the Authority.
- (4) Any defect in relation to the appointment of the administrator does not invalidate that appointment or anything done by the administrator.
- (5) On the expiry of a determination under this section the Minister must determine whether or not to—
- (a) reinstate to his or her office each member of the board of the Authority whose term has not expired; or
 - (b) dismiss each member of the board of the Authority.
- (6) The administrator goes out of office—
- (a) if members are reinstated under subsection (5)(a), at the time of that reinstatement; or

s. 14

(b) if all the members are dismissed under subsection (5)(b), on the appointment of new members—

as the case requires.

(7) If the term of appointment of the administrator expires and a determination under subsection (5) has not been made, members of the board of the Authority whose term has not expired, are re-instated.

S. 14
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 5),
substituted by
No. 85/2006
s. 151.

14 Application of Public Administration Act 2004

The **Public Administration Act 2004** applies to each Authority as if that Authority were a public entity but not a small entity within the meaning of that Act, established on or after the commencement of Part 5 of that Act.

Pt 2 Div. 3
(Heading and
ss 15–18)
repealed by
No. 39/1998
s. 7.

* * * * *

New Pt 2
Div. 4
(Heading)
inserted by
No. 85/2006
s. 151.

Division 4—Boards

New s. 15
inserted by
No. 85/2006
s. 151.

15 Board

(1) Each Catchment Management Authority must have a board consisting of—

(a) a chairperson; and

(b) not less than 5 and not more than 8 other members—

appointed by the Minister, after consultation with the Minister administering the **Water Act 1989** and the Minister administering the **Agricultural Industry Development Act 1990**.

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- (2) The board of each Authority must consist of persons with experience and knowledge of one or more of the following—
- (a) land management;
 - (b) water resources management and the water industry;
 - (c) waterway management;
 - (d) environment or natural resources management;
 - (e) primary industry;
 - (f) strategic or business planning;
 - (g) financial management.
- (3) More than one half of the members of the board of each Catchment Management Authority (other than the Port Phillip and Westernport Catchment Management Authority) must be persons whose principal occupation is primary production.

16 Function of boards

- (1) The board of an Authority—
- (a) is responsible for—
 - (i) the strategic planning of the Authority; and
 - (ii) deciding the policies of the Authority; and
 - (iii) the management of the affairs of the Authority, including ensuring the performance of the functions and the carrying out of the duties of the Authority; and
 - (b) may exercise the powers of the Authority.

New s. 16
inserted by
No. 85/2006
s. 151.

s. 17

- (2) Each board of an Authority, in performing its functions, exercising its powers and carrying out its duties must act in a proper and efficient manner.

New s. 17
inserted by
No. 85/2006
s. 151.

17 Terms and conditions of appointment of members of boards

A member of the board of an Authority holds office, subject to this Act—

- (a) for the term, not exceeding 4 years, that is specified in the instrument of his or her appointment and is eligible for re-appointment; and
- (b) subject to this section, on the other terms and conditions that are determined by the Minister.

New s. 18
inserted by
No. 85/2006
s. 151.

18 Appointment of chairperson

- (1) The chairperson of the board of an Authority must be appointed by the Minister.
- (2) The Minister may appoint as a chairperson any person who was a member of the board immediately before being appointed as chairperson.
- (3) If a vacancy arises in the office of the chairperson, the Minister must appoint a person in accordance with this section to fill the vacancy.
- (4) The chairperson holds office for the term specified by the Minister.
- (5) The chairperson may resign by notice in writing to the Minister.

S. 18A
inserted by
No. 85/2006
s. 151.

18A Deputy chairperson

- (1) The board of an Authority must appoint one of the members of the board to be the deputy chairperson of the board.

- (2) The deputy chairperson, if present, must preside at meetings of the board at which the chairperson is not present.

18B Acting appointments

S. 18B
inserted by
No. 85/2006
s. 151.

- (1) The deputy chairperson must act as chairperson if—
- (a) the office of chairperson is vacant; or
 - (b) the chairperson is unable, for any reason, to perform the duties of office, and it is not possible for the members to participate in a meeting in accordance with section 18N(7).
- (2) While the deputy chairperson is acting as chairperson, the deputy chairperson has and may exercise all the powers, and must perform all the duties, of the chairperson.
- (3) The Minister may appoint a person who has the experience and knowledge as required under section 15 to be a member of the board of an Authority during any period, or during all periods, when—
- (a) the deputy chairperson is acting as chairperson; or
 - (b) a member of the board is unable for any reason to attend meetings of the board.

18C When a member ceases to hold office

S. 18C
inserted by
No. 85/2006
s. 151.

- (1) The office of member of the board of an Authority becomes vacant if the member—
- (a) resigns in accordance with subsection (2); or
 - (b) becomes an insolvent under administration;
or

S. 18C(1)(b)
amended by
No. 4/2008
s. 32(Sch.
item 3).

s. 18D

(c) fails to attend 3 consecutive meetings of the board without the approval of the board.

(2) A person may resign from the office of member of the board of an Authority by notice in writing to the Minister.

S. 18D
inserted by
No. 85/2006
s. 151.

18D Removal from office of member

(1) The Minister may at any time remove a member of the board of an Authority from the office of member.

(2) The Minister must remove a person from the office of member of the board of an Authority if the member—

(a) is convicted of an offence relating to his or her duties as a member of the board of an Authority; or

(b) fails without reasonable cause to disclose any interest under section 18G.

S. 18E
inserted by
No. 85/2006
s. 151.

18E Validity of decisions

(1) An act or decision of the board of an Authority is not invalid merely because of—

(a) a vacancy in the membership of the board; or

(b) a defect or irregularity in, or in connection with, the appointment of a member of the board.

(2) Anything done by or in relation to a person purporting to act as a member of the board of an Authority, whether as chairperson, deputy chairperson or another member, is not invalid merely because—

(a) the occasion for the appointment had not arisen; or

(b) there was a defect or irregularity in relation to the appointment; or

- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

18F Improper use of information

S. 18F
inserted by
No. 85/2006
s. 151.

A member or a person who has been a member of the board of an Authority must not make improper use of information acquired by virtue of that person's position as a member—

- (a) to gain directly or indirectly any pecuniary advantage for himself or herself or for any other person; or
- (b) with intent to cause detriment to the Authority, whether or not detriment was caused.

Penalty: 20 penalty units.

18G Effect of pecuniary interests

S. 18G
inserted by
No. 85/2006
s. 151.

- (1) A member of the board of an Authority who has a pecuniary interest in any matter in which the Authority is concerned must—
 - (a) if the member is present at a meeting of the board or any of its committees at which the matter is to be considered, disclose the nature of the interest immediately before the consideration; or
 - (b) if the member is aware that the matter is to be considered at a meeting of the board or any of its committees at which the member does not intend to be present, disclose the nature of the interest to the chairperson, or if the chairperson has the interest, the deputy chairperson, before the meeting is held.
- (2) If a member of the board of an Authority has disclosed an interest to the chairperson or the deputy chairperson, as the case may be, under

subsection (1)(b), the chairperson or the deputy chairperson must disclose that interest at the meeting at which the matter is considered, before the consideration of the matter.

- (3) The member—
- (a) may stay in the meeting during any consideration of the matter; and
 - (b) may take part in the discussion; and
 - (c) must not move or second a motion on a question relating to the matter; and
 - (d) must leave the meeting while any vote is taken on a question relating to the matter; and
 - (e) may, when notified that the vote has been declared by the chairperson, or the deputy chairperson if it is the chairperson who has the interest, return to the meeting.
- (4) If a member discloses an interest under subsection (1), a statement showing—
- (a) that the disclosure was made; and
 - (b) the nature of the matter and the nature of the disclosed interest; and
 - (c) whether any vote was taken on a question relating to the matter and, if so, whether the member was present while the vote was taken; and
 - (d) whether the member left the meeting at any time during consideration of the matter and, if so, at what stage the member left—
- must—
- (e) in the case of a disclosure made at or before a meeting of the board, be included in the minutes of the meeting; and

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- (f) in the case of a disclosure made at or before a meeting of a committee, be recorded by the committee and presented to, and included in the minutes of the next ordinary meeting of the board.
- (5) A person must comply with subsection (1) or (3).
Penalty: 20 penalty units.
- (6) It is a defence to a charge under subsection (5) for the person charged to prove that the person did not know—
- (a) that he or she had a pecuniary interest in the matter; or
 - (b) that a matter in which he or she had a pecuniary interest was considered or to be considered at the meeting.
- (7) The Magistrates' Court has jurisdiction over a charge under this section even though title to land may be genuinely in question.
- (8) A charge may not be filed for an offence under this section more than 3 years after the commission of the alleged offence.
- (9) The Minister may, by notice in writing to an Authority, remove any disability imposed by this section in any case if so many of the members of the board of the Authority are affected that the Minister decides that the transaction of the business of the Authority would be impeded.
- (10) For the purposes of subsection (9), the Minister may remove, either indefinitely or for a specified time, any disability that would otherwise attach to a member, or class of members, because of any interests, and in respect of any matters, that the Minister specifies in the notice.

s. 18H

S. 18H
inserted by
No. 85/2006
s. 151.

18H What constitutes a pecuniary interest?

- (1) In this section *shares* includes stock, and *share capital* must be read accordingly.
- (2) A member does not have a pecuniary interest to which section 18G applies in relation to a matter only because that member has an interest in the matter—
 - (a) as a person who receives a service from the Authority in common with other persons who receive a service from the Authority; or
 - (b) as a person who is, or may become, entitled to an allowance or other payment under this Act, if the maximum amount of the allowance or payment, or the rate at which the amount is to be calculated, is fixed under this Act; or
 - (c) as a member of a club or other association (incorporated or not) that is conducted primarily for charitable, benevolent, recreational or community purposes; or
 - (d) as a member of an employers' or employees' association; or
 - (e) as a person to whom the Authority offers, or proposes to offer, goods and services which are, or are proposed to be, offered generally by the Authority on the same terms and conditions as to that member; or
 - (f) as a person who receives a service from the Authority, or as a resident of a region under the control of the Authority, who may be required by the Authority to make any payment that other persons who receive that service, or other residents of the region, may be required by the Authority to make.

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- (3) Unless subsection (4) provides otherwise, a person has a pecuniary interest in a matter if—
- (a) the person or his or her nominee is a member of a company or other body which has a pecuniary interest in the matter; or
 - (b) the person is the sole proprietor, a partner, a director or an employee of a person who has a pecuniary interest in the matter.
- (4) Subsection (3) does not apply—
- (a) to membership of any body (incorporated or not) which results from an appointment or nomination made by the board of an Authority; or
 - (b) to membership or directorship of any body (incorporated or not) if the member or director has no beneficial interest in any capital or income of the body.
- (5) If a member of a board of an Authority has a pecuniary interest in a matter only because he or she has a beneficial interest in the shares of a body, and if the total nominal value of those shares is not more than \$2000 or 1 per cent of the total nominal value of the issued share capital of the body (whichever is less), section 18G does not preclude the member from taking part in the consideration of the matter.
- (6) If the share capital of a body is of more than one class, subsection (5) does not apply if the total nominal value of all the shares of any one class in which the member has a beneficial interest is more than 1 per cent of the total nominal value of the issued share capital of that class of the body.
- (7) The interest of a member's spouse or domestic partner must, if known to the member, be taken to be an interest of the member for the purposes of this section.

s. 18I

S. 18I
inserted by
No. 85/2006
s. 151.

18I Pecuniary interest does not prevent voting and consideration of some questions

Nothing in section 18G precludes any person from taking part in the consideration of, or voting on—

- (a) any question of whether the amount payable for goods or services previously supplied or provided under any contract should be paid from any fund of the Authority or from any other money belonging to the Authority; or
- (b) any question of whether an application should be made to the Minister for the exercise of the powers conferred by section 18G(9).

S. 18J
inserted by
No. 85/2006
s. 151.

18J Effect of finding of guilt for offence against section 18G

(1) A member of the board of an Authority who is found guilty of an offence against section 18G or any corresponding previous enactment is not capable of being or continuing to be a member of a board of an Authority for 7 years after that finding of guilt, unless—

- (a) on application by the person found guilty, the court by which he or she is found guilty; or
- (b) a court hearing an appeal under subsection (2)—

thinks it is appropriate in the circumstances to reduce or waive the period of disqualification.

(2) A person may, within 6 months after a decision on an application under subsection (1)(a), appeal from that decision—

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- (a) if the person was found guilty by the Magistrates' Court—to the County Court; and
 - (b) in any other case—to the Supreme Court.
- (3) An appeal is by way of re-hearing of the application, and the court may do anything that it would be entitled to do if the appeal were an appeal against the sentence imposed on the finding of guilt giving rise to the disqualification.

18K Submission of returns by members and nominated officers

S. 18K
inserted by
No. 85/2006
s. 151.

- (1) A person who becomes a member of a board of an Authority must within 30 days after becoming a member submit a primary return in the prescribed form to a person authorised by the board of the Authority.

Penalty: 20 penalty units.

- (2) If a person is re-appointed on completion of his or her term of office as a member, the member need not submit a new primary return.
- (3) If the board of an Authority has resolved that nominated officers must submit returns—
- (a) each nominated officer must within 30 days after the resolution; and
 - (b) any person who becomes a nominated officer after the resolution must within 30 days after his or her appointment as a nominated officer—

submit a primary return in the prescribed form to a person authorised by the board of the Authority.

Penalty: 20 penalty units.

s. 18L

- (4) A member or a nominated officer of each Authority must, on or before 31 July each year, submit an ordinary return in the prescribed form to a person authorised by the board of the Authority.

Penalty: 20 penalty units.

S. 18L
inserted by
No. 85/2006
s. 151.

18L Information to be disclosed in primary and ordinary returns

- (1) Each member and each nominated officer must disclose the following information in the primary return as at the date of the primary return—
- (a) the name of any company or other body, corporate or unincorporate, in which he or she held an office whether as a director or otherwise;
 - (b) the information referred to in paragraphs (b), (c), (d) and (f) of subsection (2).

Penalty: 20 penalty units.

- (2) Each member and each nominated officer must disclose in an ordinary return the following information in relation to the return period—
- (a) if he or she has held an office, whether as director or otherwise, in any company or body, corporate or unincorporate—the name of the company or body;
 - (b) the name or description of any company, partnership, association or other body in which he or she holds a beneficial interest which exceeds in value \$2000;
 - (c) the address or description of any land in the region of the Authority or in a region which adjoins that Authority's region in which he or she has any beneficial interest other than by way of security for any debt;

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- (d) a concise description of any trust—
- (i) in which he or she holds a beneficial interest; or
 - (ii) of which he or she is a trustee and in which a relative holds a beneficial interest;
- (e) particulars of any gift of \$2000 or more in value received by him or her from a person other than a relative; and
- (f) any other substantial interest, whether of a pecuniary nature or not, of the person, or of a relative of which interest the person is aware and which the person ought reasonably to consider might appear to raise a material conflict between his or her private interest and his or her public duty as a member or nominated officer.

Penalty: 20 penalty units.

- (3) If a member or a nominated officer has already submitted one or more ordinary returns he or she must disclose in any subsequent ordinary return any change in the information disclosed in the last return and any additional information of the kind set out in subsection (2)(a) to (f) required to be disclosed, but he or she is not required to disclose any information already disclosed in a previous return.

Penalty: 20 penalty units.

- (4) In this section *relative* of a member or a nominated officer includes a domestic partner, or relative of a domestic partner, of the member or nominated officer.

s. 18M

S. 18M
inserted by
No. 85/2006
s. 151.

18M Authority to maintain a register

- (1) An Authority must—
 - (a) maintain a register of the interests of members and, where required, nominated officers; and
 - (b) enter in the register all the information given in the returns.
- (2) An Authority must allow a person to inspect the register if that person applies, in writing and in accordance with the regulations, to the Authority to do so.
- (3) The register may be inspected at the office of the Authority during normal office hours.
- (4) An Authority must take all reasonable steps to make sure that a person who has not applied does not have access to, and is not permitted to inspect, the register or any return.
- (5) A person must not publish any information derived from the register unless that information is a fair and accurate summary or copy of the information derived from the register.

Penalty: 20 penalty units.

- (6) A person employed by an Authority must not, whether before or after he or she ceases to be so employed, make a record of, divulge or communicate to any person any information in relation to a matter dealt with by this section that is gained by or conveyed to him or her during his or her employment with the Authority, or make use of that information for any purpose other than the discharge of his or her official duties under this Act.

Penalty: 20 penalty units.

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- (7) An Authority must—
- (a) retain the returns of a member or a nominated officer for 3 years after the person has ceased to be a member or a nominated officer; and
 - (b) at the end of that period, destroy the returns.
- (8) As soon as practicable after a person ceases to be a member or a nominated officer, the Authority must delete the entries relating to that person from the register.

18N Proceedings of the board of an Authority

S. 18N
inserted by
No. 85/2006
s. 151.

- (1) Subject to this Act, the board of an Authority may regulate its own procedure.
- (2) The chairperson or, in his or her absence, the deputy chairperson or, in the absence of both the chairperson and deputy chairperson, a member of the board of an Authority elected by the members present at the meeting, must preside at a meeting of the board.
- (3) The quorum for a meeting of the board of an Authority is a majority of the members for the time being.
- (4) A question arising at a meeting of the board of an Authority is determined by a majority of the votes of the members present and voting on the question.
- (5) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes on any question, a second or casting vote.
- (6) The board of an Authority must ensure that minutes are kept of each meeting of the board.
- (7) The board of an Authority may permit its members to participate in a particular meeting by—

s. 18O

- (a) telephone; or
 - (b) closed-circuit television; or
 - (c) any other means of electronic or instantaneous communication.
- (8) A member of the board of an Authority who participates in a meeting under a permission under subsection (7) is deemed to be present at the meeting.

S. 18O
inserted by
No. 85/2006
s. 151.

18O Special meetings

- (1) The chairperson of the board of an Authority may at any time (and must, if requested by a majority of members) call a special meeting of the board.
- (2) Subject to subsection (3), a special meeting must not be held unless at least 2 days' notice has been given to each member.
- (3) If all members of the board consent in writing, a special meeting may be held with less than 2 days' notice being provided to each member.
- (4) Notice of a special meeting must—
 - (a) be in writing; and
 - (b) be served on each member, by post or in person; and
 - (c) specify the time and place of the meeting and the reason for it.
- (5) A special meeting must deal only with business stated in the notice.

S. 18P
inserted by
No. 85/2006
s. 151.

18P Resolutions without meetings

- (1) If all of the members of the board of an Authority for the time being see a document setting out a resolution and a majority of those members sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is deemed to

have been passed at a meeting of the board held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last member to sign signs the document.

- (2) If a resolution is deemed under subsection (1) to have been passed at a meeting of the board of an Authority, each member of the board must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members of the board of an Authority, are deemed to constitute one document.

18Q Allowances

- (1) An Authority may, subject to subsection (2), pay remuneration and allowances to its members of the board.
- (2) The amounts of any remuneration and allowances paid by an Authority must not exceed the amounts fixed by the Minister in respect of that Authority.
- (3) The amounts fixed by the Minister under this section may vary between Authorities.

S. 18Q
inserted by
No. 85/2006
s. 151.

18R Expenses

Despite anything in this or any other Act, the members of the board of an Authority are, if the board so resolves, entitled to be reimbursed out of the Authority's funds for any reasonable expenses they incur whilst carrying out functions and exercising powers under this Act.

Example

Reasonable expenses incurred when making site visits.

S. 18R
inserted by
No. 85/2006
s. 151.

s. 19

Pt 2 Div. 4
(Heading)
repealed by
No. 85/2006
s. 152.

S. 19
amended by
Nos 39/1998
s. 8, 85/2006
s. 153(1)(a)(2)
(LA s. 39B(1)).

S. 19(b)
amended by
No. 85/2006
s. 153(1)(b).

S. 19(2)
inserted by
No. 85/2006
s. 153(2).

Pt 2 Div. 5
(Heading and
ss 19A–19J)
inserted by
No. 85/2006
s. 154.

S. 19A
inserted by
No. 85/2006
s. 154.

* * * * *

19 Immunity of members

- (1) A member of the Council or any member of the board of an Authority is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the performance of a function under this Act or the regulations; or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under this Act or the regulations.
- (2) Any liability that would, but for subsection (1), attach to a member of the board of an Authority attaches instead to the Authority of which the person is a member of the board.

Division 5—Other provisions relating to Catchment Management Authorities

19A Power of Minister to give directions

- (1) The Minister may give a direction to an Authority in relation to the performance of any of its functions or the exercise of any of its powers.
- (2) The Minister must give an Authority 14 days' notice of his or her intention to give a direction under subsection (1).
- (3) If the Minister gives a direction to an Authority, the Minister must make sure that notice of the giving of the direction, and a statement or summary of the contents of the direction, is published in the Government Gazette.

- (4) An Authority to which the Minister gives a direction must make sure that a statement or summary of the contents of the direction is included in the annual report of the Authority.
- (5) A failure to comply with subsection (3) or (4) does not affect the validity of the direction.

19B Annual report

S. 19B
inserted by
No. 85/2006
s. 154.

- (1) Each Authority must submit to the Minister and the Council, on or before the prescribed date in each year, a report on the condition and management of land and water resources in its region and the carrying out of its functions.
- (2) In this section *prescribed date* means the day in each year fixed by the Minister by instrument.

19C Corporate plans

S. 19C
inserted by
No. 85/2006
s. 154.

- (1) Each Authority must prepare a corporate plan and submit it to the Minister—
 - (a) on or before the date specified by the Minister; or
 - (b) if no such date is specified, at least 2 months before it intends to implement the plan or any part of it.
- (2) A corporate plan must be in or to the effect of a form approved by the Minister and must include—
 - (a) a statement of corporate intent in accordance with section 19D;
 - (b) a business plan and financial statements containing the information that the Minister requires;
- (3) An Authority may implement a corporate plan 2 months (or any shorter time allowed by the Minister) after its submission to the Minister, unless the Minister, within that time, directs in

s. 19D

writing any variations that the Minister thinks fit to be made in any corporate plan submitted in accordance with this section.

- (4) The Minister must publish in the Government Gazette any direction made under subsection (3).
- (5) The Minister must not give a direction under subsection (3) without first having consulted the Authority about the direction.
- (6) An Authority must not make a major deviation from its corporate plan unless it has, at least 2 months (or any shorter time allowed by the Minister) before it intends to make the deviation, submitted to the Minister details of the proposed deviation.
- (7) The Minister may issue guidelines as to what are major deviations for the purposes of subsection (6).
- (8) The corporate plan of an Authority at any time is that plan as varied under subsection (3), or as revised by any deviation under subsection (6), at that time.

S. 19D
inserted by
No. 85/2006
s. 154.

19D Statement of corporate intent: contents

Each statement of corporate intent must specify for the Authority, in respect of the financial year to which it relates and each of the 4 following financial years, the following information—

- (a) the business objectives of the Authority;
- (b) the main business undertakings of the Authority;
- (c) the nature and scope of the activities to be undertaken by the Authority;
- (d) the performance targets and other measures by which the Authority may be judged in relation to its business objectives;

- (e) the kind of information to be provided to the Minister by the Authority during the course of those financial years;
- (f) any other matters that may be agreed on by the Minister and the Authority from time to time.

19E Statements of obligations of Authorities

S. 19E
inserted by
No. 85/2006
s. 154.

- (1) The Minister may—
 - (a) issue a statement of obligations to an Authority specifying obligations that the Authority has in performing its functions under this Act or exercising powers it has under this Act; or
 - (b) amend, vary or revoke a statement of obligations after complying with subsection (5).
- (2) The Minister must not issue, amend, vary or revoke a statement under subsection (1), unless the Minister has first consulted with the Minister administering Part 10 of the **Water Act 1989**.
- (3) A statement of obligations may include provisions relating to—
 - (a) standards as to the performance of any such functions;
 - (b) requirements as to community consultation in performing any such functions.
- (4) An Authority must comply with a statement of obligations that applies to that Authority.
- (5) The Minister must not amend or vary a statement of obligations unless—
 - (a) the Authority has agreed to the proposed amendment or variation; or

s. 19F

- (b) the Minister has—
- (i) given the Authority notice in writing of the proposed amendment or variation; and
 - (ii) considered any written submission made by the Authority in response to the notice.

- (6) The Minister must cause a notice of—
- (a) the making and issue of a statement of obligations to an Authority; or
 - (b) the amendment, variation or revocation of a statement of obligations—
- to be published in the Government Gazette.

S. 19F
inserted by
No. 85/2006
s. 154.

19F Powers of delegation of an Authority

An Authority may, by instrument under its common seal, delegate to—

- (a) a member of the board of an Authority or any other officer of the Authority, by name or to the holder of an office; or
- (b) to any committee established by the Authority under this Act, the members of which are members of the board or officers of the Authority;
- (c) with the consent of the Minister, to any other person or body, including any committee established by the Authority under this Act, the members of which are not members of the board or officers of the Authority—

any function, power or duty of the Authority other than—

- (d) this power of delegation; or
- (e) the power to make by-laws; or

(f) any other power that is prescribed for the purposes of this section.

19G Chief Executive Officer

S. 19G
inserted by
No. 85/2006
s. 154.

- (1) An Authority may appoint a person as Chief Executive Officer of the Authority.
- (2) A person appointed under subsection (1) must not be a member of the board of the Authority.
- (3) The Chief Executive Officer holds office for the period, not exceeding 5 years, specified in the instrument of his or her appointment.
- (4) The Chief Executive Officer is responsible to the Authority for the carrying out of the Authority's functions.
- (5) The Chief Executive Officer must comply with the directions of the Authority.

19H Delegation of powers of Chief Executive Officer

S. 19H
inserted by
No. 85/2006
s. 154.

An Authority may, by instrument, delegate to any officer or employee referred to in section 19I, any power, duty or function conferred on the Chief Executive Officer under this Act or the regulations, except this power of delegation.

19I Employment of officers of Authorities

S. 19I
inserted by
No. 85/2006
s. 154.

An Authority may employ, on terms and conditions determined by the Authority, such officers and employees it considers necessary for the carrying out of its functions.

19J Committees established by Authorities

S. 19J
inserted by
No. 85/2006
s. 154.

- (1) An Authority may establish—
 - (a) a committee to advise the Authority on any matter referred by the Authority; and
 - (b) a committee to exercise any power or perform any function, authority or discretion delegated to it by the Authority.

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- (2) The following provisions apply to committees—
- (a) an Authority may at any time remove from office a member of a committee and must provide in writing to the member the reasons for the removal;
 - (b) a committee may act despite any vacancy in its membership;
 - (c) subject to this Act and any rules made under paragraph (d), a committee may regulate its own proceedings;
 - (d) an Authority may, by resolution, make rules, with which committees must comply, about—
 - (i) their quorums; and
 - (ii) voting powers of their members; and
 - (iii) their proceedings;
 - (e) the Minister by notice published in the Government Gazette may declare that a committee is a corporation, and may dissolve a corporation of that sort in the same way;
 - (f) an Authority must obtain the Minister's consent before it delegates any of its powers, functions, authorities or discretions to a committee of which any members are not members or officers of the Authority;
 - (g) the Minister may specify rules of procedure for the exercise of a delegated power by a committee referred to in paragraph (f) and any purported exercise of that delegated power by such a committee otherwise than in accordance with those rules is void.
- (3) A member of a committee is entitled to be paid any fees and allowances fixed by the Minister.

PART 3—DUTIES OF THE SECRETARY AND LAND OWNERS

20 General duties of land owners

- (1) In relation to his or her land a land owner must take all reasonable steps to—
- (a) avoid causing or contributing to land degradation which causes or may cause damage to land of another land owner; and
 - (b) conserve soil; and
 - (c) protect water resources; and
 - (d) eradicate regionally prohibited weeds; and
 - (e) prevent the growth and spread of regionally controlled weeds; and
 - (f) prevent the spread of, and as far as possible eradicate, established pest animals.

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S. 20(2)
repealed by
No. 51/2013
s. 5.

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S. 20(3)
amended by
No. 12/2004
s. 151(2),
repealed by
No. 51/2013
s. 5.

21 Additional duties of the Secretary

- (1) The Secretary must take all reasonable steps to eradicate State prohibited weeds from all land in the State.
- (1A) The Secretary must take all reasonable steps to control restricted pest animals on any land in the State.

S. 21(1A)
inserted by
No. 48/2010
s. 4.

- (2) In relation to roadsides on Crown land the Secretary must take all reasonable steps to eradicate regionally prohibited weeds.
- (3) Subsection (2) does not apply to—
- (a) a freeway or an arterial road within the meaning of the **Road Management Act 2004**; or
 - (b) Crown land held under a lease or licence; or
 - (c) the roadside of a municipal road.
- (4) The duties imposed by this section are in addition to those imposed by this Part on the Secretary as a land owner.

S. 21(3)(a)
amended by
No. 12/2004
s. 151(2).

S. 21(3)(b)
amended by
No. 51/2013
s. 6(a).

S. 21(3)(c)
inserted by
No. 51/2013
s. 6(b).

22 Transfer of management responsibility

- (1) A land owner may agree in writing with the lessee or an occupier of the land or with any person having management or control of the land ("the new land manager") that the new land manager will have sole responsibility for carrying out, in relation to the land, a duty imposed by a relevant provision on the land owner.
- (2) While the agreement is in force, a relevant provision applies to the land covered by the agreement as if it referred to the new land manager instead of the land owner.
- (3) The land owner and the new land manager may, by a further written agreement, vary or terminate an agreement under subsection (1).

S. 22(1)
amended by
No. 67/2006
s. 4(1).

S. 22(2)
amended by
No. 67/2006
s. 4(1).

Catchment and Land Protection Act 1994
No. 52 of 1994
Part 3—Duties of the Secretary and Land Owners

s. 22

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- (4) If a special area plan exempts a land owner from a duty under a relevant provision and places the duty on another person, the relevant provision applies to that person in respect of that duty as if it referred to that person instead of to a land owner.
- (5) In this section, *relevant provision* means any provision of the following—
- (a) Part 3;
 - (b) Division 3 of Part 4, other than section 34;
 - (c) Part 5, other than section 40;
 - (d) Part 5A;
 - (e) Division 2 of Part 8;
 - (f) Part 9.

S. 22(4)
amended by
No. 67/2006
s. 4(2).

S. 22(5)
inserted by
No. 67/2006
s. 4(3).

Pt 3A
(Heading and
ss 22A–22Q)
inserted by
No. 51/2013
s. 7.

**PART 3A—ROADSIDE WEED AND PEST ANIMAL
MANAGEMENT PLANS**

S. 22A
inserted by
No. 51/2013
s. 7.

22A Declaration of a municipal district

- (1) The Minister may declare a municipal district to be a district for which a roadside weed and pest animal management plan must be prepared.
- (2) The declaration must be published in the Government Gazette and state—
 - (a) that the roadside weed and pest animal management plan relates to regionally prohibited weeds, regionally controlled weeds and established pest animals on roadsides of municipal roads in the declared municipal district; and
 - (b) the term for which the roadside weed and pest animal management plan is to operate being a period of between 2 and 4 years; and
 - (c) the Minister's reasons for making the declaration.
- (3) In making a declaration, the Minister must take into account—
 - (a) the nature and extent of municipal roads in the municipal district; and
 - (b) the extent to which the roadsides of those municipal roads are infested with regionally prohibited weeds, regionally controlled weeds and established pest animals.
- (4) The Minister must give a copy of the declaration to the municipal council of the declared municipal district.

- (5) The declaration takes effect on the day it is published in the Government Gazette or on any later date after the date that any earlier declaration ceases to have effect as is specified in the notice.
- (6) The declaration ceases to have effect at the earliest of—
 - (a) the end of the term of operation of any approved roadside weed and pest animal management plan for the declared municipal district; or
 - (b) if the approval of the roadside weed and pest animal management plan is revoked for the declared municipal district under section 22O, at the time the revocation takes effect.

22B Roadside weed and pest animal management plan

A municipal council of a municipal district declared under section 22A must prepare, submit for approval and publish a roadside weed and pest animal management plan in accordance with this Part.

S. 22B
inserted by
No. 51/2013
s. 7.

22C Contents of a roadside weed and pest animal management plan

- (1) A roadside weed and pest animal management plan prepared by a municipal council must—
 - (a) set out a program of measures to eradicate, as far as possible, all regionally prohibited weeds of which the municipal council is aware from the roadsides of all municipal roads in the declared municipal district; and
 - (b) specify the species of regionally controlled weeds and established pest animals to which the plan applies; and

S. 22C
inserted by
No. 51/2013
s. 7.

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- (c) specify the municipal council's current knowledge of the extent and abundance in the municipal district of—
 - (i) all regionally prohibited weeds; and
 - (ii) all regionally controlled weeds and established pest animals specified in paragraph (b); and
 - (d) set out a program of reasonable measures to be taken by the municipal council to reduce the adverse impact on surrounding land arising from the species specified in paragraph (b) on the roadsides of municipal roads in the declared municipal district; and
 - (e) specify the municipal roads to which the plan applies; and
 - (f) specify the anticipated outcome of each measure referred to in paragraphs (a) and (d); and
 - (g) state the period of operation of the plan.
- (2) The program of measures set out in a roadside weed and pest animal management plan must—
- (a) support any weed and pest animal management programs being undertaken by land owners in the declared municipal district; and
 - (b) protect the infrastructure and environmental value of roadsides.
- (3) A roadside weed and pest animal management plan prepared by a municipal council may also include any additional information that the municipal council considers appropriate.

22D Preparation of plan

In preparing a roadside weed and pest animal management plan, a municipal council must have regard to—

- (a) any information provided by the Minister; and
- (b) any regional catchment strategy applying to the declared municipal district; and
- (c) any submissions received by the council under section 22F.

S. 22D
inserted by
No. 51/2013
s. 7.

22E Time for preparing a roadside weed and pest animal management plan

- (1) Subject to subsection (2), a municipal council must submit a proposed roadside weed and pest animal management plan to the Minister within 120 days after the day on which the Minister's declaration under section 22A takes effect.
- (2) The Minister may extend the period of time within which a municipal council must submit a roadside weed and pest animal management plan if the council makes an application in writing to the Minister which states—
 - (a) the grounds on which the extension is sought; and
 - (b) the period of extension required.

S. 22E
inserted by
No. 51/2013
s. 7.

22F Procedure for making a roadside weed and pest animal management plan

- (1) Before a municipal council prepares a roadside weed and pest animal management plan, it must comply with the following procedure.

S. 22F
inserted by
No. 51/2013
s. 7.

s. 22G

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- (2) The municipal council must give a notice stating—
- (a) the purpose and scope of the proposed roadside weed and pest animal management plan; and
 - (b) where a copy of the proposed plan can be obtained or inspected; and
 - (c) that any person may make a submission to the municipal council on any aspect of the proposed plan that relates to regionally controlled weeds or established pest animals; and
 - (d) that submissions must be made to the municipal council within the period specified in the notice.
- (3) The municipal council must allow at least 28 days after the day on which a notice is given under subsection (2) for the making of submissions.
- (4) A notice under this section must be published—
- (a) in the Government Gazette; and
 - (b) in a newspaper circulating generally in the municipal district of the municipal council.

S. 22G
inserted by
No. 51/2013
s. 7.

22G Minister may approve a roadside weed and pest animal management plan

- (1) The Minister may approve a roadside weed and pest animal management plan if the Minister is satisfied that the plan meets the requirements set out in section 22C.
- (2) Before approving a roadside weed and pest animal management plan, the Minister may request that the municipal council submit a revised plan.

- (3) A request for a revised roadside weed and pest animal management plan must be in writing and state the particular matters in the plan that are required to be revised.

22H Operation of roadside weed and pest animal management plan

S. 22H
inserted by
No. 51/2013
s. 7.

- (1) On approval of a roadside weed and pest animal management plan, the Minister must—
- (a) notify the municipal council in writing; and
 - (b) publish a notice of approval in the Government Gazette.
- (2) The approved roadside weed and pest animal management plan comes into operation on the date that notification under subsection (1)(a) is received by the municipal council.

22I Publication of roadside weed and pest animal management plan

S. 22I
inserted by
No. 51/2013
s. 7.

- (1) The municipal council must publish the approved roadside weed and pest animal management plan on its website as soon as practicable after the plan is approved.
- (2) The municipal council must ensure that copies of the approved roadside weed and pest animal management plan are available for inspection during normal office hours at the municipal council's office.

22J Municipal council must implement plan

S. 22J
inserted by
No. 51/2013
s. 7.

A municipal council must implement the measures set out in its approved roadside weed and pest animal management plan in accordance with the plan.

s. 22K

S. 22K
inserted by
No. 51/2013
s. 7.

22K Variation of an approved roadside weed and pest animal management plan

- (1) Subject to subsection (2), a municipal council may request, in writing, that the Minister approve a variation of its approved roadside weed and pest animal management plan.
- (2) If an approved roadside weed and pest animal management plan has less than 6 months to operate, the municipal council may only request a variation in the case of an emergency that is affecting its municipal district.
- (3) A request for approval of a variation of an approved plan under subsection (1), must include—
 - (a) a description of the proposed variation; and
 - (b) the reasons for the requested variation.
- (4) Within 28 days after receiving a request under subsection (1), the Minister must notify the municipal council in writing of his or her decision to approve or refuse to approve the request for a variation.
- (5) If the Minister refuses to approve a request for a variation, he or she must set out reasons for the refusal in the notification to the municipal council.
- (6) A variation of an approved roadside weed and pest animal management plan takes effect when the municipal council receives notification of the approval of the variation by the Minister under subsection (4).

S. 22L
inserted by
No. 51/2013
s. 7.

22L Minister may request that plan be varied

- (1) Subject to subsection (3), the Minister may request, in writing, that a municipal council prepare a variation to an approved roadside weed and pest animal management plan if—

- (a) there has been a significant and unforeseen change in the environmental circumstances in the municipal council's municipal district since the plan was approved; and
 - (b) the circumstances under paragraph (a) have substantially diminished, or are likely to substantially diminish, the effectiveness of the plan.
- (2) If the Minister requests that a municipal council prepare a variation to an approved roadside weed and pest animal management plan, the request must include—
- (a) a description of the proposed variation; and
 - (b) the reasons for the requested variation.
- (3) If an approved roadside weed and pest animal management plan has less than 6 months to operate, the Minister may only request a variation in the case of an emergency that is affecting the municipal council's municipal district.

22M Municipal council must publish varied plan

- (1) The municipal council must publish a consolidated version of its approved roadside weed and pest animal management plan on its website as soon as practicable after a variation to the plan is approved under section 22K or 22L.
- (2) The municipal council must ensure that copies of the consolidated version of its approved roadside weed and pest animal management plan are available for inspection during normal office hours at the municipal council's office.

S. 22M
inserted by
No. 51/2013
s. 7.

s. 22N

s. 22N
inserted by
No. 51/2013
s. 7.

22N Suspension of approval of a roadside weed and pest animal management plan

- (1) The Minister may suspend the approval of a roadside weed and pest animal management plan if he or she is satisfied that the municipal council—
 - (a) is not implementing the measures set out in accordance with the plan; or
 - (b) has failed to provide the Minister with information or documents requested by the Minister under section 22P; or
 - (c) has failed to submit a variation to the plan requested by the Minister under section 22L; or
 - (d) has failed to submit to the Minister, within the time specified by the Minister in an invitation under subsection (2)(b), reasons why the plan should not be suspended.
- (2) Before suspending the approval of a plan under subsection (1), the Minister must notify the municipal council in writing of his or her intention to suspend the approval and must—
 - (a) set out the reasons for the proposed suspension; and
 - (b) invite the municipal council to submit, within the specified time, reasons why the approval of the plan should not be suspended.
- (3) After considering any submission received from the municipal council under subsection (2), or if the municipal council fails to submit reasons within the specified time, the Minister must, in writing, notify the municipal council of his or her decision to suspend, or not to suspend, the approval of the plan.

- (4) The suspension of the approval of a roadside weed and pest animal management plan under this section takes effect when the municipal council receives notification of the suspension under subsection (3).
- (5) The Minister must not suspend the approval of a plan under this section for a period of more than 6 months.
- (6) The Minister must revoke the suspension of the approval of a roadside weed and pest animal management plan if he or she is satisfied that the reasons for the suspension no longer apply.

22O Revocation of the approval of a roadside weed and pest animal management plan

S. 22O
inserted by
No. 51/2013
s. 7.

- (1) The Minister may revoke his or her approval of a roadside weed and pest animal management plan—
 - (a) if the reason for suspending the approval of the plan under section 22N continues to apply at the end of the period for which the approval was suspended; or
 - (b) if, due to changed circumstances affecting the municipal district to which the plan applies, a substantial part of the plan is no longer relevant.
- (2) Before the Minister revokes his or her approval of a plan under subsection (1), the Minister must notify the municipal council responsible for implementing the plan in writing of his or her intention to revoke approval of the plan and must—
 - (a) set out the reasons for the proposed revocation; and

s. 22P

- (b) invite the municipal council to submit, within the specified time, reasons why approval of the plan should not be revoked.
- (3) After considering any submission received from the municipal council under subsection (2), or if the municipal council fails to submit reasons within the specified time, the Minister must, in writing, notify the municipal council of his or her decision to revoke, or not to revoke, the approval of the plan.
- (4) The revocation of the approval of a roadside weed and pest animal management plan under this section takes effect when the municipal council receives notification of the revocation under subsection (3).

S. 22P
inserted by
No. 51/2013
s. 7.

22P Municipal council must provide information and documents to Minister

- (1) For the purposes of monitoring a municipal council's progress in implementing its approved roadside weed and pest animal management plan, or in order to evaluate a municipal council's report on its approved plan under section 22Q, the Minister may request in writing to the municipal council that it provide specified information or a document relating to the approved plan.
- (2) A municipal council must provide the information or document requested under subsection (1) to the Minister.

S. 22Q
inserted by
No. 51/2013
s. 7.

22Q Reporting

Within 30 days after an approved roadside weed and pest animal management plan ceases to operate, the municipal council responsible for implementing the plan must provide to the Minister a written report setting out the outcomes of the measures set out in the plan to be taken by the municipal council relating to the species of

noxious weeds and pest animals covered by the
plan.

PART 4—CATCHMENT PLANNING

Division 1—Regional catchment strategies

23 What is a regional catchment strategy?

A regional catchment strategy is a document, prepared and approved in accordance with this Division and Schedule 2, that sets out how the catchments in a region are to be managed.

24 Contents of strategy

- (1) A regional catchment strategy must state the region to which it applies.
- (2) A regional catchment strategy must—
 - (a) assess the land and water resources of the catchments in the region and how they are used; and
 - (b) assess the nature, causes, extent and severity of land degradation of the catchments in the region and identify areas for priority attention; and
 - (c) identify objectives for the quality of the land and water resources of the catchments in the region; and
 - (d) set a program of measures to promote improved use of land and water resources and to treat land degradation; and
 - (e) state the action necessary to implement the strategy and who should take it; and
 - (f) specify procedures for monitoring the implementation of the strategy, achieving the land and water resource quality objectives and assessing the effectiveness of the program set under paragraph (d); and
 - (g) provide for the review of the strategy.

-
- (3) Without limiting subsection (2) a strategy may provide for all or any of the following—
- (a) research;
 - (b) educational programs;
 - (c) land use planning;
 - (d) the establishment of land management advisory services;
 - (e) incentives for better land management.

25 Status of strategy

- (1) An Authority that prepares a regional catchment strategy may recommend to a planning authority under the **Planning and Environment Act 1987** amendments to a planning scheme to give effect to the strategy.
- (2) Without limiting the **Environment Protection Act 1970**, a regional catchment strategy may be incorporated in a State environment protection policy, in whole or in part, and with or without changes.

S. 25(1)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 6).

26 Land managers to take strategy into account

- (1) In carrying out a function involving land management—
- (a) on behalf of the Crown; or
 - (b) under an Act—
- a Minister or public authority must have regard to any regional catchment strategy applying to the land.
- (2) Subsection (1) is in addition to and does not take away from any other duty or power of the Minister or public authority to take matters into account.

- (3) A Minister or public authority need not take a provision of a regional catchment strategy into account to the extent that the provision is inconsistent with a provision of an Act other than this Act, or an instrument under an Act other than this Act.

Division 2—Special area plans

27 What are special areas?

S. 27(1)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 7(a)).

- (1) An Authority may recommend to the Minister that—
- (a) land in its region should be declared a special area; or
 - (b) the declaration of a special area in its region should be revoked or amended.

S. 27(2)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 7(b)).

- (2) In its recommendation the Authority may classify the special area as a special water supply catchment area or in any other way it considers appropriate.
- (3) The Minister must consider the recommendation, having regard to how the existing or potential use of the area may adversely affect—
- (a) the quality and condition of land; or
 - (b) water quality or aquatic habitats; or
 - (c) aquifer recharge areas or aquifer discharge areas.

S. 27(4)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 7(c)).

- (4) After complying with subsection (3) the Minister may accept or reject the Authority's recommendation.

S. 27(5)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 7(c)).

- (5) If the Minister accepts the Authority's recommendation he or she may recommend that the Governor in Council make an Order under this section.

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- (6) On the Minister's recommendation under subsection (5) the Governor in Council, by Order published in the Government Gazette, may—
 - (a) declare land to be a special area; or
 - (b) revoke or amend that declaration.
 - (7) The Order may classify the special area as a special water supply catchment area or in any other way specified in the Order.
 - (8) Without limiting what can be recommended or declared to be a special area, roadsides or a class of roadsides in an area may be recommended and declared to be a special area.

28 What is a special area plan?

A special area plan is a document, prepared and approved in accordance with this Division and Schedule 2, setting out a plan to deal with specific land management issues in a special area.

29 Can two or more plans apply to the same area?

- (1) Two or more special area plans may apply to the same special area.
- (2) If there is an inconsistency between provisions of special area plans applying to the same special area, the provisions of the later approved plan prevail.

30 Contents of plan

- (1) A special area plan must—
 - (a) identify the land management issues to be dealt with in the plan; and
 - (b) state the program of action to be taken to deal with those issues, and the costs and benefits of that action; and
 - (c) state the targets to be achieved by that action; and

Catchment and Land Protection Act 1994
No. 52 of 1994
Part 4—Catchment Planning

s. 30

(d) allocate responsibility for taking that action and for bearing the costs of taking that action; and

(e) provide for the review of the plan.

(2) A special area plan may—

(a) specify the most suitable land uses for the special area, having regard to the public interest; and

(b) state what land in the area can be used for what purpose; and

S. 30(2)(c)
repealed by
No. 51/2013
s. 8(1).

* * * * *

(d) identify the need for land use conditions under Division 3.

S. 30(2A)
inserted by
No. 51/2013
s. 8(2).

(2A) A special area plan must not impose any requirement on a municipal council in relation to noxious weeds or pest animals on a roadside if that roadside is subject to an approved roadside weed and pest animal management plan.

(3) If a special area plan identifies a need for land use conditions it must—

(a) give a general description of the properties to which they are to apply; and

(b) state the general nature of those conditions; and

(c) give a general estimate of the total cost of compliance with those conditions, including any decrease in the value of land or financial loss likely to result as a direct reasonable and natural consequence of compliance; and

- (d) provide a method for apportioning the total estimated cost of compliance between land owners and other persons or bodies who will directly benefit from the implementation of the plan and for apportioning that part of the cost to be borne by land owners between the properties to which the conditions are to apply.

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S. 30(4)
repealed by
No. 85/2006
s. 155.

31 Status of plan

An Authority that prepares a special area plan may recommend to a planning authority under the **Planning and Environment Act 1987** amendments to a planning scheme to give effect to that plan.

S. 31
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 8).

32 Land managers to take special area plan into account

- (1) In carrying out a function involving land management—
- (a) on behalf of the Crown; or
 - (b) under an Act—
- a Minister or public authority must have regard to any special area plan applying to the land.
- (2) Subsection (1) is in addition to and does not take away from any other duty or power of the Minister or public authority to take matters into account.
- (3) A Minister or public authority need not take a provision of a special area plan into account to the extent that the provision is inconsistent with a provision of an Act other than this Act, or an instrument under an Act other than this Act.

- (4) This section does not oblige a Minister or public authority to implement a special area plan.

Division 3—Land use conditions

33 Secretary may serve land use conditions

- (1) The Secretary may, in accordance with a special area plan, serve on a land owner a document setting out land use conditions applying to the land of the land owner.
- (2) Land use conditions must—
- (a) refer to the special area plan that permits the imposition of the land use conditions; and
 - (b) include the following information from that plan—
 - (i) a general description of the properties to which the land use conditions will apply; and
 - (ii) an estimate of the total cost of compliance with all the land use conditions; and
 - (iii) the method of apportioning that part of the cost to be borne by land owners between the properties to which the conditions will apply; and
 - (c) describe the land of the land owner to which the conditions apply; and
 - (d) state any amount (determined in accordance with the plan) for which the land owner is liable.
- (3) Land use conditions must not require action to be taken—
- (a) that is prohibited under a planning scheme under the **Planning and Environment Act 1987**; or

-
- (b) for which a permit under that Act is required unless the requirement in the plan is conditional on a permit being obtained and complied with.
- (4) Land use conditions must not prohibit or restrict—
- (a) exploration or mining for a mineral within the meaning of the **Mineral Resources (Sustainable Development) Act 1990** or petroleum; or **S. 33(4)(a) amended by No. 63/2006 s. 61(Sch. item 5.2).**
- (b) exploration for or extraction of stone within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**; or **S. 33(4)(b) amended by Nos 67/1995 s. 58(Sch. 1 item 3), 6/2009 s. 46(1).**
- (ba) exploration for or extraction of geothermal energy or geothermal energy resources within the meaning of the **Geothermal Energy Resources Act 2005**; or **S. 33(4)(ba) inserted by No. 7/2005 s. 170(a).**
- (bb) exploration for underground geological formations or injection of greenhouse gas substances into an underground geological storage formation within the meaning of the **Greenhouse Gas Geological Sequestration Act 2008**; or **S. 33(4)(bb) inserted by No. 61/2008 s. 319(1)(a).**
- (c) the carrying out of an activity in accordance with a lease, licence, permit or authority under the **Geothermal Energy Resources Act 2005, Greenhouse Gas Geological Sequestration Act 2008, the Mineral Resources (Sustainable Development) Act 1990** or the **Petroleum Act 1998**. **S. 33(4)(c) amended by Nos 67/1995 s. 58(Sch. 1 item 3), 96/1998 s. 257(1), 7/2005 s. 170(b), 63/2006 s. 61(Sch. item 5.2), 61/2008 s. 319(1)(b), 6/2009 s. 46(2).**

34 Status of land use conditions

A land use condition is binding on—

- (a) the land owner served with it; and
- (b) each subsequent land owner for the time being of the land to which it applies as if each had been served with the land use condition on becoming the land owner.

35 Offence to disobey land use condition

- (1) A land owner of land to which a land use condition applies must comply with it.

Penalty: 60 penalty units.

- (2) Subsection (1) does not make the Crown, a Minister or the Secretary liable for an offence.

36 Secretary may revoke land use condition

- (1) At the request of the land owner or on the Secretary's own initiative, the Secretary may revoke a land use condition if—
 - (a) the special area plan permitting its imposition is amended to require the revocation of the land use condition; or
 - (b) the Secretary considers that, because of a change in circumstances since its imposition, its revocation is justified.
- (2) Before revoking a land use condition the Secretary must get the consent of the Board of the region in which the land use condition applies.
- (3) The Secretary must revoke a land use condition without delay if the special area plan permitting its imposition is revoked.

S. 35(1)
amended by
No. 61/2003
s. 5.

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- (4) The Secretary may revoke a land use condition under subsection (1) or (3) by serving a notice of revocation on the land owner.
 - (5) The notice must state why the land use condition is revoked.
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PART 5—LAND MANAGEMENT NOTICES

Division 1—General

37 When can a land management notice be issued?

S. 37(1)(a)
amended by
Nos 61/2003
s. 6(a),
67/2006
s. 5(1).

- (1) The Secretary may serve a land management notice on a land owner—
- (a) if satisfied that the land owner has failed to comply with a provision of Part 3 or with a priority area notice or a directions notice; or

S. 37(1)(b)
substituted by
No. 61/2003
s. 6(b).

- (b) if satisfied that measures need to be taken by the land owner to eradicate or prevent the growth or spread of noxious weeds that are not State prohibited weeds.

S. 37(1A)
inserted by
No. 67/2006
s. 5(2).

- (1A) Despite section 85(3), if the Secretary decides to serve a land management notice under subsection (1), the Secretary must take all reasonable steps to ensure that the notice is served on each land owner of the land subject to the notice.

- (2) A land management notice cannot be served on the Secretary.

S. 37(3)
inserted by
No. 67/2006
s. 5(3).

- (3) The Secretary must not serve a land management notice on a land owner if a directions notice is in force in respect of the land and of the noxious weed or pest animal for which the land management notice would be served.

S. 37(4)
inserted by
No. 51/2013
s. 9.

- (4) The Secretary must not serve a land management notice on a municipal council if—
- (a) the land management notice contains requirements to eradicate or prevent the spread of regionally prohibited weeds, regionally controlled weeds or established pest animals on the roadside of any municipal road in that municipal district; and

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- (b) there is an approved roadside weed and pest animal management plan operating in respect of the municipal district.

38 Contents of a notice

- (1) A land management notice may do all or any of the following—
- (a) prohibit or regulate land use or land management practices;
 - (b) require specified action to be taken to improve land management practices, prevent or minimise land degradation or rehabilitate degraded land;
 - (c) contain any other provision that the Secretary considers necessary to deal with the issue that led to the service of the notice.
- (2) A land management notice must state the time within which it is to be complied with.
- (3) At the land owner's request before the end of the compliance period or extended compliance period, the Secretary may, by notice served on the land owner, extend or further extend the compliance period.
- (4) A land management notice may apply to land owned by different land owners only if it deals solely with the control of noxious weeds or pest animals or both.
- (5) If a land management notice requires the use of chemicals dangerous to human beings to eradicate or control the spread of pest animals, it must—
- (a) state the chemicals to be used; and
 - (b) describe the area where they are to be used; and

s. 39

- (c) contain the prescribed information; and
- (d) require the land owner to—
 - (i) notify each land owner of land adjoining the land to which the notice applies; and
 - (ii) display on or near the land where the chemicals are to be used a sign warning that they are to be used there.

39 Requirements before service of a notice

S. 39(1)(2)
repealed by
No. 67/2006
s. 6.

* * * * *

S. 39(3)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 9).

- (3) Before serving a land management notice the Secretary must get the consent of the Authority of the region in which the notice will apply.
- (4) The Secretary does not have to get consent under subsection (3) if the land management notice only deals with the control of noxious weeds or pest animals or both.

S. 40
substituted by
No. 61/2003
s. 7.

40 Status of land management notice

A land management notice is binding on—

- (a) the land owner served with it; and
- (b) each subsequent land owner for the time being of the land to which it applies as if each such owner had been served with the land management notice on becoming the land owner.

41 Offence to disobey notice

- (1) A land owner of land to which a land management notice applies—
- (a) who has been served with the notice; or
 - (b) to whom particulars of the notice have been given in a section 32 statement prepared in accordance with Division 2 of Part II of the **Sale of Land Act 1962**; or
 - (c) who, at the time of becoming owner of the land, was aware or ought reasonably to have been aware of the notice—

S. 41(1)
substituted by
No. 61/2003
s. 8.

S. 41(1)(b)
amended by
No. 33/2014
s. 9.

must comply with the notice.

Penalty: 240 penalty units.

- (2) Subsection (1) does not make the Crown, a Minister or the Secretary liable for an offence.
- (3) A municipal council does not commit an offence under subsection (1) if, at the time the land management notice was served, there was a declaration under section 22A in effect in respect of the municipal district of the municipal council and a roadside weed and pest animal management plan was being prepared by the municipal council.

S. 41(3)
inserted by
No. 51/2013
s. 10.

42 Revocation of land management notice

- (1) At the land owner's request or on the Secretary's own initiative the Secretary may, by notice served on the land owner, revoke a land management notice.
- (2) Before revoking a land management notice the Secretary must get the consent of the Authority of the region in which the notice applies.

S. 42(2)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 10).

S. 42(3)
inserted by
No. 61/2003
s. 9.

S. 42A
inserted by
No. 61/2003
s. 10.

- (3) Subsection (2) does not apply to a land management notice that only deals with the control of noxious weeds or pest animals or both.

42A Variation of land management notice

- (1) The Secretary may, before the end of the compliance period or extended compliance period, serve a notice on the land owner varying the requirements contained in a land management notice.
- (2) A variation under subsection (1) may only be made at the request of a land owner who became the land owner of land to which the land management notice applied after the land management notice was served.
- (3) In considering whether to vary the requirements of a land management notice under subsection (1), the Secretary must take into account—
- (a) any change in land use proposed by the land owner; and
 - (b) the type and extent of work to be carried out or measures or action to be taken that would be reasonable in the circumstances.

Division 2—Interim land management notices

43 Interim land management notices

- (1) The Secretary may serve an interim land management notice if the Secretary considers that there is an immediate and serious threat of land degradation that could be prevented or minimised by the taking of appropriate action.
- (2) The Secretary can serve an interim land management notice applying to land, whether or not in common ownership.
- (3) The Secretary can only serve an interim land management notice applying to Crown land if the

land is held under a lease or licence and the notice is served on the lessee or licensee.

- (4) An interim land management notice must state the date on which it comes into operation and the time within which it is to be complied with.
- (5) Unless sooner revoked an interim land management notice expires on the 60th day after its stated date of operation.
- (6) If an interim land management notice applying to land expires or is revoked the Secretary must not serve another interim land management notice applying to that land and to the same land degradation unless the Secretary is satisfied that the threat of land degradation has become more serious or some other change in circumstances justifies the service of the notice.
- (7) A land owner served with an interim land management notice must comply with it.
Penalty: 120 penalty units.
- (8) Subsection (7) does not make the Crown, a Minister or the Secretary liable for an offence.
- (8A) A municipal council does not commit an offence under subsection (7) if, at the time the interim land management notice was served, there was a declaration under section 22A in effect in respect of the municipal district of the municipal council and a roadside weed and pest animal management plan was being prepared by the municipal council.
- (9) Sections 37, 39 and 41 do not apply to an interim land management notice but, otherwise, Division 1 applies to an interim land management notice in the same way as it does to a land management notice.

S. 43(7)
amended by
No. 61/2003
s. 11.

S. 43(8A)
inserted by
No. 51/2013
s. 11(1).

S. 43(10)
inserted by
No. 51/2013
s. 11(2).

- (10) The Secretary must not serve an interim land management notice on a municipal council if—
- (a) the interim land management notice contains requirements to eradicate or prevent the spread of regionally prohibited weeds, regionally controlled weeds or established pest animals on the roadside of any municipal road in the municipal district of the municipal council; and
 - (b) there is an approved roadside weed and pest animal management plan operating in respect of the municipal district.

S. 44
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 11).

44 Authority to be advised when notice served

Within 14 days after serving an interim land management notice the Secretary must give written advice of this to the Authority of the region in which the notice applies.

Division 3—Land management notices and interim land management notices

45 Guidelines

- (1) The Minister may prepare written guidelines about the content of land management notices and the circumstances in which they may be served.
- (2) In preparing these guidelines the Minister must consult with—
 - (a) any other Minister whose interests the Minister considers are likely to be affected by the guidelines; and
 - (b) the Council.
- (3) The Secretary must take these guidelines into account when preparing or serving land management notices.

46 Landowner to notify Secretary of compliance with notice

S. 46
amended by
No. 61/2003
s. 12,
substituted by
No. 67/2006
s. 7.

- (1) A land owner served with a land management notice must give a notice in writing, in accordance with subsection (2), to the Secretary advising the Secretary as to whether or not the land owner has taken measures to comply with the notice and—
 - (a) in the case of a land owner who has taken any such measures, give in the notice, the prescribed particulars as to the measures that the land owner has taken; or
 - (b) in the case of a land owner who has not taken any such measures, give in the notice, the reason why the land owner has not done so.

Penalty: 10 penalty units.

- (2) A notice under subsection (1) must be given to the Secretary no later than 7 days after the time for compliance with the land management notice that is set out, under section 38(2), in the land management notice.

47 Relationship between land management notices and land use conditions

- (1) The Secretary cannot serve a land management notice applying to land if the notice would conflict with or duplicate a land use condition applying to that land.
- (2) If a land management notice applies to land and a land use condition is later imposed that applies to that land and conflicts with or duplicates that notice, the land management notice is revoked, to the extent of that inconsistency or duplication, on the date when the land use condition is served on the land owner.

Pt 5A
(Heading and
ss 47A–47F)
inserted by
No. 67/2006
s. 8.

PART 5A—PRIORITY AREA NOTICE

S. 47A
inserted by
No. 67/2006
s. 8.

47A Notice of declaration of priority area

- (1) The Minister may, by notice, declare an area of land to be a priority area for the control or eradication of any regionally prohibited weed, regionally controlled weed or established pest animal specified in the declaration.
- (2) A notice of the Minister under subsection (1) must be published—
 - (a) in the Government Gazette; and
 - (b) in a newspaper circulating generally in the area specified in the notice.
- (3) A notice under subsection (1) has effect from—
 - (a) the date of publication in the Government Gazette; or
 - (b) the date of publication in the newspaper—
whichever is the later.
- (4) A notice under subsection (1) must identify the area of land to which it applies, and may identify that area of land by reference to a plan or map of the land.
- (5) For the purposes of subsection (4), the notice may apply, adopt or incorporate any matter contained in any document formulated, issued, prescribed or published by any person, whether—

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- (a) wholly or partly or as amended by the notice; or
 - (b) as formulated, issued, prescribed or published at the time the notice was made or at any time before that time.

47B Contents of priority area notice

S. 47B
inserted by
No. 67/2006
s. 8.

- (1) In a priority area notice, the Minister must—
 - (a) set out the category of noxious weed or pest animal to which the notice applies; and
 - (b) set out the measures that may be taken by land owners to control or eradicate the noxious weed or pest animal; and
 - (c) set out the time within which measures must be taken.
- (2) Any measure set out in a priority area notice must be a measure that is prescribed by the regulations.

47C Service of copy of notice on land owner

S. 47C
inserted by
No. 67/2006
s. 8.

The Minister may cause a copy of a priority area notice to be served on each land owner of land within the priority area.

47D Offence to fail to comply with notice

S. 47D
inserted by
No. 67/2006
s. 8.

- (1) If there is on land within a priority area, a noxious weed or pest animal of the category specified in the priority area notice, and if the land owner of the land has been served with a copy of the notice under section 47C, the land owner—
 - (a) must take one or more of the measures that are specified in the notice, in accordance with the notice, on that land; and
 - (b) must take those measures within the time specified in the notice for taking measures.

Penalty: 20 penalty units.

s. 47E

- (2) Subsection (1) does not apply to a land owner to the extent that any land management notice that has been served on that land owner applies to the same noxious weed or pest animal and the same land as that to which the priority area notice applies.
- (3) A municipal council does not commit an offence under subsection (1) in respect of any roadside of a municipal road in its municipal district if—
- (a) the roadside is within the priority area; and
 - (b) there is an approved roadside weed and pest animal management plan in operation in respect of the municipal district.

S. 47D(3)
inserted by
No. 51/2013
s. 12.

S. 47E
inserted by
No. 67/2006
s. 8.

47E Land owner to notify Secretary of measures taken

- (1) If a land owner in a priority area has been served with a copy of the notice in accordance with section 47C, the land owner must give a notice in writing, in accordance with subsection (2), to the Secretary advising the Secretary as to whether or not the land owner has taken measures in accordance with the priority area notice, and—
- (a) in the case of a land owner who has taken any such measures, give in the notice, the prescribed particulars as to the measures that the land owner has taken; or
 - (b) in the case of a land owner who has not taken any such measures, give in the notice, the reason why the land owner has not done so.

Penalty: 10 penalty units.

- (2) A notice under subsection (1) must be given to the Secretary no later than 7 days after the time for compliance with the priority area notice that is set out, under section 47B(1)(c), in the priority area notice.

47F Relationship between this Part and Part 5

Nothing in this Part is to be taken as preventing the Secretary from serving a land management notice on a land owner in relation to any land that is also the subject of a priority area notice.

S. 47F
inserted by
No. 67/2006
s. 8.

**PART 6—REVIEW OF LAND USE CONDITIONS AND LAND
MANAGEMENT NOTICES**

**48 Review by Victorian Civil and Administrative
Tribunal**

S. 48(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 12.2(a)
(b)).

- (1) A person served with a land use condition or land management notice may apply to the Victorian Civil and Administrative Tribunal for review of the decision—
- (a) to serve the condition or notice; or
 - (b) to include a specified provision in the condition or notice.

S. 48(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 12.3(a)).

- (2) A person served with a land use condition or land management notice who has requested the revocation of the condition or notice may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a failure to grant that request within 14 days after it is made; or
 - (b) a decision refusing that request.

S. 48(2A)
inserted by
No. 61/2003
s. 13(1).

- (2A) A person who has requested a variation of the requirements contained in a land management notice may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a failure to grant that request within 14 days after it was made; or
 - (b) a decision refusing that request.

S. 48(3)
amended by
No. 61/2003
s. 13(2).

- (3) Subsections (1), (2) and (2A) do not apply to a land management notice that deals only with the control of noxious weeds or pest animals or both.

(4) The application for review must be made within 30 days after—

- (a) the date the applicant was served with the land management notice or land use condition; or
- (b) the date on which request for revocation of the notice or condition was refused; or
- (c) the end of the 14 day period referred to in subsection (2); or

S. 48(4)(c) amended by No. 61/2003 s. 13(3)(a).

(d) whichever is the earlier of—

- (i) the date on which the request for a variation of the requirements contained in a land management notice was refused; or
- (ii) the end of the 14 day period referred to in subsection (2A)—

S. 48(4)(d) inserted by No. 61/2003 s. 13(3)(b).

as the case requires.

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S. 48(5) repealed by No. 52/1998 s. 311(Sch. 1 item 12.3(b)).

48A Application for declaration

- (1) A person may apply to the Victorian Civil and Administrative Tribunal for a declaration concerning the validity of a decision referred to in section 48(1).
- (2) On an application under subsection (1) the Tribunal may make any declaration it thinks appropriate in the circumstances.
- (3) The Tribunal's power to make a declaration under this section is exercisable only by a presidential member of the Tribunal.

S. 48A inserted by No. 52/1998 s. 311(Sch. 1 item 12.4).

s. 48B

S. 48A(4)
inserted by
No. 61/2003
s. 14.

- (4) Subsection (1) does not apply to a decision in respect of a land management notice that deals only with the control of noxious weeds or pest animals or both.

S. 48B
inserted by
No. 52/1998
s. 311(Sch. 1
item 12.4).

48B Matters Tribunal must take into account

In determining an application under section 48 or 48A the Tribunal must—

S. 48B(b)
amended by
No. 81/2004
s. 45.

- (a) take into account any relevant planning scheme; and
- (b) where appropriate, have regard to any planning scheme or amendment adopted by a planning authority under the **Planning and Environment Act 1987** but not, as at the date the application is determined, approved by the Minister or the planning authority; and
- (c) take account of and give effect to any relevant State environment protection policy declared in any Order made by the Governor in Council under section 16 of the **Environment Protection Act 1970**.

PART 7—EXTRACTIVE ACTIVITIES

49 Definitions

In this Part—

extractive activity means the extraction for sale or removal of soil, sand, gravel or stone or other similar material to a depth of up to 2 metres below the natural surface, if the total of the areas of the surface broken up by the extraction or removal is more than 2000 square metres;

site manager means the person under whose direction an extractive activity is carried out.

50 Application of Part

This Part does not apply to an extractive activity carried out—

- (a) on Crown land (other than land which is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**); or
- (b) by the Crown; or
- (c) under the **Water Act 1989** or the **Mineral Resources (Sustainable Development) Act 1990**; or
- (d) under a provision of an Act, or an instrument made under an Act, authorising, expressly or by necessary implication, that activity; or
- (e) solely for the purpose of grading land in the course of primary production.

S. 50(a)
amended by
No. 35/1998
s. 12(2).

S. 50(c)
amended by
Nos 67/1995
s. 58(Sch. 1
item 3),
63/2006
s. 61(Sch.
item 5.2),
6/2009
s. 46(3).

51 Offence to carry out unauthorised extractive activity

- (1) A person must not carry out an extractive activity unless the Secretary has issued an authority for that activity.

Penalty: First offence: 10 penalty units.

Subsequent offence: 20 penalty units.

Additional penalty for each day on which offence continues after conviction: 4 penalty units.

- (2) A site manager who is the holder of an authority under this Part must comply with the authority.

Penalty: First offence: 20 penalty units.

Subsequent offence: 40 penalty units.

Additional penalty for each day on which offence continues after conviction: 10 penalty units.

52 How to obtain an authority

- (1) A site manager may apply to the Secretary for authority to carry out an extractive activity or class of extractive activities.

- (2) The application must—

- (a) be in writing; and
- (b) describe the land where the activities are to be carried out; and
- (c) state the extent of the area or areas to be broken up; and
- (d) give details of the activities (including the period during which they will be carried out); and
- (e) if the site manager is not the land owner, explain how access to the land is to be obtained; and

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- (f) be accompanied by the fee (if any) determined in accordance with the **Conservation, Forests and Lands Act 1987**.
- (3) The Secretary, by notice served on the applicant, may ask the applicant to give more information about the application within the time stated in the notice.
- (4) Subject to this section, the Secretary may issue or refuse the authority.
- (5) The Secretary must not issue an authority if to do so would be inconsistent with a land use condition or land management notice applying to the land.
- (6) Before issuing an authority to carry out an extractive activity on the bed or banks of a waterway, the Secretary must consult with—
- (a) the Minister administering the **Water Act 1989**; and
 - (b) the Authority under that Act in whose waterway management district the land is located; and
 - (c) the Environment Protection Authority.

53 Contents of authority

- (1) An authority—
- (a) must be in writing; and
 - (b) may be subject to conditions determined by the Secretary and specified in the authority; and
 - (c) remains in force for the period, not exceeding five years, specified in the authority.

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- (2) Conditions specified in the authority may include but are not limited to conditions concerning—
- (a) land rehabilitation;
 - (b) access to land to carry out the activity;
 - (c) how the activity is to be carried out;
 - (d) the lodgement of a bond or security to secure compliance with the authority;
 - (e) the prevention or minimisation of land degradation;
 - (f) the material that must not be removed.

54 Use of security where conditions breached

- (1) To the extent that it is not used under this section, the Secretary must return or repay a bond or security lodged with the Secretary in accordance with the conditions of an authority under this Part if the authority is revoked or expires and is not renewed.
- (2) If the Secretary is satisfied that the holder of an authority is in breach of a condition of the authority requiring work to be done, the Secretary may cause the work to be done and recover the cost of the work—
- (a) from any bond or security lodged in accordance with the authority with the Secretary; or
 - (b) if the bond or security is not enough to meet the cost or no bond or security has been lodged, as a debt due to the Secretary.

55 Expiry of old authority where application pending

If, while an authority under this Part is in force, the site manager has applied for a new authority for the same extractive activity and the expiry date of the old authority occurs before the application for the new authority is determined, the old authority remains in force until the application is determined, despite anything to the contrary in this Part or that authority.

56 Secretary may suspend or revoke authority

- (1) The Secretary, by notice served on the holder of an authority under this Part, may suspend or revoke the authority if satisfied that a condition of the authority has not been complied with.
- (2) The suspension may be expressed to be for a stated period or until the conditions of the authority are complied with.
- (3) Before suspending or revoking an authority the Secretary must—
 - (a) serve notice of the proposed suspension or revocation on the holder of the authority, specifying the grounds for the proposal; and
 - (b) allow the holder of the authority reasonable opportunity to make written or oral submissions to the Secretary about the matter; and
 - (c) consider any submissions made in accordance with paragraph (b).
- (4) While an authority is suspended the holder is deemed not to have been issued the authority.
- (5) The Secretary may, by notice served on the holder of the authority, revoke the suspension of an authority.

57 Relationship between this Part and Part 3

The carrying out of an extractive activity in accordance with an authority under this Part does not constitute a breach by a land owner of a duty under Part 3.

PART 8—NOXIOUS WEEDS AND PEST ANIMALS

Division 1—Classification of pests

58 Classification of pests—general

(1) On the Minister's recommendation the Governor in Council, by Order published in the Government Gazette, may declare—

(a) a plant to be a State prohibited weed, regionally prohibited weed, regionally controlled weed or restricted weed; or

S. 58(1)(a)
amended by
No. 48/2010
s. 5.

(b) an animal to be a prohibited pest animal, controlled pest animal, regulated pest animal or an established pest animal.

(2) An Order declaring a plant to be a State prohibited weed must apply to the whole State.

(3) Any other Order may apply to the whole or a specified part of the State.

(4) The Minister may only recommend a plant for declaration under this Part if satisfied that it is, or has or may have the potential to become, a serious threat to primary production, Crown land, the environment or community health in Victoria or in another State or a Territory of the Commonwealth.

S. 58(4)
amended by
No. 67/2006
s. 9.

58A Emergency declaration of State prohibited weed

S. 58A
inserted by
No. 61/2003
s. 15.

(1) The Minister may, by a notice published in the Government Gazette, declare a plant to be a State prohibited weed.

(2) The declaration must apply to the whole State.

(3) The declaration must—

(a) state that it is an emergency weed declaration; and

(b) state the nature of the emergency; and

-
- (c) if the plant is already declared to be a noxious weed of a different category, state its former category.
- (4) A copy of the notice must be published—
- (a) in a daily newspaper circulating generally in Victoria; and
 - (b) in a weekly newspaper circulating generally in rural Victoria; and
 - (c) on the Department's Internet site.
- (5) The Minister must not make a declaration under this section in relation to a plant unless he or she is satisfied that urgent action is needed to protect the State from an adverse economic, environmental or social impact caused or likely to be caused by the plant.
- (6) If under the declaration the category of a noxious weed has changed, the declaration of the former category of the noxious weed ceases to have effect while the declaration made under this section is in force.
- (7) The Minister must revoke the declaration by a notice published in the Government Gazette as soon as possible after being satisfied that the emergency no longer exists.
- (8) Unless earlier revoked, the declaration ceases to have effect 3 months after the notice under subsection (4) is published in the Government Gazette.
- (9) A copy of a notice under subsection (7) must be published—
- (a) in a daily newspaper circulating generally in Victoria; and

- (b) in a weekly newspaper circulating generally in rural Victoria; and
- (c) on the Department's Internet site.

58B Emergency declaration of prohibited pest animal

S. 58B
inserted by
No. 48/2010
s. 6.

- (1) The Minister may, by a notice published in the Government Gazette, declare an animal to be a prohibited pest animal.
- (2) The declaration must apply to the whole State.
- (3) The declaration must—
 - (a) state that it is an emergency pest animal declaration; and
 - (b) state the nature of the emergency; and
 - (c) if the animal is already declared to be a pest animal of a different category, state its former category.
- (4) A copy of the notice must be published—
 - (a) in a daily newspaper circulating generally in Victoria; and
 - (b) in a weekly newspaper circulating generally in rural Victoria; and
 - (c) on the Department's Internet site.
- (5) The Minister must not make a declaration under this section in relation to an animal unless the Minister is satisfied that urgent action is needed to protect the State from an adverse economic, environmental or social impact caused or likely to be caused by the animal.
- (6) If under the declaration the category of a pest animal has changed, the declaration of the former category of the pest animal ceases to have effect while the declaration made under this section is in force.

s. 59

- (7) The Minister must revoke the declaration by a notice published in the Government Gazette as soon as possible after being satisfied that the emergency no longer exists.
- (8) Unless earlier revoked, the declaration ceases to have effect 3 months after the notice under subsection (1) is published in the Government Gazette.
- (9) A copy of a notice under subsection (7) must be published—
 - (a) in a daily newspaper circulating generally in Victoria; and
 - (b) in a weekly newspaper circulating generally in rural Victoria; and
 - (c) on the Department's Internet site.

59 What cannot be declared under this Part?

S. 59
(Heading)
inserted by
No. 61/2003
s. 16(1).

S. 59(1)
substituted by
No. 61/2003
s. 16(2).

- (1) The Minister cannot recommend a plant under section 58 or declare a plant under section 58A if it is part of a taxon or community of flora listed in an Order under section 10(1) of the **Flora and Fauna Guarantee Act 1988**.
- (2) The Minister cannot recommend for declaration under this Part—
 - (a) fish; or
 - (b) an invertebrate animal.
- (3) The Minister cannot recommend an animal for declaration under this Part or declare an animal under section 58B if it is—
 - (a) part of a taxon or community of fauna listed in an Order under section 10(1) of the **Flora and Fauna Guarantee Act 1988**; or

S. 59(3)
amended by
No. 48/2010
s. 7.

S. 59(3)(a)
amended by
No. 61/2003
s. 16(3).

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- (b) declared to be endangered wildlife or notable wildlife under the **Wildlife Act 1975**.
- (4) The Minister must not recommend an animal for declaration under this Part if the Minister is satisfied that—
- (a) it did not occur naturally in the wild in Australia before European settlement; and
 - (b) it is widely kept in Victoria as a domestic animal, pet or farm animal, or for a prescribed purpose; and
 - (c) there is no public interest requiring control of its importation, keeping or sale.
- (5) Subsection (4) does not prevent the recommendation for declaration under this Part of the feral or wild population of an animal referred to in that subsection.

60 What are State prohibited weeds?

The Minister may recommend a plant for declaration as a State prohibited weed if satisfied that—

- (a) it does not occur in Victoria; or
- (b) it occurs in Victoria but it is reasonable to expect that it can be eradicated from the State.

61 What are regionally prohibited weeds?

The Minister may recommend a plant for declaration as a regionally prohibited weed in a specified region if satisfied that—

- (a) it does not occur or it is not widely distributed throughout the region; and

S. 61(a)
amended by
No. 67/2006
s. 10(a).

s. 62

S. 61(b)
amended by
No. 67/2006
s. 10(b).

- (b) it is capable of growing or spreading further in the region; and
- (c) it is reasonable to expect that it can be eradicated from the region.

62 What are regionally controlled weeds?

The Minister may recommend a plant for declaration as a regionally controlled weed in a specified region if satisfied that—

- (a) it occurs in the region; and
- (b) it is capable of spreading further in the region and should be stopped from doing so; and
- (c) to prevent its spread, continuing control measures are required.

63 What are restricted weeds?

The Minister may recommend a plant for declaration as a restricted weed if satisfied that—

- (a) it is a serious threat to primary production, Crown land, the environment or community health in another State or Territory; and

* * * * *

S. 63(b)
repealed by
No. 67/2006
s. 11.

- (c) if sold or traded in Victoria there would be an unacceptable risk of it spreading within Victoria and to other States or Territories.

64 What are prohibited pest animals?

The Minister may recommend an animal for declaration as a prohibited pest animal if satisfied that—

-
- (a) it did not occur naturally in the wild in Australia before European settlement; and
 - (b) either—
 - (i) it is a serious threat to primary production, Crown land, the environment or community health in a place outside Victoria; or
 - (ii) its potential to threaten primary production, Crown land, the environment or community health in Victoria is unknown; and
 - (c) its importation, keeping and sale should be banned.

65 What are controlled pest animals?

The Minister may recommend an animal for declaration as a controlled pest animal if satisfied that—

- (a) it did not occur naturally in the wild in Australia before European settlement; and
- (b) it has a high potential to become a serious threat to primary production, Crown land, the environment or community health in Victoria; and
- (c) it should only be kept in high security collections approved by the Minister.

66 What are regulated pest animals?

The Minister may recommend an animal for declaration as a regulated pest animal if satisfied that—

- (a) it did not occur naturally in the wild in Australia before European settlement; and

- (b) it is, or has the potential to become, a serious threat to primary production, Crown land, the environment or community health in Victoria; and
- (c) it should only be kept in collections or at premises approved by the Minister.

67 What are established pest animals?

The Minister may recommend an animal for declaration as an established pest animal if satisfied that—

- (a) it is established in the wild in Victoria; and
- (b) it is a serious threat to primary production, Crown land, the environment or community health in Victoria; and
- (c) it should be eradicated or controlled or its spread in the wild should be prevented.

68 Revocation of declaration

- (1) The Minister may recommend to the Governor in Council that the declaration of a plant or animal under section 58 should be revoked if satisfied that—
 - (a) there is no longer a need for the plant or animal to be eradicated or its spread to be controlled; or
 - (b) the plant or animal should be included in another classification under this Division.
- (2) On the Minister's recommendation the Governor in Council, by Order published in the Government Gazette, may revoke the declaration.

S. 68(1)
amended by
No. 61/2003
s. 17.

69 Action before recommendation

- (1) Before making a recommendation under this Division relating to an animal the Minister must—

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S. 69(1)(a)
repealed by
No. 39/1998
s. 6(2)(Sch. 1
item 12(a)).

- (b) have regard to how the animal is classified under any pest control system under a law of the Commonwealth, another State or a Territory and the need for national uniformity in the classification of pest animals.

- (2) Before making any of the following recommendations, the Minister must get advice on the proposal from the Council—

S. 69(2)
substituted by
No. 35/2009
s. 9.

- (a) a recommendation to declare an animal as an established pest animal;
- (b) a recommendation to revoke a declaration of an animal as an established pest animal;
- (c) a recommendation to amend an Order under section 58—
- (i) to declare an animal as an established pest animal; or
- (ii) to revoke the declaration of an animal as an established pest animal.

- (3) Before making any of the following recommendations, the Minister must get advice on the proposal from the Council and the Authority of the region in which the declaration applies or will apply—

S. 69(3)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 12(b)),
substituted by
No. 35/2009
s. 9.

- (a) a recommendation to declare a plant as a noxious weed;

s. 69A

- (b) a recommendation to revoke a declaration of a plant as a noxious weed;
- (c) a recommendation to amend an Order under section 58—
 - (i) to declare a plant as a noxious weed; or
 - (ii) to revoke the declaration of a plant as a noxious weed.

S. 69(4)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 12(c)).

- (4) The advice of the Council or an Authority under subsection (2) or (3) must include—
 - (a) an assessment of the extent and severity of impact of the animal or plant in Victoria; and
 - (b) suggested measures for the management of any infestation of the animal or plant; and
 - (c) an estimate of the cost of these measures and how it might be funded.

S. 69(5)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 12(d)).

- (5) The Minister may, in a particular case or class of cases, exempt the Council or an Authority from complying with subsection (4).

S. 69(6)
inserted by
No. 67/2006
s. 12.

- (6) Subsection (3) does not apply if the Minister is satisfied that the plant is not or has not or does not have the potential to become a serious threat to primary production, Crown land, the environment or community health in Victoria.

S. 69A
inserted by
No. 35/2009
s. 10.

69A Amendment to Order under section 58

- (1) The Minister may recommend to the Governor in Council that an Order under section 58 should be amended—
 - (a) to declare an additional plant or animal in a classification referred to in section 58(1); or
 - (b) to revoke a declaration of a plant or animal.

- (2) In making a recommendation for an amendment of an Order under subsection (1)(a), the Minister must be satisfied of the matters set out in this Division as to the declaration of the plant or animal in that particular classification.
- (3) In making a recommendation for the amendment of an Order under subsection (1)(b), the Minister must be satisfied of either of the matters set out in section 68(1) in respect of the plant or animal.
- (4) On the Minister's recommendation the Governor in Council, by order published in the Government Gazette, may amend the declaration.

Division 2—General control of noxious weeds and pest animals

70 Controlling noxious weeds

- (1) The Secretary may—
 - (a) by instrument served on a land owner give directions to the land owner to prevent the growth or spread of State prohibited weeds; or
 - (b) by instrument served on the owner or person in possession of grain, fodder, equipment, vehicles or animals that the Secretary considers likely to spread noxious weeds, give directions to the owner or person in possession to restrict the movement of that grain, fodder, equipment or those vehicles or animals from, on or to land.
- (2) A land owner served with a direction under subsection (1)(a) must comply with it.

Penalty: 120 penalty units.

**S. 70(1)
substituted by
No. 61/2003
s. 18(1).**

**S. 70(2)
substituted by
No. 61/2003
s. 18(2).**

s. 70A

S. 70(2A)
inserted by
No. 61/2003
s. 18(3).

- (2A) A person served with a direction under subsection (1)(b) must comply with it.

Penalty: 120 penalty units.

S. 70(3)
substituted by
No. 61/2003
s. 18(4).

- (3) A person on whom a direction has been served under this section must bear the cost of complying with the direction.

S. 70A
(Heading)
amended by
No. 48/2010
s. 8(1).

70A Removing particular vehicles or other things on to or from a road

S. 70A
inserted by
No. 61/2003
s. 19.

S. 70A(1)
amended by
No. 48/2010
s. 8(4).

- (1) A person must not remove a vehicle (together with any trailer) that is used or intended to be used for carrying, moving or transporting—

S. 70A(1)(a)
amended by
No. 48/2010
s. 8(2).

- (a) hay, grain, stone, gravel, soil, plant material, fodder or livestock; or

S. 70A(1)(b)
substituted by
No. 48/2010
s. 8(3).

- (b) machinery or equipment—
- (i) used for building and maintaining a road or roadside; or
 - (ii) used for building and maintaining electricity, gas, water, telecommunications or rail infrastructure; or
 - (iii) used for the purposes of primary production or earth works—

from land on to a road or from a road on to land without first taking reasonable precautions to ensure that the vehicle is free from—

- (c) the seeds of any noxious weed; and

(d) any other part of a noxious weed that is capable of growing.

Penalty: 120 penalty units.

(2) A person must not remove machinery, implements or other equipment from land on to a road or from a road on to land without first taking reasonable precautions to ensure that the equipment is free from—

S. 70A(2)
amended by
No. 48/2010
s. 8(5).

(a) the seeds of any noxious weed; and

(b) any other part of a noxious weed that is capable of growing.

Penalty: 120 penalty units.

70B Directions notice

S. 70B
inserted by
No. 67/2006
s. 13.

(1) The Secretary may serve a notice on a land owner giving the land owner directions as to measures to be taken on the land of the land owner for the control or eradication of any regionally prohibited weed, regionally controlled weed or established pest animal that is specified in the notice.

(2) In a notice under this section, the Secretary must—

(a) set out the category of noxious weed or pest animal to which the notice applies; and

(b) set out the measures that may be taken by the land owner to control or eradicate the noxious weed or pest animal; and

(c) set out the time within which such measures must be taken; and

(d) describe the land on which the measures are to be taken.

(3) Any measure set out in a notice under subsection (1) must be a measure that is prescribed by the regulations.

s. 70C

S. 70B(4)
inserted by
No. 51/2013
s. 13.

- (4) The Secretary must not serve a notice under subsection (1) on a municipal council in respect of the roadside of any municipal road in its municipal district if an approved roadside weed and pest animal management plan is in operation in respect of the municipal district.

S. 70C
inserted by
No. 67/2006
s. 13,
amended by
No. 51/2013
s. 14 (ILA
s. 39B(1)).

70C Offence to fail to comply with directions notice

- (1) A land owner on whom a directions notice has been served—
- (a) must take one or more of the measures that are specified in the notice, in accordance with the notice; and
 - (b) must take those measures within the time specified in the notice for the taking of the measures.

Penalty: 20 penalty units.

S. 70C(2)
inserted by
No. 51/2013
s. 14.

- (2) A municipal council does not commit an offence under subsection (1) if, at the time the directions notice was served, there was a declaration under section 22A in effect in respect of the municipal district of the municipal council and a roadside weed and pest animal management plan was being prepared by the municipal council.

S. 70D
inserted by
No. 67/2006
s. 13.

70D Land owner to notify Secretary of measures taken under directions notice

- (1) A land owner on whom a directions notice has been served must give a notice in writing to the Secretary, in accordance with subsection (2), advising the Secretary as to whether or not the land owner has taken measures in accordance with the notice, and—
- (a) in the case of a land owner who has taken any such measures, give in the notice, the prescribed particulars as to the measures that the land owner has taken; or

- (b) in the case of a land owner who has not taken any such measures, give in the notice, the reason why the land owner has not done so.

Penalty: 10 penalty units.

- (2) A notice under subsection (1) must be given to the Secretary no later than 7 days after the time for compliance with the directions notice that is set out, under section 70B(2)(c), in the directions notice.

71 Spread of noxious weeds

- (1) A person must not—

S. 71(1)
amended by
No. 61/2003
s. 20(4).

* * * * *

S. 71(1)(a)
repealed by
No. 61/2003
s. 20(1).

- (b) without a permit from the Secretary—

S. 71(1)(b)
substituted by
No. 61/2003
s. 20(2).

- (i) buy or offer to buy in Victoria; or

- (ii) sell or offer to sell in Victoria; or

- (iii) possess for the purposes of sale in Victoria; or

- (iiia) display in Victoria; or

S. 71(1)(b)(iiia)
inserted by
No. 67/2006
s. 14.

- (iiib) plant or propagate in Victoria; or

S. 71(1)(b)(iiib)
inserted by
No. 67/2006
s. 14.

- (iv) wilfully bring or cause to be brought into Victoria; or

- (v) transport within Victoria—

the following—

- (vi) a noxious weed; or
- (vii) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants; or
- (viii) any part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants; or
- (c) without a permit from the Secretary, remove or cause to be removed or sell soil, sand, gravel or stone which contains or is likely to contain any part of a noxious weed, or which comes from land on which noxious weeds grow; or
- (d) without a permit from the Secretary, remove or cause to be removed or sell fodder or grain which contains the seeds or any other part of a noxious weed that is capable of growing; or
- (e) without a permit from the Secretary, sell or hire, or offer for hire, a substance or machinery that is used or intended to be used in primary production and which contains the seeds or any other part of a noxious weed that is capable of growing; or
- (f) without a permit from the Secretary, sell an animal which is carrying seeds of a noxious weed; or

S. 71(1)(g)
repealed by
No. 61/2003
s. 20(3).

* * * * *

- (h) without a permit from the Secretary, deposit on land—
 - (i) a noxious weed; or

- (ii) the seeds of a noxious weed that are apparently capable of germinating.

Penalty: 120 penalty units.

- (2) Subsection (1)(f) does not apply to the sale of farm animals direct to a meat processing facility within the meaning of the **Meat Industry Act 1993**.
- (3) The Secretary may by instrument grant a permit to a person or class of persons to do any of the things mentioned in subsection (1)(b), (c), (d), (e), (f), (g) or (h).
- (4) A permit—
- (a) must state the acts or things to which it relates and the person or class of persons to whom it applies; and
 - (b) may be general or limited in application; and
 - (c) may be subject to any conditions specified in the permit; and
 - (d) may be for an indefinite or limited period; and
 - (e) may require the payment of an annual fee (determined in accordance with the **Conservation, Forests and Lands Act 1987**) specified in the permit; and
 - (f) may provide for review of the annual fee; and
 - (g) may be revoked at any time for breach of its conditions.
- (5) A person granted a permit must comply with its conditions.

Penalty: 120 penalty units.

S. 71(5)
amended by
No. 61/2003
s. 20(5).

72 Destruction etc. of noxious weeds

- (1) If the Secretary considers on reasonable grounds that a person has contravened section 71, the Secretary may—
 - (a) by instrument served on the person, direct the person to remove the noxious weed from any infested goods or destroy the noxious weed; or
 - (b) remove any part of a noxious weed from infested goods or destroy any part of a noxious weed found on infested goods.
- (2) In an instrument under subsection (1)(a) the Secretary may direct the action to be taken immediately or within a time stated in the instrument.
- (3) A person served with an instrument under subsection (1)(a) must comply with it.
Penalty: 120 penalty units.
- (3A) A person served with an instrument under subsection (1)(a) must without delay advise the Secretary when he or she has complied with it.
Penalty: 20 penalty units.
- (4) The Secretary may recover the cost of removing or destroying noxious weeds from the person who has contravened section 71.
- (5) In an instrument under subsection (1)(a) the Secretary may direct a person to deliver infested goods to the Secretary to be impounded pending the removal or destruction of noxious weeds.
- (6) The Secretary may impound infested goods pending the removal or destruction of noxious weeds under subsection (1)(b).

S. 72(3)
amended by
No. 61/2003
s. 21(1).

S. 72(3A)
inserted by
No. 61/2003
s. 21(2).

- (7) The Secretary may recover the cost of impounding goods under this section as a debt in a court of competent jurisdiction.
- (8) In this section *goods* means any of the following—
- (a) an animal or part of an animal;
 - (b) plants and parts of plants;
 - (c) vehicles used or intended to be used for primary production;
 - (d) soil, sand, gravel and stone;
 - (e) machinery, equipment or substances used or intended to be used for primary production;
 - (f) fodder and grain—

being goods that contain or carry any part of a noxious weed that is capable of growing;

infested in relation to animals or other goods means containing or carrying a noxious weed or any part of a noxious weed capable of growing.

* * * * *

S. 73
repealed by
No. 61/2003
s. 22.

74 Offence to take pest animals in areas affected by chemicals

- (1) A person must not take or attempt to take a pest animal in an area covered by a land management notice containing a provision referred to in section 38 during the period mentioned in the warning in the notice.

Penalty: 5 penalty units.

-
- (2) For the purposes of this section, a person takes a pest animal if he or she—
- (a) traps, snares or kills it without using poison;
or
 - (b) catches it or removes it from land for a purpose other than its destruction or burial.

Pt 8 Div. 3
(Heading)
amended by
No. 61/2003
s. 23.

Division 3—Importing, keeping, trading in and releasing of pest animals

75 Offence to import, keep or sell pest animals

S. 75(1)
amended by
No. 61/2003
s. 24(1).

- (1) A person must not bring into Victoria, keep or sell a prohibited pest animal.

Penalty: 480 penalty units.

S. 75(2)
amended by
No. 61/2003
s. 24(2).

- (2) A person must not bring into Victoria, keep or sell a controlled pest animal.

Penalty: 240 penalty units.

S. 75(3)
amended by
No. 61/2003
s. 24(3).

- (3) A person must not bring into Victoria, keep or sell a regulated pest animal.

Penalty: 120 penalty units.

S. 75(4)
amended by
No. 61/2003
s. 24(4).

- (4) A person must not bring into Victoria, keep or sell an established pest animal.

Penalty: 60 penalty units.

- (5) Subsections (1) to (4) do not apply to—
- (a) the keeping of a pest animal in accordance with section 76; or
 - (b) the bringing into Victoria, keeping or sale of a pest animal in accordance with a permit under this Division, other than in circumstances to which paragraph (f) applies; or

-
- (c) the bringing into Victoria or keeping of a controlled pest animal or regulated pest animal—
- (i) by or on behalf of the Zoological Board of Victoria; and
 - (ii) if kept at a zoological park within the meaning of the **Zoological Parks and Gardens Act 1995** or brought into Victoria to be so kept; or
- (d) the sale or loan of a controlled pest animal or regulated pest animal—
- (i) by the Zoological Parks and Gardens Board; and
 - (ii) to the holder of a permit under this Division; or
- (e) the bringing into Victoria of a regulated pest animal by the holder of a permit under this Division to keep that animal; or
- (f) the keeping of established pest animals in accordance with the regulations; or
- (g) the keeping of a pest animal—
- (i) for medical, veterinary or biological research purposes; and
 - (ii) by a person who holds a licence under section 29 or 32A of the **Prevention of Cruelty to Animals Act 1986**, in accordance with that licence; and
- S. 75(5)(c)(ii) amended by No. 106/1995 s. 52(a) (as amended by No. 45/1997 s. 40).**
- S. 75(5)(d)(i) amended by No. 106/1995 s. 52(b) (as amended by No. 45/1997 s. 40).**
- S. 75(5)(f) amended by No. 61/2003 s. 24(5).**
- S. 75(5)(g)(ii) amended by Nos 61/2003 s. 24(6), 51/2013 s. 15(1).**

s. 75A

(iii) in accordance with a permit under this Division.

S. 75(6)
inserted by
No. 61/2003
s. 24(7).

(6) Subsections (3) and (4) do not apply to—

S. 75(6)(a)
amended by
No. 51/2013
s. 15(2).

(a) the keeping of a regulated pest animal or an established pest animal at premises in respect of which a person holds a licence under section 32E of the **Prevention of Cruelty to Animals Act 1986**, in accordance with the relevant licence; or

(b) the selling of a regulated pest animal or an established pest animal—

S. 75(6)(b)(i)
amended by
No. 51/2013
s. 15(2).

(i) from premises in respect of which a person holds a licence under section 32E of the **Prevention of Cruelty to Animals Act 1986**, in accordance with the relevant licence; and

S. 75(6)(b)(ii)
amended by
No. 51/2013
s. 15(3).

(ii) to a person who holds a licence under section 29 or 32A of the **Prevention of Cruelty to Animals Act 1986**.

S. 75A
inserted by
No. 61/2003
s. 25.

75A Offence to release pest animals

(1) A person must not release a prohibited pest animal.

Penalty: 480 penalty units.

(2) A person must not release a controlled pest animal.

Penalty: 240 penalty units.

(3) A person must not release a regulated pest animal.

Penalty: 120 penalty units.

- (4) A person must not release an established pest animal.

Penalty: 60 penalty units.

- (5) Subsections (1) to (4) do not apply to the releasing of a pest animal in accordance with a permit under this Division.

76 Authority to keep pest animals

- (1) A person may keep a pest animal in accordance with a permit under this Division.
- (2) If a person kept a pest animal immediately before the commencement of this section, the person may continue to keep it—
- (a) if the person does not apply for a permit to keep the animal within 90 days after that commencement, until the end of that period of 90 days; or
- (b) if the person applies for that permit during that period, until the application is determined.

77 Permits

- (1) A person may apply in writing in a form approved by the Secretary for a permit to bring into Victoria, keep, sell or release a pest animal.
- (2) A permit application must be accompanied by the fee (if any) determined in accordance with the **Conservation, Forests and Lands Act 1987** for applications of that kind.
- (3) Subject to this section, the Secretary may grant or refuse the application.

S. 77(1)
amended by
No. 61/2003
s. 26(a).

* * * * *

S. 77(4)
repealed by
No. 39/1998
s. 6(2)(Sch. 1
item 13).

s. 77A

S. 77(6)
amended by
No. 61/2003
s. 26(b).

- (5) In granting a permit the Secretary may impose any conditions that the Secretary considers appropriate and specifies in the permit.
- (6) Those conditions may include but are not limited to conditions requiring the secure keeping of the animals, requiring them to be sterilised, or requiring them to be identified (by implant, branding or otherwise) or limiting the number of animals which may be brought into Victoria, kept, sold or released.
- (7) A permit—
 - (a) may be for an indefinite or limited period; and
 - (b) may be limited to any place, species, animal or other circumstance, or to any class of these.

S. 77A
inserted by
No. 61/2003
s. 27.

77A Non-compliance with permit conditions

- (1) A person granted a permit under this Division in respect of a prohibited pest animal must not contravene a condition specified in the permit.
Penalty: 480 penalty units.
- (2) A person granted a permit under this Division in respect of a controlled pest animal must not contravene a condition specified in the permit.
Penalty: 240 penalty units.
- (3) A person granted a permit under this Division in respect of a regulated pest animal must not contravene a condition specified in the permit.
Penalty: 120 penalty units.
- (4) A person granted a permit under this Division in respect of an established pest animal must not contravene a condition specified in the permit.
Penalty: 60 penalty units.

78 Revocation of permit

- (1) The Secretary, by notice served on the permit holder, may revoke the permit if the holder has contravened the **Wildlife Act 1975**, this Act or any of the conditions of the permit.
- (2) Before revoking a permit, the Secretary must—
 - (a) give notice of the proposal to the permit holder, specifying—
 - (i) the grounds for the proposed revocation; and
 - (ii) that the person may make written or oral submissions about the matter within 28 days after the date of service of the notice;
 - (b) consider any submissions made in accordance with paragraph (a).

PART 9—GENERAL

Division 1—Enforcement

79 Secretary may do certain work

- (1) The Secretary may do anything necessary to carry out a land management notice if the Secretary believes on reasonable grounds that the notice has not been complied with within the time for compliance stated in the notice.
- (2) The Secretary may do anything necessary to carry out a land use condition if the Secretary believes on reasonable grounds that the land use condition has not been complied with.
- (3) The Secretary may carry out land rehabilitation work required by a condition of an authority under Part 7 if the Secretary believes on reasonable grounds that the condition has not been complied with within the time stated in the authority.
- (4) An authorised officer may, on behalf of the Secretary, do anything necessary—
 - (a) to carry out a duty imposed on the Secretary by Part 3; or
 - (b) to exercise a power conferred on the Secretary by subsection (1), (2) or (3) or section 72(1)(b).
- (5) The Secretary may recover as a debt in a court of competent jurisdiction any expenses necessarily incurred in carrying out work or any other action under subsection (1) or (2).

79A Authorised officers to produce evidence of appointment

S. 79A
inserted by
No. 61/2003
s. 28.

An authorised officer must produce evidence of his or her appointment for inspection—

- (a) before exercising a power under this Part; and
- (b) at any time during the exercise of a power under this Part, if asked to do so.

Penalty: 10 penalty units.

80 Entry with consent

S. 80
substituted by
No. 61/2003
s. 29.

- (1) If an authorised officer believes on reasonable grounds that any provision of the Act or the regulations has not been or is not being complied with in respect of land, the authorised officer may, at a reasonable time, enter and search the land with the consent of the occupier of the land.
- (2) An authorised officer who enters land under this section may do all or any of the following—
 - (a) search and examine land or goods or vehicles on the land;
 - (b) ask questions in connection with the authorised officer's functions under this Act;
 - (ba) take photographs (including video recordings) of a thing or things of a particular kind;
 - (c) without payment, take, or require the occupier of the land to give, samples of any of the following—
 - (i) plants or parts of plants;
 - (ii) an animal or part of an animal;

S. 80(2)(ba)
inserted by
No. 35/2009
s. 11(1),
amended by
No. 48/2010
s. 9.

S. 80(2)(c)
substituted by
No. 67/2006
s. 15.

- (iii) soil, sand, gravel or stone;
 - (iv) fodder or grain.
- (3) An authorised officer must not enter and search any land under this section unless, before the occupier consents to that entry, the authorised officer has informed the occupier—
- (a) of the purpose of the search; and
 - (b) that the occupier may refuse to give consent to the entry and search; and
 - (c) that the occupier may refuse to consent to the taking of or the requirement to give any sample of soil, stone or similar material or goods from the land during the search; and
 - (d) that the occupier may refuse to allow an examination of goods or vehicles on the land during the search; and
 - (e) that the occupier may refuse to answer questions during the search; and
 - (ea) that the occupier may refuse to give consent to the taking of photographs (including video recordings) of a thing or things of a particular kind; and
 - (f) that any sample of a thing taken or required to be given during the search with the consent of the occupier may be used in evidence in proceedings.
- (4) If an occupier consents to the taking of or the requirement to give any thing during a search under this section, the authorised officer must before taking or requiring the giving of the thing ask the occupier to sign an acknowledgment stating—
- (a) that the occupier has consented to the taking of or requirement to give the thing; and

S. 80(3)(ea)
inserted by
No. 35/2009
s. 11(2).

(b) the date and time that the occupier consented.

(5) An occupier who signs an acknowledgment must be given a copy of the signed acknowledgment before the authorised officer leaves the land.

80A Entry of roadsides

S. 80A
inserted by
No. 51/2013
s. 16.

(1) For the purposes of monitoring a municipal council's implementation of its approved roadside weed and pest animal management plan, or in order to evaluate a municipal council's report on its approved plan under section 22Q, an authorised officer may enter the roadside of any municipal road to which the plan applies and may do all or any of the following—

- (a) search and examine the roadside;
- (b) take photographs (including video recordings) of a thing or things of a particular kind on the roadside;
- (c) without payment, take samples of any of the following on the roadside—
 - (i) plants or parts of plants;
 - (ii) an animal or part of an animal;
 - (iii) soil, sand, gravel or stone.

(2) Section 83K does not apply in respect of a sample taken by an authorised officer under subsection (1).

81 Entry with notice

S. 81
substituted by
No. 61/2003
s. 29.

(1) An authorised officer may, at a reasonable time, enter and search land after having given at least the relevant notice to the occupier of the land—

S. 81(1)
amended by
No. 35/2009
s. 12(1).

s. 81

S. 81(1)(ab)
inserted by
No. 35/2009
s. 12(2).

(a) if he or she believes on reasonable grounds that section 20 has not been or is not being complied with; or

(ab) if he or she believes on reasonable grounds that a regionally prohibited weed, regionally controlled weed or established pest animal occurs or is likely to occur in the vicinity of the land; or

(b) at any time after the end of the period of compliance stated in a land management notice under Division 1 of Part 5 applying to the land, in order to ascertain whether the notice has been complied with; or

S. 81(1)(c)
substituted by
No. 67/2006
s. 16(1).

(c) in order to ascertain whether—

(i) a priority area notice; or

(ii) a directions notice; or

(iii) a direction under section 70 or 72—
in respect of land has been complied with.

S. 81(1A)
inserted by
No. 35/2009
s. 12(3).

(1A) For the purposes of subsection (1) the relevant notice is—

(a) in the case of an entry under paragraph (ab), 7 days;

(b) in any other case, 48 hours.

(2) Subsection (1) does not apply—

(a) if the occupier of the land, after being given notice under subsection (1), responds to the notice by stating that entry to the land is refused; or

(b) to a dwelling.

- (3) An authorised officer who enters land under this section may do all or any of the following—
- (a) search and examine land or goods or vehicles on the land;
 - (b) ask questions in connection with the authorised officer's functions under this Act;
 - (ba) take photographs (including video recordings) of a thing or things of a particular kind;
 - (c) without payment, take, or require the occupier of the land to give, samples of any of the following—
 - (i) plants or parts of plants;
 - (ii) an animal or part of an animal;
 - (iii) soil, sand, gravel or stone;
 - (iv) fodder or grain.
- (4) Notice given under subsection (1) must be in writing and must inform the occupier—
- (a) of the purpose of the search; and
 - (b) that the occupier may refuse to give consent to the entry and search; and
 - (c) that the occupier may refuse to consent to the taking of or the requirement to give any sample of soil, stone or similar material or goods from the land during the search; and
 - (d) that the occupier may refuse to allow an examination of goods or vehicles on the land during the search; and
 - (e) that the occupier may refuse to answer questions during the search; and

S. 81(3)(ba)
inserted by
No. 35/2009
s. 12(4),
amended by
No. 48/2010
s. 10.

S. 81(3)(c)
substituted by
No. 67/2006
s. 16(2).

S. 81(4)(ea)
inserted by
No. 35/2009
s. 12(5).

- (ea) that the occupier may refuse to give consent to the taking of photographs (including video recordings) of a thing or things of a particular kind; and
 - (f) that any sample of a thing taken or required to be given during the search with the consent of the occupier may be used in evidence in proceedings.
- (5) If the occupier is present during a search under this section and consents to the taking of, or the requirement to give, any thing during the search, the authorised officer must before taking or requiring the giving of the thing ask the occupier to sign an acknowledgment stating—
- (a) that the occupier has consented to the taking of or requirement to give the thing; and
 - (b) the date and time that the occupier consented.
- (6) An occupier who signs an acknowledgment must be given a copy of the signed acknowledgment before the authorised officer leaves the land.
- (7) If an authorised officer exercises a power of entry under this section without the occupier being present the authorised officer must, on leaving the land, leave a notice setting out—
- (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) a description of all things done while on the land; and
 - (d) the time of departure; and
 - (e) the procedure for contacting the Secretary for further details of the entry.

82 Emergency entry

- (1) An authorised officer may enter and search land—
- (a) if he or she believes on reasonable grounds that a State prohibited weed is on the land; or
 - (ab) if he or she believes on reasonable grounds that a restricted pest animal may be on the land; or
 - (b) at any time after the end of the period of compliance stated in an interim land management notice applying to the land, in order to ascertain whether the notice has been complied with; or
 - (c) to take action under section 79.
- (2) If an authorised officer believes on reasonable grounds that a serious land degradation problem exists on land, the authorised officer may at any reasonable time, enter and search that land—
- (a) if he or she believes on reasonable grounds that section 20 has not been or is not being complied with; or
 - (b) if he or she believes on reasonable grounds that a contravention of Part 7 may have occurred on the land; or
 - (c) in order to ascertain whether an authority, direction, order, permit or land use condition under this Act is being complied with; or
 - (d) at any time after the end of the period of compliance stated in a land management notice under Division 1 of Part 5 applying to the land, in order to ascertain whether the notice has been complied with.
- (3) Subsections (1) and (2) do not apply to a dwelling.

S. 82
substituted by
No. 61/2003
s. 29.

S. 82(1)(ab)
inserted by
No. 48/2010
s. 11(1).

S. 82(4)(ba)
inserted by
No. 35/2009
s. 13.

S. 82(4)(c)
substituted by
No. 67/2006
s. 17.

- (4) An authorised officer who enters land under this section may do all or any of the following, if he or she believes it necessary for the purposes of subsection (1) or (2)—
- (a) search and examine land or goods or vehicles on the land;
 - (b) ask questions in connection with the authorised officer's functions under this Act;
 - (ba) take photographs (including video recordings) of a thing or things of a particular kind;
 - (c) without payment, take, or require the occupier of the land to give, samples of any of the following—
 - (i) plants or parts of plants;
 - (ii) an animal or part of an animal;
 - (iii) soil, sand, gravel or stone;
 - (iv) fodder or grain;
 - (d) ask a person to state his or her name and address if the authorised officer—
 - (i) believes on reasonable grounds that the person has committed an offence under Part 8 relating to a pest animal; and
 - (ii) has informed the person of the grounds for that belief in sufficient detail to allow the person to understand the nature of the offence.
- (5) If an authorised officer exercises a power of entry under this section without the occupier being present the authorised officer must, on leaving the land, leave a notice setting out—
- (a) the time of entry; and
 - (b) the purpose of entry; and

- (c) a description of all things done while on the land; and
 - (d) the time of departure; and
 - (e) the procedure for contacting the Secretary for further details of the entry.
- (6) Subsection (5) does not apply if the authorised officer has given a copy of an authorisation to the occupier of the land in accordance with section 83F.

S. 82(6)
inserted by
No. 48/2010
s. 11(2).

83 Entry with warrant

S. 83
substituted by
No. 61/2003
s. 29.

- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to particular land to enter that land if he or she believes on reasonable grounds that there is on the land evidence of the commission of an offence against this Act or the regulations in relation to pest animals or noxious weeds.
- (2) If a magistrate is satisfied by the evidence, on oath or by affidavit of the authorised officer that there are reasonable grounds to believe that there is a thing or things of a particular kind on the land that are connected with the commission of an offence against this Act or the regulations in relation to pest animals or noxious weeds, the magistrate may issue a warrant, in accordance with the **Magistrates' Court Act 1989**, authorising an authorised officer named in the warrant, together with any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
 - (a) to enter the land named or described in the warrant, if necessary by force; and
 - (ab) to re-enter that land (by force if necessary) if re-entry is necessary to complete any of the things specified in the warrant; and

S. 83(2)(ab)
inserted by
No. 67/2006
s. 18(a).

-
- (b) to do all or any of the following things specified in the warrant—
- (i) search for a thing or things of a particular kind;
 - (ii) inspect, extract or copy a document or document of a particular kind;
 - (iii) inspect and take photographs (including video recordings) of a thing or things of a particular kind;
 - (iv) seize and impound a pest animal or noxious weed;
 - (v) with whatever assistance is required, take and keep samples of—
 - (i) the blood, any bodily fluids or other matter from any pest animal;
or
 - (ii) any noxious weed—named or described in the warrant and which the authorised officer believes, on reasonable grounds, to be connected with the alleged commission of an offence; and
- (c) if necessary, destroy or otherwise dispose of, or order a land owner to destroy, a pest animal or noxious weed seized under paragraph (b) or section 83A.
- (3) A search warrant issued under this section must state—
- (a) the purpose for which the search is required and the nature of the alleged offence; and
 - (b) any conditions to which the warrant is subject; and

- (c) whether entry and any necessary re-entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
- (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) An authorised officer may apply for a search warrant to do any of the things referred to in subsection (2)(b).
- (5) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
- (6) Despite subsection (5) or anything in the **Magistrates' Court Act 1989**, a warrant under this section does not authorise an authorised officer to arrest a person.

S. 83(3)(c)
amended by
No. 67/2006
s. 18(b).

83A Further seizure powers

- (1) A search warrant under section 83 authorises an authorised officer executing the search warrant—
- (a) to seize or take a sample of any thing of the kind described in the warrant; and
- (b) to seize or take a sample of any thing which is not of the kind described in the warrant if—
- (i) the authorised officer believes, on reasonable grounds, that the thing—
- (A) is of a kind which could have been included in a search warrant issued under this Part; or
- (B) will afford evidence about the commission of an offence against this Act or the regulations or a

S. 83A
inserted by
No. 61/2003
s. 29,
substituted by
No. 67/2006
s. 19,
amended by
No. 48/2010
s. 12(2) (ILA
s. 39B(1)).

S. 83A(1)
(b)(i)(B)
amended by
No. 48/2010
s. 12(1).

s. 83B

related Act or the regulations made under that Act for the purposes of which the officer is appointed; and

S. 83A(1)(b)(ii) amended by No. 48/2010 s. 12(1).

- (ii) in the case of seizure, the authorised officer believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the commission of an offence against this Act or the regulations or a related Act or the regulations made under that Act for the purposes of which the officer is appointed.

S. 83A(2) inserted by No. 48/2010 s. 12(2).

- (2) In this section *related Act* means the **Fisheries Act 1995**, the **Flora and Fauna Guarantee Act 1988** or the **Wildlife Act 1975**.

S. 83B inserted by No. 61/2003 s. 29.

83B Announcement before entry

- (1) On executing a search warrant, the authorised officer executing the warrant—
- (a) must announce that he or she is authorised by the warrant to enter the land; and
 - (b) if the authorised officer has been unable to obtain unforced entry, must give any person on the land an opportunity to allow entry to the land.
- (2) An authorised officer need not comply with subsection (1) if he or she believes, on reasonable grounds that immediate entry to the land is required to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

83C Details of warrant to be given to occupier

S. 83C
inserted by
No. 61/2003
s. 29.

- (1) If the occupier is present on land where a search warrant is being executed, the authorised officer must—
 - (a) identify himself or herself to the occupier; and
 - (b) give to the occupier a copy of the warrant.
- (2) If the occupier is not present on land where a search warrant is being executed, the authorised officer must—
 - (a) identify himself or herself to a person on the land; and
 - (b) give to the person a copy of the warrant.

83D Searches of vehicles and boats

S. 83D
inserted by
No. 61/2003
s. 29.

- (1) An authorised officer or a police officer may, at any time, without warrant, stop if necessary, and enter and search any boat or vehicle which he or she reasonably believes has been used by persons committing an offence against Division 3 of Part 8.
- (2) An authorised officer or a police officer who has entered a vehicle or boat and is conducting a search under subsection (1) may do any one or more of the following—
 - (a) inspect and take photographs (including video recordings) of the boat or vehicle or any thing found during the course of the search;
 - (b) with whatever assistance is required, take and keep samples of the blood, any bodily fluids or other matter from any pest animal found during the course of the search;

S. 83D(1)
amended by
No. 37/2014
s. 10(Sch.
item 13.2).

S. 83D(2)
amended by
No. 37/2014
s. 10(Sch.
item 13.2).

s. 83E

- (c) with whatever assistance is required, mark any pest animal found during the course of the search for the purpose of later being able to identify it;
- (d) inspect and make copies of or take extracts from any document found during the course of the search;
- (e) seize any pest animal found during the course of the search if the authorised officer or police officer believes on reasonable grounds that it is necessary to seize the animal in order to prevent its concealment, loss or destruction.

S. 83D(2)(e)
amended by
No. 37/2014
s. 10(Sch.
item 13.2).

S. 83E
inserted by
No. 61/2003
s. 29.

83E Searches of vehicles for noxious weeds

- (1) An authorised officer may, at any time, without a warrant, stop if necessary and search any vehicle if the authorised officer believes on reasonable grounds that section 70A(1) has not been complied with.
- (2) An authorised officer who conducts a search under this section may—
 - (a) direct the operator of the vehicle to ensure that the vehicle is free from the seeds of any noxious weeds and any other part of a noxious weed that is capable of growing; or
 - (b) take steps to ensure that the vehicle is free from such seeds or any part of a noxious weed.

S. 83F
inserted by
No. 61/2003
s. 29,
amended by
No. 48/2010
s. 13 (ILA
s. 39B(1)).

83F Authorised officer may have assistance

- (1) An authorised officer who enters land or a vehicle or boat under this Division may do so with any assistance that he or she requires.

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- (2) An authorised officer may authorise a person to enter land under section 82 for the purpose of assisting the officer to take action under section 79 without the authorised officer being present at all times during the rendering of that assistance. **S. 83F(2) inserted by No. 48/2010 s. 13.**
- (3) A person assisting an authorised officer must not enter or remain on land under subsection (2) without an authorised officer unless the authorised officer who authorised the person under subsection (2)— **S. 83F(3) inserted by No. 48/2010 s. 13.**
- (a) gives a signed authorisation to the person; and
 - (b) gives a copy of the authorisation to the occupier of the land prior to the initial entry of the land by the authorised officer and the person assisting that officer.
- (4) An authorisation under subsection (3) must state— **S. 83F(4) inserted by No. 48/2010 s. 13.**
- (a) the purpose of the entry;
 - (b) the work to be carried out on the land by the person assisting the authorised officer;
 - (c) the date by which the work is to be completed;
 - (d) that the person assisting the authorised officer may re-enter the land between the initial entry and the date specified in paragraph (c) for the purposes of carrying out the work referred to in paragraph (b); and
 - (e) the contact details of an authorised officer.
- (5) A person authorised to assist an authorised officer under subsection (2)— **S. 83F(5) inserted by No. 48/2010 s. 13.**
- (a) must carry the authorisation under subsection (3) at all times while on the land;

s. 83G

- (b) must be accompanied by the authorised officer at the initial entry of the land;
- (c) in carrying out the work specified in subsection (4), may re-enter the land after the initial entry at reasonable times;
- (d) may not enter the land after the date specified in subsection (4)(c).

S. 83G
inserted by
No. 61/2003
s. 29.

83G Return of seized things

- (1) Subject to subsection (2), if any thing is seized under this Act and—
 - (a) proceedings are not commenced against any person for any offence arising out of the circumstances of the seizure within 90 days after the seizure; or
 - (b) proceedings are commenced within 90 days after the seizure but are subsequently discontinued; or
 - (c) the reason for the seizure no longer exists—
the Secretary must order the return of the thing to the owner immediately and must notify the owner in writing accordingly.
- (2) Subsection (1) does not apply to anything, the sale, possession or use of which, is prohibited by or under this Act.
- (3) Any thing seized under this Act and not claimed within 12 months after the seizure, may be destroyed or sold and the proceeds of sale paid to the Consolidated Fund.

S. 83H
inserted by
No. 61/2003
s. 29.

83H Magistrates' Court may extend 90 day period

- (1) An authorised officer may apply to the Magistrates' Court within 90 days after seizing a thing under this Act for an extension of the period for which the authorised officer may retain the thing.

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- (2) The Magistrates' Court may order the extension if it is satisfied that retention of the thing is necessary—
- (a) for the purposes of an investigation into whether a contravention of this Act or the regulations has occurred; or
 - (b) to enable evidence of a contravention of this Act or the regulations to be obtained for the purposes of a proceeding under this Act.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

83I Disposal of seized things

S. 83I
inserted by
No. 61/2003
s. 29.

- (1) If a person is found guilty by a court of an offence against this Act or the regulations, the court may, in addition to imposing any other penalty, order any thing seized under this Act which relates to that offence to be destroyed or otherwise disposed of in the manner specified in the order.
- (2) The Magistrates' Court may, on the application of an authorised officer, order that any thing seized under this Act be destroyed or otherwise disposed of, if the Court is satisfied that—
- (a) the owner of the thing cannot be found; or
 - (b) in the case of a pest animal, the person apparently in possession of the animal does not hold a permit under Part 8 to do so.

83J Requirements as to taking samples and seizure

S. 83J
inserted by
No. 61/2003
s. 29.

- (1) An authorised officer or police officer may not take samples of a thing or seize a thing apparently in the possession of a person unless the authorised officer or police officer makes out or tenders to

S. 83J(1),
amended by
No. 37/2014
s. 10(Sch.
item 13.3)(a)).

s. 83K

the person a written receipt for the sample taken or thing seized.

S. 83J(2)
amended by
No. 37/2014
s. 10(Sch.
item 13.3(b)).

- (2) If the authorised officer or police officer is unable to ascertain the identity of the owner or custodian of the thing seized or sampled, the authorised officer or police officer must leave a receipt with or post it to the person apparently in charge of the thing seized.

S. 83K
inserted by
No. 61/2003
s. 29,
substituted by
No. 35/2009
s. 14.

83K Samples

S. 83K(1)
amended by
No. 37/2014
s. 10(Sch.
item 13.4(a)).

- (1) If an authorised officer or police officer proposes to take a sample, he or she must—
- (a) advise the owner, if possible before taking the sample, that it is taken for the purpose of analysis; and
 - (b) advise the owner that he or she may nominate a person to analyse part of the sample; and
 - (c) forward a part of the sample that is sufficient for analysis—
 - (i) to any person nominated by the owner; and
 - (ii) to a qualified person nominated by the authorised officer or police officer; and
 - (d) keep part of the sample untouched for future comparison; and
 - (e) unless the sample is a noxious weed, return the remainder of the sample to the person from whom it was taken within 28 days if the

S. 83K(1)(c)(ii)
amended by
No. 37/2014
s. 10(Sch.
item 13.4(b)).

sample is not required for the purposes of a proceeding under this Act or the regulations.

- (2) In this section *qualified person* has the same meaning as in section 88A(6) of the **Conservation, Forests and Lands Act 1987**.

83L Retention notices

S. 83L
inserted by
No. 61/2003
s. 29.

- (1) If an authorised officer believes on reasonable grounds that any thing has been taken or is being held in contravention of Division 2 or 3 of Part 8 or a corresponding law of another State, a Territory of the Commonwealth or the Commonwealth, the officer may issue the person holding the thing with a notice requiring that person to keep the thing in his or her possession and not to sell or dispose of the thing.
- (2) A notice under subsection (1)—
- (a) must be in writing; and
 - (b) has effect for the period specified in the notice (which must not be more than 90 days from the issue of the notice); and
 - (c) may be cancelled by the person who issued the notice; and
 - (d) is subject to any terms and conditions specified in the notice.
- (3) If the Secretary is of the opinion that it is reasonably necessary to do so, the Secretary may extend the period for which a notice under subsection (1) has effect under subsection (2).
- (4) If the Secretary extends the period for which a notice under subsection (1) has effect, the Secretary must, before the expiry of the original extension—

S. 83L(1)
amended by
No. 48/2010
s. 14.

s. 83M

- (a) notify the person to whom the notice is issued of the extension; and
- (b) specify in the notice the period for which the extension is to have effect.

- (5) A person to whom a notice under subsection (1) has been issued must comply with the notice.

Penalty: 120 penalty units.

S. 83M
inserted by
No. 61/2003
s. 29.

83M Evidentiary provisions relating to retention notices

- (1) In any proceedings under section 83L, evidence that a thing, specified in a notice under section 83L as being in the possession of a particular person, is no longer in the possession of that person is evidence, and, in the absence of evidence to the contrary, is proof that the person has not complied with the notice.
- (2) In any proceedings under this Act, the fact that a thing is specified in a notice under section 83L as being in the possession of a particular person is evidence, and, in the absence of evidence to the contrary, is proof that the thing was in the possession of that person at the time the notice was issued.

S. 83N
inserted by
No. 61/2003
s. 29.

83N Authorised officer to comply with prescribed procedures

In exercising a power under this Division an authorised officer must comply with any prescribed procedures.

S. 83O
inserted by
No. 67/2006
s. 20.

83O Authorised officer may require access to ratepayer details

- (1) For the purposes of exercising a power under this Act, an authorised officer may require the person having custody of any records relating to ratepayers (within the meaning of the **Local Government Act 1989**) to produce them to the officer.

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- (2) On production of any records under subsection (1), an authorised officer may—
- (a) inspect the records for the purposes of finding—
 - (i) the name and address or other contact details of a ratepayer; or
 - (ii) the address or description of any land in respect of which the ratepayer is liable to pay rates and charges under Part 8 of the **Local Government Act 1989**; and
 - (b) take extracts or copies from the records for the purpose of exercising a power under this Act.
- (3) An authorised officer must not be charged a fee for any thing required to be done, or done, by the authorised officer under this section.

84 Offences relating to enforcement

- (1) A person must not—
- (a) obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate an authorised officer in exercising his or her powers under this Act or the regulations; or
 - (b) contravene a lawful direction, order or requirement of an authorised officer; or
 - (c) refuse to answer a question lawfully asked by an authorised officer or to produce a document lawfully required by an authorised officer; or

S. 84(1)
amended by
No. 61/2003
s. 30(2).

S. 84(1)(a)
substituted by
No. 35/2009
s. 15.

s. 84A

S. 84(1)(e)
amended by
Nos 61/2003
s. 30(1)(a),
67/2006 s. 21.

S. 84(1)(f)
inserted by
No. 61/2003
s. 30(1)(b).

S. 84(3)
inserted by
No. 61/2003
s. 30(3).

S. 84A
inserted by
No. 67/2006
s. 22.

- (d) interfere with anything done by an authorised officer in the exercise of his or her powers under this Act or the regulations;
or
- (e) include in an application or request to the Secretary under this Act or the regulations, or in a notice under section 46(1), 47E or 70D, a statement that he or she knows to be false or misleading in a material respect;
or
- (f) in any way, hold himself or herself out to be an authorised officer if the person is not an authorised officer.

Penalty: 60 penalty units.

- (2) Despite anything to the contrary in subsection (1) a person may refuse to answer an authorised officer's question or to produce a document to the authorised officer if the person believes that the answer or information in the document would tend to incriminate the person.
- (3) Subsection (2) does not apply to a person who is asked to state his or her name and address by an authorised officer in exercising a power under this Part.

84A Conduct by officers, employees or agents

- (1) If in any proceedings under this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—
 - (a) that the conduct was engaged in by an officer of that body corporate within the scope of the officer's actual or apparent authority and the officer had that state of mind; or

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- (b) that the conduct was engaged in by an agent of the body corporate and—
- (i) the agent acted at the specific direction or with the specific consent or agreement of the body corporate; and
 - (ii) the agent had that state of mind; and
 - (iii) the body corporate was aware of the agent's state of mind when the conduct was engaged in.
- (2) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a body corporate is deemed to have been engaged in also by the body corporate if the conduct was engaged in by—
- (a) an officer of the body corporate within the scope of the officer's actual or apparent authority; or
 - (b) any other person at the specific direction or with the specific consent or agreement of an officer of the body corporate, if the consent or agreement is within the scope of the actual or apparent authority of the officer.
- (3) If in any proceedings under this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by an employee of that person within the scope of the employee's actual or apparent authority and the employee had that state of mind; or
 - (b) that the conduct was engaged in by an agent of the person and—
 - (i) the agent acted at the specific direction or with the specific consent or agreement of the person; and

- (ii) the agent had that state of mind; and
- (iii) the person was aware of the agent's state of mind when the conduct was engaged in.

S. 84A(4)
inserted by
No. 35/2009
s. 16.

- (4) In this section *officer* has the same meaning as *officer* of a corporation has in section 9 of the Corporations Act.

85 Notices for the purpose of this Act

- (1) A notice or document required or authorised to be given or served for the purpose of this Act or the regulations—

S. 85(1)(a)
amended by
No. 61/2003
s. 31.

- (a) must be in writing in a manner approved by the Secretary; and

- (b) may be given or served personally, or by post, or in any other prescribed manner.

- (2) A notice or document required or authorised by this Act or the regulations to be given to or served on a land owner may be addressed to the land owner by name or to "the land owner" of a property specified in the notice or document.
- (3) If there is more than one owner of a piece of land, service of a notice or document on one of those owners must, for the purposes of this Act or the regulations, be taken to be service on all of the owners.
- (4) If after reasonable enquiries the Secretary considers that all the land owners of a piece of land cannot be found or are absent from Victoria or that it is impracticable to serve any of them with a notice or document under this Act or the regulations, that notice or document must be taken to be sufficiently served on all the land owners if it is published in a newspaper generally

circulating in the area in which the land is located and displayed conspicuously on or near the land to which it applies.

- (5) If for any reason an authorised officer is unable to give notice to a land owner under this Division 1, the authorised officer may give that notice by displaying it in a conspicuous place on or near the land of the land owner.
- (6) A certificate purporting to be signed by an authorised officer to the effect that, on a date specified in the certificate, a notice or document was given to or served on a person specified in the certificate is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

85A Persons served with notices to inform Secretary if not land owner

S. 85A
inserted by
No. 67/2006
s. 23,
amended by
No. 35/2009
s. 17.

A person—

- (a) who is served with a land management notice, a priority area notice or a directions notice; and
- (b) who is not, at the time of service of the notice, the land owner of the land to which the notice relates—

S. 85A(b)
amended by
No. 35/2009
s. 17.

must, within 7 days of being served with the notice, notify the Secretary in writing that the person is not the land owner of the land.

Penalty: 10 penalty units.

Division 2—Simplification of proof

86 Certificate as to money owed to the Secretary

- (1) The Secretary must, if so requested in writing, give to a person a certificate stating that, at the date of the certificate—

- (a) no money is owed by that person to the Secretary under this Act; or
 - (b) a specified amount is owed by that person to the Secretary under this Act.
- (2) The certificate is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in it.

87 Proof of taking pest animals

For the purposes of section 74, evidence that a person is found in possession of—

- (a) a pest animal; and
- (b) a device for the taking of pest animals—

is evidence and, in the absence of evidence to the contrary is proof that the person has taken the pest animal using that device.

88 Proof of keeping pest animals

In proceedings under this Act or the regulations evidence that a person has pest animals—

- (a) in that person's possession or control; or
- (b) at premises which that person owns or occupies—

is evidence, and in the absence of evidence to the contrary is proof that the person keeps those pest animals.

89 Proof of identity of plants or animals

A certificate signed or appearing to be signed by an authorised officer to the effect that a plant or animal described in the certificate is a noxious weed or a pest animal of a kind, or with a classification under this Act, stated in the certificate is evidence and, in the absence of

evidence to the contrary, is proof of the facts stated in the certificate.

90 Certificates

- (1) A person may apply to the Secretary for a certificate under this section for land described in the application.
- (2) An application for a certificate must be in writing in a form approved by the Secretary and must be accompanied by a fee (if any) determined in accordance with the **Conservation, Forests and Lands Act 1987** for applications of that kind.
- (3) As soon as possible after receiving an application for a certificate, the Secretary must give the certificate to the applicant.
- (4) A certificate must—
 - (a) be in writing; and
 - (b) describe the land to which the certificate relates; and
 - (c) state whether, on a date specified in the certificate—
 - (i) the land was or was not a special area; and
 - (ii) a land management notice was or was not in force, in relation to the land; and
 - (iii) a special area plan applied or did not apply to the land; and
 - (iv) a land use condition applied or did not apply to the land; and
 - (v) a regional catchment strategy applied or did not apply to the land; and

S. 90(4)(c)(v)
amended by
No. 61/2003
s. 32(a).

S. 90(4)(d)
inserted by
No. 61/2003
s. 32(b).

- (d) if a land management notice was in force on the date specified in the certificate, be accompanied by a copy of that land management notice.
- (5) In proceedings under this Act, a certificate under this section is conclusive proof of the facts stated in it.

Division 3—General

91 The Register

- (1) The Secretary must keep a Register of land use conditions and land management notices for the time being in force under this Act.
- (2) The Register—
 - (a) may be kept in any form that the Secretary determines; and
 - (b) may be kept at a place or places designated by the Secretary by notice published in the Government Gazette.
- (3) The Secretary must ensure that the Register is available for inspection during normal office hours, on payment of a fee (if any) determined in accordance with the **Conservation, Forests and Lands Act 1987**, by—
 - (a) a land owner or purchaser of land to which an entry in the Register applies, or a person acting on behalf of that land owner or purchaser; and
 - (b) a prescribed person or prescribed class of persons.

92 Evidence of other matters

- (1) A document appearing to be a copy of or extract from a regional catchment strategy, special area plan, land use condition, land management notice,

authority, permit, order or direction under this Act if accompanied by a certificate appearing to be signed by an authorised officer to the effect that it is such a copy or extract, is evidence and, in the absence of evidence to the contrary, is proof of the existence and contents of the original.

- (2) A certificate appearing to be signed by an authorised officer to the effect that, on a date specified in the certificate, a person held or did not hold an authority or permit under this Act specified in the certificate is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

93 Other Acts not affected

- (1) Subject to this section, this Act is in addition to and does not take away from the **Water Act 1989**, the **Flora and Fauna Guarantee Act 1988**, the **Wildlife Act 1975**, the **Planning and Environment Act 1987**, the **Mineral Resources (Sustainable Development) Act 1990**, the **Environment Protection Act 1970** or any other Act, or any instrument made under an Act other than this Act.
- (2) The powers conferred on the Secretary or an authorised officer under this Act are in addition to those conferred by the **Conservation, Forests and Lands Act 1987**.
- (3) Subsection (1) does not affect the operation of sections 26 and 32.
- (4) Part 3 does not—
- (a) create an additional civil liability for a failure to comply with a provision of that Part resulting in a flow of water from land to other land; and

S. 93(1)
amended by
Nos 67/1995
s. 58(Sch. 1
item 3),
63/2006
s. 61(Sch.
item 5.2),
6/2009
s. 46(4).

s. 94

- (b) affect any civil liability in respect of a flow of water imposed under the **Water Act 1989**; and
 - (c) affect the common law in relation to the escape of things from land.
- (5) If there is an inconsistency between a land use condition or land management notice and a licence, authority, water management scheme or other instrument under the **Water Act 1989**—
- (a) if practicable, both the land use condition or land management notice and the instrument must be complied with; and
 - (b) if this is not practicable, the document which is most restrictive of land use prevails.

94 Supreme Court—limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary—

- (a) to prevent the Supreme Court entertaining actions of a kind referred to in section 19.

S. 94(a)
amended by
No. 52/1998
s. 311(Sch. 1
item 12.5(a)).

S. 94(b)
repealed by
No. 52/1998
s. 311(Sch. 1
item 12.5(b)).

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**PART 10—REGULATIONS AND SUBORDINATE
INSTRUMENTS**

**Pt 10
(Heading)
amended by
No. 85/2006
s. 156.**

95 Regulations

- (1) The Governor in Council may make regulations for or with respect to any of the following matters:
- (a) prescribing procedures to be followed by authorised officers in exercising powers under Part 9;
 - (b) prohibiting or regulating the transport, distribution or use of poison baits for eradicating or controlling pest animals including but not limited to—
 - (i) the precautions to be followed before, during and after the transport, distribution or use of those baits;
 - (ii) the information to be given, published or displayed concerning the transport, distribution or use of those baits;
 - (iii) the use of vehicles, goods and equipment in connection with the transport, distribution or use of those baits;
 - (iv) the substances and concentrations of substances which those baits, may or must not, contain;
 - (v) the kinds of baits that may, or must not, be used;
 - (vi) the safety of the public and land holders in connection with the transport, distribution or use, and the effects of the use, of those baits;

s. 95

S. 95(1)(ba)
inserted by
No. 67/2006
s. 24(1)(a).

S. 95(1)(c)
substituted by
No. 61/2003
s. 33.

S. 95(1)(f)
substituted by
No. 39/1998
s. 6(2)(Sch. 1
item 14(a)).

- (vii) what are or are not poison baits for the purposes of the regulations;
- (viii) the precautions to be taken to protect animals that are not pest animals from poison baits;
- (ba) prescribing the measures for controlling or eradicating noxious weeds or pest animals;
- (c) in relation to established pest animals prescribing—
 - (i) the conditions under which established pest animals may be kept; and
 - (ii) the purposes for which established pest animals may be kept; and
 - (iii) the types of species of established pest animal that may be kept; and
 - (iv) the maximum number of established pest animals that may be kept;
- (d) the manner in which documents under this Act may be given or served;
- (e) prescribing information to be contained in land management notices for the purpose of section 38(5);
- (f) the procedure of the Council or an Authority;
- (g) permits under Part 8, including applications for permits, terms and conditions of permits, and the revocation of permits;
- (h) the procedure for preparing and implementing special area plans, land use conditions and land management notices;

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- (i) authorities under Part 7, applications for authorities, the conditions of authorities, and the revocation of authorities;
 - (j) prescribing the persons who may inspect the Register under Division 3 of Part 9;
 - (k) any matter in respect of which a land management notice or land use condition may provide;
 - (ka) any particulars or information required for notices under this Act; S. 95(1)(ka) inserted by No. 67/2006 s. 24(1)(b).
 - (l) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and
 - (c) may leave any matter or thing to be determined or approved by an authorised officer, the Council, an Authority or the Secretary; and S. 95(2)(c) substituted by No. 39/1998 s. 6(2)(Sch. 1 item 14(b)).
 - (d) may confer powers or impose duties on any person; and
 - (e) may apply, adopt or incorporate by reference a document prepared under this Act or the **Conservation, Forests and Lands Act 1987** either—
 - (i) as prepared at the date of the regulations or at any date before then; or
 - (ii) as amended from time to time; or

s. 95A

(iii) wholly or in part or as amended by the regulations; and

S. 95(2)(ea) inserted by No. 67/2006 s. 24(2).

(ea) may prescribe any matter or thing, that is required or permitted by this Act to be prescribed, by reference to a kind, category or class of matter or thing; and

(f) may impose penalties not exceeding 20 penalty units for any contravention of the regulations.

S. 95(3) amended by No. 78/2010 s. 24(Sch. 1 item 5.1).

(3) The regulations may be disallowed in whole or in part by resolution of either House of Parliament.

S. 95(4) repealed by No. 78/2010 s. 24(Sch. 1 item 5.2).

* * * * *

S. 95A inserted by No. 85/2006 s. 157.

95A Incorporation of documents in certain subordinate instruments

(1) A subordinate instrument, made under a section of this Act 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 order or other instrument; or

(b) as formulated, issued, prescribed or published at the time the order or other instrument is made or at any time before then.

(2) Subsection (1) does not apply to the incorporation of a map or plan of an area of land unless the map or plan is lodged in the Central Plan Office of the Department.

PART 11—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS

96 Definition

In this Part—

2006 Act means the **Water (Governance) Act 2006**.

S. 96 substituted by No. 85/2006 s. 158.

97 Validation of certain orders or other instruments

An order or other instrument made or purported to be made under section 10 on or after 30 September 1994 or under section 24 on or after 15 December 1994 and in force, or purportedly in force, immediately before the commencement of section 157 of the 2006 Act that would have been validly made if section 95A had been in operation at the time the relevant order or other instrument was made or purported to have been made has, and is deemed always to have had, the same force and effect as it would have had—

S. 97 repealed by No. 74/2000 s. 3(Sch. 1 item 15.1), new s. 97 inserted by No. 85/2006 s. 158.

- (a) if section 95A had been in operation at that time; and
- (b) despite any failure or purported failure to comply with the requirements of section 32 of the **Interpretation of Legislation Act 1984** in respect of that order or other instrument.

* * * * *

Ss 97A–97C inserted by No. 39/1998 s. 9, repealed by No. 85/2006 s. 158.

S. 98
substituted by
No. 85/2006
s. 158.

98 Catchment Management Authorities deemed to be the same body

- (1) Despite the commencement of section 151 of the 2006 Act—
 - (a) a Catchment Management Authority that was in existence immediately before that commencement, is deemed to continue in existence, on and from that commencement, as if it were established under Division 3 of Part 2 of this Act as in force on and from that commencement; and
 - (b) each member of a Catchment Management Authority that was in existence immediately before that commencement, is deemed to continue in office as a member of the board of the Catchment Management Authority (as deemed to be established under Division 3 of Part 2) as if the member had been appointed under that Division for the remaining period of that member's term of appointment.
- (2) Despite the commencement of section 151 of the 2006 Act—
 - (a) any rights, property and assets that immediately before that commencement were vested in a Catchment Management Authority are deemed to be vested in the Catchment Management Authority (as deemed to be established under Division 3 of Part 2); and
 - (b) any debts, liabilities and obligations of a Catchment Management Authority that were existing immediately before that commencement are deemed to be the debts, liabilities and obligations of the Catchment

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- Management Authority (as deemed to be established under Division 3 of Part 2); and
- (c) a Catchment Management Authority (as deemed to be established under Division 3 of Part 2) is deemed to be substituted as a party to any proceedings pending in any court to which the Catchment Management Authority was a party immediately before that commencement; and
 - (d) a Catchment Management Authority (as deemed to be established under Division 3 of Part 2) is substituted as a party to any arrangement or contract entered into by or on behalf of the Catchment Management Authority and in force immediately before that commencement; and
 - (e) any reference to a Catchment Management Authority in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document whatsoever, so far as it relates to any period after that commencement and if not inconsistent with the context or subject-matter, must be construed as a reference to the Catchment Management Authority (as deemed to be established under Division 3 of Part 2).
- (3) For the purposes of this Act, a catchment and land protection region of a Catchment Management Authority (that is deemed to be established under Division 3 of Part 2) is deemed to be the area that was the catchment and land protection region of the Catchment Management Authority immediately before the commencement of section 151 of the 2006 Act.

s. 103

Ss 99–102
inserted by
No. 39/1998
s. 10,
repealed by
No. 85/2006
s. 158.

S. 103
inserted by
No. 39/1998
s. 10.

S. 104
inserted by
No. 67/2006
s. 25.

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103 Validation of actions of Boards

Anything done or purported to have been done under this Act, before the commencement of section 10 of the **Catchment and Land Protection (Amendment) Act 1998**, by a body deemed to have been established by section 99 of this Act that would have been validly done had section 10 of that Act been in operation at the time at which the thing was done or purported to have been done, has and is deemed always to have had, the same force and effect as it would have had if that section had been in operation at the time at which the thing was done or purported to have been done.

104 Transitional provision **Catchment and Land Protection (Further Amendment) Act 2006**

Section 46, as in force before the commencement of section 7 of the **Catchment and Land Protection (Further Amendment) Act 2006**, continues to apply to any prosecution under that section that had not been determined immediately before that commencement, as if section 7 of the **Catchment and Land Protection (Further Amendment) Act 2006** had not been enacted.

**105 Transitional provision—Revocation of declarations
under section 58**

S. 105
inserted by
No. 35/2009
s. 18.

On the commencement of section 18 of the
**Primary Industries Legislation Amendment
Act 2009**, all declarations of plants or animals
under section 58 in force immediately before that
commencement are revoked.

Catchment and Land Protection Act 1994
No. 52 of 1994

Sch. 1

SCHEDULES

Sch. 1
amended by
Nos 39/1998
s. 6(2)(Sch. 1
item 15),
46/1998
s. 7(Sch. 1),
61/2003 s. 34,
108/2004
s. 117(1)
(Sch. 3
items 26.2,
26.3), 80/2006
s. 26(Sch.
item 8.2),
repealed by
No. 85/2006
s. 159.

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SCHEDULE 2

**REGIONAL CATCHMENT STRATEGIES AND SPECIAL
AREA PLANS**

1 Definitions

In this Schedule—

management plan means a regional catchment strategy or a special area plan.

2 Preparing a management plan

- (1) An Authority may prepare a management plan.
- (2) A management plan must be prepared in accordance with any guidelines established by the Council.
- (3) In preparing a management plan the Authority must consult with—
 - (a) any Minister or public authority whose interests the Authority considers are likely to be affected by the management plan; and
 - (b) land owners in the area affected by the plan; and
 - (c) any other people whose interests the Authority considers are likely to be affected by the management plan.
- (4) An Authority may comply with subclause (3)(b) and (c) by—
 - (a) making the management plan available for inspection by the public for at least 4 weeks after its preparation; and
 - (b) publishing a notice in a newspaper circulating generally in the area affected by the plan stating where and when the

Sch. 2 cl. 2(1)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(a)).

Sch. 2 cl. 2(3)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(b)).

Sch. 2 cl. 2(4)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(c)).

Sch. 2

management plan can be inspected, and inviting public comment by a set date; and

- (c) considering any comments made by the set date; and
- (d) making any appropriate changes to the management plan.

Sch. 2 cl. 2(5)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(d)).

- (5) An Authority may take any other steps it thinks appropriate to involve the community in the preparation of a management plan.

3 Approval of plan

- (1) After complying with clause 2, an Authority must submit its management plan to the Minister for approval.

Sch. 2 cl. 3(1)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(e)).

- (2) The Minister may approve or refuse to approve the management plan or return it to the Authority with any recommendations for change that the Minister thinks appropriate.

Sch. 2 cl. 3(2)
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(f)).

- (3) Before approving the management plan the Minister must consult with any other Minister whose interests the Minister considers are likely to be affected by the management plan.

4 Operation of plan

- (1) The Minister must publish notice of approval of a management plan in the Government Gazette.
- (2) The management plan comes into operation on the date that notice is published in the Government Gazette or on any later day stated in the plan.

5 Plan to be available for inspection

- (1) The Secretary must without delay give notice of the approval of a management plan to each Minister or public authority whose interests the Secretary considers are likely to be affected by the plan.
- (2) The Secretary must make a management plan available for inspection by the public during normal office hours at places designated by the Secretary by notice published in the Government Gazette.
- (3) On payment of a fee determined in accordance with the **Conservation, Forests and Lands Act 1987**, a person may obtain from the Secretary a copy of or extract from a management plan.

6 Amendment of plan

This Schedule applies to an amendment of a management plan in the same way as it does to a management plan.

7 Revocation of plan

On the recommendation of the Authority of the region in which a management plan applies the Minister may, by order published in the Government Gazette, revoke the management plan.

Sch. 2 cl. 7
amended by
No. 39/1998
s. 6(2)(Sch. 1
item 16(g)).

Catchment and Land Protection Act 1994
No. 52 of 1994

Sch. 3

Sch. 3
repealed by
No. 74/2000
s. 3(Sch. 1
item 15.2).

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Sch. 4
amended by
No. 52/1998
s. 311(Sch. 1
item 12.6),
repealed by
No. 85/2006
s. 159.

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SCHEDULE 5

SPECIAL WATER SUPPLY CATCHMENT AREAS

| <i>Name of Catchment</i> | <i>Date of proclamation</i> | <i>Date of Govt. Gazette in which proclamation published</i> | <i>Area Sq. Km.</i> |
|--------------------------|-----------------------------|--|---------------------|
| Upper Barwon | 4/11/53 | 11/11/53 | 145 |
| Parwan | 24/1/56 | 1/2/56 | 157 |
| Upper Goulburn | 18/12/56 | 19/1/57 | 3535 |
| Glenmaggie | 21/11/57 | 4/12/57 | 1909 |
| Rocklands | 17/9/58 | 17/9/58 | 1342 |
| Wimmera Systems | 2/9/59 | 4/9/59 | 4383 |
| Riddells Creek | 12/1/60 | 13/1/60 | 5 |
| Gisborne-Sunbury | 12/1/60 | 13/1/60 | 6 |
| Lancefield | 22/3/60 | 23/3/60 | 19 |
| Romsey | 22/3/60 | 23/3/60 | 9 |
| Woodend | 22/3/60 | 23/3/60 | 4 |
| Mount Macedon | 22/3/60 | 23/3/60 | 3 |
| Macedon | 22/3/60 | 23/3/60 | 3 |
| Eppalock | 19/7/60 | 20/7/60 | 2116 |
| Cairn Curran | 29/5/62 | 30/5/62 | 1594 |
| Sunbury | 29/5/62 | 30/5/62 | 18 |
| Djerriwarrh | 27/11/62 | 5/12/62 | 26 |
| Tyers River | 30/1/63 | 6/3/63 | 317 |
| Kilmore | 25/5/63 | 29/5/63 | 5 |
| Bunyip River | 25/6/63 | 3/7/63 | 39 |
| Trawalla Creek | 8/10/63 | 16/10/63 | 108 |
| Lorne | 15/7/64 | 22/7/64 | 28 |
| Healesville | 8/9/64 | 16/9/64 | 3 |
| Upper Kiewa | 24/2/65 | 3/3/65 | 409 |
| Mirboo North | 24/2/65 | 3/3/65 | 8 |
| Orbost (Rocky River) | 18/5/65 | 26/5/65 | 23 |
| Lake Merrimu | 31/8/65 | 8/9/65 | 85 |
| McCraes Creek | 9/11/65 | 8/12/65 | 5 |
| Billys Creek | 1/3/66 | 9/3/66 | 21 |

Catchment and Land Protection Act 1994
No. 52 of 1994

Sch. 5

| <i>Name of Catchment</i> | <i>Date of proclamation</i> | <i>Date of Govt. Gazette in which proclamation published</i> | <i>Area Sq. Km.</i> |
|--------------------------------------|-----------------------------|--|---------------------|
| Drouin | 1/3/66 | 9/3/66 | 14 |
| Tarago River | 30/5/67 | 7/6/67 | 114 |
| Lake Nillahcootie | 19/9/67 | 27/9/67 | 413 |
| Lake Merrimu (Goodmans Creek) | 13/2/68 | 21/2/68 | 39 |
| Gellibrand River | 5/11/69 | 12/11/69 | 507 |
| Ryans Creek | 3/3/70 | 11/3/70 | 77 |
| Rosslynne Reservoir (Jacksons Creek) | 8/9/70 | 16/9/70 | 85 |
| Tarra River | 26/1/71 | 17/2/71 | 28 |
| Rosslynne Reservoir (Riddells Creek) | 14/9/71 | 22/9/71 | 21 |
| Micks Creek | 26/4/72 | 3/5/72 | 5 |
| Lal Lal Reservoir | 6/6/73 | 13/6/73 | 219 |
| Betka River | 18/9/73 | 26/9/73 | 108 |
| Thomson River (Stages 1, 1(a) & 2) | 25/9/73 | 3/10/73 | 332 |
| Lake Merrimu (Lerderderg River) | 15/4/75 | 23/4/75 | 218 |
| Avoca Town Water Supply | 19/8/75 | 27/8/75 | 10 |
| Nicholson River | 19/8/75 | 27/8/75 | 451 |
| Honeysuckle Creek | 25/5/76 | 2/6/76 | 25 |
| Cann River | 27/7/76 | 4/8/76 | 632 |
| Running Creek | 3/5/77 | 11/5/77 | 20 |
| Moorabool River (Sheoaks) | 16/5/78 | 24/5/78 | 460 |
| Stony Creek | 16/5/78 | 24/5/78 | 26 |
| Painkalac Creek (Aireys Inlet) | 16/5/79 | 13/6/79 | 34 |
| Lance Creek | 16/5/79 | 13/6/79 | 20 |
| Tennent Creek (Candowie Reservoir) | 16/5/79 | 13/6/79 | 19 |
| Nine Mile, Clear and Hurdle Creeks | 16/5/79 | 13/6/79 | 63 |

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No. 52 of 1994

Sch. 5

| <i>Name of Catchment</i> | <i>Date of proclamation</i> | <i>Date of Govt. Gazette in which proclamation published</i> | <i>Area Sq. Km.</i> |
|---------------------------------------|-----------------------------|--|---------------------|
| Bakers Gully (Bright) | 16/5/79 | 13/6/79 | 7 |
| Creswick | 16/5/79 | 13/6/79 | 33 |
| King River (Lake William Hovell) | 16/5/79 | 13/6/79 | 332 |
| Buckland River | 12/6/79 | 20/6/79 | 322 |
| Monument Creek | 12/6/79 | 20/6/79 | 9 |
| Gellibrand River (South Otway) | 12/6/79 | 20/6/79 | 183 |
| Tanjil River | 11/12/79 | 19/12/79 | 509 |
| Ballarat | 11/12/79 | 19/12/79 | 98 |
| Tullaroop Reservoir | 27/5/80 | 4/6/80 | 722 |
| Britania Creek | 27/5/80 | 4/6/80 | 18 |
| Pennyroyal, Matthews & Gosling Creeks | 12/8/80 | 20/8/80 | 74 |
| Sunny Creek | 2/12/80 | 10/12/80 | 5 |
| Narracan Creek | 16/12/80 | 7/1/81 | 82 |
| Skenes Creek | 23/12/80 | 7/1/81 | 8 |
| Mitchell River | 17/2/81 | 25/2/81 | 3900 |
| Rollo Creek | 28/4/81 | 6/5/81 | 6 |
| Bealiba | 28/4/81 | 6/5/81 | 6 |
| West Barham River | 24/11/81 | 2/12/81 | 12 |
| McCallum Creek | 22/6/82 | 30/6/82 | 187 |
| Walkley Creek (Boolarra) | 22/6/82 | 30/6/82 | 8 |
| Thomson River (Stage 3) | 8/2/83 | 9/2/83 | 158 |
| Tambo River | 25/1/84 | 1/2/84 | 2650 |
| Boggy Creek (Nowa Nowa) | 25/1/84 | 8/2/84 | 340 |
| Buchan River (Buchan) | 25/1/84 | 8/2/84 | 780 |
| Diddah Diddah Creek (Springhurst) | 13/6/84 | 20/6/84 | 11 |
| Ovens River (Bright) | 13/6/84 | 20/6/84 | 350 |
| Tomahawk Creek (Gembrook) | 13/6/84 | 20/6/84 | 3 |
| Sunday Creek (Broadford-Kilmore) | 13/6/84 | 20/6/84 | 20 |

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| <i>Name of Catchment</i> | <i>Date of proclamation</i> | <i>Date of Govt. Gazette in which proclamation published</i> | <i>Area Sq. Km.</i> |
|--|-----------------------------|--|---------------------|
| Buffalo River (Lake Buffalo) | 13/6/84 | 20/6/84 | 1150 |
| Seven Creeks & Mountain Hut Creek (Euroa) | 26/6/84 | 4/7/84 | 191 |
| Fifteen Mile Creek (Glenrowan) | 26/6/84 | 4/7/84 | 310 |
| Lake Hume (Victorian section) | 31/7/84 | 8/8/84 | 10 062 |
| Loddon River (Laanecoorie) | 24/9/85 | 2/10/85 | 1830 |
| Merino | 10/12/85 | 18/12/85 | 51 |
| Mollison Creek (Pyalong) | 12/3/86 | 26/3/86 | 166 |
| Bemm River | 22/7/86 | 30/7/86 | 939 |
| Brodribb River | 22/7/86 | 30/7/86 | 925 |
| Little Bass River (Poowong-Loch-Nyora) | 10/11/87 | 18/11/87 | 7 |
| Bellview & Ness Creeks (Korumburra) | 10/11/87 | 18/11/87 | 6 |
| Ruby Creek (Leongatha) | 10/11/87 | 18/11/87 | 9 |
| Battery Creek (Fish Creek) | 10/11/87 | 18/11/87 | 2 |
| Deep Creek (Foster) | 10/11/87 | 18/11/87 | 18 |
| Agnes River | 10/11/87 | 18/11/87 | 67 |
| Ovens River (Wangaratta) | 12/4/88 | 20/4/88 | 3070 |
| Fiery Creek Tributaries (Beaufort) | 4/10/88 | 12/10/88 | 8 |
| Musical Gully and Troy Reservoirs (Beaufort) | 4/10/88 | 12/10/88 | 1 |
| Langi Ghiran Reservoir | 4/10/88 | 12/10/88 | 1 |
| Picnic Road (Ararat) | 4/10/88 | 12/10/88 | 1 |
| Crusoe Group Reservoirs (Bendigo) | 15/3/89 | 15/3/89 | 16 |
| Spring Gully Reservoir (Bendigo) | 15/3/89 | 15/3/89 | 3 |
| Teddington Reservoir | 15/3/89 | 15/3/89 | 27 |

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Sch. 5

| <i>Name of Catchment</i> | <i>Date of proclamation</i> | <i>Date of Govt. Gazette in which proclamation published</i> | <i>Area Sq. Km.</i> |
|--|-----------------------------|--|---------------------|
| Barwon Downs Wellfield Intake Area (Geelong) | 15/3/89 | 15/3/89 | 77 |
| Yuppeckiar Creek Reservoir (Glenthompson) | 6/6/89 | 14/6/89 | 1 |
| Konong Wootong Reservoir (Coleraine) | 6/6/89 | 14/6/89 | 11 |
| Mortlake Spring (Mortlake) | 25/6/91 | 3/7/91 | 14 |
| Wannon River Tributaries (Lake Bellfield) | 25/7/89 | 2/8/89 | 2 |
| Mason Creek (Willaura) | 25/7/89 | 2/8/89 | 16 |
| Serra Range Tributaries (Dunkeld) | 25/6/91 | 3/7/91 | 48 |
| Little Tea Tree Creek Tributaries (Hamilton) | 25/7/89 | 2/8/89 | 4 |
| Pykes Creek Reservoir and Werribee River | 24/10/89 | 25/10/89 | 237 |
| Nine Mile Creek (Longwood) | 23/1/90 | 24/1/90 | 4 |
| Barambogie Creek (Chiltern) | 23/1/90 | 24/1/90 | 11 |
| Candowie Reservoir North | 24/4/90 | 2/5/90 | 2 |
| Tarwin River (Meeniyah) | 24/4/90 | 2/5/90 | 1077 |
| Merrimans Creek (Seaspray) | 24/4/90 | 2/5/90 | 544 |
| Deep Creek & Loch River (Noojee) | 31/7/90 | 1/8/90 | 112 |
| Redbank Creek (Redbank) | 25/9/90 | 26/9/90 | 3 |
| Forest Creek (Ampitheatre) | 25/9/90 | 26/9/90 | 3 |
| Learmonth Borefield | 25/6/91 | 3/7/91 | 59 |
| St Enochs Spring (Skipton) | 25/6/91 | 3/7/91 | 79 |

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Sch. 6

Sch. 6
inserted by
No. 39/1998
s. 11(Sch. 2),
repealed by
No. 85/2006
s. 159.

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Sch. 7

SCHEDULE 7

Section 102

Sch. 7
inserted by
No. 39/1998
s. 11(Sch. 2).

| Column 1 Body | Column 2 Regional Catchment and Land Protection Board |
|--|--|
| Wimmera Catchment and Land Protection Board | Wimmera Regional Catchment and Land Protection Board |
| Glenelg Catchment and Land Protection Board | Glenelg Regional Catchment and Land Protection Board |
| Corangamite Catchment and Land Protection Board | Corangamite Regional Catchment and Land Protection Board |
| North Central Catchment and Land Protection Board | North Central Regional Catchment and Land Protection Board |
| North East Catchment and Land Protection Board | North East Regional Catchment and Land Protection Board |
| Goulburn Catchment and Land Protection Board | Goulburn Regional Catchment and Land Protection Board |
| West Gippsland Catchment and Land Protection Board | West Gippsland Regional Catchment and Land Protection Board |
| East Gippsland Catchment and Land Protection Board | East Gippsland Regional Catchment and Land Protection Board |
| Mallee Catchment and Land Protection Board | Mallee Regional Catchment and Land Protection Board |

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 5 May 1994

Legislative Council: 31 May 1994

The long title for the Bill for this Act was "A Bill to establish a system of integrated management and protection for catchments, to establish a framework for controlling noxious weeds and pest animals, to repeal the **Soil Conservation and Land Utilization Act 1958** and the **Vermin and Noxious Weeds Act 1958**, to amend various other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 5 May 1994

Legislative Council: 31 May 1994

Absolute majorities:

Legislative Assembly: 27 May 1994

Legislative Council: 1 June 1994

The **Catchment and Land Protection Act 1994** was assented to on 15 June 1994 and came into operation as follows: Sections 1, 2 on 15 June 1994: section 2(1); sections 3–5, Part 2 (sections 6–19), Schedule 1 on 30 September 1994: Government Gazette 29 September 1994 page 2306; rest of Act on 15 December 1994: section 2(3).

2. Table of Amendments

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

Extractive Industries Development Act 1995, No. 67/1995

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

Zoological Parks and Gardens Act 1995, No. 106/1995 (as amended by No. 45/1997)

Assent Date: 5.12.95
Commencement Date: Ss 1, 2 on 5.12.95: s. 2(1); rest of Act on 30.4.96: Special Gazette (No. 45) 30.4.96 p. 1
Current State: All of Act in operation

Victorian Plantations Corporation (Amendment) Act 1998, No. 35/1998

Assent Date: 19.5.98
Commencement Date: S. 12 on 26.6.98: Government Gazette 25.6.98 p. 1561
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Catchment and Land Protection (Amendment) Act 1998, No. 39/1998

Assent Date: 26.5.98
Commencement Date: Ss 10, 11 on 26.5.98: s. 2(1); ss 3–9 on 31.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

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 **Catchment and Land Protection Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 12) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

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Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 8) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Petroleum Act 1998, No. 96/1998

Assent Date: 24.11.98
Commencement Date: S. 257(1) on 1.12.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 15) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Catchment and Land Protection (Amendment) Act 2003, No. 61/2003

Assent Date: 2.9.03
Commencement Date: Ss 4–34 on 5.1.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: S. 151 on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Planning and Environment (General Amendment) Act 2004, No. 81/2004

Assent Date: 16.11.04
Commencement Date: S. 45 on 23.5.05: Government Gazette 19.5.05 p. 930
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 26) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

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Geothermal Energy Resources Act 2005, No. 7/2005

Assent Date: 27.4.05
Commencement Date: S. 170 on 4.4.06: Special Gazette (No. 104) 4.4.06 p. 1
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 5) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Catchment and Land Protection (Further Amendment) Act 2006, No. 67/2006

Assent Date: 19.9.06
Commencement Date: Ss 5(2), 6, 9–12, 14, 15, 16(2), 17–20, 22, 24 on 20.9.06: s. 2(1); ss 3, 4, 5(1)(3), 7, 8, 13, 16(1), 21, 23, 25 on 24.10.06: Special Gazette (No. 284) 24.10.06 p. 1
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 11.10.06
Commencement Date: S. 26(Sch. item 8) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Water (Governance) Act 2006, No. 85/2006

Assent Date: 17.10.06
Commencement Date: Ss 149–159 on 31.10.06: Government Gazette 26.10.06 p. 2286
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Motor Car Traders Amendment Act 2008, No. 4/2008

Assent Date: 4.3.08
Commencement Date: S. 32(Sch. item 3) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

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Relationships Act 2008, No. 12/2008

Assent Date: 15.4.08
Commencement Date: S. 73(1)(Sch. 1 item 5) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Greenhouse Gas Geological Sequestration Act 2008, No. 61/2008

Assent Date: 5.11.08
Commencement Date: S. 319 on 1.12.09: Special Gazette (No. 439) 1.12.09 p. 1
Current State: This information relates only to the provisions amending the **Catchment and Land Protection Act 1994**

Resources Industry Legislation Amendment Act 2009, No. 6/2009

Assent Date: 3.3.09
Commencement Date: S. 46 on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Primary Industries Legislation Amendment Act 2009, No. 35/2009 (as amended by No. 36/2009)

Assent Date: 30.6.09
Commencement Date: Ss 11–17 on 1.7.09: s. 2(1); ss 9, 10, 18 on 1.10.10: Special Gazette (No. 398) 30.9.10 p. 1
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Primary Industries Legislation Amendment Act 2010, No. 48/2010

Assent Date: 24.8.10
Commencement Date: Ss 3–14 on 1.10.10: Government Gazette 30.9.10 p. 2286
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Subordinate Legislation Amendment Act 2010, No. 78/2010

Assent Date: 19.10.10
Commencement Date: S. 24(Sch. 1 item 5) on 1.1.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Catchment and Land Protection Act 1994**

Catchment and Land Protection Amendment Act 2013, No. 51/2013

Assent Date: 24.9.13
Commencement Date: 18.11.13: Special Gazette (No. 398) 12.11.13 p. 1
Current State: All of Act in operation

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Sale of Land Amendment Act 2014, No. 33/2014

Assent Date: 13.5.14

Commencement Date: S. 9 on 1.10.14: Special Gazette (No. 282) 26.8.14 p. 1

Current State: This information relates only to the provision/s
amending the **Catchment and Land Protection Act
1994**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014,
No. 37/2014**

Assent Date: 3.6.14

Commencement Date: S. 10(Sch. item 13) 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 **Catchment and Land Protection Act
1994**

Endnotes

3. Explanatory Details

No entries at date of publication.