

Authorised Version No. 024
Sustainable Forests (Timber) Act 2004
No. 48 of 2004

Authorised Version incorporating amendments as at
1 August 2015

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
Part 1—Preliminary	1
1 Purposes	1
2 Commencement	2
3 Definitions	2
4 Act binds the Crown	9
Part 2—Sustainable forest management	10
5 Principles of ecologically sustainable development	10
6 Minister to determine sustainability criteria and indicators and reporting requirements	11
7 Determination to be published	12
8 Secretary to report on indicators	12
9 VicForests to provide certain information to the Secretary	12
10 Minister may arrange audits	12
11 Sustainability Charter	13
12 VicForests to respond to Sustainability Charter	13
Part 3—Allocation to VicForests	15
12A Timber resources are property of the Crown	15
13 Minister may make allocation order	15
14 Property vests in VicForests on publication of order	15
15 Contents of an allocation order	16
16 VicForests' functions under allocation order	17
17 Power to amend or vary allocation order	17
17A Effect of amendment or variation relating to the allocation of timber resources	18
18 Review of allocation of timber resources	19
19 Minister to have regard to certain matters	19
20 What happens after a review?	20
21 Minister to consult on reduction of allocation	21
21A Rights of third parties	21
22 Minister's and Secretary's powers and functions not affected by order	21

<i>Section</i>	<i>Page</i>
23 Charges	22
24 VicForests required to pay charges	22
Part 4—Managed licences	23
Division 1—Transferred licences (east)	23
25 VicForests to administer and receive fees from transferred licences (east)	23
26 VicForests powers	23
27 Expiry of licence and no compensation or proceedings	24
Division 3—Transferred agreements	26
31 VicForests to administer and receive fees from transferred agreements	26
32 Powers in respect of transferred agreements	26
Division 4—General	27
33 VicForests cannot grant licence or permit	27
34 Part does not operate to breach contracts etc.	27
35 Ministerial orders	28
Part 5—Management of timber resources by VicForests	30
37 VicForests to prepare plan	30
38 Contents of plan	30
41 VicForests to publish notice of plan	31
43 Review of and changes to timber release plan	32
44 VicForests to operate in accordance with timber release plan	33
45 Offence to undertake unauthorised timber harvesting operations	33
Part 6—Management of timber harvesting	35
Division 1—Codes of Practice	35
46 Compliance with Codes of Practice	35
47 Minister may arrange audits	35
48 VicForests to respond to audit	36
49 Minister to make findings available	36
Part 7—Conduct of timber harvesting operations	38
70 Direction in relation to conduct of timber harvesting operations	38
71 Suspension of timber harvesting operation	38
72 What must a suspension notice contain?	39
73 Notices may include directions	39
74 Expiry of suspension notice once matter remedied	39
75 Offence not to comply with suspension notice	40
76 Appeals against suspension notices	40
77 Occupational Health and Safety Act 2004 prevails	41

<i>Section</i>	<i>Page</i>
Part 7A—Timber harvesting safety zones	42
77A Power to declare certain areas for the purposes of this Part	42
77B What is a <i>timber harvesting safety zone</i> ?	42
77C Notice of timber harvesting safety zone to be given	42
77D Direction to leave a timber harvesting safety zone	43
77E Direction to stop or move a vehicle in a timber harvesting safety zone	43
77F Direction to remove a dog from a timber harvesting safety zone	44
77G Offence to enter or remain in a timber harvesting safety zone	44
77H Offence to be in possession of a prohibited thing in a timber harvesting safety zone	44
77I Offence to allow a dog to enter a timber harvesting safety zone	44
77J Offence to remove or destroy a barrier or fence	45
77K Offence to remove or destroy notice	45
Part 8—Fire prevention and suppression	46
78 Agreements for prevention and suppression of fire	46
79 Secretary may direct VicForests staff	46
80 Secretary and authorised officers may direct timber harvesters	46
81 Person must comply with direction	46
82 Secretary to reimburse for assistance	46
83 Part does not derogate from certain Acts	47
Part 8A—Enforceable undertakings	48
83A Enforceable undertakings	48
83B Enforcement of undertakings	49
83C Register of undertakings	50
Part 9—Enforcement	52
84 Requirement to give name and address	52
85 Authorised officers must identify themselves	53
86 Offence to hinder or obstruct an authorised officer	53
87 Offence to threaten or abuse an authorised officer	53
88 Power to seize items	54
89 Return of seized items	54
89A Retention and return or forfeiture of certain seized items	55
90 Recovery of seized item and compensation	56
91 Forfeiture to Crown	57
92 Court may order forfeiture to the Crown	58
92A Time for bringing certain proceedings	58
93 Direction to remove obstructions	58
94 Authorised officer may remove obstructions in State forest	59

<i>Section</i>	<i>Page</i>
Part 9A—General offences	61
94A Offence to hinder, obstruct or interfere with timber harvesting operations by using prohibited thing	61
94B Offence to hinder, obstruct or interfere with timber harvesting operations	61
Part 9B—Exclusion orders	62
94C Meaning of specified offence	62
94D Exclusion orders	62
94E Variation of exclusion order	64
94F Offence to contravene exclusion order	65
94G Direction to leave area to which exclusion order applies	65
94H Offence to refuse or fail to comply with direction to leave area to which exclusion order applies	66
Part 10—Miscellaneous	67
95 Limitation of Supreme Court's jurisdiction	67
96 Regulations	67
97 Native title rights and interests not affected	68
Part 13—Transitional provisions	70
140 Existing allocation order and timber release plan	70
Schedules	71
Schedule 1—Transferred licences (east)	71
Schedule 2—Authorised persons for the purposes of Part 7A	74
=====	
Endnotes	77
1 General information	77
2 Table of Amendments	79
3 Amendments Not in Operation	82
4 Explanatory details	83

Authorised Version No. 024
Sustainable Forests (Timber) Act 2004
No. 48 of 2004

Authorised Version incorporating amendments as at
1 August 2015

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

S. 1(ab)
inserted by
No. 42/2013
s. 3.

(a) to provide a framework for sustainable forest management and sustainable timber harvesting in State forests;

(ab) to provide for the granting of long-term access to timber resources in State forests;

S. 1(ac)
inserted by
No. 42/2013
s. 3.

(ac) to foster investment in, and returns from, timber resources in State forests;

S. 1(ad)
inserted by
No. 11/2014
s. 3.

(ad) to establish, and to provide for the enforcement of, timber harvesting safety zones so as to reduce risks to public safety and disruption of timber harvesting operations;

S. 1(ae)
inserted by
No. 11/2014
s. 3.

(ae) to deter activities that create risks to public safety in timber harvesting safety zones and that cause disruption of timber harvesting operations;

(b) to amend the **Forests Act 1958** and the **Conservation, Forests and Lands Act 1987**.

2 Commencement

- (1) This Part, sections 97, 98, 100(1), 103, 104, 105, 107, 108, 110, 112, 116, 122, 123(1), 124 and 125, Part 12 (except section 130) and Part 13 (except section 138) come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (5), Division 1 of Part 4, section 95(1) and Schedule 1 come into operation on a day to be proclaimed.

* * * * *

S. 2(3)
repealed by
No. 21/2006
s. 3(a).

- (4) Subject to subsection (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (5) If a provision referred to in subsection (2) or (4) does not come into operation before 1 July 2006, it comes into operation on that day.

S. 2(5)
amended by
No. 21/2006
s. 3(b).

3 Definitions

In this Act—

allocation order means an order made in accordance with Part 3;

* * * * *

S. 3 def. of
approved timber release plan
repealed by
No. 42/2013
s. 4(2)(a).

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

S. 3 def. of
authorised person
inserted by
No. 11/2014
s. 4(1).

authorised person means a person specified in
Schedule 2;

S. 3 def. of
Country Fire Authority
inserted by
No. 11/2014
s. 4(1).

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

Country Fire Authority has the same meaning as
Authority has in the **Country Fire
Authority Act 1958**;

S. 3 def. of
coupe
substituted by
No. 11/2014
s. 4(2).

coupe means a specific area of State forest
identified for the purposes of timber
harvesting and regeneration in a timber
release plan and in Part 7A includes the
following—

- (a) a coupe specified in a Wood Utilisation
Plan prepared under the Code of
Practice for Timber Production made
under Part 5 of the **Conservation,
Forests and Lands Act 1987**;
- (b) an area specified in a licence granted
under section 52 of the **Forests Act
1958**—
 - (i) for a purpose referred to in
subsection (1A)(c), (d), (e), (f)
or (g) of that section; and
 - (ii) in respect of which a declaration
under section 77A has been made;

S. 3 def. of
Department
inserted by
No. 11/2014
s. 4(1).

Department means the Department of
Environment and Primary Industries;

Environment Protection Authority has the same meaning as ***Authority*** has in the **Environment Protection Act 1970**;

S. 3 def. of *Environment Protection Authority* inserted by No. 11/2014 s. 4(1).

exclusion order means an order made under section 94D;

S. 3 def. of *exclusion order* inserted by No. 11/2014 s. 4(1).

forest stand means a group of trees within a State forest that share common characteristics relating to eucalypt species composition and age;

managed licence means a transferred agreement or transferred licence (east) which VicForests administers, manages and enforces under Part 4;

S. 3 def. of *managed licence* amended by No. 21/2006 s. 4(a).

* * * * *

S. 3 def. of *member of the police force* inserted by No. 11/2014 s. 4(1), repealed by No. 37/2014 s. 10(Sch. item 164.1(b)).

Minister for Agriculture means the Minister administering the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**;

S. 3 def. of
police officer
inserted by
No. 37/2014
s. 10(Sch.
item 164.1(a)),
amended by
No. 21/2015
s. 3(Sch. 1
item 53).

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

S. 3 def. of
*prohibited
thing*
inserted by
No. 11/2014
s. 4(1).

*principles of ecologically sustainable
development* means the principles set out in
section 5;

prohibited thing means—

- (a) a bolt cutter; or
- (b) cement or mortar mix; or
- (c) a constructed metal or timber frame; or
- (d) a linked or a heavy steel chain; or
- (e) a shackle or joining clip;

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

S. 3 def. of
*State
Emergency
Service*
inserted by
No. 11/2014
s. 4(1).

State Emergency Service has the same meaning
as *Service* has in the **Victoria State
Emergency Service Act 2005**;

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

suspension notice means a notice issued under
section 71;

S. 3 def. of
*timber
harvesting
operations*
substituted by
No. 11/2014
s. 4(3).

timber harvesting operations means any of the
following kinds of activities carried out by
VicForests or by any other person or body—

- (a) for the primary purpose of the sale, or
the processing and sale—

- (i) felling or cutting trees or parts of trees;
 - (ii) taking or removing timber;
 - (iii) delivering timber to a buyer or transporting to a place for collection by a buyer or sale to a buyer;
 - (iv) any works, including road works, ancillary to any of the activities referred to in subparagraphs (i) to (iii); or
- (b) for the supply of pulpwood in accordance with a Plan of Utilization within the meaning of the Agreement set out in the Schedule to the **Forests (Wood Pulp Agreement) Act 1996**, an activity of a kind referred to in paragraph (a)(i) to (iv); or
- (c) regeneration burning—
but does not include the collection of firewood for domestic use;

* * * * *

S. 3 def. of *timber harvesting operator's licence* repealed by No. 42/2013 s. 26.

timber harvesting safety zone has the meaning given by section 77B;

S. 3 def. of *timber harvesting safety zone* inserted by No. 11/2014 s. 4(1).

timber release plan means a plan prepared under section 37, notice of which has been published under section 41;

S. 3 def. of *timber release plan* substituted by No. 42/2013 s. 4(1).

timber resources means timber from the trees or parts of trees which are specified as available for timber harvesting in an allocation order but does not include firewood collected for domestic use;

S. 3 def. of *traditional owner group* inserted by No. 11/2014 s. 4(1).

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

transferred agreement means—

- (a) the agreement entered into pursuant to section 21 of the **Forests Act 1958** between the Secretary and Harris Daishowa (Australia) Pty Ltd, ACN 000 604 795 and dated 29 September 1997, as amended from time to time in accordance with its terms;
- (b) an agreement entered into pursuant to section 21 of the **Forests Act 1958** to which an order under section 35 applies;

transferred licence (east) means a licence or permit granted under section 52 of the **Forests Act 1958** in respect of the east of the State of Victoria—

- (a) specified in Schedule 1 and in existence immediately before the commencement of that Schedule; or
- (b) to which an order under section 35 applies;

S. 3 def. of *transferred licence (west)* repealed by No. 21/2006 s. 4(b).

* * * * *

transport authority means—

- (a) a road authority within the meaning of the **Road Management Act 2004**; or
- (b) a rail corporation, a train operator or a tram operator under the **Rail Management Act 1996**; or
- (c) a person operating a regular passenger service within the meaning of the **Bus Services Act 1995** under the authority of a service contract within the meaning of that Act; or
- (d) the Director, Transport Safety within the meaning of the **Transport Integration Act 2010**; or
- (e) a person to whom section 61, 62, 63, 64, 65, 66 or 67 of the **Rail Management Act 1996** applies;

S. 3 def. of *transport authority* inserted by No. 11/2014 s. 4(1).

utility means—

- (a) an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like services under the authority of an Act of Victoria or the Commonwealth; or
- (b) any person who under the **Pipelines Act 2005** is the holder of a licence to construct and operate a pipeline;

S. 3 def. of *utility* inserted by No. 11/2014 s. 4(1).

vested timber resources means timber resources vested in VicForests under section 14(1);

S. 3 def. of *vested timber resources* amended by No. 42/2013 s. 4(2)(b).

S. 3 def. of
VicForests
amended by
No. 11/2014
s. 4(4).

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

S. 3 def. of
VicRoads
inserted by
No. 11/2014
s. 4(1).

VicRoads has the same meaning as *Roads
Corporation* has in the **Transport
Integration Act 2010;**

S. 3 def. of
*WorkSafe
Victoria*
inserted by
No. 11/2014
s. 4(1).

WorkSafe Victoria has the same meaning as it has
in the **Accident Compensation Act 1985.**

4 Act binds the Crown

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

Part 2—Sustainable forest management

5 Principles of ecologically sustainable development

- (1) In undertaking sustainable forest management in accordance with this Act, regard is to be had to the principles of ecologically sustainable development set out in this section.
- (2) Ecologically sustainable development is development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends.
- (3) The objectives of ecologically sustainable development are—
 - (a) to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations;
 - (b) to provide for equity within and between generations;
 - (c) to protect biological diversity and maintain essential ecological processes and life-support systems.
- (4) The following are to be considered as guiding principles of ecologically sustainable development—
 - (a) that decision making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
 - (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

- (c) the need to consider the global dimension of environmental impacts of actions and policies;
- (d) the need to develop a strong, growing and diversified economy which can enhance the capacity for environment protection;
- (e) the need to maintain and enhance international competitiveness in an environmentally sound manner;
- (f) the need to adopt cost effective and flexible policy instruments such as improved valuation, pricing and incentive mechanisms;
- (g) the need to facilitate community involvement in decisions and actions on issues that affect the community.

6 Minister to determine sustainability criteria and indicators and reporting requirements

- (1) The Minister must determine criteria and indicators for sustainable forest management.
- (2) In determining criteria and indicators under subsection (1), the Minister may take into account any nationally or internationally agreed criteria and indicators for sustainable forest management.
- (3) As part of a determination under subsection (1), the Minister must also determine—
 - (a) the reporting requirements relating to each indicator determined under subsection (1); and
 - (b) the frequency at which such reports are to be made, being a period not less than every 5 years.

7 Determination to be published

The Minister must—

- (a) publish a copy of a determination under section 6 in the Government Gazette; and
- (b) cause a notice that a determination under section 6 has been made to be published in a newspaper circulating generally within the State.

8 Secretary to report on indicators

The Secretary must report to the Minister on the status, performance or achievement in relation to the indicators determined by the Minister under section 6 within the time determined under that section.

9 VicForests to provide certain information to the Secretary

- (1) For the purposes of section 8, the Secretary may require VicForests to provide such information as the Secretary specifies about the carrying out of VicForests' functions under an allocation order as those functions relate to the indicators determined under section 6.
- (2) A requirement under subsection (1) must be in writing.
- (3) VicForests must comply with a requirement of the Secretary under this section.

10 Minister may arrange audits

- (1) If the Minister believes it is appropriate to do so, the Minister may ask an appropriately qualified person to audit information provided in the Secretary's report under section 8 relating to status, performance or achievement in relation to the indicators determined by the Minister under section 6.

- (2) In carrying out an audit under subsection (1), a person may audit—
 - (a) any information provided to the Secretary by VicForests under section 9, including any information used by VicForests to prepare the information provided to the Secretary under that section; and
 - (b) any other information used by the Secretary to prepare the Secretary's report under section 8.

11 Sustainability Charter

- (1) The Minister may develop a Sustainability Charter.
- (2) A Sustainability Charter must set out objectives, consistent with the principles of ecologically sustainable development, for—
 - (a) the sustainability of forests; and
 - (b) the sustainability of the timber harvesting industry.
- (3) The Minister must consult with the Treasurer and the Minister for Agriculture in developing a Sustainability Charter.

12 VicForests to respond to Sustainability Charter

- (1) If the Minister prepares a Sustainability Charter under section 11, VicForests must develop initiatives and targets for those initiatives which respond to and support the objectives set out in the Charter.
- (2) VicForests must include the initiatives and targets referred to in subsection (1) in its statement of corporate intent required under the **State Owned Enterprises Act 1992**.

- (3) VicForests must include in its report of operations required under the **Financial Management Act 1994** a report on the status, performance or achievement of the initiatives and targets referred to in subsection (1).

Part 3—Allocation to VicForests

S. 12A
inserted by
No. 42/2013
s. 5.

12A Timber resources are property of the Crown

- (1) All timber resources in State forest are the property of the Crown.
- (2) Property in timber resources only passes from the Crown—
 - (a) to VicForests in accordance with section 14(1); or
 - (b) otherwise in accordance with this Act.

13 Minister may make allocation order

The Minister, by order published in the Government Gazette, may—

- (a) allocate timber in State forests to VicForests for the purposes of harvesting and selling, or harvesting or selling, timber resources; and
- (b) permit VicForests to undertake associated management activities in relation to that allocated timber including—
 - (i) preparation of sites for timber harvesting;
 - (ii) construction of access roads to coupes;
 - (iii) site rehabilitation;
 - (iv) forest regeneration;
 - (v) any other activities specified in the order.

S. 14
substituted by
No. 42/2013
s. 6.

14 Property vests in VicForests on publication of order

- (1) On the publication of an order under section 13, property in the timber allocated by the order is vested in VicForests.

- (2) VicForests may only harvest and sell, or harvest or sell, vested timber resources in accordance with the order.
- (3) Subject to this Act and to the allocation order, VicForests is entitled to retain the revenue received from harvesting and selling, or harvesting or selling, vested timber resources.

15 Contents of an allocation order

S. 15
substituted by
No. 42/2013
s. 6.

- (1) An allocation order must include—
 - (a) in relation to the timber resources allocated—
 - (i) a description of the forest stands to which the order applies;
 - (ii) references to, or details of, the extent and location of the forest stands to which the order applies;
 - (iii) a description of the total area available for harvest in each forest stand;
 - (b) a list of the activities (if any) additional to those referred to in section 13(b) that VicForests is permitted to undertake in the areas to which the order applies.
- (2) An allocation order may include any condition, limitation, matter or specification that the Minister thinks fit.
- (3) Without limiting subsection (2), an allocation order may include a condition, limitation, matter or specification as to the area that may be harvested during a period specified in the order.
- (4) Without limiting subsection (2), an allocation order may include the following in relation to the preparation of a plan under section 37, or the changing of a timber release plan under section 43—

- (a) a specification as to the persons or bodies with whom or with which VicForests must consult in relation to timber harvesting operations proposed in any coupes specified in a plan;
 - (b) a condition as to the manner in which that consultation must occur.
- (5) A specification or condition referred to in subsection (4) that relates to the changing of a timber release plan under section 43, may differ according to the kind of change proposed to be made to the plan.

16 VicForests' functions under allocation order

On the making of an allocation order, VicForests must carry out its functions in accordance with that order, in so far as those functions relate to timber resources or the area to which the order applies.

17 Power to amend or vary allocation order

- (1) The Minister, by order published in the Government Gazette, may amend or vary an allocation order for the following purposes—
- (a) to fix an obvious error or mistake;
 - (b) to change permitted activities referred to in section 15(1)(b);
 - (ba) to change conditions, limitations, matters or specifications referred to in section 15(2), (3) or (4);
 - (c) in the case of an amendment or variation relating to the allocation of timber resources, after a review under section 18.

S. 17(1)(b)
substituted by
No. 42/2013
s. 7.

S. 17(1)(ba)
inserted by
No. 42/2013
s. 7.

- (2) An order made under subsection (1) amending or varying an allocation order takes effect—
 - (a) on the date the order is published in the Government Gazette; or
 - (b) if a later date is specified in the order, on that later date.

17A Effect of amendment or variation relating to the allocation of timber resources

S. 17A
inserted by
No. 42/2013
s. 8.

- (1) This section applies if an allocation order is amended or varied in accordance with section 17(1)(c).
- (2) If the effect of the amendment or variation is to increase the timber resources allocated by the order, the timber resources specified in the order following its amendment or variation that were not specified in the order immediately before its amendment or variation, vest in VicForests on the day the amendment or variation takes effect.
- (3) If the effect of the amendment or variation is to reduce the timber resources allocated by the order, the vested timber resources specified as having been reduced are divested from VicForests and vest in the Crown—
 - (a) in the case of an amendment or variation that was made as a result of a review referred to in section 18(2)(a) or (b), on the date the order takes effect; or
 - (b) in the case of an amendment or variation that was made as a result of a review referred to in section 18(2)(c)—
 - (i) on the date or dates specified in an agreement referred to in section 20(3)(a); or

- (ii) on the date calculated in accordance with section 20(3)(b).

Note

Section 21A provides that an allocation order cannot be amended or varied in relation to any vested timber resources in respect of which property has passed to a third party.

18 Review of allocation of timber resources

S. 18(1)
repealed by
No. 42/2013
s. 9.

* * * * *

- (2) The Minister may review the allocation of timber resources at any time if—
- (a) the Minister considers that there has been a significant variation, as a result of fire, disease or other natural causes, in the timber resources in State forests which are available for timber harvesting in accordance with sustainable forest management; or
 - (b) there has been any significant increase or reduction in the land base which is zoned as available for timber harvesting; or
 - (c) the Minister considers that there has been any other event or matter which has a significant impact on the timber resources in State forests which are available for timber harvesting in accordance with sustainable forest management.

19 Minister to have regard to certain matters

In reviewing the allocation of timber resources under section 18, and in determining whether to amend or vary the allocation order, the Minister must have regard to the following matters—

- (a) the principles of ecologically sustainable development;

- (b) any report by the Secretary under section 8;
- (c) the structure and condition of the forest and its impact on future timber resource availability;
- (d) VicForests' compliance with the allocation order, including the conditions specified in the order;
- (e) the provisions of any Code of Practice;
- (f) VicForests' compliance with any Code of Practice;
- (g) any existing timber commitments VicForests has under any managed licences and any agreements VicForests has entered into.

S. 19(d)
amended by
No. 42/2013
s. 10(a).

S. 19(f)
amended by
No. 42/2013
s. 10(b).

20 What happens after a review?

- (1) After conducting a review under section 18, the Minister, in accordance with section 17, may make any amendments or variations to the allocation order that the Minister considers appropriate.
- (2) Without limiting subsection (1), the Minister may—

* * * * *

S. 20(2)(a)
repealed by
No. 42/2013
s. 11(1).

- (b) reduce or increase the timber resources allocated to VicForests;
- (c) vary or amend any conditions in the allocation order.

S. 20(3)
substituted by
No. 48/2005
s. 3,
amended by
No. 42/2013
s. 11(2).

- (3) If the Minister makes any amendment or variation to an allocation order as a result of a review referred to in section 18(2)(c) which reduces the timber resources allocated to VicForests, the amendment or variation must provide for the implementation of the reduction—
- (a) if the Minister and VicForests agree to a period (not exceeding 10 years) over which the reduction is to be implemented, in accordance with that agreed period; or
 - (b) if no period is agreed for the implementation of the reduction under paragraph (a), at the expiry of 10 years after the date that the order amending or varying the allocation order takes effect.

S. 21
amended by
No. 42/2013
s. 12.

21 Minister to consult on reduction of allocation

The Minister must consult with the Treasurer before reducing any timber resources allocated to VicForests.

S. 21A
inserted by
No. 42/2013
s. 13.

21A Rights of third parties

- (1) An allocation order cannot be amended or varied in relation to any vested timber resources in respect of which property has passed to a third party.
- (2) Nothing in this Act is to be taken to affect the rights of a third party in relation to vested timber resources of a kind referred to in subsection (1).

S. 22
(Heading)
substituted by
No. 35/2010
s. 24(Sch. 6
item 3(1)).
S. 22
amended by
No. 35/2010
s. 24(Sch. 6
item 3(2)).

22 Minister's and Secretary's powers and functions not affected by order

Nothing in an allocation order affects the powers and functions of the Minister or the Secretary under this Act or the **Forests Act 1958** in respect of timber resources or in respect of an area to which an allocation order applies, other than the Secretary's powers and functions in relation to

harvesting and selling or harvesting or selling vested timber resources.

23 Charges

- (1) VicForests and the Secretary must make reasonable endeavours to negotiate and enter into agreements relating to the charges payable by VicForests to the Secretary for the following matters—
 - (a) any reasonable costs incurred by the Secretary in developing trees for harvesting and sale or harvesting or sale and making such trees available to VicForests; and
 - (b) the reasonable costs of providing roads and other access for the purposes of timber harvesting in areas to which an allocation order applies; and
 - (c) the reasonable costs of any agreed silvicultural program.
- (2) If no agreement is entered into under subsection (1) within a reasonable time, the Minister administering section 8 of the **Financial Management Act 1994** may determine the charges to be paid to the Secretary by VicForests for the matters referred to in that subsection.

24 VicForests required to pay charges

- (1) VicForests must pay to the Secretary all charges required to be paid to the Secretary in accordance with section 23.
- (2) All charges received by the Secretary from VicForests under subsection (1) are to be applied for the purposes of the matters referred to in section 23(1).

Part 4—Managed licences

Division 1—Transferred licences (east)

25 VicForests to administer and receive fees from transferred licences (east)

On and from the commencement of this section—

- (a) subject to this Part, the management, administration and enforcement of a transferred licence (east) is transferred from the Secretary to VicForests; and
- (b) despite anything to the contrary in section 52 of the **Forests Act 1958**, any rent, fee, royalty or charge determined by the Secretary under section 52 of the **Forests Act 1958** before that commencement in respect of a transferred licence (east) that is payable after that commencement—
 - (i) is payable to VicForests until the expiry of the transferred licence (east); and
 - (ii) may be collected and recovered by VicForests until the expiry of that transferred licence (east); and
- (c) a reference in a transferred licence (east) to the Secretary must be taken to be a reference to VicForests, unless the context otherwise requires.

26 VicForests powers

For the purposes of section 25, VicForests has, in respect of any transferred licence (east), and to the extent specified, the following powers of the Minister or the Secretary under the **Forests Act 1958**—

- (a) the powers in section 5(1)(b) and (c) of that Act;

S. 26
amended by
No. 35/2010
s. 24(Sch. 6
item 3(3)).

- (b) the powers in section 52(1) of that Act to determine—
 - (i) additional covenants, terms and conditions which it is appropriate to impose in a particular case; and
 - (ii) any rent, fees, royalties or charges payable;
- (c) the powers in section 52(3) of that Act to authorise the transfer of a transferred licence (east);
- (d) the powers in section 52(5) of that Act to suspend a transferred licence (east);
- (da) if the cancellation is approved by the Minister for Agriculture, the powers in section 52(5) of that Act to cancel a transferred licence (east);
- (e) the powers in section 53(2) and (3) of that Act.

S. 26(d)
substituted by
No. 35/2010
s. 24(Sch. 6
item 3(4)).

S. 26(da)
inserted by
No. 35/2010
s. 24(Sch. 6
item 3(4)).

27 Expiry of licence and no compensation or proceedings

On and from the commencement of section 25, a transferred licence (east) expires at the end of its term (as existing immediately before the commencement of that section) and, despite anything to the contrary in that licence or section 52(6) of the **Forests Act 1958** as in force immediately before its repeal—

- (a) VicForests is not empowered to renew or reissue any transferred licence (east) or grant any further licences or permits in relation to that licence; and

- (b) any entitlement, right or purported right in existence before that commencement in respect of the granting of any further licence or permit under section 52(6) of the **Forests Act 1958** as in force immediately before its repeal ceases to exist; and
- (c) the holder of a transferred licence (east) is not entitled to have that licence renewed or reissued, whether any entitlement, right or purported right to do so in respect of that licence arose under section 52(6), a term or condition of that licence or in any other manner; and
- (d) no proceedings may be taken—
 - (i) in respect of any loss, damage or injury from or arising out of—
 - (A) the loss of any entitlement, right or purported right referred to in paragraph (b) or (c); or
 - (B) the enactment of this Division; or
 - (ii) to seek a renewal, reissue of a transferred licence (east) or the grant of any further licences or permits in relation to that licence, whether arising out of an entitlement or a right or purported right to do so under section 52(6), a term or condition of that licence or in any other manner; and
- (e) no compensation is payable in respect of any loss, damage or injury from or arising out of—
 - (i) the loss of any entitlement, right or purported right referred to in paragraph (b) or (c); or
 - (ii) the enactment of this Division.

* * * * *

Pt 4 Div. 2
(Heading and
ss 28–30)
repealed by
No. 21/2006
s. 5(1).

Division 3—Transferred agreements

31 VicForests to administer and receive fees from transferred agreements

On and from the commencement of this section—

- (a) subject to this Part, the management, administration and enforcement of a transferred agreement is transferred from the Secretary to VicForests; and
- (b) despite anything to the contrary in the **Forests Act 1958** or a transferred agreement, any rent, fee, royalty or charge payable to the Secretary under that agreement before that commencement is payable after that commencement—
 - (i) to VicForests until the expiry of the transferred agreement; and
 - (ii) may be collected and recovered by VicForests until the expiry of that transferred agreement; and
- (c) a reference in a transferred agreement to the Secretary must be taken to be a reference to VicForests, unless the context otherwise requires.

32 Powers in respect of transferred agreements

- (1) For the purposes of section 31, VicForests has, in respect of a transferred agreement, and to the extent specified, the following powers of the Secretary under the **Forests Act 1958**—

- (a) the powers in section 5(1)(b) and (c) of that Act;
 - (b) the powers in section 21(1)(a), (b) and (c) of that Act in so far as those powers relate to supplying commitments under a transferred agreement;
 - (c) the powers in section 53(2) and (3) of that Act.
- (2) A transferred agreement expires at the end of its term, as existing immediately before the commencement of section 31.

Division 4—General

33 VicForests cannot grant licence or permit

VicForests is not empowered to grant any licence or permit under section 52(1) of the **Forests Act 1958**.

34 Part does not operate to breach contracts etc.

Nothing effected or to be effected by this Part or done or suffered under this Part—

- (a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong; or
- (b) is to be regarded as placing any person in breach of, or as constituting a default under, any Act or other law or obligation or any provision in any agreement, arrangement or understanding including, but not limited to, any provision or obligation prohibiting, restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information; or

- (c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or
- (d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any asset, right or liability; or
- (e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or
- (f) is to be regarded as frustrating any contract; or
- (g) releases any surety or other obligor wholly or in part from any obligation.

35 Ministerial orders

- (1) For the purposes of paragraph (b) of the definition of *transferred agreement*, the Minister, by order published in the Government Gazette, may declare an agreement entered into pursuant to section 21 of the **Forests Act 1958** and in existence immediately before the commencement of section 31 to be a transferred agreement.
- (2) For the purposes of paragraph (b) of the definition of *transferred licence (east)*, the Minister, by order published in the Government Gazette, may declare a licence or permit granted under section 52 of the **Forests Act 1958** and in existence immediately before the commencement of section 25 in respect of an area in the east of the State of Victoria to be a transferred licence (east).

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Part 4—Managed licences

S. 35(3)
repealed by
No. 21/2006
s. 5(2).

* * * * *

Part 5—Management of timber resources by VicForests

* * * * *

S. 36
repealed by
No. 42/2013
s. 14.

37 VicForests to prepare plan

S. 37
substituted by
No. 42/2013
s. 15.

- (1) VicForests must prepare a plan in respect of an area to which an allocation order applies for the purposes of—
 - (a) harvesting and selling, or harvesting or selling, timber resources; and
 - (b) undertaking associated management activities in relation to those timber resources.
- (2) In preparing a plan under this section, VicForests must comply with any condition relating to consultation that is specified in the allocation order to which the plan relates.
- (3) VicForests must ensure that a plan prepared under this section is consistent with—
 - (a) the allocation order to which the plan relates, including any condition, limitation, matter or specification in the order; and
 - (b) any relevant Code of Practice relating to timber harvesting.

38 Contents of plan

- (1) A plan prepared under section 37 must include—
 - (a) a schedule of coupes selected for timber harvesting and associated access road requirements;

S. 38(1)
amended by
No. 42/2013
s. 16(1).

- (b) details of the location and approximate timing of timber harvesting in the proposed coupes;
- (c) details of the location of any associated access roads.

S. 38(2)
 substituted by
 No. 42/2013
 s. 16(2).

- (2) A plan prepared under section 37 may include any other matters necessary or convenient to be included in the plan.

S. 39
 substituted by
 No. 42/2013
 s. 17,
 repealed by
 No. 11/2014
 s. 5.

* * * * *

S. 40
 amended by
 No. 62/2010
 s. 146(1),
 repealed by
 No. 42/2013
 s. 18.

* * * * *

S. 41
 substituted by
 No. 42/2013
 s. 19.

41 VicForests to publish notice of plan

- (1) VicForests must cause notice of a plan prepared under section 37 to be published in the Government Gazette.
- (2) A notice published under subsection (1) must include details of where the plan may be viewed.
- (3) On the publication of a notice under subsection (1), the plan takes effect in accordance with its terms.

Note

The publication of a notice under this section may be a land use activity under the **Traditional Owner Settlement Act 2010** if it relates to public land to which a land use activity agreement under that Act applies.

S. 42
 repealed by
 No. 42/2013
 s. 20.

* * * * *

43 Review of and changes to timber release plan

- (1) VicForests may review a timber release plan at any time.
- (2) VicForests may change a timber release plan at any time if the change is not inconsistent with—
 - (a) the allocation order to which the plan relates, including any condition, limitation, matter or specification in the order; and
 - (b) any relevant Code of Practice relating to timber harvesting.
- (3) In changing a timber release plan, VicForests must comply with any condition relating to consultation that is specified in the allocation order to which the plan relates.
- (4) A timber release plan cannot be changed in relation to any vested timber resources in respect of which property has passed to a third party.
- (5) Nothing in this section is to be taken to affect the rights of a third party in relation to vested timber resources of a kind referred to in subsection (4).
- (6) If a timber release plan is changed under this section, VicForests must cause a notice of the change to the plan to be published in the Government Gazette.
- (7) On publication of a notice under subsection (6), the changed timber release plan takes effect in accordance with its terms.

S. 43
amended by
No. 62/2010
s. 146(2),
substituted by
No. 42/2013
s. 21.

Note

The publication of a notice under this section may be a land use activity under the **Traditional Owner Settlement Act 2010** if it relates to public land to which a land use activity agreement under that Act applies.

S. 44
substituted by
No. 42/2013
s. 22.

44 VicForests to operate in accordance with timber release plan

VicForests must carry out its functions and powers under this Act in relation to vested timber resources, or in relation to an area to which an allocation order applies, in accordance with any timber release plan.

45 Offence to undertake unauthorised timber harvesting operations

- (1) A person must not undertake timber harvesting operations in any part of a State forest unless those operations are authorised operations.

Penalty: 60 penalty units, in the case of a natural person;

240 penalty units, in the case of a body corporate.

- (2) For the purposes of this section, *authorised operations* means—

(a) in the case of vested timber resources—

(i) timber harvesting operations undertaken by, or on behalf of, VicForests in accordance with an allocation order and a timber release plan that relates to that allocation order; or

(ii) timber harvesting operations undertaken by, or on behalf of, a person who has entered into an agreement with VicForests for the harvesting and sale of timber resources, or the harvesting or sale of timber resources; or

(iii) timber harvesting operations undertaken by, or on behalf of, a person in accordance with a managed licence;

S. 45(2)(a)(i)
substituted by
No. 42/2013
s. 23.

(b) in any other case, timber harvesting operations undertaken by, or on behalf of, a person in accordance with—

(i) this Act; or

(ii) a licence or permit granted under section 52 of the **Forests Act 1958**.

S. 45(2)(b)(ii)
amended by
No. 35/2010
s. 24(Sch. 6
item 3(5)).

Part 6—Management of timber harvesting

Division 1—Codes of Practice

46 Compliance with Codes of Practice

The following persons must comply with any relevant Code of Practice relating to timber harvesting—

- (a) VicForests;
- (b) a person who has entered into an agreement with VicForests for the harvesting and sale of timber resources or the harvesting or sale of timber resources;

S. 46(c)
repealed by
No. 42/2013
s. 27.

* * * * *

- (d) any other person undertaking timber harvesting operations in a State forest.

47 Minister may arrange audits

If the Minister believes it is appropriate to do so, the Minister may ask an appropriately qualified person to audit compliance with any relevant Code of Practice relating to timber harvesting by all or any of the following—

- (a) VicForests;
- (b) a person who has entered into an agreement with VicForests for the harvesting and sale of timber resources or the harvesting or sale of timber resources;

S. 47(c)
repealed by
No. 42/2013
s. 28.

* * * * *

- (d) any other person undertaking timber harvesting operations in a State forest.

48 VicForests to respond to audit

- (1) If an audit conducted under section 47 in relation to VicForests includes any adverse findings against VicForests, the Minister must make those adverse findings available to VicForests.
- (2) On receiving adverse findings under subsection (1), VicForests must prepare a written response to those findings, including details of measures VicForests intends to undertake or has undertaken to improve compliance with the relevant Code of Practice.
- (3) VicForests must provide a response under subsection (2) to the Minister within—
 - (a) 30 days of receiving the adverse findings under subsection (1); or
 - (b) such longer period as is specified by the Minister to VicForests in writing.

49 Minister to make findings available

- (1) The Minister must cause any adverse findings against VicForests as a result of an audit conducted under section 47 and any response by VicForests under section 48 to be available for inspection by the public at the head office of the Department of Environment and Primary Industries.
- (2) The Minister may cause the findings and the response referred to in subsection (1) to be published on the Internet.

**S. 49(1)
amended by
No. 70/2013
s. 4(Sch. 2
item 49.1).**

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Part 6—Management of timber harvesting

Pt 6 Div. 2
(Heading and
ss 50–68)
amended by
Nos 108/2004
s. 117(1)
(Sch. 3
item 199),
70/2013
s. 4(Sch. 2
item 49.2),
repealed by
No. 42/2013
s. 29.

* * * * *

Part 7—Conduct of timber harvesting operations

* * * * *

S. 69
repealed by
No. 42/2013
s. 30.

70 Direction in relation to conduct of timber harvesting operations

- (1) An authorised officer may give directions as to the conduct of timber harvesting operations in a State forest to any person who is undertaking timber harvesting operations in a State forest.
- (2) A person must comply with a direction under this section.

S. 70(1)
amended by
No. 42/2013
s. 31.

Penalty: 60 penalty units.

71 Suspension of timber harvesting operation

- (1) An authorised officer may issue a suspension notice to suspend any timber harvesting operation in a State forest if the authorised officer is of the opinion that—
 - (a) there has been a failure to comply with a direction under section 70; and
 - (b) continuation of the timber harvesting operation would cause—
 - (i) imminent damage to the environment; or
 - (ii) a serious risk to the safety of any person.

- (2) A notice under subsection (1) may be issued to the person who has, or may reasonably be presumed to have, control over the timber harvesting operation in the State forest.

S. 71(2)
substituted by
No. 42/2013
s. 32.

72 What must a suspension notice contain?

A suspension notice must—

- (a) state that the authorised officer is of the opinion that the timber harvesting operation is causing or may cause—
 - (i) imminent damage to the environment;
or
 - (ii) a serious risk to the safety of any person;
- (b) state the reasons for that opinion;
- (c) specify the activity which, in the authorised officer's opinion, involves or may involve the damage or risk and the matters which give or will give rise to the damage or risk.

73 Notices may include directions

- (1) An authorised officer may include in a suspension notice directions as to the measures to be taken to remedy any damage, risk, matter or activity to which the notice relates.
- (2) Any direction under subsection (1) may—
 - (a) refer to any Code of Practice; and
 - (b) offer the person to whom it is issued a choice of ways in which to remedy the damage, risk, matter or activity.

S. 74
substituted by
No. 48/2005
s. 4.

74 Expiry of suspension notice once matter remedied

- (1) Subject to this Part, if the damage, risk, matter or activity to which a suspension notice relates is remedied to the satisfaction of an authorised officer, the authorised officer may issue a notification in writing that he or she is so satisfied

S. 74(1)
substituted by
No. 42/2013
s. 33.

to the person who has, or may reasonably be presumed to have, control over the timber harvesting operation in the State forest in respect of which the suspension notice was issued.

- (2) A suspension notice expires on notification being issued under subsection (1).

75 Offence not to comply with suspension notice

A person to whom a suspension notice is issued in relation to which an appeal has not been made under section 76 must comply with that notice.

Penalty: 60 penalty units.

76 Appeals against suspension notices

- (1) A person to whom a suspension notice is issued or, if that person is an employee, that person's employer, may appeal against the notice to the Magistrates' Court.
- (2) An appeal under subsection (1) must be—
- (a) in writing; and
 - (b) made within 7 days after a suspension notice is issued.
- (3) The Magistrates' Court must inquire into the circumstances relating to the notice and may—
- (a) affirm the notice; or
 - (b) affirm the notice with such modifications as it thinks fit; or
 - (c) cancel the notice.
- (4) Subject to any order to the contrary made by the Magistrates' Court, the operation of the suspension notice continues pending the decision of the Magistrates' Court under subsection (3).

- (5) If the Magistrates' Court affirms the suspension notice or affirms the suspension notice with modifications, the person to whom the suspension notice was issued must comply with the suspension notice as so affirmed.

Penalty: 60 penalty units.

S. 77
substituted by
No. 107/2004
s. 185.

77 Occupational Health and Safety Act 2004 prevails

Nothing in this Part affects the operation of the **Occupational Health and Safety Act 2004** and, to the extent that there is any conflict or inconsistency with the provisions of the **Occupational Health and Safety Act 2004**, that Act prevails.

Part 7A—Timber harvesting safety zones

Pt 7A
(Heading and
ss 77A–77K)
inserted by
No. 11/2014
s. 6.

77A Power to declare certain areas for the purposes of this Part

S. 77A
inserted by
No. 11/2014
s. 6.

For the purposes of paragraph (b)(ii) of the definition of *coupe*, the Minister, by order published in the Government Gazette, may declare an area specified in a licence granted under section 52 of the **Forests Act 1958** for a purpose referred to in subsection (1A)(c), (d), (e), (f) or (g) of that section to be a coupe for the purposes of this Part.

77B What is a *timber harvesting safety zone*?

S. 77B
inserted by
No. 11/2014
s. 6.

A *timber harvesting safety zone* is—

- (a) a coupe; and
- (b) any road that is within that coupe that has been closed for the purposes of timber harvesting operations; and
- (c) any area of State forest that is within 150 metres from the boundary of that coupe.

77C Notice of timber harvesting safety zone to be given

S. 77C
inserted by
No. 11/2014
s. 6.

- (1) Before the initial commencement of timber harvesting operations in a particular timber harvesting safety zone, the person conducting the operations must ensure that a notice that complies with subsection (2) is—
 - (a) conspicuously displayed on or near the zone including on any road that is an entry point to the zone; and

(b) in the case of timber harvesting operations conducted by VicForests in an area to which an allocation order applies, published on VicForests' Internet site.

(2) A notice under subsection (1) must—

(a) specify the location of the timber harvesting safety zone; and

(b) specify the commencement date of timber harvesting operations in that zone; and

(c) state that offences and penalties apply in that zone.

S. 77D
inserted by
No. 11/2014
s. 6.

77D Direction to leave a timber harvesting safety zone

(1) An authorised officer may direct a person to leave a timber harvesting safety zone (and not re-enter the zone) in a manner specified in the direction.

(2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 20 penalty units.

S. 77E
inserted by
No. 11/2014
s. 6.

77E Direction to stop or move a vehicle in a timber harvesting safety zone

(1) An authorised officer may direct a person operating a vehicle in a timber harvesting safety zone to stop or manoeuvre the vehicle in a manner specified in the direction.

(2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 20 penalty units.

77F Direction to remove a dog from a timber harvesting safety zone

S. 77F
inserted by
No. 11/2014
s. 6.

- (1) An authorised officer may direct a person in apparent control of a dog in a timber harvesting safety zone notice of which has been given in accordance with section 77C to remove the dog from the zone.
- (2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 20 penalty units.

77G Offence to enter or remain in a timber harvesting safety zone

S. 77G
inserted by
No. 11/2014
s. 6.

A person (other than an authorised person) must not enter, or remain in, a timber harvesting safety zone notice of which has been given in accordance with section 77C.

Penalty: 20 penalty units.

77H Offence to be in possession of a prohibited thing in a timber harvesting safety zone

S. 77H
inserted by
No. 11/2014
s. 6.

A person (other than an authorised person) must not be in possession of a prohibited thing in a timber harvesting safety zone notice of which has been given in accordance with section 77C.

Penalty: 20 penalty units.

77I Offence to allow a dog to enter a timber harvesting safety zone

S. 77I
inserted by
No. 11/2014
s. 6.

A person must not allow a dog to enter a timber harvesting safety zone notice of which has been given in accordance with section 77C.

Penalty: 20 penalty units.

S. 77J
inserted by
No. 11/2014
s. 6.

77J Offence to remove or destroy a barrier or fence

A person must not unlawfully break down, damage or destroy a barrier or fence which has been erected to prohibit or restrict access to a timber harvesting safety zone.

Penalty: 60 penalty units.

S. 77K
inserted by
No. 11/2014
s. 6.

77K Offence to remove or destroy notice

A person must not unlawfully alter, obliterate, deface, remove or destroy a notice displayed in accordance with section 77C.

Penalty: 60 penalty units.

Part 8—Fire prevention and suppression

78 Agreements for prevention and suppression of fire

VicForests and the Secretary may enter into agreements or arrangements relating to the prevention and suppression of fire.

79 Secretary may direct VicForests staff

- (1) The Secretary may direct VicForests or any staff of VicForests to undertake fire suppression works if the Secretary and VicForests have entered into an agreement or arrangement under section 78.
- (2) A person must comply with a direction under this section.

80 Secretary and authorised officers may direct timber harvesters

The Secretary or an authorised officer may direct any person undertaking or engaged in timber harvesting operations to make that person's employees, plant and equipment available to assist in fire suppression when the Secretary or an authorised officer (as the case requires) gives such a direction.

81 Person must comply with direction

A person must comply with a direction of the Secretary or an authorised officer (as the case requires) under section 80.

82 Secretary to reimburse for assistance

If a person provides assistance to the Secretary pursuant to a direction under section 80, the Secretary must reimburse that person for the reasonable costs incurred by that person in providing that assistance.

83 Part does not derogate from certain Acts

Nothing in this Part derogates from the **Forests Act 1958** or the **Country Fire Authority Act 1958**.

Part 8A—Enforceable undertakings

Pt 8A
(Heading and
ss 83A–83C)
inserted by
No. 11/2014
s. 7.

83A Enforceable undertakings

S. 83A
inserted by
No. 11/2014
s. 7.

- (1) The Secretary may enter into a written undertaking with a person who has contravened, or allegedly contravened, section 45.
- (2) An undertaking under subsection (1) must—
 - (a) be in writing; and
 - (b) detail the conduct constituting the contravention, or alleged contravention, of section 45.
- (3) A person may withdraw or vary an undertaking with the consent of the Secretary.
- (4) While an undertaking is in force, a proceeding may not be brought for an offence constituted by the contravention in respect of which the undertaking is given.
- (5) If a person withdraws an undertaking before the undertaking has been fulfilled, proceedings may be brought for the offence constituted by the contravention or alleged contravention in respect of which the undertaking was given.
- (6) If a person complies with the requirements of an undertaking, no further proceedings may be brought for an offence constituted by the contravention or alleged contravention in respect of which the undertaking was given.

S. 83B
inserted by
No. 11/2014
s. 7.

83B Enforcement of undertakings

- (1) If the Secretary considers that a person who gave an undertaking under section 83A has contravened any of its terms, the Secretary may apply to the Magistrates' Court for an order under subsection (2).
- (2) If the Magistrates' Court is satisfied that the person has contravened a term of the undertaking, the Magistrates' Court may make any of the following orders—
 - (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order that the person take any specified action for the purpose of complying with the undertaking;
 - (c) any other order that the Magistrates' Court considers appropriate in the circumstances.
- (3) If a person fails to comply with an order made under subsection (2), the Secretary may give the person a written notice advising the person that the Secretary intends to carry out specified actions that remain to be done under the order unless the person satisfies the Secretary that the person will carry out those actions within a period of time acceptable to the Secretary.
- (4) A person who is given a written notice under subsection (3) must respond to it within 14 days after being given the notice.
- (5) If a person who has been given a notice under subsection (3) fails to give the Secretary a satisfactory response within 14 days, or fails to comply with any undertaking given to the Secretary in response to the notice, the Secretary—

- (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (6) Subsections (3), (4) and (5) do not prevent contempt of court proceedings from being commenced or continued against a person who has failed to comply with an order made under subsection (2).
- (7) If a person is found in contempt of court for failing to comply with an order made under subsection (2), the Secretary—
- (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (8) The Secretary may recover any reasonable cost the Secretary incurs in taking action under subsection (5) or (7) as a debt due and payable by the person against whom the order was made under subsection (2).

83C Register of undertakings

- (1) The Secretary must maintain a register of undertakings given under section 83A.
- (2) The Secretary must enter details of each undertaking given under section 83A in the register of undertakings.
- (3) The register of undertakings must include—
 - (a) the date the undertaking was given; and
 - (b) a copy of the undertaking.

S. 83C
inserted by
No. 11/2014
s. 7.

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Part 8A—Enforceable undertakings

- (4) A person may inspect the register of undertakings at any reasonable time without charge.

Part 9—Enforcement

84 Requirement to give name and address

- (1) If an authorised officer believes on reasonable grounds that a person has committed or is committing an offence against this Act or the regulations, the officer may ask the person to state his or her name and ordinary place of residence or business.
- (2) In making a request under subsection (1), the authorised officer must inform the person of the grounds for the authorised officer's belief that the person has committed or is committing the offence.
- (3) A person must not, in response to a request under subsection (1)—
 - (a) refuse or fail to comply with the request without a reasonable excuse for doing so; or
 - (b) state a name that is false in a material detail; or
 - (c) state an address that is not the full and correct address of his or her ordinary place of residence or business.

Penalty: 5 penalty units.

- (4) If a person states a name and address in response to a request under subsection (1) and the authorised officer suspects on reasonable grounds that the stated name and address may be false, the officer may request the person to produce evidence of the correctness of the name and address.

- (5) A person to whom a request under subsection (4) is made must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

- (6) It is not an offence for a person to fail to comply with a request under subsection (1) or (4)—
- (a) if the authorised officer did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request; or
 - (b) if the authorised officer did not identify himself or herself in accordance with section 85 before making the request.

85 Authorised officers must identify themselves

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

- (a) before exercising a power under section 84; and
- (b) at any time during the exercise of a power under section 84, if asked to do so.

86 Offence to hinder or obstruct an authorised officer

A person must not, without reasonable excuse, hinder or obstruct an authorised officer who is exercising that authorised officer's duties or powers under this Act or the regulations.

Penalty: 60 penalty units.

87 Offence to threaten or abuse an authorised officer

A person must not threaten or abuse an authorised officer who is exercising that authorised officer's duties or powers under this Act or the regulations.

Penalty: 60 penalty units.

88 Power to seize items

- (1) If an authorised officer believes on reasonable grounds that a person has committed, is committing, or is about to commit, an offence against this Act or the regulations, the authorised officer may seize any item that the officer believes on reasonable grounds—
- (a) was used in the commission of the offence; or
 - (b) is being used in the commission of the offence; or
 - (c) is about to be used in the commission of the offence.
- (2) If an authorised officer seizes an item under this section, the authorised officer must immediately give the person a written receipt for the item seized indicating—
- (a) the nature of the item seized; and
 - (b) the date and time that the authorised officer took possession of the item; and
 - (c) the name of the authorised officer who seized the item and the address where the item will be held.

S. 88(1)
substituted by
No. 11/2014
s. 8.

89 Return of seized items

- (1) An authorised officer who seizes an item under section 88 must—
- (a) as soon as practicable after seizing the item, inform the person from whom the item was seized of that person's right to have it returned; and
 - (b) in the case of an item that is not a prohibited thing, ensure that the item is returned to the person from whom it was seized within 90 days after the date on which it was seized.

S. 89(1)(b)
amended by
No. 11/2014
s. 9.

- (2) A person from whom an item was seized may apply at the office of the authorised officer who seized the item for its return within 90 days after it was seized.
- (3) This section does not apply if proceedings for an offence against the Act or the regulations in relation to which the item was seized have been commenced within 90 days of the item being seized.

S. 89A
inserted by
No. 11/2014
s. 10.

89A Retention and return or forfeiture of certain seized items

- (1) This section applies if an authorised officer—
 - (a) seizes an item that the officer believes on reasonable grounds is a prohibited thing; and
 - (b) serves an infringement notice for an offence against section 77H on the person from whom the thing was seized.
- (2) An authorised officer, as soon as practicable after seizing the thing, must inform the person from whom the thing was seized of that person's right to have it returned if a circumstance set out in subsection (4) occurs.
- (3) An authorised officer must take reasonable steps to return the thing to the person within 90 days after a circumstance referred to in subsection (4) occurs.
- (4) The circumstances are—
 - (a) an authorised officer withdraws the infringement notice without—
 - (i) referring the matter for which the infringement notice has been served to the Magistrates' Court under section 17(1) of the **Infringements Act 2006**; or

- (ii) filing a charge-sheet and summons in the Children's Court for the matter of the infringement offence to be dealt with; or
 - (iii) serving, on that person, an official warning (within the meaning of the **Infringements Act 2006**) in place of the infringement notice; or
 - (b) the Magistrates' Court cancels the infringement notice under section 38 of the **Infringements Act 2006**; or
 - (c) the Children's Court cancels the infringement notice under clause 16 of Schedule 3 to the **Children, Youth and Families Act 2005**.
- (5) Despite anything to the contrary in Division 5 of Part 2 of the **Infringements Act 2006**, any prohibited thing that has been seized is forfeited to the Crown if—
- (a) the person on whom the infringement notice has been served expiates that offence by payment of the infringement penalty in accordance with that Act; or
 - (b) payment of the infringement penalty is not made in accordance with section 14 or 15 of that Act and the person on whom the infringement notice has been served does not elect to have the matter of the infringement offence heard and determined in the Court in accordance with Part 2 of that Act.

90 Recovery of seized item and compensation

If an item (other than a prohibited thing) seized under section 88 has not been returned to the person from whom it was seized and—

S. 90
amended by
No. 11/2014
s. 11.

S. 90(b)
amended by
No. 68/2009
s. 97(Sch.
item 118).

- (a) proceedings are not instituted for an offence against this Act or the regulations in relation to the seized item within 90 days of the seizure; or
- (b) after proceedings have been instituted and completed, the accused is not found guilty—

the person from whom the item was seized is entitled to recover the seized item, or, if it has been destroyed, compensation equal to the market value of the item at the time of the seizure.

91 Forfeiture to Crown

S. 91(1)
amended by
No. 11/2014
s. 12(1).

- (1) An item seized under section 88 (other than a prohibited thing) that is not returned to the person from whom it was seized within 12 months after being so seized is forfeited to the Crown.

S. 91(1A)
inserted by
No. 11/2014
s. 12(2).

- (1A) A prohibited thing seized under section 88 is forfeited to the Crown if—
 - (a) the thing is not returned under section 89A to the person from whom it was seized; or
 - (b) a court finds a person guilty of an offence against section 77H or 94A in connection with the thing.

S. 91(2)
amended by
No. 11/2014
s. 12(3).

- (2) If any seized item is forfeited to the Crown under subsection (1) or (1A)—
 - (a) the Minister may direct that it be disposed of in any manner that the Minister thinks fit; and
 - (b) if it is sold, the proceeds of the sale must be paid into the Consolidated Fund.

92 Court may order forfeiture to the Crown

- (1) A court which finds a person guilty of an offence against this Act or the regulations may order that any item used in the commission of the offence be forfeited to the Crown.
- (2) If any item is forfeited to the Crown under subsection (1)—
 - (a) the Minister may direct that the item be disposed of in any manner that the Minister thinks fit; and
 - (b) if the Minister directs that the item is to be disposed of by sale, the proceeds of the sale must be paid into the Consolidated Fund.

92A Time for bringing certain proceedings

Despite section 7 of the **Criminal Procedure Act 2009**, a proceeding for an offence against section 45 may be commenced not later than 2 years after the date on which the offence is alleged to have been committed.

S. 92A
inserted by
No. 11/2014
s. 13.

93 Direction to remove obstructions

- (1) An authorised officer may direct the owner of, or a person responsible for, an obstruction in a State forest to remove the obstruction from—
 - (a) any road or track used for timber harvesting operations; or
 - (b) any area where timber harvesting operations are being carried out.
- (2) A direction under subsection (1)—
 - (a) may be given in writing or orally; and
 - (b) may specify the time by which the obstruction must be removed.

- (3) Unless a person to whom a direction under subsection (1) is given has a reasonable excuse for not doing so, the person must comply with the direction—
 - (a) if a time is specified in the direction, within the time specified; or
 - (b) if no time is specified in the direction, within a reasonable time.
- (4) In this section and section 94, *obstruction* means anything which is—
 - (a) a danger to the safety of any person in a State forest; or
 - (b) placed in a State forest in contravention of this Act or the regulations.

94 Authorised officer may remove obstructions in State forest

- (1) An authorised officer may remove, or cause the removal of, any obstruction in a State forest if—
 - (a) after making reasonable inquiries, the authorised officer is unable to identify the owner of, or a person responsible for, an obstruction in a State forest; or
 - (b) after being given a direction under section 93, the owner of, or a person responsible for, an obstruction in a State forest—
 - (i) is unable or unwilling to remove the obstruction; or
 - (ii) has not removed the obstruction—
 - (A) if a time is specified in the direction, within the time specified; or

(B) if no time is specified in the direction, within a reasonable time.

- (2) Without limiting the powers of an authorised officer under this section, an authorised officer may remove, or cause the removal of an obstruction by its destruction, if it is reasonable to do so in the circumstances.
- (3) An authorised officer may dispose of anything removed under this section.
- (4) An authorised officer may recover any reasonable costs incurred in taking action under this section as a debt due and payable by the owner of, or the person responsible for, the obstruction.

Part 9A—General offences

Pt 9A
(Heading and
ss 94A, 94B)
inserted by
No. 11/2014
s. 14.

94A Offence to hinder, obstruct or interfere with timber harvesting operations by using prohibited thing

A person must not intentionally hinder, obstruct or interfere with timber harvesting operations by using a prohibited thing.

Penalty: 60 penalty units or 6 months imprisonment.

S. 94A
inserted by
No. 11/2014
s. 14.

94B Offence to hinder, obstruct or interfere with timber harvesting operations

A person must not hinder, obstruct or interfere with timber harvesting operations.

Penalty: 20 penalty units.

S. 94B
inserted by
No. 11/2014
s. 14.

Part 9B—Exclusion orders

Pt 9B
(Heading and
ss 94C–94H)
inserted by
No. 11/2014
s. 14.

94C Meaning of specified offence

S. 94C
inserted by
No. 11/2014
s. 14.

In this Part, *specified offence* means—

- (a) an offence against section 77D(2), 77E(2), 77F(2), 77G, 77H, 77I, 77J or 77K; or
- (b) an offence against section 86 or 87; or
- (c) an offence against section 94A or 94B; or
- (d) an offence against section 94F(1) or 94H; or
- (e) an offence against a provision of Part 3 of the **Safety on Public Land Act 2004** that relates to a public safety zone declared under section 4(2)(g) of that Act as in force immediately before its repeal.

94D Exclusion orders

S. 94D
inserted by
No. 11/2014
s. 14.

- (1) A court may make an order excluding a person (the *offender*) from a timber harvesting safety zone or any area of State forest specified in the order, for the period specified in the order, if the court—
 - (a) finds the offender guilty of a specified offence; and
 - (b) is satisfied that the order may be an effective and reasonable means of preventing the offender from committing a further specified offence.

S. 94D(2)(a)(i)
amended by
No. 37/2014
s. 10(Sch.
item 164.2).

- (2) An exclusion order may be made—
- (a) on the application of—
 - (i) a police officer; or
 - (ii) an authorised officer; or
 - (iii) a person authorised by section 96 of the **Conservation, Forests and Lands Act 1987** to take proceedings for an offence against this Act; or
 - (b) on the court's own motion.
- (3) The exclusion period specified in the exclusion order must not exceed 12 months.
- (4) An exclusion order—
- (a) may exclude the offender from one or more of the following, at all times during the period of the order or at the times specified in the order—
 - (i) a timber harvesting safety zone specified in the order;
 - (ii) an area of State forest specified in the order; and
 - (b) unless otherwise prohibited by this or any other Act, may (subject to any conditions the court thinks fit) allow the offender to enter a timber harvesting safety zone or an area of State forest specified in the order for a specified purpose—
 - (i) during the period of the order; or
 - (ii) at the times specified in the order; and
 - (c) may be made subject to any other conditions the court thinks fit.

- (5) In determining whether it is satisfied under subsection (1)(b), the court must consider—
- (a) the nature and gravity of the specified offence; and
 - (b) whether the offender has previously been found guilty of a specified offence; and
 - (c) whether the offender is or has been the subject of an exclusion order in relation to—
 - (i) another specified offence; or
 - (ii) a specified offence committed in another timber harvesting safety zone; and
 - (d) the likely impact of the exclusion order on—
 - (i) the offender; and
 - (ii) any alleged victim of the specified offence; and
 - (iii) public safety and public order; and
 - (e) any other matters that the court considers relevant.

94E Variation of exclusion order

- (1) Any of the following may apply to the court that made an exclusion order for variation of the order—
- (a) the person in respect of whom the order was made;
 - (b) a police officer;
 - (c) an authorised officer;

S. 94E
inserted by
No. 11/2014
s. 14.

S. 94E(1)(b)
amended by
No. 37/2014
s. 10(Sch.
item 164.2).

(d) a person authorised by section 96 of the **Conservation, Forests and Lands Act 1987** to take proceedings for an offence against this Act.

(2) On application under subsection (1), the court may vary the exclusion order in any way that the court considers appropriate, if the court is satisfied that facts or circumstances have arisen since the making or the last variation of the order that make it appropriate for the order to be varied.

S. 94F
inserted by
No. 11/2014
s. 14.

94F Offence to contravene exclusion order

(1) A person in respect of whom an exclusion order is made must not in contravention of the order—

(a) enter or re-enter the timber harvesting safety zone or area of State forest; or

(b) remain in the timber harvesting safety zone or area of State forest.

Penalty: 60 penalty units

(2) Nothing in this section affects the powers of the court, or of the Supreme Court, in relation to contempt of court.

S. 94G
inserted by
No. 11/2014
s. 14.

94G Direction to leave area to which exclusion order applies

(1) This section applies if a person in respect of whom an exclusion order is made is in a timber harvesting safety zone or other area of State forest in contravention of the order.

(2) Subject to subsection (3), an authorised officer or police officer may direct the person to leave the timber harvesting safety zone or other area of State forest in the manner (if any) specified in the direction.

S. 94G(2)
amended by
No. 37/2014
s. 10(Sch.
item 164.2).

- (3) An authorised officer or police officer must—
- (a) before giving a direction under subsection (2), produce—
- (i) in the case of an authorised officer, proof of his or her identity and official status; or
- (ii) in the case of a police officer, proof of his or her identity and official status (unless he or she is in uniform); and
- (b) make reasonable attempts to ensure that the person understands the direction.
- (4) A direction under subsection (2) may be given orally or in writing.

S. 94G(3)
amended by
No. 37/2014
s. 10(Sch.
item 164.2).

S. 94G(3)(a)(ii)
amended by
No. 37/2014
s. 10(Sch.
item 164.2).

94H Offence to refuse or fail to comply with direction to leave area to which exclusion order applies

S. 94H
inserted by
No. 11/2014
s. 14.

- (1) A person to whom a direction under section 94G is given must not refuse or fail to comply with that direction.

Penalty: 60 penalty units.

- (2) Despite subsection (1), it is not an offence for a person to refuse or fail to comply with a direction given under section 94G if the authorised officer or police officer did not comply with section 94G(3).
- (3) Section 72 of the **Criminal Procedure Act 2009** applies in the circumstances referred to in subsection (2).
- (4) Nothing in this section affects the powers of the court, or of the Supreme Court, in relation to contempt of court.

S. 94H(2)
amended by
No. 37/2014
s. 10(Sch.
item 164.2).

Part 10—Miscellaneous

95 Limitation of Supreme Court's jurisdiction

- (1) It is the intention of section 27 to alter or vary section 85 of the **Constitution Act 1975**.

S. 95(2)
repealed by
No. 21/2006
s. 5(3).

* * * * *

96 Regulations

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

S. 96(1)(a)–(d)
repealed by
No. 42/2013
s. 34(a).

* * * * *

- (e) prescribing penalties not exceeding 20 penalty units for a contravention of the regulations;
- (f) any matter or thing that is required or permitted by this Act to be prescribed or that is necessary to be prescribed for carrying out or giving effect to this Act.

S. 96(1)(f)
amended by
No. 42/2013
s. 34(b).

- (2) Regulations made under this Act—

- (a) may be of general or limited application;
- (b) may differ according to differences in time, place or circumstance;
- (c) may leave any matter or thing to be from time to time determined, approved or dispensed with by the Secretary or an authorised officer;
- (d) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method, formulated, issued, prescribed or published by any other person, whether—

- (i) wholly or partially or as amended by the regulations; or
 - (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time.
- (3) Regulations made under this Act may exempt specified persons or any class of persons from complying with all or any of the regulations.

97 Native title rights and interests not affected

S. 97
(Heading)
amended by
No. 11/2014
s. 15(1).
New s. 97
inserted by
No. 42/2013
s. 24.

- (1) The amendments made to this Act by the **Sustainable Forests (Timber) Amendment Act 2013** or the **Sustainable Forests (Timber) and Wildlife Amendment Act 2014** are not intended to affect native title rights and interests.
- (2) Subsection (1) does not apply in any case where native title rights and interests are affected, or are authorised to be affected, by or under the Native Title Act 1993 of the Commonwealth.
- (3) In this section—
affect has the same meaning as in the Native Title Act 1993 of the Commonwealth;
native title rights and interests has the same meaning as in the Native Title Act 1993 of the Commonwealth.

S. 97(1)
amended by
No. 11/2014
s. 15(2).

Sustainable Forests (Timber) Act 2004
No. 48 of 2004

**Pts 11, 12
(Headings
and ss 97–
132)
repealed by
No. 28/2007
s. 3(Sch.
item 64).**

* * * * *

Part 13—Transitional provisions

Pt 13
(Heading and
ss 133–141)
amended by
No. 28/2007
s. 3(Sch.
item 64),
substituted as
Pt 13
(Heading and
s. 140) by
No. 42/2013
s. 25.

140 Existing allocation order and timber release plan

S. 140
substituted by
No. 42/2013
s. 25.

Despite anything to the contrary in any other provision of this Act, on and from the commencement of section 6 of the **Sustainable Forests (Timber) Amendment Act 2013**, the following cease to have any force or effect—

- (a) any allocation order in force immediately before the commencement of that section; and
- (b) any approved timber release plan that relates to an allocation order referred to in paragraph (a).

Schedules

Schedule 1—Transferred licences (east)

Licence Number:

B000738
B000894
B000989
S000324
S000347
S000360
S000364
S000409
S000501
S000508
S000225
S000258
S000298
S000300
S000307
S000314
S000315
S000316
S000317
S000321
S000330
S000344
S000345
S000352

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Schedule 1—Transferred licences (east)

Licence Number:

S000363
S000378
S000379
S000380
S000381
S000394
S000395
S000411
S000412
S000413
S000416
S000419
S000421
S000422
S000431
S000432
S000433
S000434
S000437
S000438
S000439
S000441
S000447
S000448
S000452
S000453

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Schedule 1—Transferred licences (east)

Licence Number:

S000465

S000476

S000489

S000495

S000500

S000518

S000519

S000570

Schedule 2—Authorised persons for the purposes of Part 7A

- 1 The Secretary, when performing a function, or exercising a power, of the Secretary.
- 2 An authorised officer, when performing a function, or exercising a power, of an authorised officer.
- 3 A utility performing functions in a State forest and any employee, agent or contractor of that utility when acting in accordance with the terms of his or her employment, agency or contract.
- 4 A transport authority performing functions in a State forest and any employee, agent or contractor of that transport authority when acting in accordance with the terms of his or her employment, agency or contract.
- 5 A person undertaking timber harvesting operations that are authorised operations within the meaning of section 45(2) and any employee, agent or contractor of that person when acting in accordance with the terms of his or her employment, agency or contract.
- 6 A person undertaking timber harvesting operations of a kind referred to in paragraph (b) of the definition of *timber harvesting operations* and any employee, agent or contractor of that person when acting in accordance with the terms of his or her employment, agency or contract.
- 7 A person who is the holder of a licence or permit under section 52 of the **Forests Act 1958** granted for the purposes set out in subsection (1A)(c), (d), (e), (f) or (g) of that section and any employee, agent or contractor of that person when acting in accordance with the terms of his or her employment, agency or contract and with the terms of the licence or permit.
- 8 A person who is the holder of a licence under section 141 or 147, or of a right under section 149, of the **Land Act 1958**, when undertaking an activity authorised by that

Sch. 2
repealed by
No. 21/2006
s. 5(4),
new Sch. 2
inserted by
No. 11/2014
s. 16,
amended by
No. 37/2014
s. 10(Sch.
item 164.3).

licence or right, or an employee, agent or contractor of that person when acting in accordance with the terms of his or her employment, agency or contract and with the terms of the licence or right.

- 9 A person who is an employee, agent or contractor of the Department when acting in accordance with the terms of his or her employment, agency or contract.
- 10 A person who is an employee, agent or contractor of the Country Fire Authority, WorkSafe Victoria, VicRoads, the Environment Protection Authority or the State Emergency Service, when acting in accordance with the terms of his or her employment, agency or contract.
- 11 A person who is a police officer, when performing a function or exercising a power, of a police officer.
- 12 A person who is an environmental auditor within the meaning of the **Environment Protection Act 1970**, when performing the function of an environmental auditor.
- 13 A person appointed by the Secretary to observe the conduct of an environmental audit within the meaning of the **Environment Protection Act 1970**, when performing that function and in the company of a person referred to in item 12.
- 14 A person who is the holder of a lease, licence, permit or other authority under the **Mineral Resources (Sustainable Development) Act 1990** (other than a miner's right or a tourist fossicking authority) and any employee, agent or contractor of that person when acting in accordance with the terms of his or her employment, agency or contract and with the terms of the lease, licence, permit or other authority.
- 15 A person who is the holder of a lease, licence, permit or other authority under the **Geothermal Energy Resources Act 2005, Greenhouse Gas Geological Sequestration Act 2008** or **Petroleum Act 1998** and any employee, agent or contractor of that person when acting in accordance with the terms of his or her employment,

agency or contract and with the terms of the lease, licence, permit or other authority.

- 16 A person who is a member of a traditional owner group when that person is acting under and in accordance with an authorisation order given under section 84 of the **Traditional Owner Settlement Act 2010**.
-
-

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.

Minister's second reading speech—

Legislative Assembly: 13 May 2004

Legislative Council: 3 June 2004

The long title for the Bill for this Act was "to provide a framework for sustainable forest management and sustainable timber harvesting in State forests, to amend the **Forests Act 1958** and the **Conservation, Forests and Lands Act 1987**, to consequentially amend other Acts and for other purposes."

The **Sustainable Forests (Timber) Act 2004**, No. 48/2004 was assented to on 16 June 2004 and came into operation as follows:

Part 1 (sections 1–4), sections 97, 98, 100(1), 103–105, 107, 108, 110, 112, 116, 122, 123(1), 124, 125, 127–129, 131–137 and 139–141 on 17 June 2004; Part 3 (sections 13–24), Part 4 Division 1 (sections 25–27), Part 4 Divisions 3 and 4 (sections 31–35), Part 5 (sections 36–45), Part 6 Division 1 (sections 46–49), Part 8 (sections 78–83), Part 9 (sections 84–94), sections 95(1), 96, 99, 101, 102, 106, 111, 113–115, 117–121, 123(2)–(4), 126, 130 and Schedule 1 on 1 August 2004: Government Gazette 29 July 2004 page 2120; section 100(2) on 31 August 2005: Government Gazette 14 July 2005 page 1550; Part 2 (sections 5–12), sections 109 and 138 on 18 May 2006: Government Gazette 18 May 2006 page 929; Part 6 Division 2 (sections 50–68), Part 7 (sections 69–77) on 1 July 2006: section 2(5).

Part 4 Division 2 (sections 28–30), section 95(2) and Schedule 2 were never proclaimed, repealed by section 5(1)(3)(4) of the **Sustainable Forests (Timber) (Amendment) Act 2006**, No. 21/2006.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

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

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the

insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

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

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

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

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

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

- **Other material**

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

2 Table of Amendments

This publication incorporates amendments made to the **Sustainable Forests (Timber) Act 2004** by Acts and subordinate instruments.

Occupational Health and Safety Act 2004, No. 107/2004

Assent Date: 21.12.04
Commencement Date: S. 185 on 1.7.05: s. 3(1)
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 199) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

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

Assent Date: 24.8.05
Commencement Date: Ss 3, 4 on 25.8.05: s. 2
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Sustainable Forests (Timber) (Amendment) Act 2006, No. 21/2006

Assent Date: 9.5.06
Commencement Date: 10.5.06: s. 2
Current State: All of Act in operation

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 64) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 118) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Endnotes

Parks and Crown Land Legislation (Mount Buffalo) Act 2010, No. 35/2010

Assent Date: 15.6.10
Commencement Date: S. 24(Sch. 6 item 3) on 8.7.10: Government Gazette 8.7.10 p. 1518
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Traditional Owner Settlement Act 2010, No. 62/2010

Assent Date: 21.9.10
Commencement Date: S. 146 on 23.9.10: Special Gazette (No. 382) 22.9.10 p. 1
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Sustainable Forests (Timber) Amendment Act 2013, No. 42/2013

Assent Date: 28.6.13
Commencement Date: Ss 3–16, 18–25 on 1.10.13: Special Gazette (No. 337) 24.9.13 p. 1; s. 17 on 1.1.14: s. 2(2); ss 26–34 on 1.10.14: Special Gazette (No. 330) 23.9.14 p. 1
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 49) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Sustainable Forests (Timber) and Wildlife Amendment Act 2014, No. 11/2014

Assent Date: 25.2.14
Commencement Date: Ss 4(3), 5, 7, 13 on 14.3.14: Special Gazette (No. 72) 11.3.14 p. 1; ss 3, 4(1)(2)(4), 6, 8–12, 14–16 on 28.5.14: Special Gazette (No. 159) 27.5.14 p. 1
Current State: This information relates only to the provision/s amending the **Sustainable Forests (Timber) Act 2004**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 164) 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 **Sustainable Forests (Timber) Act 2004**

Sustainable Forests (Timber) Act 2004
No. 48 of 2004
Endnotes

Statute Law Revision Act 2015, No. 21/2015

Assent Date: 16.6.15
Commencement Date: S. 3(Sch. 1 item 53) on 1.8.15: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Sustainable Forests (Timber) Act
2004**

3 Amendments Not in Operation

Not updated for this publication.

4 Explanatory details

No entries at date of publication.