

Authorised Version No. 001

Land Regulations 2016

S.R. No. 102/2016

Authorised Version as at
28 August 2016

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Land Regulations 2016

S.R. No. 102/2016

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1 Objectives

The objectives of these Regulations are—

- (a) to restrict the activities of members of the public on licensed water frontages; and
- (b) to prescribe fees and forms for the purposes of the **Land Act 1958**; and
- (c) to provide for the issue of duplicate documents; and
- (d) to provide for other matters for the purposes of the **Land Act 1958**.

2 Authorising provision

These Regulations are made under section 413 of the **Land Act 1958**.

3 Commencement

These Regulations come into operation on 28 August 2016.

4 Revocation

The Land Regulations 2006¹ are **revoked**.

5 Definitions

In these Regulations—

livestock means an animal (including a bird) of any species used in connection with primary production or kept for recreational purposes, other than a dog or a cat;

the Act means the **Land Act 1958**.

6 Application to surrender land

- (1) For the purposes of section 22C(1) of the Act, the prescribed form for an application for authority to surrender land to Her Majesty is the form in Schedule 1.
- (2) For the purposes of section 22C(3) of the Act, the prescribed form for a notice of intention to apply for authority to surrender land to Her Majesty is the form in Schedule 2.

7 Duplicate licence document

The Secretary may, on payment of the fee specified in regulation 12(4), issue a duplicate licence document to replace a lost, stolen or destroyed licence document.

8 Duplicate residence area right

If the Secretary is satisfied that a document granting a residence area right has been lost, stolen or destroyed and has not been lodged with any person, bank, corporation or institution as security or for safekeeping, the Secretary may issue a duplicate document.

9 Notice of demand to owner

For the purposes of section 188A(2) of the Act, the prescribed form for a notice of demand in respect of a building, structure, standing crop or improvement or any other thing that is placed or constructed on Crown land is the form in Schedule 3.

10 Notice of municipal council that a road is unused

For the purposes of section 400(2) of the Act, the prescribed form and particulars for a notice that a road or part of a road that a municipal council considers is not required for public traffic

is an unused road is the form and particulars in Schedule 4.

11 Water frontages

- (1) For the purposes of section 401A(1) of the Act, a person must not on a water frontage in respect of which a licence has been granted under Division 8 of Part I or section 138 of the Act—
- (a) except with the permission of the licensee, enter any part of that land which is cultivated or being reclaimed; or
 - (b) disturb, destroy or interfere with any nest or habitat of any bird or other animal; or
 - (c) deface, damage or in any way interfere with any building, gate, fence, barrier, sign or other structure; or
 - (d) subject to subregulation (2), cut, fell, pick, remove, take, destroy or damage any flora or other vegetation, whether alive or dead; or
 - (e) remove, dig or cut any soil, sand, rock or gravel; or
 - (f) light, or cause to be lit, any fire; or
 - (g) subject to subregulation (3), bring a dog onto, or allow a dog to remain on, that land; or
 - (h) injure, disturb or interfere with any livestock on that land.

Penalty: 0.2 penalty units.

Note

Under section 401A(1) of the Act, camping is prohibited on any water frontage in respect of which a licence has been granted under Division 8 of Part I or section 138 of the Act.

- (2) Subregulation (1)(d) does not apply to a person who—
- (a) cuts or takes away fallen or felled trees in accordance with section 57Q(4) of the **Forests Act 1958**; or
 - (b) cuts or takes away fallen or felled trees in accordance with section 21L(4) of the **Crown Land (Reserves) Act 1978**.
- (3) Subregulation (1)(g) does not apply—
- (a) if the dog is an assistance dog within the meaning of the **Equal Opportunity Act 2010**; or
 - (b) if the dog is a gundog within the meaning of the Wildlife (State Game Reserves) Regulations 2014² and—
 - (i) the person is crossing the water frontage for the purposes of hunting in accordance with the **Wildlife Act 1975** on land that can only be accessed by passage over the water frontage; and
 - (ii) the circumstances referred to in regulation 19 of the Wildlife (State Game Reserves) Regulations 2014 apply; and
 - (iii) the gundog is under the person's control at all times; or
 - (c) if the dog is a gundog within the meaning of the Wildlife (State Game Reserves) Regulations 2014 and—
 - (i) the gundog has been brought for the purposes of hunting or taking of game ducks in accordance with the **Wildlife Act 1975** and with the permission of the licensee; and

- (ii) the gundog is under the person's control at all times.

12 Licence fees

- (1) The fee payable for the entry of an application for a licence under section 29 of the Act is 1·4 fee units.
- (2) The fee payable for the preparation and issue of a licence is 7·4 fee units.
- (3) The fee payable for the transfer of a licence is 4·0 fee units.
- (4) The fee payable for the preparation of a duplicate licence document is 4·0 fee units.

13 Lease fees

- (1) The fee payable for the entry of an application for a lease under section 29 of the Act is 1·4 fee units.
- (2) The fee payable for the preparation and issue of a lease, other than a residence area purchase lease, is 24·1 fee units.
- (3) The fee payable for the preparation and issue of a residence area purchase lease is 11·2 fee units.
- (4) The fee payable for the transfer, assignment, mortgage, sublet or subdivision of a lease is 9·6 fee units.
- (5) The fee payable for an application by a licensee of auriferous land for a selection purchase lease is 4·0 fee units.

14 Crown grant fees

- (1) The fee payable for the preparation and issue of a grant of Crown land sold in fee simple is 10·3 fee units.
- (2) For the purposes of section 362A(1) of the Act, the prescribed fee for a declaration is 13·7 fee units.

15 Fee to assign interest under contract of sale

For the purposes of section 96(b) of the Act, the prescribed fee for a grant, transfer or assignment of interest is 4.6 fee units.

16 General fees

- (1) The fee payable for the preparation and supply of any deed or document not otherwise specified in these Regulations if the deed or document is prepared in connection with an application is 24.1 fee units.
- (2) The fee payable for the preparation and supply of any deed or document not otherwise specified in these Regulations if the deed or document is prepared in connection with a Crown grant, lease, licence, permit, right, consent, or other instrument granted or issued is 24.1 fee units.
- (3) The fee payable for the preparation and supply of any deed or document not otherwise specified in these Regulations if the deed or document is prepared in connection with an indorsement, registration, discharge, transfer or assignment is 24.1 fee units.

Schedule 1—Application to surrender land

Regulation 6(1)

APPLICATION FOR AUTHORITY TO SURRENDER LAND UNDER SECTION 22C OF THE LAND ACT 1958

To the Attorney-General of Victoria

Under section 22C of the **Land Act 1958**—

[*name*]

of

[*address*]

being the *registered proprietor/*person seized of an estate in fee simple in the land/*municipal council of a municipal district

[*description of land*]

apply for authority to surrender that land to Her Majesty.

It is declared that—

- (a) the land is not subject to any mortgage or charge; and
- (b) the land *is/*is not subject to any lease, tenancy or licence; and

[*details of any lease, tenancy or licence, if applicable*]

- (c) notice of intention to make this application was published—

on [*date*] and in [*name of newspaper*]

*Signed:

[*signature of applicant*]

[*signature of witness*]

[*name of witness*]

*Municipal council seal

[*affix seal and insert attestation clause*]

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Schedule 1—Application to surrender land

*Municipal council delegate

[insert name, designation and signature of delegate of municipal council]

Dated:

*Delete if not applicable.

Explanatory notes

1. A registered proprietor of land or a person seized of an estate in fee simple may apply to surrender land to the Crown if that land is referred to in Schedule Two A of the **Land Act 1958** or is declared to be land to which section 22C of the Act applies.
2. A municipal council of a municipal district may apply to surrender land to the Crown if that land is referred to in Schedule Two B of the **Land Act 1958**.

Schedule 2—Notice of intention to surrender land

Regulation 6(2)

NOTICE OF INTENTION TO APPLY FOR AUTHORITY TO SURRENDER LAND UNDER SECTION 22C OF THE LAND ACT 1958

Notice is given that after 30 days from the date of publication of this notice and before the end of 60 days after the date of publication of this notice, application will be made by—

[name of applicant]

to the Attorney-General of Victoria for authority under section 22C of the **Land Act 1958** to surrender the land described below to Her Majesty.

[description of land]

Any person wishing to object to the surrender of this land should lodge a written objection with the Attorney-General.

Schedule 3—Notice of demand to owner

Regulation 9

NOTICE OF DEMAND UNDER SECTION 188A OF THE LAND ACT 1958

To

[name of owner]

of

[address of owner]

being the owner of

[specify nature of building, structure, standing crop, improvement or other thing]

on the Crown land described below,

I,

[name]

of

[address]

being

*an authorised officer

*a person authorized by the Secretary

*a person authorized by the committee of management of the Crown land described in this notice

under section 188A of the **Land Act 1958**, require you to produce to me a current lease, licence, permit or other authority under the **Land Act 1958** or some other Act authorising you to keep or maintain the

[specify nature of building, structure, standing crop, improvement or other thing]

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Schedule 3—Notice of demand to owner

on the following Crown land:

Crown land having an area of approximately

in the Parish of _____,

County of _____

If after 21 days from the date of service of this notice, you have not produced a current lease, licence, permit or other authority under the **Land Act 1958** or some other Act, I will apply to the Magistrates' Court to order the

[specify nature of building, structure, standing crop, improvement or other thing]

to be removed by you at your expense within the time fixed by the order.

Dated:

Signed:

*Delete if not applicable.

**Schedule 4—Notice of municipal council
that road is unused**

Regulation 10

**NOTICE OF A MUNICIPAL COUNCIL UNDER SECTION 400
OF THE LAND ACT 1958 THAT A ROAD IS UNUSED**

To the Secretary

Under section 400 of the **Land Act 1958**, the

[insert name of municipal council]

gives notice that *the road/*each of the roads/*the part of the road described in the Table, being a road within the municipal district, is considered by Council to not be required for public traffic and is an unused road.

TABLE

<i>Parish</i>	<i>Description of location of road</i>
---------------	--

*Municipal council seal

[affix seal and insert attestation clause]

*Municipal council delegate

[insert name, designation and signature of delegate of municipal council]

Dated:

*Delete if not applicable.

Endnotes

1 General information

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

The Land Regulations 2016, S.R. No. 102/2016 were made on 23 August 2016 by the Governor in Council under section 413 of the **Land Act 1958**, No. 6284/1958 and came into operation on 28 August 2016: regulation 3.

The Land Regulations 2016 will sunset 10 years after the day of making on 23 August 2026 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

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

References to ILA s. 39B

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

Interpretation

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

- **Headings**

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

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before

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1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

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

- **Provision numbers**

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

- **Location of "legislative items"**

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

- **Other material**

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

2 Table of Amendments

There are no amendments made to the Land Regulations 2016 by statutory rules, subordinate instruments and Acts.

3 Amendments Not in Operation

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

4 Explanatory details

¹ Reg. 4: S.R. No. 118/2006.

² Reg. 11(3)(b): S.R. No. 190/2014 as amended by S.R. No. 16/2015.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2016 is \$13.94. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2016 is \$155.46.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.