

Version No. 095
Forests Act 1958
No. 6254 of 1958

Version incorporating amendments as at 28 November 2007

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Version No. 095
Forests Act 1958
No. 6254 of 1958

Version incorporating amendments as at 28 November 2007

An Act to consolidate the Law for the Management and
Protection of State Forests.

**BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):**

1 Short title and commencement

This Act may be cited as the **Forests Act 1958**,
and shall come into operation on a day to be fixed
by proclamation of the Governor in Council
published in the Government Gazette.

2 Repeals and savings

- (1) The Acts mentioned in the First Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed accordingly.
- (2) Except as in this Act expressly or by necessary implication provided—
 - (a) all persons things and circumstances appointed or created by or under either of the repealed Acts or existing or continuing under either of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed;

(b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status operation or effect of any proclamation regulation order application determination direction lease licence permit authority appointment covenant condition notice excision dedication acquisition map plan fee liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under either of such Acts before the commencement of this Act; nor shall such repeal affect the Commonwealth and States Financial Agreements Acts or any liability in respect of any advance made under the **State Forests (Timber Salvage) Loan and Application Act 1939**.

No. 6073 s. 3.

3 Definitions

(1) In this Act, unless inconsistent with the context or subject-matter—

Act includes any regulation thereunder;

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

cattle includes bulls cows oxen heifers calves steers horses mares geldings colts fillies asses mules pigs rams wethers ewes lambs goats and kids;

Central Plan Office means the Central Plan Office of the Department of Sustainability and Environment;

S. 3(1) def. of *authorised officer* inserted by No. 41/1987 s. 103(Sch. 4 item 24.1).

S. 3(1) def. of *Central Plan Office* inserted by No. 60/2005 s. 34.

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S. 3(1) def. of *Chief Administrator* inserted by No. 41/1987 s. 103(Sch. 4 item 24.2), repealed by No. 76/1998 s. 10(1)(a)(i).

* * * * *

S. 3(1) defs of *Chairman, Commission and Commissioner* repealed by No. 41/1987 s. 103(Sch. 4 item 24.3).

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

S. 3(1) def. of *Department* amended by No. 10087 s. 3(1)(Sch. 1 item 73(a)), substituted by No. 41/1987 s. 103(Sch. 4 item 24.4).

* * * * *

S. 3(1) def. of *Director-General* inserted by No. 41/1987 s. 103(Sch. 4 item 24.5), repealed by No. 76/1998 s. 10(1)(a)(i).

fire protected area means any land which is—

- (a) within any State forest;
- (b) within any national park;

S. 3(1) def. of *fire protected area* amended by No. 6976 s. 2(1)(c), S.R. No. 258/1974 reg. 3, Nos 8587 s. 2(1)(a)(i)(ii), 57/1995 s. 46.

s. 3

(c) (unless excised pursuant to an Order under subsection (3) of this section or affected by a declaration made under subsection (4) of this section) within 1.5 kilometres of—

(i) any reserved forest or any area of unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment;

(ii) any national park; or

(iii) any protected public land;

(d) within any protected public land;

firewood includes parts of trees made up into bundles stacks cords or loads or cut up in the manner in which it is usual to cut wood for burning and includes refuse wood generally;

S. 3(1) def. of forest management area inserted by No. 82/1990 s. 3(a), amended by No. 76/1998 s. 10(1)(a)(iii), repealed by No. 48/2004 s. 109(a).

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S. 3(1) def. of forest officer repealed by No. 41/1987 s 103(Sch 4 item 24.6).

* * * * *

forest produce means—

- (a) all parts of trees or plants, including any parts below the ground;
- (b) the products of trees or plants, whether or not those products have become separated from those trees or plants prior to being harvested and includes—
 - (i) honey;
 - (ii) beeswax;
 - (iii) oil distilled from any species of eucalypt;
 - (iv) firewood collected for domestic use;
- (c) stone, gravel, limestone, lime, salt, sand, loam, clay or brick-earth—

but does not include—

- (d) gold, silver, metals or minerals; or
- (e) subject to any specific provision to the contrary, timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**;

S. 3(1) def. of *forest produce* amended by No. 6976 s. 2(1)(a), substituted by No. 48/2004 s. 97(2)(a).

* * * * *

S. 3(1) def. of *forest produce* amended by No. 6976 s. 2(1)(b), repealed by No. 48/2004 s. 97(2)(b).

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S. 3(1) def. of *hardwood sawlog* inserted by No. 82/1990 s. 3(b), amended by No. 76/1998 s. 10(1)(a)(iv), repealed by No. 48/2004 s. 109(a).

* * * * *

S. 3(1) def. of *hardwood sawlog supply level* inserted by No. 82/1990 s. 3(b), repealed by No. 48/2004 s. 109(a).

* * * * *

inflammable material includes any sawdust offcuts bark stubble scrub or timber liable to be consumed by fire;

S. 3(1) defs of *lease licence permit* or *authority* amended by Nos 41/1987 s. 103(Sch. 4 item 24.7), 76/1998 s. 10(1)(a)(iv).

lease licence permit or *authority* means any lease licence permit or authority respectively granted under any Act by the Governor in Council or any Minister or under this Act by the Governor in Council or the Secretary or any person authorized by the Governor in Council or the Secretary in that behalf;

S. 3(1) defs of *Minister* and *Minister of Lands* repealed by No. 10087 s. 3(1)(Sch. 1 item 73(b)).

* * * * *

national park means land that is or is part of a park within the meaning of the **National Parks Act 1975**;

S. 3(1) def. of *national park* amended by No. 6976 s. 2(1)(d), substituted by No. 7065 s. 2(Sch.), amended by No. 8210 s. 13, substituted by No. 8702 s. 55(4).

prescribed means prescribed by this Act or any regulation thereunder;

prohibited period means—

S. 3(1) def. of *prohibited period* amended by Nos 6976 s. 2(1)(e), 8587 s. 2(1)(b).

- (a) with respect to any State forest protected public land or national park—the whole year;
- (b) with respect to any fire protected area other than a State forest protected public land or national park—a period declared by the Minister as hereinafter provided;

protected forest includes all unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment and every unused road and every water frontage as defined in the **Land Act 1958**;

S. 3(1) def. of *protected forest* amended by Nos 6794 s. 5, 96/1994 s. 55(a).

protected public land means any lands of the Crown not being within a State forest or a national park declared to be protected public land pursuant to the provisions of subsection (1) of section 62 of this Act or deemed to be protected public land pursuant to subsection (1A) of section 62;

S. 3(1) def. of *protected public land* inserted by No. 8587 s. 2(1)(c), amended by Nos 9114 s. 22(a), 61/1993 s. 34(a), 35/1998 s. 15(1).

S. 3(1) def. of
*reserved
forest*
substituted by
No. 6976
s. 2(1)(f).

regulations means regulations under this Act;
reserved forest means reserved forest within the
meaning of subsection (1) of section forty-
two of this Act;

scrub includes trees bushes plants and
undergrowth of all kinds and sizes whether
alive or dead and whether standing or not
standing, and also includes any part of any
such trees bushes plants or undergrowth
whether severed or not severed;

S. 3(1) def. of
Secretary
inserted by
No. 76/1998
s. 10(1)(a)(ii).

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

State forest or *forest* includes reserved forests and
protected forests;

stubble includes stubble hay straw and herbage
whether alive or dead and whether standing
or not standing;

S. 3(1) def. of
*sustainable
yield rate*
inserted by
No. 82/1990
s. 3(c),
repealed by
No. 48/2004
s. 109(a).

* * * * *

timber includes fallen trees felled trees and all
wood whether sawn split hewn or otherwise
fashioned;

* * * * *

S. 3(1) def. of *timber supply period* inserted by No. 82/1990 s. 3(d), repealed by No. 48/2004 s. 109(a).

tree or *trees* includes trees shrubs bushes seedlings saplings and reshoots whether alive or dead;

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

S. 3(1) def. of *VicForests* inserted by No. 48/2004 s. 97(1).

Victorian Plantations Corporation has the same meaning as in the **Victorian Plantations Corporation Act 1993**;

S. 3(1) def. of *Victorian Plantations Corporation* inserted by No. 61/1993 s. 34(b).

working plan means a detailed scheme for the control and regulation of the working of a forest or any part thereof and for ensuring the maintenance of a sustained yield of forest produce therefrom.

- (2) The Minister may from time to time by notice published in the Government Gazette declare any period to be a prohibited period in respect of any fire protected area (other than a State forest protected public land or national park) and, without affecting the generality of the foregoing, may from time to time by notice so published declare different prohibited periods in respect of different parts of any fire protected area (other than a State forest protected public land or national park), and any declaration so made may

S. 3(2) amended by Nos 6976 s. 2(2), 8587 s. 2(2).

subsequently be revoked amended or varied by the Minister by notice so published.

S. 3(3)
amended by
Nos 9417 s. 2,
10087 s. 3(1)
(Sch. 1
item 74).

- (3) The Governor in Council may on the joint recommendation of the Minister and the Minister for Police and Emergency Services at any time by Order published in the Government Gazette excise from any fire protected area the whole or part of any urban fire districts proclaimed as such under the **Country Fire Authority Act 1958** or any corresponding previous enactment.

S. 3(4)(a)
inserted by
No. 6976
s. 2(3),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.8),
76/1998
s. 10(1)(b).

- (4) (a) The Minister after consultation with the Secretary—

S. 3(4)(a)(i)
amended by
S.R. No.
258/1974
reg. 4,
No. 8587
s. 2(3).

- (i) may from time to time by notice published in the Government Gazette declare that any land within 1.5 kilometres of any reserved forest or of any area of unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment or of any national park or of any protected public land shall not be a fire protected area; and
- (ii) may by notice so published revoke or from time to time amend or vary any declaration so made.

-
- (b) No such declaration or revocation shall be made unless notice of the Minister's intention to make it has been given to the Minister for Police and Emergency Services not less than fourteen days before the making thereof and published in a newspaper circulating in the locality in which the land to be affected is situated.

S. 3(4)(b)
amended by
No. 9417 s. 2.

3A Application of Road Management Act 2004

S. 3A
inserted by
No. 12/2004
s. 157.

- (1) A road under this Act is a road for the purposes of the **Road Management Act 2004** but is a public road for the purposes of that Act only if the road is a public road within the meaning it has in section 3(1) of the **Road Management Act 2004**.
- (2) The relevant road authority for the purposes of the **Road Management Act 2004** is, subject to any regulations for the purpose of section 37(1)(c) of the **Road Management Act 2004**—
- (a) the person or body nominated for the purposes of this section in a notice published in the Government Gazette by the Minister administering this Act; or
- (b) if no notice is published, the Secretary to the Department of Sustainability and Environment.

s. 4

Department of Conservation, Forests and Lands

Heading preceding s. 4 substituted by No. 10087 s. 3(1)(Sch. 1 item 75).

4 Forest produce is property of the Crown

- (1) All forest produce in State forest is the property of the Crown.
- (2) Property in forest produce only passes from the Crown to another person in accordance with this Act.

S. 4 amended by No. 10087 s. 3(1)(Sch. 1 item 76(a)–(c)), repealed by No. 41/1987 s. 103(Sch. 4 item 24.9), new s. 4 inserted by No. 48/2004 s. 98.

No. 6073 s. 5.

5 Business of the Secretary

- (1) The Secretary shall subject to this Act have the exclusive control and management of—
 - (a) all matters of forest policy;
 - (b) subject to Part 4 of the **Sustainable Forests (Timber) Act 2004**, the granting issuing and enforcing of all leases licences permits or authorities under this Act or any corresponding previous enactment;
 - (c) subject to Part 4 of the **Sustainable Forests (Timber) Act 2004**, the collection and recovery of all rents fees royalties charges and revenue under this Act whether in respect of leases licences permits or authorities granted before or after the commencement of this Act; and
 - (d) the administration generally of this Act.

S. 5(1) amended by Nos 41/1987 s. 103(Sch. 4 item 24.10), 76/1998 s. 10(1)(b).

S. 5(1)(b) amended by No. 48/2004 s. 99(1).

S. 5(1)(c) amended by No. 48/2004 s. 99(2).

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S. 5(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.11),
repealed by
No. 97/2003
s. 3.

S. 5(3)
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.12).

6 Minister or Secretary not to control mining

Apart from section 7, nothing in this Act shall be construed as giving to the Minister for the time being administering the **Conservation, Forests and Lands Act 1987** or the Secretary or any authorised officer any powers duties or authorities with regard to doing work as defined in the **Mineral Resources (Sustainable Development) Act 1990**.

No. 6073 s. 6.
S. 6
amended by
Nos 10087
s. 3(1)(Sch. 1
item 77),
41/1987
s. 103(Sch. 4
items 24.13–
24.15),
92/1990
s. 128(Sch. 1
items 12.1–
12.3), 76/1998
s. 10(1)(b),
74/2000
s. 3(Sch. 1
item 52.1),
63/2006
s. 61(Sch.
item 16).

7 Restriction on cutting or removing timber or forest produce

- (1) Despite the **Mineral Resources (Sustainable Development) Act 1990** or any licence, right or authority under that Act, no person shall cut or remove any timber or forest produce in any State forest except in accordance with the regulations under this Act.

No. 6073 s. 7.
S. 7(1)
amended by
Nos 92/1990
s. 128(Sch. 1
item 12.4),
63/2006
s. 61(Sch.
item 16).

S. 7(2)
amended by
Nos 6976 s. 3,
9936 s. 106(1),
6/1987
s. 5(1)(Sch.
item 5),
41/1987
s. 103(Sch. 4
item 24.16),
92/1990
s. 128(Sch. 1
items 12.5–
12.7), 76/1998
s. 10(1)(c)(i),
63/2006
s. 61(Sch.
item 16).

S. 7(3)
inserted by
No. 86/1993
s. 41(1),
amended by
Nos 76/1998
s. 10(1)(c)(ii),
63/2006
s. 61(Sch.
item 16).

No. 6073 s. 8.

(2) Despite the **Mineral Resources (Sustainable Development) Act 1990** or any licence, right or authority under that Act the exercise of any rights to do work as defined in that Act within a State forest shall be subject to such conditions for the protection of the ecological condition of native forests as are prescribed or as the Secretary considers appropriate to impose in any particular case.

(3) The Minister must not submit to the Governor in Council regulations proposed to be made under subsection (1) or (2), and the Secretary must not impose any conditions under subsection (2), that prohibit or restrict, or require any consent or other authority to, the carrying out of exploration or mining within the meaning of the **Mineral Resources (Sustainable Development) Act 1990** on any restricted Crown land within the meaning of that Act unless the Minister or the Secretary (as the case requires) has consulted with the Minister administering that Act in relation to the content of the proposed regulations or conditions.

8 Power to Governor in Council to except certain areas from occupation under leases, licences etc.

- (1) The Governor in Council by notice published in the Government Gazette may—
- (a) except any reserved forest or any specified portion thereof from occupation under any lease licence permit or authority granted under this Act; and
 - (b) revoke or amend such notice.

- (2) Save to the extent to which such notice is amended no reserved forest or portion thereof so excepted and no lands included in the reserved forest or portion thereof so excepted shall after such exception be occupied or continue to be occupied under any such lease licence permit or authority under this Act until such exception is revoked.

* * * * *

Ss 9–17
repealed.¹

Powers and duties of the Secretary

Heading
preceding
s. 18
amended by
Nos 96/1994
s. 56(b),
74/2000
s. 3(Sch. 1
item 52.2).

18 General powers of Secretary

No. 6073 s. 18.

Subject to this Act the Secretary shall protect State forests and shall have the control and management of—

S. 18
amended by
Nos 9549
s. 2(1)(Sch.
item 63),
41/1987
s. 103(Sch. 4
item 24.18),
76/1998
s. 10(1)(d).

- (a) State forests and plantations nurseries forest schools and industrial undertakings carried on under this Act and the forest produce of other Crown lands as provided in this Act; and

- (b) the establishment maintenance improvement and renewal of forests plantations and tree-nurseries and the distribution of trees therefrom and all tree-planting—

S. 18(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.18).

- (i) on Crown lands not vested in any corporation or trustees or not under the control or management of any council or committee of management; or

s. 18A

S. 18(b)(ii)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 78),
12/2004
s. 158(1).

- (ii) on public roads (other than freeways and arterial roads within the meaning of the **Road Management Act 2004**)—

when such tree-planting is subsidized by grants from the Consolidated Fund or the Forestry Fund or by gifts of trees from the Government or the Secretary.

S. 18A
inserted by
No. 9280 s. 2.

18A Secretary to manage reserved land

S. 18A(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.19),
76/1998
s. 10(1)(d).

- (1) Where any land temporarily or permanently reserved under section 4 of the **Crown Land (Reserves) Act 1978** is placed under the control and management of the Secretary pursuant to section 18(1) of that Act the Secretary shall control manage and use the land for the purposes for which it is reserved.

S. 18A(1A)
inserted by
No. 60/2005
s. 35(1).

- (1A) The Secretary must control, manage and use land placed under the control and management of the Secretary under section 18(1B) of the **Crown Land (Reserves) Act 1978** for the purposes for which it is reserved.

S. 18A(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.19),
76/1998
s. 10(1)(d),
60/2005
s. 35(2).

- (2) Subject to this section—
(a) the provisions of this Act, other than sections 42(6), 42(8), 47 and 49; and

(b) any regulations applying to and in relation to reserved forests generally—

shall apply to and in relation to the land under the control and management of the Secretary under subsection (1) as if the land were reserved forest.

(2A) Subject to this section—

S. 18A(2A)
inserted by
No. 60/2005
s. 35(3).

(a) the provisions of—

(i) this Act, other than sections 42(6), 42(8), 47 and 49; and

(ii) the **Sustainable Forests (Timber) Act 2004**, other than Part 3; and

(iii) the **Safety on Public Land Act 2004**; and

(b) any regulations made under those provisions of those Acts and any regulations applying to and in relation to reserved forest generally—

apply to and in relation to the land to which subsection (1A) applies as if the land were reserved forest.

(3) Section 51 applies to—

S. 18A(3)
substituted by
No. 60/2005
s. 35(4).

(a) any land to which subsection (1) applies as if section 51 authorises the granting of a lease for the use of a kiosk, cafe or store or for scientific research or for a ski tow but for no other purpose; and

(b) any land to which subsection (1A) applies as if section 51 authorises the granting of a lease for any purpose that is not detrimental to the purpose for which the land is reserved.

(3A) Section 52 applies to the land to which subsection (1A) applies as if section 52 does not authorise the granting of a licence under section 52(1)(a)(iv), (v), (vi) or (vii) for the purposes of sawlog or pulpwood production.

S. 18A(3A)
inserted by
No. 60/2005
s. 35(5).

s. 19

S. 18A(3B)
inserted by
No. 60/2005
s. 35(5).

(3B) Section 21 applies to the land to which subsection (1A) applies as if section 21 does not authorise the Secretary to exercise any of the Secretary's powers under section 21(1)(a), (b), (c) or (d) for the purposes of sawlog or pulpwood production.

S. 18A(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.19),
76/1998
s. 10(1)(d).

(4) Notwithstanding subsections (1) and (2), where land is subject to a notice pursuant to section 10(3) of the **Land Conservation Act 1970** requiring that effect be given to a recommendation of the Land Conservation Council the Secretary may give effect to the recommendation even if the recommendation conflicts with the purpose for which the land is reserved.

No. 6073 s. 19.

19 Power to place forest produce on catchment areas under control of Secretary

S. 19(1)
amended by
Nos 6976
s. 4(a),
41/1987
s. 103(Sch. 4
item 24.20),
81/1989
s. 3(Sch. item
17.1), 76/1998
s. 10(1)(d).

(1) The Governor in Council may by Order published in the Government Gazette direct that the forest produce on any catchment area now or hereafter managed or controlled by any Authority under the **Water Act 1989** shall with the consent of such Authority subject to such conditions as the Governor in Council thinks fit be placed under the control and management of the Secretary.

S. 19(2)
inserted by
No. 6976
s. 4(a),
repealed by
No. 48/2004
s. 100(1).

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No. 6073 s. 20.

20 Other powers and duties of Secretary

S. 20
amended by
Nos 9861
s. 3(1),
41/1987
s. 103(Sch. 4
item 24.21),
31/1994
s. 3(Sch. 1
item 30.1),
76/1998
s. 10(1)(d).

Subject to this Act the Secretary shall out of the moneys available for the purpose make provision for the following, namely—

- (a) the preparation and carrying out of all forest surveys including such as are necessary for the demarcation of forests and for working plans;

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- (b) plans works and plant for the establishment maintenance improvement and renewal of natural forests and plantations of indigenous and exotic trees and plants and for harvesting timber-crops and other forest produce and for the prevention and suppression of fires within fire protected areas;
 - (c) plans works and plant for the utilisation of forest produce for the market and for the conversion manufacture and sale of forest produce and by-products thereof;

* * * * *

S. 20(ca)
inserted by
No. 6976
s. 4(b)(i),
repealed by
No. 48/2004
s. 100(2).

- (d) the preparation and issue of plans and publications for the advancement of forestry generally and for the encouragement of tree-planting on municipal and private land;
- (e) the training of authorised officers the conduct of research work and the collection of statistics in connexion with forestry; and

S. 20(e)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.22).

- (ea) the promotion of technical knowledge in relation to any aspect of forestry;

S. 20(ea)
inserted by
No. 6976
s. 4(b)(ii).

- (f) the provision of facilities for public recreation and for the protection of native flora and fauna in State forests;

- (g) the promotion of good relations between the Secretary and the public.

S. 20(g)
inserted by
No. 6976
s. 4(b)(iii),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.21),
76/1998
s. 10(1)(d).

s. 21

21 Special powers of Secretary

No. 6073 s. 21.

S. 21(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.23),
76/1998
s. 10(1)(e)(i).

(1) Subject to this Act the Secretary may—

- (a) permit the taking or converting of any timber or other forest produce in any State forest at not less than such minimum rates or amounts as are prescribed by or under this Act;
- (b) take and sell any timber or forest produce in any State forest;
- (c) convert any such timber into logs sawn timber or merchantable articles and sell the same;
- (d) convert any such forest produce into merchantable articles and sell the same;
- (e) construct and maintain roads tracks and tramways and other works for the transport of timber, including timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, forest produce and merchantable articles and purchase tramways and other works for such purposes and operate tramways or works so constructed or purchased and purchase rent or charter and use vehicles and vessels with the necessary motive power;

S. 21(1)(e)
amended by
No. 48/2004
s. 101(1).

S. 21(1)(e)
Proviso
repealed by
No. 9765 s. 10.

* * * * *

S. 21(1)(ea)
inserted by
No. 8035 s. 3,
amended by
Nos 8587
s. 3(a), 9416
s. 2(1),
41/1987
s. 103(Sch. 4
item 24.23),
76/1998
s. 10(1)(e)(i).

- (ea) close by the erection of barriers either temporarily or, with the approval of the Governor in Council, permanently the whole or any part of a road track tramway or other work constructed or maintained by the Secretary or under the control of the Secretary;

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- (eb) permit the use, subject to such conditions limitations and restrictions as are prescribed or as the Secretary considers appropriate to impose, of any closed road track tramway or other work by specified persons or for specified purposes or both;
- (f) construct purchase or rent and operate sawmills and other mills and kilns and depots for seasoning timber and purchase or rent machinery and plant for the purposes of this section; and
- (g) purchase cattle and depasture them on State forests and sell such cattle.
- (1AA) The Secretary must not exercise a power under subsection (1)(a), (b) or (c) in respect of vested timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**.
- (1A) Without in any way limiting or derogating from the powers of the Secretary under paragraph (ea) in subsection (1) the Secretary may authorize any authorised officer, either generally or in any particular case, to close to vehicular traffic any such road track tramway or other work by the erection of barriers whilst the authorised officer considers it to be dangerous for use by the public.
- (2) The power to sell given by this section includes the power to sell by public auction or by tender or at not less than the rates or amounts prescribed by or under this Act.
- (3) The powers conferred on the Secretary under this Act to construct purchase or operate tramways shall notwithstanding anything in any Act include power—
- S. 21(1)(eb) inserted by No. 9416 s. 2(2), amended by Nos 41/1987 s. 103(Sch. 4 item 24.23), 76/1998 s. 10(1)(e)(ii).
- S. 21(1AA) inserted by No. 48/2004 s. 101(2).
- S. 21(1A) inserted by No. 8587 s. 3(b), amended by Nos 41/1987 s. 103(Sch. 4 items 24.23, 24.24), 76/1998 s. 10(1)(e)(i).
- S. 21(3) amended by Nos 41/1987 s. 103(Sch. 4 item 24.23), 76/1998 s. 10(1)(e)(i).

s. 22

S. 21(3)(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.25).

- (a) to construct any such tramway or any part thereof on along or across any road or (where such tramway is proposed to be constructed wholly or partly on Crown land other than a State forest) on any route in or through such Crown land;
- (b) to purchase any such tramway constructed wholly or partly on along or across any road; or
- (c) to operate any such tramway.

S. 21(4)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.23),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.26).

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S. 21(5)
amended by
No. 13/1990
s. 40(a).

- (5) Notwithstanding anything in this section no tramway or part thereof (as the case may be) proposed to be constructed pursuant to this section along any road which is under the care and management of any municipal council shall be so constructed unless with the consent of the said council or (failing such consent being given within three months after the receipt by the council of an application therefor) of the Governor in Council.

No. 6073 s. 22.

22 Working plans for State forests

S. 22(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.27),
76/1998
s. 10(1)(f)(i).

- (1) The Secretary—
 - (a) shall prepare and cause to be put into operation working plans with respect to the control, maintenance, improvement, protection from destruction or damage by fire or otherwise, and removal of forest produce in and from each State forest and any part thereof;

- (b) may from time to time revise any such working plan and shall cause the revised working plan to be put into operation; and
 - (c) forthwith after the preparation or revision of any such working plan shall submit the same to the Minister.
- (2) Any such working plan shall specify the detailed plans for the protection of the area from fire and may specify—
- (a) the maximum area from which forest produce may be taken annually;
 - (b) the maximum quantity of forest produce that may be disposed of annually;
 - (c) the silvicultural operations necessary to ensure the regeneration of the best species of forest trees on areas which have been cut over; and
 - (d) such other matters as the Secretary considers appropriate.

S. 22(2)(c)
amended by
Nos 6976
s. 4(c), 9549
s. 2(1)(Sch.
item 62).

S. 22(2)(d)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.27),
76/1998
s. 10(1)(f)(ii).

* * * * *

Ss 23–26
repealed.²

26A Power to establish board of forestry education

The Governor in Council may by regulations made under this Act establish a board of forestry education and the regulations shall provide for the inclusion of the nominees of the Secretary among the members of the board.

S. 26A
inserted by
No. 6976
s. 5(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.29),
76/1998
s. 10(1)(g).

s. 26B

26B Conduct of forestry schools and sharing of facilities

S. 26B
inserted by
No. 9417 s. 4.

S. 26B(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.30),
76/1998
s. 10(1)(g).

S. 26B(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.30),
76/1998
s. 10(1)(g).

- (1) The Secretary may co-operate with any university or college of advanced or tertiary education in conducting forest schools or courses of education or training in forestry and may share with any such university or college any land, buildings or other facilities belonging to the Secretary or managed or controlled by the Secretary.
- (2) For the purposes of subsection (1) the Secretary may enter into any agreement or arrangement with any university or college with respect to the conduct of any forest school or course of education or training in forestry or for sharing any land, building or other facilities.
- (3) Every agreement or arrangement referred to in subsection (2) shall be in writing and shall be subject to such conditions, limitations and restrictions as are prescribed or the Minister thinks fit to impose.

S. 27
amended by
Nos 6976
s. 5(b)(i)(ii),
9019
s. 2(1)(Sch.
items 74, 76),
9416 s. 3,
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.31).

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27A Employment of persons who are not public servants

(1) The Secretary or any committee of management or other authority created by this Act may employ persons or classes of persons who are not employed under Part 3 of the **Public Administration Act 2004**.

S. 27A inserted by No. 8035 s. 4.

S. 27A(1) amended by Nos 9019 s. 2(1)(Sch. item 76), 41/1987 s. 103(Sch. 4 item 24.32), substituted by No. 76/1998 s. 10(2), amended by No. 108/2004 s. 117(1) (Sch. 3 item 83).

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S. 27A(2) repealed by No. 41/1987 s. 103(Sch. 4 item 24.33).

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Ss 28–37 repealed.³

Purchase or taking of lands

38 Power to acquire compulsorily land for certain forest purposes

No. 6073 s. 38.

(1) The Minister may purchase by agreement or compulsorily acquire any land required for the purposes of the Secretary—

S. 38(1) amended by Nos 7228 s. 7(Sch. 4 Pt 12(a)), 7674 s. 3(a), S.R. No. 258/1974 reg. 5, Nos 121/1986 s. 112, 41/1987 s. 103(Sch. 4 item 24.38), 76/1998 s. 10(1)(h).

(a) for securing ingress egress and regress to and from any reserved or protected forest;

(b) for the use maintenance or transmission of mechanical hydraulic or electric power as a means of transporting forest produce or for operating or lighting any sawmill plant or machinery or other industrial undertaking in a State forest; or

s. 38

(c) for the construction of tramways roads or tracks in or in the vicinity of any State forest—

to an extent not exceeding 20 metres in width over the whole length of the land required for any such purpose.

S. 38(2)
amended by
Nos 7228
s. 7(Sch. 4
Pt 12(a)), 7674
s. 3(a),
121/1986
s. 112.

(2) The Minister may purchase by agreement or compulsorily acquire any land required—

(a) for the due conservation and proper working of State forests and plantations;

(b) for the protection of State forests and plantations from sand-drifts upon such land;
or

(c) for the prevention or minimising of erosion by rivers streams rain or wind of the soil of State forests or plantations by the planting of such land with trees or grasses or otherwise.

S. 38(2A)
inserted by
No. 7674
s. 3(b),
amended by
No. 121/1986
s. 112.

(2A) The Governor in Council may by Order published in the Government Gazette dedicate any land purchased or compulsorily acquired under subsection (2) as a reserved forest.

S. 38(3)
amended by
Nos 7228
s. 7(Sch. 4
Pt 12(a)), 7674
s. 3(a),
substituted by
No. 121/1986
s. 112.

(3) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—

(a) the **Forests Act 1958** is the special Act; and

(b) the Minister is the Authority.

S. 38(4)
repealed by
No. 121/1986
s. 112.

* * * * *

Ss 38A, 39
repealed.⁴

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Naming &c., Victorian timber &c.

40 Power to make regulations as to classification grading and naming of Victorian timbers etc.

No. 6073 s. 40.

- (1) The Governor in Council may make regulations for or with respect to the classification grading and naming for the purposes of this Act of any timbers obtained from trees grown in Victoria whether indigenous or not (hereinafter called *Victorian timber*) and of any other forest produce.
- (2) On any sale or in any contract for the sale of Victorian timber of any kind or of any forest produce of any kind every person who on or after a date to be proclaimed for the purpose by the Governor in Council by proclamation published in the Government Gazette knowingly describes any such kind of timber or forest produce—
 - (a) by any other name than the name prescribed as the true name of such kind of timber or forest produce by the regulations; or
 - (b) as being of any other class or grade of such kind of timber or forest produce than the class or grade prescribed by the regulations for timber or forest produce of that kind of the same average quality—

S. 40(2)
amended by
No. 10235
s. 3(b).

shall be liable to a penalty of not more than 5 penalty units.

State forests

41 State forest reserves not to be dealt with under Land Act 1958

No. 6073 s. 41.
S. 41
amended by
No. 6976
s. 7(1)(a).

Notwithstanding anything contained in the **Land Act 1958** it shall not be lawful for the Governor in Council by virtue of the said Act at any time to increase or diminish the area of any reserved forest or to grant a right to occupy as a residence

area or a lease or licence of or in respect of any Crown land within any reserved forest.

42 Reserved forests

S. 42(1)
substituted by
No. 6976
s. 7(1)(b).

- (1) Subject to any adjustment of boundaries made as hereinafter provided and subject to any excision made under any repealed Act or enactment—
 - (a) all unoccupied Crown land within the areas mentioned in the Second Schedule to this Act;
 - (b) all land dedicated as permanent forests or as timber reserves before the commencement of the **Forests (Further Amendment) Act 1962** pursuant to any enactment repealed by that Act or any corresponding previous enactment; and
 - (c) all land dedicated pursuant to this Act after the said commencement as reserved forests—

shall be reserved forests.

S. 42(2)
amended by
No. 6976
s. 7(1)(c).

- (2) A reserved forest or any part thereof shall not be alienated either wholly or in part for any estate in fee simple or for any lesser estate save as hereinafter expressly provided.

S. 42(3)
amended by
No. 6976
s. 7(1)(c).

- (3) Every conveyance and alienation of a reserved forest or any part thereof in contravention of this section shall be absolutely void as well as against Her Majesty as against all other persons whomsoever.

S. 42(4)
amended by
Nos 6976
s. 7(1)(c),
86/1993
s. 41(2),
48/2004
s. 102(1),
63/2006
s. 61(Sch.
item 16).

- (4) Subject to subsection (4A), except under and pursuant to this Act no lease or licence or permit or authority (other than for carrying out exploration or mining within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**) shall be granted or issued over or in respect of any reserved forest.

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- (4A) Nothing in subsection (4) prevents an allocation order under the **Sustainable Forests (Timber) Act 2004** being made in respect of a reserved forest.
- (5) For the purposes of this and the next succeeding section Crown land shall be deemed to be unoccupied notwithstanding that a grazing licence or an agricultural licence has either before or after the commencement of this Act been granted by the Governor in Council or the Minister in respect of the whole or any part thereof.
- (6) The Governor in Council may at any time on the joint recommendation of the Minister and the Minister administering the **Extractive Industries Development Act 1995** excise either temporarily or permanently from any reserved forest any portion thereof which is required for public use as mineral or medicinal springs, or for reservation for visitors to any waterfalls, caves, or places of natural beauty or interest or as health resorts or for sites for townships or for State schools, or for providing roads and means of access thereto or for irrigation purposes or water supply purposes. Any land so excised for water supply purposes may be vested by the Governor in Council (subject to such terms conditions and reservations as he may think fit) in any Authority under the **Water Act 1989**.
- (7) No Order in Council may be made under the preceding subsection until a copy of such proposed order has been published in the Government Gazette and been laid before Parliament for at least one month, and until a copy of such proposed order has been forwarded to each member of Parliament.
- S. 42(4A) inserted by No. 48/2004 s. 102(2).
- S. 42(5) amended by No. 96/1994 s. 55(b)(i)(ii).
- S. 42(6) amended by Nos 6976 s. 7(1)(c), 9549 s. 2(1)(Sch. item 64), 10087 s. 3(1)(Sch. 1 item 80), 81/1989 s. 3(Sch. item 17.2), 46/1998 s. 7(Sch. 1).

S. 42(8)
amended by
Nos 6976
s. 7(1)(c), 7740
s. 2(a)(b),
10087
s. 3(1)(Sch. 1
item 81),
41/1987
s. 103(Sch. 4
items. 24.41,
24.42),
76/1998
s. 10(1)(h).

- (8) Notwithstanding anything in this section the Governor in Council may acquire by exchange of land dedicated as a reserved forest—
- (a) any alienated land or any Crown land licensed or leased with an inchoate right of purchase; or
 - (b) any land, public or private, and whether vested in trustees or otherwise—

and may execute the proper conveyances accordingly, and may by Order published in the Government Gazette dedicate the land as a reserved forest but no Order in Council for the acquisition by exchange of any Crown land licensed or leased with an inchoate right of purchase shall be made unless on the recommendation of the Secretary.

- (9) For the purposes of this and the next succeeding section and of dedication of areas of unoccupied mountainous Crown lands pursuant to this Act, Crown land shall be deemed to be unoccupied notwithstanding that—
- (a) (whether before or after the commencement of this Act) such land or any part thereof has been under the **Mines Act 1958** or any corresponding previous enactment or under Division eleven of Part I of the **Land Act 1958** or any corresponding previous enactment—
 - (i) registered or granted as a residence area; or
 - (ii) occupied as a residence area or under a business licence; or

(b) after the commencement of the **Forests Act 1907** a lease or licence of or a permit in respect of such land or any part thereof has been granted pursuant to section fifty-one or section fifty-two of this Act or any corresponding previous enactment.

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Ss 43, 44
repealed by
No. 6976
s. 7(1)(d).

45 Future dedication of Crown land as reserved forests

(1) The Governor in Council may on the recommendation of the Minister at any time by Order published in the Government Gazette dedicate any area of Crown land as a reserved forest.

S. 45(1)
substituted by
No. 6976
s. 7(1)(e),
amended by
No. 10087
s. 3(1)(Sch. 1
item 82(a)).

(2) Without prejudice to the powers contained in subsection (1) the Governor in Council may subject to this Act upon the joint recommendation of the Minister, the Minister for the time being administering the **Water Act 1989** and the Minister for the time being administering the **Mineral Resources (Sustainable Development) Act 1990** and after the publication of notice of intention to dedicate the same as provided in section 46 dedicate as reserved forests all or any of the areas of unoccupied mountainous Crown lands forming the upper watersheds of permanent streams within Victoria.

S. 45(2)
amended by
Nos 6976
s. 7(1)(f), 8587
s. 5(a)(b), 9549
s. 2(1)(Sch.
item 65),
10081 s. 5(1),
10087
s. 3(1)(Sch. 1
item 82(b)),
41/1987
s. 103(Sch. 4
item 24.43),
74/2000
s. 3(Sch. 1
item 52.3),
48/2004
s. 102(3),
63/2006
s. 61(Sch.
item 16).

s. 46

No. 6073 s. 46.
S. 46
amended by
No. 9615 s. 4.

46 Notice of intention to dedicate

Before any land is so dedicated notice of intention to dedicate the same shall be published in some newspaper circulating in the neighbourhood wherein such land is situate.

No. 6073 s. 47.
S. 47
amended by
Nos 6976
s. 7(1)(g), 7740
s. 3.

47 Power to acquire land for forests

The Governor in Council may acquire by exchange or if so authorized by Parliament may acquire by purchase or resumption or otherwise any alienated land or any land licensed or leased with an inchoate right of purchase (and in the case of the acquisition of land by exchange may execute the proper conveyances accordingly) and may by Order published in the Government Gazette dedicate the same as a reserved forest.

No. 6073 s. 48.

S. 48(1)
amended by
Nos 6976
s. 7(1)(h), 9615
s. 5.

48 Power to acquire private land for forests

- (1) Notwithstanding anything contained in the last preceding section or in any Act the Governor in Council may without further or other authority than this Act purchase for the Crown any land which at any time is required by the Department for the purposes of this Act, whether such land is alienated from the Crown or is land held under a licence or lease from the Crown with an inchoate right of purchase and may by Order published in the Government Gazette dedicate the same as a reserved forest. Not more than \$3 000 000⁵ shall be expended under this subsection in any one financial year without the express sanction of Parliament.

S. 48(2)
amended by
Nos 7740 s. 4,
10087
s. 3(1)(Sch. 1
item 83),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.44).

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49 Excisions from reserved forest

No. 6073 s. 49.
S. 49
(Heading)
inserted by
No. 48/2004
s. 103(1).

- (1) Notwithstanding anything in the **Land Act 1958** or this Act, on the application of the Minister made after reference in writing to and consultation with the Minister for the time being administering the **Water Act 1989** and the Minister for the time being administering the **Mineral Resources (Sustainable Development) Act 1990**, the Governor in Council by Order made without the special authority of an Act of Parliament other than this Act may authorize the excision of any area of land described in the Order permanently from any reserved forest; and a copy of every such Order shall be published in the Government Gazette.

S. 49(1)
amended by
Nos 9549
s. 2(1)(Sch.
item 66),
10081 s. 5(1),
10087
s. 3(1)(Sch. 1
item 84(a)(b)),
41/1987
s. 103(Sch. 4
item 24.45),
92/1990
s. 128(Sch. 1
item 12.8),
74/2000
s. 3(Sch. 1
item 52.3),
48/2004
s. 103(2)(a),
63/2006
s. 61(Sch.
item 16).

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S. 49(2)
amended by
Nos 7228
s. 7(Sch. 4
Pt 12(b)),
10087
s. 3(1)(Sch. 1
item 85),
41/1987
s. 103(Sch. 4
item 24.46),
76/1998
s. 10(1)(h),
repealed by
No. 48/2004
s. 103(2)(b).

- (3) On the fourteenth day after the publication of the copy of any such Order in the Government Gazette, such Order shall come into force, whereupon—

s. 50

S. 49(3)(a)
amended by
No. 48/2004
s. 103(3)(a).

(a) the area of land therein described in the reserved forest shall on a date to be specified in such Order be excised from the reserved forest as if it had been excised therefrom by Act of Parliament and thereupon the said area of land shall be deemed to be and may be dealt with as unoccupied Crown land.

S. 49(3)(b)
amended by
No. 6976
s. 7(1)(i),
repealed by
No. 48/2004
s. 103(3)(b).

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S. 50
substituted by
No. 6976 s. 8.

50 Power to declare land in reserved forests to be a forest park etc.

S. 50(1)
amended by
Nos 8587
s. 6(a)(i)(ii),
9019
s. 2(1)(Sch.
item 77), 9417
s. 5(1), 9615
s. 6.

(1) The Governor in Council may by Order published in the Government Gazette at any time set aside and declare to be a forest park state park regional park multi-purpose park wilderness education area historic area flora and fauna reserve flora reserve scenic reserve alpine reserve roadside reserve or a reserve for any other purpose any land being the whole or any portion of a reserved forest and may at any time by the like Order revoke or vary any Order so made.

S. 50(2)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.47,
24.48),
76/1998
s. 10(1)(i)(ii).

(2) Where pursuant to subsection (1) of this section any land is set aside which is subject to a licence or permit granted under this Act for the grazing of cattle the Secretary may after giving not less than three months' notice in writing to the holder of the licence or permit of the Secretary's intention to do so cancel the licence or permit so far as it relates to that land and all rights and privileges conferred by the licence or permit with respect to that land shall cease accordingly.

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- (3) (a) The Minister on the recommendation of the Secretary may appoint to be a committee of management or an advisory committee in relation to any land set aside pursuant to the provisions of subsection (1)—
- (i) any three or more persons;
 - (ii) any municipal council or any councillor;
 - (iii) any board, committee, commission, trust or other body corporate or unincorporate established by or under any Act for a public purpose;
 - (iv) a company within the meaning of the Corporations Act that—
 - (A) is taken to be registered in Victoria; and
 - (B) is registered under section 150, or has a licence in force under section 151, of that Act;
 - (v) any combination of such persons and bodies;
 - (vi) any one of the corporations or bodies referred to in subparagraph (ii), (iii) or (iv) together with an authorised officer—

S. 50(3) amended by No. 7740 s. 5(a)(b), substituted by No. 9416 s. 4(1), amended by Nos 41/1987 s. 103(Sch. 4 item 24.47), 76/1998 s. 10(1)(i)(i).

S. 50(3)(a)(ii) substituted by No. 13/1990 s. 40(b).

S. 50(3)(a)(iv) substituted by Nos 9699 s. 23, 44/2001 s. 3(Sch. item 49).

S. 50(3)(a)(vi) amended by Nos 96/1994 s. 56(e), 74/2000 s. 3(Sch. 1 item 52.4).

and may at any time remove any of those persons or bodies from office.

s. 50

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- (b) Where a corporation is appointed under this subsection with some other person or body to be a committee under this section the corporation shall appoint one of its members to act as the agent of the corporation for all purposes.
- S. 50(4)**
amended by
Nos 8587
s. 6(b),
76/1998
s. 10(1)(i)(iii).
- (4) The members of a committee of management or an advisory committee appointed under this section who are not employees in the public service shall subject to such conditions as he may determine be entitled to receive such travelling allowances as are fixed by the Governor in Council.
- S. 50(5)**
substituted by
No. 7205
s. 2(a).
- (5) The Governor in Council may make regulations for or with respect to—
- S. 50(5)(a)**
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).
- (a) the care protection and management of such land by the Secretary or the committee of management;
- S. 50(5)(aa)**
inserted by
No. 9417
s. 5(2)(a).
- (aa) regulating the entry upon such land of persons and prohibiting or regulating the entry upon such land of vehicles and the landing of helicopters and other aircraft and prescribing the periods during which persons, vehicles, helicopters or other aircraft may remain upon or over that land;
- S. 50(5)(ab)**
inserted by
No. 9417
s. 5(2)(a).
- (ab) regulating and controlling the use of such land by the public and prescribing conditions to be observed by persons using such land;
- (b) the preservation of good order and decency therein;
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- (ba) prohibiting or restricting the bringing upon any such land or allowing the entry thereon of any animal included in a specified class of animals or imposing conditions subject to compliance with which such an animal is permitted to be brought into, allowed to enter or to remain upon such land and where regulations are in force prohibiting the bringing into or entry upon that land of specified animals the regulations may permit an authorised officer, where he is satisfied upon reasonable grounds that an animal has been brought into or entered upon that land in contravention of these regulations and is at large upon the land, to shoot or otherwise destroy the animal speedily and without causing it unnecessary suffering;
- (bb) the setting aside of areas of that land for specific purposes, including prohibiting or regulating—
- (i) access to and entry onto those areas; and
 - (ii) activities in, or the use of, those areas;
- (c) the provision of services on such land by the Secretary or the committee of management and the conditions under which any service so provided shall be available to or be used by any person;
- S. 50(5)(ba)** inserted by No. 9417 s. 5(2)(b), amended by No. 41/1987 s. 103(Sch. 4 item 24.49).
- S. 50(5)(bb)** inserted by No. 109/2004 s. 21.
- S. 50(5)(c)** substituted by No. 7340 s. 2(a), amended by Nos 41/1987 s. 103(Sch. 4 item 24.47), 76/1998 s. 10(1)(i)(i).

s. 50

S. 50(5)(ca)
inserted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

(ca) the carrying out of works and improvements on such land by the Secretary or the committee of management;

S. 50(5)(cb)
inserted by
No. 7340
s. 2(a).

(cb) the health and safety of persons on such land or occupying or using any building or any part of a building thereon;

S. 50(5)(cc)
inserted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

(cc) the inspection and approval by the Secretary or committee of management of plans and specifications for buildings or extensions or alterations to buildings required or permitted to be erected or made on such land under any lease licence or permit granted under section fifty-one or section fifty-two of this Act and the supervision by the Secretary or committee of management of the erection or making thereof;

S. 50(5)(cd)
inserted by
No. 7340
s. 2(a),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

(cd) the giving to the Secretary or committee of management before any such building extension or alteration is commenced of security by way of a deposit of money or otherwise for the proper carrying out and completion of the work and the amount or value of the security;

(d) the employment of officers servants and workmen by the committee of management;

S. 50(5)(e)
substituted by
No. 7340
s. 2(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i),
48/2004
s. 104(1).

(e) the imposition collection and receipt of tolls fees rents or other charges by the Secretary or the committee of management for or in respect of—

(i) entry upon such land or any specified part thereof;

(ii) use of such land or any part thereof or any improvement thereon;

(iii) the construction and maintenance on such land by the Secretary or the committee of management of roads or streets drainage works sewerage works water supply works and electricity supply works;

S. 50(5)(e)(iii)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

(iv) the supply of water and electricity and any other service whatever (whether of a similar or different kind) provided by the Secretary or the committee of management on such land or in connexion with the use of such land or any building or improvement thereon; and

S. 50(5)(e)(iv)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

(v) the examination and approval of plans for any new building or any extension or alteration to any building to be erected or made under any lease licence or permit granted under section fifty-one or section fifty-two of this Act—

but so that no toll fee rent or charge imposed by any regulation made under subparagraphs (i), (ii) or (iii) of this paragraph shall be payable by any person who holds a lease licence or permit in respect of any such land which was granted under subparagraphs (ii), (iii) or (iv) of paragraph (a) of subsection (1) of section fifty-two of this Act;

(f) the expenditure of any moneys received by the Secretary or the committee of management in respect of any such land.

S. 50(5)(f)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

s. 50

S. 50(5A)
inserted by
No. 9936
s. 106(2),
substituted by
No. 86/1993
s. 41(3),
amended by
No. 63/2006
s. 61(Sch.
item 16).

(5A) The Minister must not submit to the Governor in Council regulations proposed to be made under subsection (5) that prohibit or restrict, or require the consent of the Minister to, the carrying out of exploration or mining within the meaning of the **Mineral Resources (Sustainable Development) Act 1990** on land set aside under subsection (1) that is restricted Crown land within the meaning of that Act unless the Minister has consulted with the Minister administering that Act in relation to the content of the proposed regulations.

S. 50(6)
inserted by
No. 7205
s. 2(b),
substituted by
No. 7674 s. 4,
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).

(6) Any moneys received by the Secretary pursuant to any regulation made under this section shall be paid into a special trust fund kept in the Treasury for the purpose, and shall be available for—

- (a) the repayment of loans made for the provision of services and the carrying out of works and improvements on any such land, the payment of interest on such loans and the maintenance and extension of such services works and improvements; and
- (b) the provision and extension of other services and carrying out maintaining and extending other works and improvements on any such land.

S. 50(7)
inserted by
No. 9416
s. 4(2),
amended by
No. 11/2001
s. 3(Sch.
item 27),
repealed by
No. 48/2004
s. 104(2).

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- (8) A lessee or licensee of land within any reserve or the holder of any licence or permit relating to a reserve shall be liable to pay to the committee of management of the reserve or to the Secretary (as the case requires) such amount as is fixed either generally or in any particular case by the committee of management with the approval of the Secretary or by the Secretary and approved by the Minister—
- (a) as an appropriate contribution towards the costs incurred by the committee or the Secretary in providing facilities, amenities and services for that lessee, licensee or holder and the operation and maintenance of any such facilities, amenities and services or for community purposes;
- (b) as an annual contribution towards the costs incurred by the committee or by the Secretary in providing operating and maintaining any such facilities, amenities and services or any one or more or any combination of any such activities.
- (9) Amounts payable under subsection (8) shall be payable as prescribed by the regulations and may in default of payment be recovered as a debt due to the Crown.
- (10) The Governor in Council may—
- (a) annually appoint a registered company auditor to audit the accounts and records of any committee of management; or
- S. 50(8)**
inserted by
No. 9416
s. 4(2),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).
- S. 50(8)(a)**
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).
- S. 50(8)(b)**
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.47),
76/1998
s. 10(1)(i)(i).
- S. 50(9)**
inserted by
No. 9416
s. 4(2).
- S. 50(10)**
inserted by
No. 9417
s. 5(3) (as
amended by
No. 9549
s. 2(1)(Sch.
item 68)).
- S. 50(10)(a)**
amended by
No. 13/1990
s. 40(c),
substituted by
No. 48/2004
s. 104(3).

s. 50A

S. 50(10)(b)
substituted by
No. 93/1997
s. 28(Sch.
item 14),
amended by
No. 53/1999
s. 26(Sch.
item 12(a)).

(b) in respect of any particular committee of management, direct that the accounts of the committee of management be audited by the Auditor-General and, if so—

S. 50(10)(b)(i)
amended by
No. 53/1999
s. 26(Sch.
item 12(b)).

- (i) the Auditor-General and any person assisting the Auditor-General has in respect of the audit all the powers conferred on the Auditor-General by any law relating to the audit of the Public Account; and
- (ii) the committee of management must pay to the Consolidated Fund an amount determined by the Auditor-General to defray the costs and expenses of the audit.

S. 50(11)
inserted by
No. 48/2004
s. 104(4).

(11) A registered company auditor appointed under subsection (10)(a) is entitled to be paid by the committee of management such remuneration as the Governor in Council determines.

S. 50A
inserted by
No. 9417 s. 6.

50A Secretary may accept gift of certain lands subject to conditions

S. 50A(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.50),
76/1998
s. 10(1)(j).

(1) Where it appears to the Secretary that any land offered as a gift or devise under this section would be suitable for setting aside under section 50 if the land were reserved forest the Secretary may accept a gift or devise of the land subject to a condition entitling the donor or testator or a nominee of the donor or testator to occupy the land during the lifetime of the donor or nominee or for any other specified period where in the opinion of the Secretary it is expedient to do so for or in connexion with giving effect to the objects of this Act.

s. 51

- (2) Where the Secretary accepts land under subsection (1) the Governor in Council may set aside and declare the land to be a park or reserve under section 50(1) in all respects as if the land were reserved forest and may by the like Order revoke or vary any Order so made.
- (3) Upon a declaration being made under subsection (2) the provisions of section 50, subsections (3), (4) and (5) shall extend and apply to the land declared but any regulations made under that section shall be subject to and have regard to the condition referred to in subsection (1) upon which the land was given by the donor.

S. 50A(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.50),
76/1998
s. 10(1)(j).

Leases and licences

51 Leases of land in reserved forests

Subject to such covenants terms and conditions and to the payment of such rent royalty or fees as he determines the Governor in Council may grant to any person for any term not exceeding twenty-one years a lease of any Crown land within any reserved forest—

- (a) of any area for the grazing of cattle; or

No. 6073 s. 51.
S. 51
amended by
No. 6976
s. 9(a).

S. 51(a)
amended by
No. 48/2004
s. 105(1)(a).

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S. 51(b)
amended by
S.R. No.
258/1974
reg. 6,
Nos 41/1987
s. 103(Sch. 4
item 24.51),
76/1998
s. 10(1)(j),
repealed by
No. 48/2004
s. 105(1)(b).

s. 52

S. 51(c)
substituted by
No. 6976
s. 9(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.51),
76/1998
s. 10(1)(j).

(c) for such other purposes and of such area as
on the recommendation of the Secretary the
Governor in Council in any particular case
by Order determines:

S. 51
Proviso
inserted by
No. 6842 s. 3,
amended by
Nos 6976
s. 9(c), 7740
s. 6(a)(b),
41/1987
s. 103(Sch. 4
item 24.51),
76/1998
s. 10(1)(j),
repealed by
No. 48/2004
s. 105(2).

* * * * *

No. 6073 s. 52.

52 Licences and permits with respect to forests

S. 52(1)
amended by
Nos 6976
s. 10(1)(a)(b),
7205 s. 3(a),
S.R. No.
258/1974 reg.
7(a)–(c),
Nos 9615 s. 7,
41/1987
s. 103(Sch. 4
items 24.52,
24.53),
substituted by
No. 90/1989
s. 10,
amended by
No. 76/1998
s. 10(1)(k)(i)(ii).

- (1) Subject to any covenants, terms and conditions
that may be prescribed, any additional covenants,
terms and conditions that the Secretary considers
appropriate to impose in a particular case, and the
payment of any rent, fees, royalties or charges that
the Secretary may determine, the Secretary may
grant to any person for a term of not more than
3 years or, with the approval of the Governor in
Council, for a term of not more than 20 years—
- (a) a licence or permit in respect of Crown land
in a reserved forest, for any one or more of
the following purposes that is specified in the
licence—
- (i) to graze cattle;
 - (ii) to graze cattle under agistment;

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- (iii) to occupy an area of not more than 2000 hectares for the exclusive cutting of timber;
 - (iv) to thin, cut and remove timber;
 - (v) to cut forest produce specified in the licence;
 - (vi) to dig forest produce specified in the licence;
 - (vii) to take away forest produce specified in the licence;
 - (viii) to occupy for residence an area of not more than 0.4 hectares;
 - (ix) any purpose for which a licence may be granted under subdivision 2 of Division 9 of Part I of the **Land Act 1958**;
 - (x) any other purpose whatever relating to or connected with a state forest or forest produce; or
- (b) a licence or permit to enter protected forest for any one or more of the following purposes that is specified in the licence—
- (i) to cut forest produce specified in the licence;
 - (ii) to dig forest produce specified in the licence;
 - (iii) to take away forest produce specified in the licence; or
- (c) a licence or permit to enter land having an area of not more than 1.25 hectares or, with the approval of the Minister, a greater area, set aside in section 50(1), for any one or more of the following purposes that is specified in the licence—
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S. 52(1)(c)(vi)
amended by
No. 76/1998
s. 10(1)(k)(i).

S. 52(2)
amended by
Nos 9416 s. 5,
10087
s. 3(1)(Sch. 1
item 86),
41/1987
s. 103(Sch. 4
item 24.52),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.54),
new s. 52(2)
inserted by
No. 48/2004
s. 106.

S. 52(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.55),
76/1998
s. 10(1)(k)(i).

S. 52(4)
amended by
No. 6976
s. 10(2).

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- (i) to provide accommodation;
 - (ii) to store goods and liquid fuels;
 - (iii) to sell goods and liquid fuels;
 - (iv) to erect ski lifts;
 - (v) to operate ski lifts;
 - (vi) to provide any other facility or service which the Secretary considers appropriate.
- (2) The Secretary must not grant a licence or permit under this section in respect of vested timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**.
- (3) No permit or licence granted under this Act shall be transferable except with the authority in writing of the Secretary or of an authorised officer authorized in that behalf by the Secretary.
- (4) Any holder of a licence or permit granted under this section who fails to comply with the prescribed covenants terms and conditions relating to his licence or permit shall be guilty of an offence against this Act.
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(5) The Secretary or any person authorized by the Secretary to grant licences or permits may suspend and the Secretary with the approval of the Minister may cancel any licence or permit the holder of which has failed to comply with the prescribed covenants terms and conditions thereof or any covenants terms and conditions imposed by the Secretary in relation thereto.

S. 52(5) inserted by No. 6976 s. 10(3), amended by Nos 7205 s. 3(b), 41/1987 s. 103(Sch. 4 items 24.52, 24.56), 76/1998 s. 10(1)(k)(i).

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S. 52(6) inserted by No. 6976 s. 10(3), amended by Nos 41/1987 s. 103(Sch. 4 item 24.52), 76/1998 s. 10(1)(k)(i), repealed by No. 48/2004 s. 107.

52AA No compensation payable or proceedings able to be taken

S. 52AA inserted by No. 48/2004 s. 108.

On the repeal of section 52(6) by section 107 of the **Sustainable Forests (Timber) Act 2004**—

- (a) despite anything to the contrary in section 14 of the **Interpretation of Legislation Act 1984**, any entitlement, right or purported right in existence immediately before that repeal in respect of the granting of any further licence or permit for a licence or permit of a kind referred to in section 52(6) as in force immediately before its repeal ceases to exist; and

s. 52AA

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- (b) the holder of a licence or permit of a kind referred to in section 52(6) is not entitled to have that licence or permit renewed or reissued, whether any entitlement, right or purported right to do so arose under section 52(6), a term or condition of the licence or permit or in any other manner; and
 - (c) no proceedings may be taken—
 - (i) in respect of any loss, damage or injury resulting from or arising out of—
 - (A) the loss of any entitlement, right or purported right referred to in paragraph (a) or (b); or
 - (B) the enactment of this section; or
 - (ii) to seek a renewal, reissue or grant of a licence or permit, whether arising under any entitlement, right or purported right to do so under section 52(6), a term or condition of the licence or permit or in any other manner; and
 - (d) no compensation is payable in respect of any loss, damage or injury resulting from or arising out of—
 - (i) the loss of any entitlement, right or purported right referred to in paragraph (a) or (b); or
 - (ii) the enactment of this section.

S. 52A
inserted by
No. 82/1990
s. 4,
amended by
Nos 76/1998
s. 10(1)(l),
97/2003 s. 4,
repealed by
No. 48/2004
s. 109(b).

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*	*	*	*	*	Ss 52B, 52C inserted by No. 82/1990 s. 4, amended by No. 76/1998 s. 10(1)(l), repealed by No. 48/2004 s. 109(b).
*	*	*	*	*	Ss 52D, 52E inserted by No. 82/1990 s. 4, repealed by No. 48/2004 s. 109(b).
*	*	*	*	*	S. 52F inserted by No. 82/1990 s. 4, amended by No. 76/1998 s. 10(1)(m), repealed by No. 48/2004 s. 109(b).

53 Power to submit certain leases licences or permits to auction or tender No. 6073 s. 53.

- (1) Before any lease under section fifty-one of this Act or any licence or permit under section fifty-two of this Act is granted, the right to such lease, if the Secretary so recommends, or (as the case may be) the right to such licence or permit may be offered, subject to the regulations, for sale by auction or by tender and the rental of the said lease and the royalties dues or charges payable with respect to forest produce by the holder of the said lease licence or permit shall in that case be fixed thereby.

S. 53(1)
amended by
Nos 6976
s. 11(a),
41/1987
s. 103(Sch. 4
item 24.57),
76/1998
s. 10(1)(n)(i).

S. 53(2)
amended by
Nos 6976
s. 11(b),
41/1987
s. 103(Sch. 4
item 24.57),
76/1998
s. 10(1)(n)(ii).

- (2) For the purposes of this Act royalty on timber may be assessed, as the Secretary considers appropriate, on timber standing or in the log or on the quantity of merchantable timber produced after conversion from the log.
- (3) The contents of timber cut for milling purposes and measured in the log shall be calculated on the quarter girth system or such other system as is prescribed.

No. 6073 s. 54.
S. 54
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.58),
76/1998
s. 10(1)(o).

54 Lease etc. with respect to timber to contain condition as to insurance against loss by fire

Every lease of any area for saw-milling purposes and every licence or permit to occupy a special area for the exclusive cutting of timber or to thin out and remove trees or to cut and take away timber may contain a covenant or condition in the prescribed form to insure in the name of the Secretary, when required by the Secretary, against loss by fire or otherwise any timber upon which on the removal thereof from a State forest any royalties dues or charges may be payable to the Secretary, and the amount of such insurance shall be at least sufficient to cover the royalties dues and charges estimated by the Secretary to be so payable on such timber.

No. 6073 s. 55.

55 No compensation for improvements

Upon the expiration of the term of any lease licence or permit under this Act or any corresponding previous enactment no compensation for any improvements upon the land comprised therein shall be payable by the Crown to the outgoing lessee licensee or grantee of such permit. Such lessee or licensee or grantee of such permit unless otherwise provided in his lease or licence or permit shall be entitled to

remove any fences or buildings erected by him or to dispose of them to any incoming tenant or grantee of a permit.

56 Dealing with interest in leased land

Any person may with the consent of the Minister given on the recommendation of the Secretary assign sublet or transfer his right title and interest in the whole or any part of any land which is the subject of a lease granted under this Act or any corresponding previous enactment.

No. 6073 s. 56.
S. 56
amended by
No. 7674 s. 5,
substituted by
No. 7740 s. 7,
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.59),
76/1998
s. 10(1)(o),
48/2004 s. 110.

57 Restriction of rights of lessees and licensees

The holder of a lease or licence of or grantee of a permit with respect to any land under this Act or any corresponding previous enactment shall not fell cut destroy injure or remove any tree or timber on such land unless expressly authorized by his lease licence or permit so to do and then only in accordance with such authorization.

No. 6073 s. 57.

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S. 57A
inserted by
No. 7499 s. 46,
amended by
S.R. No.
258/1974
reg. 8,
repealed by
No. 67/1995
s. 58(Sch. 1
item 8) (as
amended by
No. 74/2000
s. 3(Sch. 1
item 45)).

s. 57B

57B Lease of land to a generation company

S. 57B
inserted by
No. 79/1995
s. 32.

S. 57B(1)
amended by
No. 48/1996
s. 29(1).

(1) The Minister may grant or renew a lease to a generation company of any area of land in reserved forest which is used for the purposes of the generation of electricity for supply or sale.

(2) A lease under subsection (1)—

(a) must be granted in writing; and

(b) is subject to any terms and conditions determined by the Minister.

S. 57B(2)(b)
amended by
No. 48/1996
s. 29(1).

S. 57B(3)
inserted by
No. 48/1996
s. 29(2).

(3) A lease under subsection (1) may be granted—

(a) without being limited to a particular stratum of land; or

(b) for a stratum of land.

S. 57B(4)
inserted by
No. 48/1996
s. 29(2).

(4) The Minister must not grant a lease under subsection (1) for a stratum of land unless he or she is satisfied that—

(a) each lessee for the time being under the lease can obtain reasonable access to and use of the land to be leased; and

(b) the granting of the lease would not interfere with the exercise of rights by the registered proprietor, lessee or licensee of other land; and

(c) provision has been made (in the lease or otherwise) for any necessary rights of support of the stratum or other land or of any building or structure erected or to be erected on those lands; and

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- (d) provision has been made (in the lease or otherwise) for any necessary rights for the passage or provision of services (including drainage, sewerage, or the supply of water, gas, electricity or telephone) to or through the stratum, where those rights are necessary for the reasonable enjoyment of the stratum or other land.
- (5) The granting under subsection (1) of a lease of a stratum of land is conclusive proof of compliance with subsection (4) in respect of the lease. **S. 57B(5) inserted by No. 48/1996 s. 29(2).**
- (6) In this section, *generation company* has the same meaning as in the **Electricity Industry Act 2000**. **S. 57B(6) inserted by No. 55/1997 s. 27(1), amended by No. 69/2000 s. 53(1).**
- 57C Issue of licences over land to a generation company** **S. 57C inserted by No. 79/1995 s. 32.**
- (1) The Minister may grant or renew a licence to a generation company of any area of land in reserved forest which is used for the purposes of the generation of electricity for supply or sale. **S. 57C(1) amended by No. 48/1996 s. 30.**
- (2) A licence under subsection (1)—
- (a) must be granted in writing; and
- (b) is subject to the terms and conditions determined by the Minister. **S. 57C(2)(b) amended by No. 48/1996 s. 30.**
- (3) In this section, *generation company* has the same meaning as in the **Electricity Industry Act 2000**. **S. 57C(3) inserted by No. 55/1997 s. 27(2), amended by No. 69/2000 s. 53(2).**
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S. 57D
inserted by
No. 79/1995
s. 32,
amended by
No. 48/1996
s. 31(1)
(a)(b)(2),
substituted by
No. 55/1997
s. 26.

57D Agreement with electricity company—reserved forest

- (1) The Minister may enter into an agreement with an electricity company—
 - (a) to manage and control; or
 - (b) to carry out duties functions and powers related to the company's purpose in—

any area of reserved forest, other than any area that is a reference area under the **Reference Areas Act 1978**, that is used for the purposes of or in connection with the company's purpose.
- (2) An agreement under subsection (1)—
 - (a) must be in writing;
 - (b) may be amended from time to time or terminated by further written agreement between the parties; and
 - (c) must contain provisions with respect to the protection and conservation of the land subject to the agreement.

- (3) In this section—

electricity company means a generation company, transmission company or distribution company within the meaning of the **Electricity Industry Act 2000**;

company's purpose means—

- (a) in relation to an electricity company that is a generation company, the generation of electricity for the purposes of supply or sale;
- (b) in relation to an electricity company that is a transmission company, the transmission of electricity;

S. 57D(3) def.
of *electricity company*
amended by
No. 69/2000
s. 53(3).

- (c) in relation to an electricity company that is a distribution company, the distribution or supply of electricity.

Protected forests

58 Proclamation of protected forests

No. 6073 s. 58.

- (1) The Minister may at any time proclaim any unoccupied Crown land to be a protected forest and may at any time alter or revoke any such proclamation.
- (2) Such proclamation or alteration or revocation shall have no force or effect until published in the Government Gazette.
- (3) All forest produce in a protected forest shall, subject to any leases or licences of any land therein granted under any Act relating to Crown lands, be under the control and management of the Secretary. In every other respect except as otherwise provided all Crown land within a protected forest shall be subject to the control of the Minister in accordance with the **Land Act 1958**.
- (4) (a) Any specified area of a protected forest may by Order of the Governor in Council on the recommendation of the Minister be placed under the administration control and management of the Secretary for a specified period.
- (b) During such period the Secretary shall have the control and management of and be responsible for the forest produce in such specified area.

S. 58(1)
amended by
No. 10087
s. 3(1)(Sch. 1
item 87(a)).

S. 58(3)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 87(a)),
41/1987
s. 103(Sch. 4
item 24.60),
76/1998
s. 10(1)(o).

S. 58(4)(a)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 87(b)),
41/1987
s. 103(Sch. 4
item 24.60),
76/1998
s. 10(1)(o).

S. 58(4)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.60),
76/1998
s. 10(1)(o).

s. 59

S. 58(4)(c)
amended by
No. 10087
s. 3(1)(Sch. 1
item 87(c)).

(c) In every other respect except as otherwise provided all Crown land within such area shall be subject to the control of the Minister administering the **Land Act 1958**.

S. 58(4)(d)
amended by
No. 10087
s. 3(1)(Sch. 1
item 87(d)).

(d) The Governor in Council on the recommendation of the Minister may at any time revoke either wholly or partly any Order made under this subsection.

S. 58(5)
amended by
No. 96/1994
s. 55(c).

(5) In this section and any corresponding previous enactment and in any proclamation or declaration made under this section or any corresponding previous enactment any reference to unoccupied Crown land shall be deemed to include and always to have included a reference to Crown lands in respect of which any grazing licence or an agricultural licence has or had been granted pursuant to Division eight of Part I of the **Land Act 1958** or any corresponding previous enactment.

S. 58(6)
inserted by
No. 48/2004
s. 111(1).

(6) Nothing in this section prevents an allocation order under the **Sustainable Forests (Timber) Act 2004** being made in respect of a protected forest.

No. 6073 s. 59.

59 Protected trees in protected forests

S. 59(1)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.61,
24.62),
76/1998
s. 10(1)(o).

(1) No person shall fell girdle ringbark injure destroy or remove any growing tree or any timber in any protected forest without a permit in writing from the Secretary.

S. 59(1A)
inserted by
No. 48/2004
s. 111(2).

(1A) Subsection (1) does not apply to timber which is timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, if that timber is harvested in accordance with that Act.

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- (2) Nothing in this section shall prohibit any person in authorized occupation under any Act relating to Crown lands under any lease or licence of or any permit with respect to any area of protected forest from using in accordance with his lease licence or permit any timber which is necessary for fencing such area or for the domestic use of such person and the members of his household.
- (3) In any proceedings for a contravention of this section any place in which such contravention is alleged to have been committed shall be deemed to be a protected forest until the contrary is shown.

60 Reserved trees in protected forests

No. 6073 s. 60.

The Governor in Council may by Order published in the Government Gazette declare that any tree or kind or class of trees growing in any forest and mentioned in such order shall be a reserved tree or reserved kind or class of trees.

61 Penalty for cutting reserved trees

No. 6073 s. 61.

Every person who fells cuts destroys injures or removes any tree which is so reserved or which belongs to any kind or class of trees so reserved in any forest shall be guilty of an offence against this Act. In any proceedings for a contravention of this section any tree or kind or class of trees in respect of which such contravention is alleged to have taken place shall be deemed to be (as the case may be) a reserved tree or a reserved kind or class of tree until the contrary is shown.

s. 62

Prevention of and protection from fire

62 Declaration of protected public lands

S. 62
substituted by
No. 8587 s. 7.

S. 62(1)
amended by
No. 10087
s. 3(1)(Sch. 1
item 88).

- (1) On the recommendation of the Minister the Governor in Council may by Order published in the Government Gazette declare any lands of the Crown not being within a State forest or a national park to be protected public land and may by the like Order revoke or vary any Order so made.

S. 62(1A)
inserted by
No. 9114
s. 22(b).

(1A) Where—

S. 62(1A)(a)
repealed by
No. 64/2004
s. 35.

* * * * *

S. 62(1A)(b)
amended by
Nos 10073
s. 15, 41/1987
s. 116(9),
66/2000
s. 55(a).

- (b) the land is being managed by the Secretary pursuant to an agreement under section 19A or 19C of the **National Parks Act 1975**, the land shall be deemed to be protected public land;

S. 62(1A)(c)
inserted by
No. 9247 s. 17,
amended by
Nos 10166
s. 22(a)(b),
46/1998
s. 7(Sch. 1),
66/2000
s. 55(b)(i)(ii).

- (c) the land is being managed by the Secretary pursuant to section 19AA, 19E or 32AA of the **National Parks Act 1975**, the land shall be deemed to be protected public land for as long as the Secretary manages the land pursuant to section 19AA, 19E or 32AA (as the case requires);

(d) the land is placed under the control and management of the Secretary pursuant to section 18 of the **Crown Land (Reserves) Act 1978** for the purposes of section 19B of the **National Parks Act 1975**, or for the purposes of section 18A of this Act, the land is deemed to be protected public land;

S. 62(1A)(d) inserted by No. 9247 s. 17, amended by No. 41/1987 s. 116(9), substituted by Nos 66/2000 s. 55(c), 50/2002 s. 27, amended by No. 60/2005 s. 36.

(e) the land is under the control and management of an Alpine Resort Management Board within the meaning of the **Alpine Resorts (Management) Act 1997** or is under the control and management of the Alpine Resorts Co-ordinating Council within the meaning of that Act, the land shall be deemed to be protected public land for so long as a Board or the Council manages the land; or

S. 62(1A)(e) inserted by No. 9974 s. 43, amended by No. 61/1993 s. 34(c), substituted by No. 89/1997 s. 72(1).

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S. 62(1A)(f) inserted by No. 61/1993 s. 34(c), repealed by No. 35/1998 s. 15(2).

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S. 62(1B) inserted by No. 96/1994 s. 53, repealed by No. 89/1997 s. 72(2).

(2) Notwithstanding anything to the contrary in any other Act or law it shall be the duty of the Secretary to carry out proper and sufficient work for the prevention and suppression of fire in every State forest and national park and on all protected public land but in any national park or protected public land proper and sufficient work for

S. 62(2) amended by Nos 41/1987 s. 103(Sch. 4 item 24.63), 76/1998 s. 10(1)(o).

prevention of fire shall be undertaken only by agreement with the person or body having the management and control thereof and in case of failure to reach any such agreement as determined by the Governor in Council whose determination shall be final and conclusive.

S. 62A
inserted by
No. 48/2004
s. 112.

62A Secretary may apply and use fire for land and resource management

- (1) Subject to this Act, the Secretary may, in a State forest or national park, or on protected public land, apply and use fire for the following purposes—
 - (a) as part of silvicultural activities undertaken in the State forest or on protected public land;
 - (b) to control pest animals and pest plants in the State forest, national park or on protected public land;
 - (c) to maintain, manage, protect or enhance the ecology of, or land or vegetation in, the State forest, national park or on protected public land.
- (2) In applying and using fire in a State forest or national park, or on protected public land, the Secretary must have regard to any relevant Code of Practice.

S. 62B
inserted by
No. 48/2004
s. 112.

62B Agreement required for Secretary to apply or use fire in national parks or on protected public land

The Secretary must not apply or use fire in a national park or on protected public land for any purpose set out in section 62A(1) unless the person or body that has management and control of the national park or protected public land agrees to its application or use.

62C Secretary may enter into agreements and arrangements relating to the prevention and suppression of fires

S. 62C
inserted by
No. 48/2004
s. 112.

The Secretary may enter into an agreement or arrangement with any person or body in Victoria or elsewhere—

- (a) for assistance in the prevention and suppression of fire;
- (b) relating to research into the prevention and suppression of fire;
- (c) for training in relation to the prevention and suppression of fire;
- (d) for the supply of fire fighting equipment and apparatus and systems used in the prevention and suppression of fire;
- (e) for the provision by the Secretary of goods or services relating to the prevention and suppression of fire.

63 Restrictions as to lighting etc. fires in certain areas

No. 6073 s. 63.

- (1) Every person who in any State forest protected public land or national park—

S. 63(1)
amended by
Nos 8587 s. 8,
8945 s. 7(a)(i),
9464 s. 2(a)(i),
10235 s. 3(c).

- (a) in circumstances in which he is required by the regulations to have the written authority of an authorised officer to light a fire in the open air and without being thereunto directed by an authorised officer lights kindles or maintains or knowingly or negligently causes to be lit kindled or maintained any fire in the open air without having such authority or without complying with any condition specified in the authority;

S. 63(1)(a)
substituted by
Nos 6976
s. 12(1)(a),
7065
s. 2(Sch.),
amended by
No. 41/1987
s. 103(Sch. 4
item 24.64).

s. 63

S. 63(1)(aa)
inserted by
No. 6976
s. 12(1)(a),
amended by
No. 8945
s. 2(a).

(aa) in or in relation to the lighting kindling maintaining or extinguishing of any fire in the open air fails to comply with any relevant regulations;

S. 63(1)(b)
amended by
No. 74/2000
s. 3(Sch. 1
item 52.5).

(b) does not observe all reasonable precautions to prevent the spread of and damage by any fire lit kindled or maintained by him or to his knowledge by his agent or employee; or

S. 63(1)(c)
amended by
No. 74/2000
s. 3(Sch. 1
item 52.5).

(c) leaves any fire lit kindled or maintained by him or to his knowledge by his agent or employee or otherwise without previously taking all reasonable precautions to prevent it spreading or causing injury—

shall be liable to a penalty of not more than 100 penalty units or to imprisonment for a term of not more than two years or to both such penalty and imprisonment.

S. 63(2)
amended by
Nos 8587 s. 8,
8945 s. 7(a)(ii),
9464 s. 2(a)(ii),
10235 s. 3(d).

(2) Every person who in any fire protected area, not being a State forest protected public land or a national park—

S. 63(2)(a)
substituted by
Nos 6976
s. 12(1)(b),
7065
s. 2(Sch.),
amended by
No. 41/1987
s. 103(Sch. 4
item 24.64).

(a) during the prohibited period in circumstances in which he is required by the regulations to have the written authority of an authorised officer to light a fire in the open air and without being thereunto directed by an authorised officer lights kindles or maintains or knowingly or negligently causes to be lit kindled or maintained any fire in the open air without having such authority or without complying with any condition specified in the authority;

- (aa) at any time in or in relation to the lighting kindling maintaining or extinguishing of any fire in the open air fails to comply with any relevant regulations;
- (b) at any time does not observe all reasonable precautions to prevent the spread of and damage by any fire lit kindled or maintained by him or to his knowledge by his agent or employee; or
- (c) at any time leaves any fire lit kindled or maintained by him or to his knowledge by his agent or employee or otherwise without previously taking all reasonable precautions to prevent it spreading or causing injury—

S. 63(2)(aa) inserted by No. 6976 s. 12(1)(b), amended by No. 8945 s. 2(b).

S. 63(2)(b) amended by No. 74/2000 s. 3(Sch. 1 item 52.5).

S. 63(2)(c) amended by No. 74/2000 s. 3(Sch. 1 item 52.5).

shall be liable to a penalty of not more than 50 penalty units or to imprisonment for a term of not more than one year or to both such penalty and imprisonment.

- (3) Where any authorised officer or any member of the police force directs the owner or occupier of or person residing on and having charge and control of any private land (including any Crown land leased with an inchoate right of purchase) within 3 kilometres of the boundary of any State forest protected public land or national park—
- (a) to extinguish any fire on such land; or
- (b) to take such steps as the authorised officer or member of the police force directs to extinguish such fire or prevent the same from spreading or causing injury—

S. 63(3) amended by S.R. No. 258/1974 reg. 9, Nos 8587 s. 8, 41/1987 s. 103(Sch. 4 item 24.64).

S. 63(3)(b) amended by No. 41/1987 s. 103(Sch. 4 item 24.65).

such owner occupier or person (whether or not he has been authorized or directed by an authorised officer to light kindle or maintain such fire and whether or not such fire was lit kindled or maintained in accordance with this Act or the

regulations or any other Act or any permit or direction granted or given pursuant to any other Act) shall forthwith extinguish such fire or take such steps accordingly.

S. 63(4)
amended by
Nos 8945
s. 7(a)(iii),
9464
s. 2(a)(iii),
10235 s. 3(e).

- (4) Every such owner occupier or person when so directed as aforesaid—
- (a) who fails neglects or refuses to extinguish such fire forthwith or to take forthwith such steps as aforesaid; or
 - (b) who purports to carry out such directions but does so in such a manner that the fire is not extinguished and breaks out or is likely to break out subsequently—

shall be liable to a penalty of not more than 50 penalty units or to imprisonment for a term of not more than one year or to both such penalty and imprisonment.

S. 63(5)
amended by
Nos 8945
s. 7(a)(iv),
41/1987
s. 103(Sch. 4
items 24.64,
24.66),
76/1998
s. 10(1)(p)(i)(ii),
74/2000
s. 3(Sch. 1
item 52.6).

- (5) A reward of not more than \$500⁶ may be paid by the Secretary with the approval of the Minister to any person (not being a member of the police force or an authorised officer or a person employed in the Department) who gives such information as leads to a conviction under this section.

S. 63(6)(a)
amended by
Nos 8247 s. 5,
41/1987
s. 103(Sch. 4
item 24.64).

- (6) (a) Any authorised officer may (with or without warrant) with any assistance he requires take into custody any person who is found offending against any of the provisions of this section and who refuses to give his name or address when called upon to do so by any authorised officer.

(b) Such person shall be taken before a bail justice or the Magistrates' Court to be dealt with according to law.

S. 63(6)(b)
amended by
No. 57/1989
s. 3(Sch.
item 81.1).

(c) Every such person found offending as aforesaid who gives a false name or address when called upon to give his name or address shall be guilty of an offence against this Act.

(7) Any person who is convicted of an offence against this section may on conviction in addition be ordered by the court to pay to the Crown in respect of any damage or injury and the costs of fire suppression occasioned or caused by the commission of such offence such amount as is fixed by the court after taking the evidence on oath of an authorised officer as to the nature and extent of such damage or injury and fire suppression, and in default of payment of such amount the same may be recovered by the informant in the same manner as the penalty may be recovered.

S. 63(7)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.64).

(8) Any amount ordered by the court pursuant to subsection (7) of this section to be paid in respect of the costs of fire suppression shall when paid or recovered be paid into the Consolidated Fund.

S. 63(8)
inserted by
No. 6976
s. 12(1)(c),
amended by
No. 9861
s. 3(1).

64 Absolute prohibition of use of fire when acute fire danger exists

No. 6073 s. 64.

(1) Whenever the Secretary reports to the Minister that a condition of acute fire danger exists or is likely to exist in any fire protected area or part of a fire protected area the Minister may by notice—

S. 64(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.67),
76/1998
s. 10(1)(q).

(a) prohibit absolutely the use of fire in the open air in any such fire protected area or part of a fire protected area (as the case may be); and

s. 64

S. 64(1)(b)
amended by
No. 48/2004
s. 113(1)(a).

(b) suspend any or all leases licences permits registrations or authorities granted under this Act for the felling conversion or removal of forest produce in so far as the same are operative in any such fire protected area or part of a fire protected area (as the case may be); and

S. 64(1)(c)
inserted by
No. 48/2004
s. 113(1)(b).

(c) suspend any timber harvesting operations within the meaning of the **Sustainable Forests (Timber) Act 2004** being undertaken under that Act in so far as those operations are being undertaken in any such fire protected area or part of a fire protected area (as the case may be)—

for such period as is specified in such notice.

S. 64(2)
amended by
Nos 8945
s. 7(b)(i), 9464
s. 2(b)(i),
10235 s. 3(f).

(2) Every person who contrary to the provisions of any such notice during the period to which such notice relates—

(a) lights kindles or maintains or knowingly or negligently causes or permits to be lit kindled or maintained any fire in the open air in any fire protected area or part of a fire protected area (as the case may be) to which such notice relates; or

S. 64(2)(b)
amended by
No. 48/2004
s. 113(2)(a).

(b) fells converts or removes forest produce in or from any such fire protected area or part of a fire protected area (as the case may be); or

S. 64(2)(c)
inserted by
No. 48/2004
s. 113(2)(b).

(c) undertakes under the **Sustainable Forests (Timber) Act 2004** any timber harvesting operations within the meaning of that Act in any such fire protected area or part of a fire protected area (as the case may be)—

shall be liable to a penalty of not more than 100 penalty units or to imprisonment for a term of not more than two years or to both such penalty and imprisonment.

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- (3) Every notice under subsection (1) of this section—
- (a) shall be published either—
 - (i) in some newspaper or newspapers generally circulating in the locality to which the notice relates; or
 - (ii) by means of a broadcast from a broadcasting station in the State of Victoria—but may be published in both such ways;
 - (b) may be revoked amended or varied by a subsequent notice published as aforesaid; and
 - (c) shall subject to any amendment or variation thereof remain in operation, unless revoked, until the expiration of the period to which it relates:

Provided that the revocation or expiration of any such notice shall not affect the previous operation of this section or of such notice or of anything duly done or suffered thereunder or any liability incurred thereunder or any penalty or punishment imposed in respect of any offence committed thereunder or any legal proceeding in respect of any such liability penalty or punishment aforesaid, and any such legal proceeding may be instituted continued or enforced and any such penalty or punishment may be imposed as if such notice had not been revoked or had not expired.

- (4) (a) The Minister may from time to time by notice published in the Government Gazette specify the names of authorised officers for the purposes of this subsection; and every authorised officer so specified shall thereupon be authorized, in any case where he is of opinion that a condition of acute fire

S. 64(4)(a)
amended by
Nos 6976
s. 14(a),
41/1987
s. 103(Sch. 4
item 24.68).

danger exists in any district under his control, by notice to direct any person who is engaged within any fire protected area or upon any land which is affected by a declaration made under subsection (4) of section three of this Act in any of the operations of felling logging snigging skidding sledging or other like operation or in the operation of driving any steam engine or steam locomotive, to suspend or cause to be suspended all or any of such operations until such time as such suspension is revoked by such officer by a like notice.

S. 64(4)(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.68).

- (b) Notice for the purpose of this subsection may be given by any such authorised officer—
- (i) by writing signed by such officer and delivered to the person to whom it is directed or to any manager of such person or other person in charge of or engaged in the conduct of such operation; or
 - (ii) by telephone or radiophone message to any of the said persons.
- (c) Any person who contravenes or fails to comply with any such direction given as aforesaid shall be liable to a penalty of not more than 100 penalty units or to imprisonment for a term of not more than two years or to both such penalty and imprisonment.
- (d) The provisions of this subsection shall be read and construed as in aid of and not in derogation from the provisions of the other subsections of this section.

S. 64(4)(c)
amended by
Nos 8945
s. 7(b)(ii), 9464
s. 2(b)(ii),
10235 s. 3(g).

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- (5) In any proceedings for an offence against subsection (2) of this section a certificate signed by the Secretary to the effect that a notice was published by means of a broadcast pursuant to subsection (3) of this section shall be prima facie evidence of the facts set out therein. S. 64(5) amended by Nos 41/1987 s. 103(Sch. 4 item 24.69), 109/2004 s. 22(a).
- 65 Enforcement of burning off etc. near State forest or national park** No. 6073 s. 65.
- (1) Any authorised officer if he deems it necessary so to do for the prevention of fire may in writing direct any owner or occupier or person or body of persons having the control or management of any land within 1.5 kilometres of the boundary of any State forest protected public land or national park—
- (a) to remove, destroy by burning or abate in any manner directed, a fire hazard on such land; S. 65(1)(a) substituted by No. 8035 s. 7(a).
- (b) where the Secretary within the State forest or protected public land or national park and adjoining any such land has carried out or is carrying out any work for fire prevention or control—to carry out on such land adjoining and within 50 metres of the boundary of the State forest protected public land or national park similar work for fire prevention or control as directed by the authorised officer. S. 65(1)(b) amended by S.R. No. 258/1974 reg. 10(b), Nos 41/1987 s. 103(Sch. 4 item 24.70), 96/1994 s. 56(f), 76/1998 s. 10(1)(q).
- (2) The Secretary may aid and co-operate with any such owner occupier person or body in carrying out any such removal destruction abatement or work where the Secretary deems it necessary and desirable so to do. S. 65(2) amended by Nos 8035 s. 7(b), 41/1987 s. 103(Sch. 4 item 24.70), 76/1998 s. 10(1)(q).
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(3) If any such owner occupier person or body fails or neglects to comply with any direction under this section—

(a) such owner occupier or person or the members of such body shall be guilty of an offence against this Act; and

(b) the Secretary may cause to be carried out the removal destruction abatement or work directed to be carried out.

S. 65(3)(b)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(4) Where any such land is unoccupied and the owner thereof is unknown or cannot be promptly found the Secretary may cause to be carried out the removal destruction abatement or work directed to be carried out.

S. 65(4)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(5) Where the Secretary causes any removal destruction abatement or work to be carried out pursuant to this section—

S. 65(5)
amended by
Nos 8035
s. 7(b),
41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

(a) the Secretary may recover the costs thereof in any court of competent jurisdiction from any owner or occupier of such land;

S. 65(5)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.70),
76/1998
s. 10(1)(q).

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- (b) in the case of land other than Crown land, until paid or recovered such costs shall be and remain a charge on the land and if not paid within six months after demand such costs shall bear interest at the rate of Six per centum per annum from the date of demand;
- (c) the Secretary must furnish to the Registrar of Titles a certificate of charge under the seal of the Secretary describing the land charged and setting out particulars of the title to the land and stating that there are costs payable under this section in respect of the land; and
- (ca) the Registrar of Titles must make a recording of the certificate in the Register; and
- (d) until any such costs together with any interest are paid no sale or transfer of the land on which the same are charged shall be made or registered.
- (5A) When the amount set out in a certificate under subsection (5) together with any interest is paid, the Registrar of Titles, on lodgment of a certificate of discharge under the seal of the Secretary, must delete the recording of the charge from the Register or make a recording in the Register of the discharge.
- (6) Nothing in this section shall apply with respect to any land vested in or under the control of the Melbourne and Metropolitan Board of Works.
- S. 65(5)(c) amended by Nos 41/1987 s. 103(Sch. 4 items 24.70, 24.72), 76/1998 s. 10(1)(q), substituted by No. 85/1998 s. 24(Sch. item 25.1) (as amended by No. 76/1998 s. 15).
- S. 65(5)(ca) inserted by No. 85/1998 s. 24(Sch. item 25.1).
- S. 65(5A) inserted by No. 85/1998 s. 24(Sch. item 25.2) (as amended by No. 76/1998 s. 15).

s. 66

S. 65(7)
inserted by
No. 6870
s. 2(b).

- (7) In any legal proceedings under the provisions of this section and in addition to any other method of proof available evidence that the person proceeded against is rated in respect of any land to any general rate for the municipality within which the land is situated shall unless the contrary is proved be evidence that that person is the owner or occupier (as the case may be) of that land.

No. 6073 s. 66.
S. 66
amended by
Nos 9576
s. 11(1),
48/2004 s. 114.

66 Placing inflammable material for the purpose of causing fire etc.

Any person who in any fire protected area during the prohibited period for the purpose of causing any fire and with intent thereby to injure any forest produce, timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** or any property puts or places any match or inflammable material or combustible substance matter or thing in such a position that—

- (a) a fire is likely to be caused; or
- (b) the match material substance matter or thing may be ignited exploded or set on fire either from the action of the sun's rays or by friction or by any other means whatsoever—

shall whether such fire is caused or not be guilty of an indictable offence and being convicted thereof shall be liable to imprisonment for a term of not more than ten years.

No. 6073 s. 67.

67 Duty to prevent spread of fire etc.

S. 67(1)
amended by
Nos 6976
s. 13, 8587
s. 8, 41/1987
s. 103(Sch. 4
item 24.73).

- (1) Every person who finds any fire burning in any State forest protected public land or national park or in any fire protected area during any period when there is danger of the spread of fire shall do everything that is reasonably within his power to prevent such fire from spreading and shall as soon as practicable report the existence of such fire to

the nearest authorised officer or member of the police force.

- (2) When any fire is unlawfully burning on any land in any fire protected area during the prohibited period the occupier of such land shall take all reasonable measures at his own expense to extinguish such fire and shall as soon as practicable report the existence of such fire to the nearest authorised officer or member of the police force.

S. 67(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.73).

- (3) Every person who holds a lease licence permit or authority under this Act or is employed by any person holding any such lease licence permit or authority or is employed by the State of Victoria or who is a timber harvester shall furnish as soon as practicable to the nearest authorised officer or member of the police force any information he may possess regarding any outbreak of fire during the prohibited period in any fire protected area.

S. 67(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.73),
48/2004
s. 115(1).

- (4) In subsection (3) *timber harvester* means a person—

S. 67(4)
inserted by
No. 48/2004
s. 115(2).

- (a) who has entered into an agreement with VicForests under the **Sustainable Forests (Timber) Act 2004** for the harvesting and sale of timber resources or the harvesting or sale of timber resources within the meaning of that Act; or
- (b) undertaking timber harvesting operations within the meaning of that Act.

68 Secretary may carry out clearing and preventive burning

S. 68
substituted by
No. 8945 s. 3.

Where a person fails to carry out any clearing or preventive burning as and within the period (if any) required by the regulations—

- (a) he shall be guilty of an offence against this Act; and

s. 70

S. 68(b)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.74),
76/1998
s. 10(1)(q).

(b) the Secretary may carry out any of the
required clearing and preventive burning and
recover from him in any court of competent
jurisdiction the cost thereof.

No. 6073 s. 69.

* * * * *

S. 69
amended by
Nos 6976
s. 14(b),
41/1987
s. 103(Sch. 4
item 24.75),
76/1998
s. 10(1)(q),
repealed by
No. 48/2004
s. 116(1).

No. 6073 s. 70.

70 Provisions relating to offences against fire prevention provisions

- (1) None of the fire prevention provisions of this Act shall derogate from any other of the fire prevention provisions of this Act or from any penal provisions of any other Act or enactment relating to fires or the careless negligent or criminal use of fire.
- (2) Without affecting the generality of the provisions of this Act as to prosecutions for any offence, any prosecution for an offence against the fire prevention provisions of this Act may be brought—

S. 70(2)(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.76).

(a) by any members of the police force or any
authorised officer; or

S. 70(2)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.77),
76/1998
s. 10(1)(r)(i)(ii).

(b) by any employee in the Department or other
person appointed by the Secretary in writing
for that purpose.

* * * * *

S. 70(3)
amended by
Nos 7876
s. 2(3),
16/1986 s. 30,
repealed by
No. 57/1989
s. 3(Sch.
item 81.2).

(4) In this section *fire prevention provisions of this Act* means—

(a) sections 63 to 68 of this Act; and

S. 70(4)(a)
amended by
No. 48/2004
s. 116(2).

(b) any regulations under any of the said sections or under paragraphs (13)(13A)(13B)(13C)(13D)(16)(17)(17A)(29) or (30) of section ninety-nine as extended by section 99A.

S. 70(4)(b)
amended by
Nos 6976
s. 12(2), 8945
s. 4(a)–(c).

71 Liability of Secretary for damage caused by fire

No. 6073 s. 71.

(1) The Secretary shall be liable for any damage caused by any fire which was lit kindled or maintained by or on behalf of the Secretary or any authorised officer and which was negligently permitted to spread.

S. 71(1)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.78,
24.79),
76/1998
s. 10(1)(s).

(2) Where any person incurs any liability in consequence of damage caused by any fire lit kindled or maintained by such person on the direction of the Secretary or of any authorised officer the Secretary shall indemnify such person from such liability if such person—

S. 71(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.79),
76/1998
s. 10(1)(s).

(a) obeyed and complied with the regulations and all directions of the Secretary and of any authorised officer with respect to such fire; and

S. 71(2)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.78,
24.79),
76/1998
s. 10(1)(s).

s. 73

(b) did not cause or permit the spread of such fire by any wilful or negligent act or omission.

No. 6073 s. 72.

* * * * *

S. 72
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.80,
24.81),
76/1998
s. 10(1)(s),
repealed by
No. 48/2004
s. 116(4).

Maps

No. 6073 s. 73.

73 Deposit of maps showing alterations in forests

S. 73(1)
amended by
Nos 6976
s. 7(1)(j), 7228
s. 7(Sch. 4
Pt 12(c)),
10087
s. 3(1)(Sch. 1
item 89).

(1) Maps showing any land excised from or added to any reserved forest by the Governor in Council or any alteration of the boundaries of any reserved forest shall within one month of the making of any such excision or addition or alteration be signed by the Minister and deposited with the Clerk of the Parliaments:

S. 73(1)
Proviso
amended by
No. 10087
s. 3(1)(Sch. 1
item 89).

Provided that if the Governor in Council is satisfied that any such map was, through inadvertence or any unavoidable circumstance, not signed and deposited as aforesaid within one month after the making of such an excision or addition or alteration, and the Surveyor-General or the person for the time being acting as the Surveyor-General certifies that the map is an original map truly showing the land so excised or added or altered, the Governor in Council may at any time after the making of such excision or addition or alteration authorize such map to be signed by the Minister and deposited with the Clerk of the Parliaments, and such map may be so signed and deposited accordingly.

-
- (2) All maps or parts thereof certified under the hand of the Surveyor-General or the person for the time being acting as Surveyor-General to be copies of original maps or of parts thereof deposited with the Clerk of the Parliaments for the purposes of or pursuant to this Act or any corresponding previous enactment shall be admissible in evidence in any court of justice or before any person having by law or by consent of parties authority to hear receive and examine evidence and shall be prima facie evidence for the same purposes and to the same extent as the originals thereof if they had been produced. All courts of justice and persons having by law or by consent of parties authority to hear receive and examine evidence shall take judicial notice of the signature of the Surveyor-General or the person for the time being acting as Surveyor-General affixed to any certificate under this section.
- (3) The provisions of subsection (2) of this section shall with such alterations modifications and substitutions as are necessary extend and apply to all maps or parts thereof—
- (a) certified under the hand of the Surveyor-General or the person for the time being acting as the Surveyor-General to be reproductions of such original maps or parts thereof but drawn correctly to a larger scale than such originals; and
 - (b) accompanied by copies of the original maps or parts thereof drawn to the same scale as the original maps or parts thereof and certified as provided for in subsection (2) of this section.
-

General

No. 6073 s. 74.

74 Power for Magistrates' Court to order removal of unauthorized buildings etc. in reserved forest

S. 74(1)
amended by
Nos 6976
s. 15(a), 7876
s. 2(3),
41/1987
s. 103(Sch. 4
item 24.82),
57/1989
s. 3(Sch.
item 81.3).

- (1) Where buildings huts fences dams weirs installations or standing crops are found within a reserved forest and—
- (a) the owner or occupier thereof does not on demand produce any lease licence permit or authority therefor; or

S. 74(1)(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.82).

- (b) after reasonable inquiries made by an authorised officer the owner or occupier thereof cannot be found—

then on the hearing of the complaint of an authorised officer the Magistrates' Court may fix a time within which such buildings huts fences dams weirs installations or crops shall be removed.

S. 74(2)
amended by
No. 6976
s. 15(a).

- (2) If such removal is not effected within the time so fixed all such buildings huts fences dams weirs installations or crops shall thereupon become the property of the Crown and shall be disposed of as the Minister may direct.

S. 74(3)
amended by
No. 6976
s. 15(a).

- (3) In any case where after such inquiries the owner or occupier has not been found it shall be sufficient service of the notice of removal if a copy thereof is posted on some conspicuous part of the land on which the buildings huts fences dams weirs installations or crops are found.

75 Production of licence etc. on demand

Every person who does within any forest any act for which under the provisions of this Act a lease licence permit or authority is required shall upon being required so to do by an authorised officer or by a member of the police force produce such lease licence permit or authority and if on being so required he within a reasonable time fails without lawful excuse so to do he shall be liable to a penalty of not more than $\frac{1}{2}$ penalty unit.

No. 6073 s. 75.
S. 75
amended by
Nos 10235
s. 3(h),
41/1987
s. 103(Sch. 4
item 24.83).

76 As to injuring trees on Crown lands the subject of a grazing licence

No. 6073 s. 76.

(1) No person shall ringbark sapring or girdle or otherwise kill destroy damage or injure any growing tree on any Crown lands the subject of a grazing licence or an agricultural licence under Division eight of Part I of the **Land Act 1958** or any corresponding previous enactment except in pursuance of a permit so to do granted under this Act.

S. 76(1)
amended by
No. 96/1994
s. 55(d)(i)(ii).

(2) Notwithstanding anything in any Act the Secretary or any person authorized by the Secretary in that behalf may grant in respect of any such lands or any portion thereof permits to ringbark sapring or girdle or otherwise kill or destroy growing trees thereon for such period as the Secretary considers appropriate and subject to such conditions as are contained in the permit or as in the opinion of the Secretary are necessary or expedient or as are prescribed.

S. 76(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.84),
76/1998
s. 10(1)(t)(i)(ii).

(3) Every person who ringbarks saprings or girdles or otherwise kills destroys damages or injures any growing tree in contravention of this section or knowingly causes or suffers the same to be done shall be liable to a penalty of not more than 1 penalty unit in respect of each tree and to pay full compensation in respect of each tree so

S. 76(3)
amended by
Nos 7876
s. 2(3), 10235
s. 3(i), 57/1989
s. 3(Sch.
item 81.4).

ringbarked sapringed or girdled or otherwise killed destroyed damaged or injured at its full market value, to be determined by the Magistrates' Court.

No. 6073 s. 77.

77 Prohibition of cutting etc. timber etc. on certain roads without authority of Secretary

S. 77(1)
amended by
Nos 9921
s. 255, 41/1987
s. 103(Sch. 4
item 24.85),
13/1990
s. 40(d),
76/1998
s. 10(1)(u),
12/2004
s. 158(2),
48/2004
s. 117(1).

(1) Subject to subsection (1A), notwithstanding anything in any Act or any by-law local law lease licence permit right or authority thereunder (but, with respect to freeways and arterial roads within the meaning of the **Road Management Act 2004**, subject to the provisions of that Act) no person shall without the authority in writing of the Secretary mark bark ringbark sapring girdle fell cut split break or otherwise kill destroy damage or injure or remove the whole or any part of any tree sapling shrub underwood or timber in or upon so much of any road as passes through or is within any State forest or is between and adjoining any State forests.

S. 77(1A)
inserted by
No. 48/2004
s. 117(2).

(1A) Subsection (1) does not apply to timber which is timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, if that timber is harvested in accordance with that Act.

S. 77(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
76/1998
s. 10(1)(u).

(2) The Secretary may grant any such authority in accordance with the regulations and on payment of such fee as is prescribed.

S. 77(3)
amended by
Nos 9416
s. 6(1), 10235
s. 3(j).

(3) Every person who is guilty of any contravention of or failure to comply with this section or any such regulation shall be liable to a penalty of not more than 50 penalty units.

- (4) Notwithstanding anything in this or any other Act (other than the **Road Management Act 2004**) a municipal council shall have the control and management of all trees saplings shrubs underwood and timber in or upon any road (except so much of any road as passes through or is within any State forest or is between and adjoining any State forests) under the care and management of such council:

S. 77(4)
amended by
Nos 9921
s. 255, 13/1990
s. 40(e),
12/2004
s. 158(3).

Provided that if a municipal council cuts or obtains any timber in or upon so much of any such road as is on or adjoins any boundary of any State forest (not being a road between and adjoining any State forests) such timber shall be so cut or obtained and all debris resulting from the cutting or obtaining of such timber shall be burnt or otherwise disposed of to the satisfaction of the Secretary and at such time or times as the Secretary directs.

S. 77(4)
Proviso
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
13/1990
s. 40(f),
76/1998
s. 10(1)(u).

- (5) Notwithstanding anything in this Act, for the purposes of construction of or repairs to any road culvert or bridge, a municipal council may without payment of any royalty fee due or charge cut or obtain timber in or upon so much of any road under the care and management of such council as passes through or is within any State forest or is between and adjoining any State forests: Provided that all timber so cut or obtained shall be cut or obtained and all debris resulting from the cutting or obtaining of such timber shall be burnt or otherwise disposed of to the satisfaction of the Secretary and at such time or times as the Secretary directs.

S. 77(5)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
13/1990
s. 40(f),
76/1998
s. 10(1)(u).

s. 78

S. 77(6)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.85),
76/1998
s. 10(1)(u).

(6) The Secretary may for the purposes only of protecting any State forest from fire cut and remove the whole or any part of any tree sapling shrub underwood or timber in or upon so much of any road as is on or adjoins any boundary of such State forest: Provided that nothing in this subsection shall be deemed to restrict the powers of the Secretary with respect to any part of any road which is between and adjoining any State forests.

S. 77(7)
inserted by
No. 12/2004
s. 158(4).

(7) Subsections (5) and (6) are not subject to the **Road Management Act 2004** and prevail over that Act to the extent of any inconsistency.

No. 6073 s. 78.

78 Power of authorised officer

S. 78(1)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.86),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.87).

* * * * *

S. 78(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.86).

(2) If any person within a reserved forest does any act or commits any offence for which he is liable to a conviction under any Act relating to Crown lands or under any Act whatsoever providing for the punishment of offences such person may in respect of such act or offence be proceeded against by any authorised officer.

S. 78(3)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.88),
repealed by
No. 89/1994
s. 37.

* * * * *

- (4) Every authorised officer shall so far as is necessary for the purpose of carrying out the provisions of this Act have all the like power and authority as is for the time being by law exercisable by persons appointed as authorised officers under the **Conservation, Forests and Lands Act 1987** for the purposes of the **Land Act 1958** in respect of any Crown lands (other than reserved forests).
- (5) Every authorised officer may in the performance of his or her duties—
- (a) sell by auction any forest produce; and
 - (b) for the purposes of section 53 of this Act submit licences or permits referred to in that section to public auction.

S. 78(4)
amended by
No. 41/1987
s. 103(Sch. 4
items 24.86,
24.89).

S. 78(5)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.86),
substituted by
No. 84/2001
s. 5.

79 Power to direct route for removal etc. of forest produce

No. 6073 s. 79.

- (1) Any authorised officer may give directions regarding the route road or track in or by which any forest produce or timber resources may be removed or taken through any part of a forest whether by land or water.
- (2) Any authorised officer or member of the police force may stop or detain any forest produce or timber resources within the boundaries of any forest or upon any Crown land or public highway.

S. 79(1)
amended by
Nos 6976
s. 15(b)(i),
41/1987
s. 103(Sch. 4
item 24.90),
48/2004
s. 118(1).

S. 79(2)
amended by
Nos 6976
s. 15(b)(ii),
41/1987
s. 103(Sch. 4
item 24.90),
48/2004
s. 118(1).

s. 79

S. 79(3)
amended by
Nos 7876
s. 2(3),
41/1987
s. 103(Sch. 4
item 24.90),
57/1989
s. 3(Sch.
item 81.5),
48/2004
s. 118(1)(2).

- (3) Where any authorised officer or member of the police force has reason to believe that any forest produce or timber resources has been cut removed or otherwise dealt with contrary to the provisions of this Act or the **Sustainable Forests (Timber) Act 2004** (as the case requires) he may seize the same and place a distinctive brand thereon and such forest produce or timber resources shall thereupon become and remain the property of the Crown unless within one month from the date of seizure the Magistrates' Court orders to the contrary and fixes the ownership. Where the Minister is of opinion that it is desirable in the public interest to at once dispose of any forest produce or timber resources so seized and branded he may so order without waiting for any order of the court.

S. 79(4)
amended by
No. 7876
s. 2(3),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.91).

* * * * *

S. 79(5)
amended by
No. 48/2004
s. 118(1).

- (5) The onus of proof that any person found in possession of any forest produce or timber resources is lawfully entitled thereto shall in all cases lie on the defendant.

S. 79(6)(a)
amended by
No. 48/2004
s. 118(1).

- (6) Any person who—
(a) removes or takes any forest produce or timber resources through or from any forest contrary to any direction given under subsection (1) of this section; or

(b) without the authority in writing of an authorised officer removes or takes any forest produce or timber resources from any forest—

(i) after sunset or before sunrise on any day of the week other than Sunday; or

(ii) at any time on Sunday—

shall be guilty of an offence against this Act.

(7) In this section *timber resources* has the same meaning as it has in the **Sustainable Forests (Timber) Act 2004**.

S. 79(6)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.92),
48/2004
s. 118(1).

S. 79(7)
inserted by
No. 48/2004
s. 118(3).

80 Payment of dues and charges

No. 6073 s. 80.

S. 80
amended by
No. 6976
s. 16(a).

(1) All forest produce cut or obtained in a forest upon which under the provisions of this Act any royalties dues or charges are payable shall until the payment thereof remain the property of the Crown and may be seized and detained or removed by any authorised officer or member of the police force until such royalties dues and charges have been paid, and in default of payment within ten days of the seizure may by direction of the Minister be disposed of or destroyed.

S. 80(1)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.93).

(2) Where forest produce which was cut by or on behalf of a person being the holder of any lease licence permit or authority under this Act is sold by direction of the Minister pursuant to subsection (1) of this section the Secretary shall, after deducting therefrom all royalties dues and charges owing by that person to the Secretary in respect of that or any other forest produce and the costs of seizing detaining removing and selling that forest produce, pay the proceeds of the sale to that person.

S. 80(2)
inserted by
No. 6976
s. 16(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.94),
76/1998
s. 10(1)(u).

S. 80(3)
inserted by
No. 48/2004
s. 119.

- (3) This section applies to timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act as if—
- (a) a reference to *forest produce* were a reference to *timber resources* within the meaning of that Act; and
 - (b) a reference to the Secretary or the Crown were a reference to VicForests; and
 - (c) a reference to *the Minister* were a reference to the Minister for Agriculture within the meaning of that Act; and
 - (d) a reference to *this Act* were a reference to the **Sustainable Forests (Timber) Act 2004**.

S. 80(4)
inserted by
No. 48/2004
s. 119.

- (4) If a provision of the **Sustainable Forests (Timber) Act 2004** is inconsistent with this section as applied by subsection (3), the provision of the **Sustainable Forests (Timber) Act 2004** prevails.

No. 6073 s. 81.
S. 81
amended by
Nos 7876
s. 2(3),
57/1989
s. 3(Sch.
item 81.6),
81/1989
s. 3(Sch.
item 17.3).

81 Unbranded forest produce to be deemed to belong to Crown

All forest produce unbranded or from or on which the brands have been accidentally obliterated altered or defaced by fire or otherwise and which is found adrift on any waterway or lying unclaimed in any State forest shall be deemed to be the property of the Crown unless any person within three months from the time of the Crown taking possession of such forest produce proves his right and title thereto. All claims of ownership to such forest produce shall be decided by the Magistrates' Court.

82 Presumption as to ownership of forest produce

- (1) In any proceedings under this Act with respect to any forest produce such forest produce shall until the contrary is shown be deemed to be the property of the Crown.
- (2) This section applies to timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act as if—
 - (a) a reference to *forest produce* were a reference to *timber resources* within the meaning of that Act; and
 - (b) a reference to the Crown were a reference to VicForests; and
 - (c) a reference to *this Act* were a reference to the **Sustainable Forests (Timber) Act 2004**.
- (3) If a provision of the **Sustainable Forests (Timber) Act 2004** is inconsistent with this section as applied by subsection (2), the provision of the **Sustainable Forests (Timber) Act 2004** prevails.

No. 6073 s. 82.
S. 82
amended by
No. 48/2004
s. 120 (LA
s. 39B(1)).

S. 82(2)
inserted by
No. 48/2004
s. 120.

S. 82(3)
inserted by
No. 48/2004
s. 120.

83 Search warrant for secreted forest produce

On the evidence on oath or by affidavit of any authorised officer or member of the police force stating his belief that forest produce or timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004** used to supply managed licences within the meaning of that Act, liable to the payment of any royalty fees dues or charges under this Act or the **Sustainable Forests (Timber) Act 2004** (as the case requires), is secreted in any place other than a forest the Magistrates' Court may issue a warrant to search for such forest produce or timber resources within the meaning of the **Sustainable Forests (Timber)**

No. 6073 s. 83.
S. 83
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.95),
57/1989
s. 3(Sch. item
81.7(a)(b)),
48/2004
s. 121(a)(b).

Act 2004 used to supply managed licences within the meaning of that Act.

No. 6073 s. 84.
S. 84
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.96,
24.97),
76/1998
s. 10(1)(u).

84 Restriction on dealings by authorised officers

No authorised officer or other person appointed or employed by the Secretary shall as principal or agent trade in any forest produce or become beneficially interested in any lease or licence of any land within any forest or in any permit or other authority or in any contract for working any forest produce in any forest.

No. 6073 s. 85.
S. 85
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.98),
76/1998
s. 10(1)(u).

85 Agistment fees chargeable for cattle in reserved forest

The owner of all cattle found depasturing within any part of a reserved forest not held or occupied by such owner under a grazing lease or licence or permit under this Act or any corresponding previous enactment shall be charged therefor by the Secretary agistment fees at such rates as may be prescribed.

Ss 86, 87
repealed.⁷

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No. 6073 s. 88.

88 Penalty for unauthorised occupation or depasturing on reserved forests

S. 88(1)
amended by
Nos 6976
s. 17(a)(i)-(iii),
10235
s. 3(k)(i)-(iii).

- (1) Every person who is found in unauthorized occupation of any reserved forest or any part thereof or who knowingly and wilfully depastures any cattle thereon without authority in that behalf shall be liable to the penalties following (that is to say): For the first offence not more than 2 penalty units, for the second offence after an interval of fourteen clear days from the date of the previous conviction not more than 4 penalty units, and for any subsequent offence after a like interval not more than 9 penalty units.

- (2) On the conviction of any person for an offence against this section any authorised officer may when so authorized by the Minister take all such steps as are necessary to dispossess the offender from and recover possession of the land of which he has been in unauthorized occupation. **S. 88(2) amended by No. 41/1987 s. 103(Sch. 4 item 24.101).**
- (3) Whether such person is or is not prosecuted under this section all or any buildings fences or improvements erected or made or occupied or used by him without lawful authority or permission may forthwith be taken possession of for the Crown or removed by any authorised officer. **S. 88(3) amended by No. 41/1987 s. 103(Sch. 4 item 24.101).**

89 Unbranded wild cattle to belong to Crown

No. 6073 s. 89.

- (1) All unbranded wild cattle at any time depasturing on any reserved forest and having no reputed or apparent owner shall be and be deemed and taken to be the property of the Crown; and it shall be lawful for the Secretary to cause the same to be sold or disposed of in such a manner as the Governor in Council directs. **S. 89(1) amended by Nos 6976 s. 17(b), 9615 s. 8(a)(b), 41/1987 s. 103(Sch. 4 item 24.102), 76/1998 s. 10(1)(u).**
- (2) The purchaser of any such cattle on obtaining the written authority of the Secretary for that purpose shall be at liberty, within such time and in such a manner as is mentioned in such authority with necessary and proper assistance to shoot or take possession of such cattle, and for that purpose may enter upon any reserved forest where the same may be depasturing. **S. 89(2) amended by Nos 6976 s. 17(b), 41/1987 s. 103(Sch. 4 item 24.102), 76/1998 s. 10(1)(u).**

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S. 90 repealed by No. 7835 s. 8.

No. 6073 s. 91.

S. 91
(Heading)
inserted by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.1(a)).

S. 91
amended by
Nos 9993
s. 20(1)(a)(b),
46/1998
s. 7(Sch. 1),
24/2006
s. 6.1.2(Sch. 7
item 19.1(b)-
(d)), 58/2007
s. 53.

S. 91(a)
amended by
Nos 9549
s. 2(1)(Sch.
item 67),
41/1987
s. 103(Sch. 4
item 24.103),
46/1998
s. 7(Sch. 1),
76/1998
s. 10(1)(u),
24/2006
s. 6.1.2(Sch. 7
item 19.1(b)),
58/2007 s. 53.

S. 91(b)
amended by
Nos 9549
s. 2(1)(Sch.
item 67), 9861
s. 3(1),
41/1987
s. 103(Sch. 4
item 24.103),
31/1994
s. 3(Sch. 1
item 30.2),
46/1998
s. 7(Sch. 1),
76/1998
s. 10(1)(u),
24/2006
s. 6.1.2(Sch. 7
item 19.1(b)),
58/2007 s. 53.

91 Plantations for Government schools ⁸

Where the Department of Education and Early Childhood Development has arranged for the establishment of plantations of forest trees and plants (whether on lands vested in the Minister administering the **Education and Training Reform Act 2006** or otherwise) and the planting and care thereof by Government School pupils and teachers and members of school councils under the **Education and Training Reform Act 2006**, or in any cases where such school councils are committees of management of Government School forest plantations under section 92—

- (a) the Secretary may provide from the nurseries of the Secretary, free of cost, trees plants and seedlings for use in connexion with such plantations under such conditions as are agreed upon by the Secretary and the Secretary to the Department of Education and Early Childhood Development;
- (b) there may, notwithstanding anything in this Act, be paid out of the moneys available for the purpose any sums (not exceeding in the aggregate in all cases the sum of \$1000⁹ in any one year) towards meeting the cost of obtaining materials required to be used in the initial establishment of such plantations, and such sums may be expended for that purpose in such manner as is agreed upon by the Secretary and the Secretary to the Department of Education and Early Childhood Development; and

- (c) any municipal council may apply any portion of the municipal fund of the municipal council for the purposes of any such plantation situate within the municipal district of the municipal council or, with the consent of the Governor in Council, may apply any portion of the said fund for the purposes of any such plantation situate outside the said municipal district.

S. 91(c)
amended by
No. 13/1990
s. 40(i)–(k).

92 Management of Government school plantation¹⁰

No. 6073 s. 92.

S. 92
(Heading)
inserted by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.2(a)).

- (1) Notwithstanding anything to the contrary in section 14 of the **Crown Land (Reserves) Act 1978**, in the case of any lands which are reserved pursuant to section 4 of that Act for the purpose of a Government school forest plantation the school council of the Government school shall be the committee of management of those lands for the purposes of that Act.
- (2) The Secretary may set aside for the purpose of a Government school forest plantation any portion of a reserved forest, and where the Secretary does so the school council of the Government school shall be the committee of management of that portion of the reserved forest for the purposes of this Act.

S. 92(1)
amended by
Nos 6547 s. 2,
9212 s. 2(2),
substituted by
No. 9993
s. 20(2)(a),
amended by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.2(b)).

S. 92(2)
substituted by
No. 9993
s. 20(2)(a),
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.104,
24.105),
76/1998
s. 10(1)(u),
24/2006
s. 6.1.2(Sch. 7
item 19.2(b)).

S. 92(3)
amended by
Nos 9212
s. 2(2), 9993
s. 20(2)(b).

(3) Notwithstanding anything in the **Crown Land (Reserves) Act 1978** or this Act any school council which is a committee of management pursuant to subsection (1) or (2) (as the case may be) in addition to its powers under the **Crown Land (Reserves) Act 1978** or this Act (as the case may be), may—

- (a) sell or otherwise dispose of or arrange for the sale or disposal of the timber produced from such forest plantation; and
- (b) expend the proceeds thereof for such school purposes as are approved by the Minister administering Part 2.3 of the **Education and Training Reform Act 2006**.

S. 92(3)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
24/2006
s. 6.1.2(Sch. 7
item 19.2(c)).

(4) On the recommendation of the Secretary the Governor in Council may make regulations for or with respect to—

- (a) the inspection of such forest plantations or of any plantations of forest trees and plants established under the last preceding section of this Act;
- (b) the thinning and cutting down of trees in any such plantations; and
- (c) generally, all things necessary or convenient to be prescribed for carrying into effect the purposes of this section.

S. 92(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.104),
76/1998
s. 10(1)(u).

(5) In this section and in section 91, *school council* means a school council constituted under Part 2.3 of the **Education and Training Reform Act 2006**.

S. 92(5)
inserted by
No. 9993
s. 20(2)(c) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 42)),
amended by
No. 24/2006
s. 6.1.2(Sch. 7
item 19.2(d)).

* * * * *

S. 93
repealed by
No. 6976 s. 18.
No. 6073 s. 93.

94 Returns by saw-millers

- (1) Whenever required by the Secretary or by any person thereto authorized in writing by the Secretary (either generally or in any particular case) the owner of every sawmill shall furnish in the prescribed manner such information and particulars as are required from him concerning the intake and the output of timber of all classes and species from such sawmill.
- (2) Every owner of a saw-mill aforesaid shall forthwith fill up any form sent to or left with or for him for the purposes of this section.
- (3) Any owner of a sawmill aforesaid who in contravention of this section—
 - (a) refuses or fails to forthwith furnish information and particulars when required to do so pursuant to this section;
 - (b) fails or refuses to forthwith fill up any form sent to or left with or for him for the purposes of this section; or
 - (c) furnishes information or particulars which is or are not correct—

S. 94(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.106),
76/1998
s. 10(1)(u).

shall be guilty of an offence against this Act.

- (4) The forms which are required to be filled in for the purposes of this section shall from time to time be prepared by the Secretary and approved by the Governor in Council.

S. 94(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.106),
76/1998
s. 10(1)(u).

s. 95

S. 94(5)
inserted by
No. 6976 s. 19.

- (5) For the purpose of this section *owner of a sawmill* means owner of any business in which by any industrial operation timber whether obtained from a State forest or elsewhere in Victoria is fashioned or converted in or from the log (except into fire-wood) and *sawmill* means machine sawmill factory or premises by which or in which any such timber is so fashioned or converted.

S. 94A
inserted by
No. 7205 s. 4,
amended by
Nos 7332
s. 2(Sch. 1
item 23), 7340
s. 3, S.R.
No. 258/1974
reg. 11(a)(b),
Nos 8587
s. 9(1)-(7),
8892
s. 2(a)-(c),
9549
s. 2(1)(Sch.
item 63), 9861
s. 3(1),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.107).¹¹

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S. 94B
inserted by
No. 9416 s. 7,
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.107).

* * * * *

No. 6073 s. 94.

95 Powers of entry by authorized officers etc.

S. 95(1)
amended by
Nos 6976
s. 20, 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

- (1) The Secretary shall for the purposes of this Act and the regulations thereunder have power by itself or any of its officers or any person (authorized by the Secretary in writing either generally or in any particular case) together with such workmen vehicles and equipment as the Secretary or any such officer or person deems

necessary to enter at any time into and upon any building or land for the purposes of—

- (a) executing any work or exercising any power or making any inspection authorized to be executed exercised or made by the Secretary or any such officer or person under this Act or the regulations thereunder;
- (b) ascertaining whether the provisions of this Act and regulations with respect to the prevention or extinguishing of fires are being complied with; or
- (c) taking or directing to be taken all lawful steps for preventing or extinguishing fires:

S. 95(1)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

Provided that except so far as the purposes mentioned in paragraphs (b) and (c) of this subsection are concerned the Secretary or any such officer or person shall not make any such entry upon occupied premises unless with the consent of the occupier until after the expiration of twenty-four hours' notice of intention to enter given to the occupier.

S. 95(1)
Proviso
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

- (2) Every person who at any time obstructs the Secretary or any such officer or person in the performance of anything which the Secretary or such officer or person is empowered to do under this section shall be liable to a penalty of not more than 10 penalty units.

S. 95(2)
amended by
Nos 10235
s. 3(l), 41/1987
s. 103(Sch. 4
item 24.108),
76/1998
s. 10(1)(u).

95A 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.

S. 95A
inserted by
No. 48/2004
s. 122.

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- (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

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- (b) if the authorised officer did not identify himself or herself in accordance with section 95B before making the request.

95B Authorised officers must identify themselves

S. 95B
inserted by
No. 48/2004
s. 122.

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

- (a) before exercising a power under section 95A; and
- (b) at any time during the exercise of a power under section 95A, if asked to do so.

95C Power to remove abandoned goods

S. 95C
inserted by
No. 48/2004
s. 122.

- (1) An authorised officer may remove, or cause the removal of, any goods which the authorised officer reasonably believes have been abandoned in a State forest.
- (2) Subject to subsection (3), an authorised officer must store the goods referred to in subsection (1) in a safe place and manner for not less than 28 days.
- (3) An authorised officer may remove and immediately destroy or dispose of goods referred to in subsection (1) if—
- (a) the goods are perishable; or
- (b) the goods are dangerous.
- (4) Nothing in this section affects the operation of any other Act or law affecting the removal, destruction or disposal of goods.

Note

Other legislation of the State and Commonwealth may deal with the disposal of goods for example, the **Dangerous Goods Act 1985**.

s. 95D

S. 95D
inserted by
No. 48/2004
s. 122.

95D Owner to be sought and goods returned

- (1) An authorised officer must make reasonable enquiries to ascertain the rightful owner of goods removed and stored under section 95C before the end of 7 days after those goods are stored.
- (2) If the rightful owner of the goods is ascertained, the authorised officer must take reasonable steps to notify the rightful owner as to when and from where the goods can be collected.
- (3) The rightful owner of goods removed and stored under section 95C may apply at the office of the authorised officer who removed the goods for the return of those goods before they are dealt with under section 95E.

S. 95E
inserted by
No. 48/2004
s. 122.

95E What if goods are not collected or claimed?

- (1) An authorised officer may dispose of goods removed and stored under section 95C in any manner he or she thinks fit if—
 - (a) those goods are not collected or claimed within a reasonable time after the rightful owner has been notified under section 95D(2); or
 - (b) the rightful owner cannot be found.
- (2) If goods removed and stored under section 95C are disposed of by sale, the proceeds of the sale must be paid into the Consolidated Fund.

S. 95F
inserted by
No. 48/2004
s. 122.

95F Power to seize items

- (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 authorised officer may seize any item used or being used by that person in the commission of the offence.

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- (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.

95G Return of seized items

S. 95G
inserted by
No. 48/2004
s. 122.

- (1) An authorised officer who seizes an item under section 95F 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) 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.
- (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. 95H

S. 95H
inserted by
No. 48/2004
s. 122.

95H Recovery of seized item and compensation

If an item seized under section 95F has not been returned to the person from whom it was seized, and—

- (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 defendant 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.

S. 95I
inserted by
No. 48/2004
s. 122.

95I Forfeiture to Crown

- (1) An item seized under section 95F that is not returned to the person from whom it was seized within 12 months after being so seized is forfeited to the Crown.
- (2) If any seized item is forfeited to the Crown under subsection (1)—
 - (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.

S. 95J
inserted by
No. 48/2004
s. 122.

95J 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.

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- (2) If an 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.

96 Offences

Every person who commits or attempts to commit or aids or abets any person who commits or attempts to commit any of the following offences shall be liable to imprisonment for a term of not more than one year or to a penalty of not more than 50 penalty units, or to both such imprisonment and penalty—

No. 6073 s. 95.
S. 96
amended by
Nos 9416
s. 6(2), 10235
s. 3(m).

- (a) counterfeits upon any tree or timber or unlawfully affixes to any forest produce a mark used by authorised officers to indicate that such produce is the property of the Crown or that it may be lawfully cut or removed;
- (b) without due authority makes or causes to be made or uses or causes to be used or has in his possession a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by authorised officers to indicate that forest produce is the property of the Crown or that it may be lawfully cut or removed;
- (c) counterfeits or without due authority issues any licence permit or order for the cutting removal or sale of forest produce;

S. 96(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.111).

S. 96(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.111).

s. 96

S. 96(d)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.109),
76/1998
s. 10(1)(u).

S. 96(e)
amended by
No. 8587
s. 10(a).

S. 96(f)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.110,
24.112),
48/2004
s. 123(1)(a)(b).

S. 96(g)
amended by
No. 41/1987
s. 103(Sch. 4
items 24.110,
24.113).

- (d) unlawfully alters or destroys any boundary mark or any stamp mark sign licence permit or order used or issued by any officer or person appointed or employed by the Secretary;
- (e) unlawfully cuts breaks throws down or in anywise destroys or damages any building barrier or fence of any description whatsoever or any wall stile or gate or any part thereof respectively in or enclosing any forest or who unlawfully cuts through or breaks down or otherwise destroys the bank dam or wall or any part of any lake or any natural or artificial reservoir or pond of water within or partly within and adjoining any forest;
- (f) corrupts or attempts to corrupt by promises offers gifts or presents any authorised officer for the purpose of obtaining a favourable report recommendation certificate valuation or royalty assessment whether in respect of any place employment sale auction lease licence permit authority or any other benefit whatsoever, or for the purpose of obtaining abstention on the part of any authorised officer from any act which forms part of his duties or refuses or fails to comply with any lawful direction of an authorised officer;
- (g) being an authorised officer accepts any bribe or receives any gift or present in connexion with the performance of the functions of his office;
- (h) without a licence or permit therefor does or causes to be done any act matter or thing for which a licence or permit may be issued under the provisions of this Act;

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- (i) without the written authority of an authorised officer removes from any area or from any lands within any State forest any timber or forest produce without previously paying the proper royalty or fee due thereon; S. 96(j) amended by No. 41/1987 s. 103(Sch. 4 item 24.110).
- (j) cuts splits fells obtains or removes any forest produce on or from any lands within any forest or on or from any portion of any forest not specified in any licence or permit issued to him under the provisions of this Act;
- (k) removes from any forest without the written authority of an authorised officer any timber (other than timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**) before the same has been branded by an authorised officer; S. 96(k) amended by Nos 41/1987 s. 103(Sch. 4 item 24.110), 48/2004 s. 123(2).
- (l) furnishes an authorised officer with a false or incorrect statement of any forest produce cut split felled or removed by him or by any agent or employee of his on which royalties dues or charges are payable to the Crown; S. 96(l) amended by Nos 41/1987 s. 103(Sch. 4 item 24.110), 74/2000 s. 3(Sch. 1 item 52.7).
- (m) under cover of a miner's right within any forest cuts splits fells obtains or removes any timber (including timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**) for sale; S. 96(m) amended by No. 48/2004 s. 123(3).
- (n) marks barks ringbarks saprings girdles fells or otherwise kills destroys damages or injures any tree or plant contrary to the provisions of this Act or any regulation or the **Sustainable Forests (Timber) Act 2004**; S. 96(n) amended by No. 48/2004 s. 123(4).
- (o) is found in possession of any forest produce without having been authorised by an authorised officer to cut or remove the same; S. 96(o) amended by No. 41/1987 s. 103(Sch. 4 item 24.110).
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s. 96A

S. 96(p)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.110).

(p) without being authorized by an authorised officer deposits or causes to be deposited in any reserved forest any waste products or refuse matter of farms or dairies or otherwise or any night-soil manure or rubbish or the carcass of any dead cattle;

S. 96(q)
inserted by
No. 8587
s. 10(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.109),
76/1998
s. 10(1)(u).

(q) drives a vehicle upon any road track tramway or other work constructed or maintained by the Secretary which is closed for use by the public.

S. 96A
inserted by
No. 48/2004
s. 124.

96A 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.

S. 96B
inserted by
No. 48/2004
s. 124.

96B 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.

No. 6073 s. 96.

97 General penalty for offence against Act

(1) Every person who contravenes or causes the contravention of or neglects or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act and shall for every such offence be liable on conviction to a penalty expressly imposed in this Act for such offence.

(2) Any person guilty of an offence against this Act for which no penalty is expressly imposed shall be liable to a penalty of not more than 50 penalty units or to imprisonment for a term of not more than one year or to both such penalty and imprisonment.

S. 97(2)
amended by
Nos 9416
s. 6(3), 10235
s. 3(n).

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S. 97(3)(4)
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.114).

**98 Limitation of Supreme Court's jurisdiction—
Sustainable Forests (Timber) Act 2004**

It is the intention of section 52AA to alter or vary section 85 of the **Constitution Act 1975**.

S. 98
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.115),
new s. 98
inserted by
No. 48/2004
s. 125.

Regulations

99 Regulations

No. 6073 s. 98.

The Governor in Council may make regulations not inconsistent with the provisions of this Act for all or any of the following purposes, namely:

- (1) Prescribing the form of leases licences permits or authorities and the terms covenants and conditions under which such leases shall be granted or cease and determine or such licences permits or authorities shall be issued and cancelled or withdrawn and the mode of applying for any such lease licence permit or authority;
- (2) Prescribing the rate or amount of rentals royalties fees dues and charges payable in respect of any lease or licence or for any permit or authority;

- (3) Reserving any area of any reserved forest from the operation of any lease licence permit or authority;
- (4) Reserving from the operation of any lease or licence under this Act any area of a reserved forest required for the agistment of draught cattle used by any person holding a lease or licence or permit or authority under this Act;
- (5) Prohibiting except under licence or permit the depasturing of cattle within and the regulation of the passage of cattle through any reserved forest;
- (6) Prohibiting except under licence or permit the making of temporary clearings for any description of cultivation;
- (7) Regulating the temporary prohibition of grazing over specified areas of reserved forests in order to preserve the young trees and seedlings growing on such areas;
- (8) Prescribing the mode in which any forest produce is to be branded or marked, and the mode in which such brands, or marks may be registered with the Secretary;
- (9) Prescribing the kinds sizes and quantities of any forest produce which may be cut or removed in or from any forest and prohibiting the removal of any forest produce until branded by an authorised officer if so prescribed;
- (10) Prescribing any acts which may not be done within a forest without a lease or licence or permit or authority for the doing of such act;

S. 99(8)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.116),
74/2000
s. 3(Sch. 1
item 52.8).

S. 99(9)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.117).

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- (11) Prescribing such annual succession of areas over which timber cutting and grazing rights may be exercised as shall be deemed most favourable for forest conservation;
- (12) Providing for the making of declarations or statements by licensees or any other persons as to the quantity and description of timber and forest produce obtained taken delivery of hauled removed hewn sawn or otherwise treated or transported or consigned by road rail or water and as to the place where any timber or forest produce was obtained and as to the place to which any timber or forest produce is consigned;
- (13) Regulating the burning off of inflammable material and the lighting and use of fires and the use of any engine, boiler or other device or equipment which is capable, in the course of its ordinary use, of igniting a fire, within any fire protected area or any specified portion thereof; **S. 99(13) amended by No. 96/1994 s. 54.**
- (13A) Providing for and regulating the giving by authorised officers of written authority to light fires in any fire protected area or any part thereof and prescribing the circumstances in which such authority may be given; **S. 99(13A) inserted by No. 6976 s. 21(a), amended by No. 41/1987 s. 103(Sch. 4 item 24.117).**
- (13B) Prescribing conditions to be specified in any written authority to light a fire and authorizing authorised officers to specify conditions therein at their discretion; **S. 99(13B) inserted by No. 6976 s. 21(a), amended by No. 41/1987 s. 103(Sch. 4 item 24.117).**

Forests Act 1958
No. 6254 of 1958

s. 99

S. 99(13C)
inserted by
No. 6976
s. 21(a),
amended by
No. 41/1987
s. 103(Sch. 4
item 24.117).

(13C) Prohibiting the lighting or maintaining of fires in any fire protected area or any part thereof without the written authority of an authorised officer;

S. 99(13D)
inserted by
No. 8945
s. 5(a).

(13D) The extinguishment of fires lit kindled maintained or used in a fire protected area;

(14) Regulating the establishment of Government timber depots, the terms and conditions for the use of same;

S. 99(15)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.116),
76/1998
s. 10(1)(u),
48/2004 s. 126.

(15) Regulating traffic through reserved forests, and the prevention of trespass on or in any portion of a State forest which is fenced and providing for the safety and protection of roads tracks and tramways constructed or maintained by the Secretary, and the operation of vehicles and the transportation of timber, including timber resources within the meaning of the **Sustainable Forests (Timber) Act 2004**, sand stone gravel and other materials thereon;

S. 99(16)
amended by
No. 8587
s. 11(a).

(16) Regulating camping and the establishment and conduct of recreation grounds and camping areas in State forests and prescribing the conditions on which the same may be used by persons;

S. 99(17)
substituted by
No. 8945
s. 5(b).

(17) The—
(a) measures (including the clearing of land and the burning of inflammable material) to be taken or carried out;

(b) facilities equipment apparatus or other things to be provided—

in fire protected areas for the prevention and suppression of fire or the protection of life and property from fire;

- (17A) The maintenance of works facilities equipment apparatus and other things constructed or provided pursuant to the Act or the regulations in fire protected areas for the prevention and suppression of fire or the protection of life and property from fire;
- * * * * *
- (18) Prescribing the terms and conditions under which persons may be appointed as trainees and the positions to which trainees may be appointed and regulating the training of persons so appointed;
- (19) The establishment of a board of forestry education and the organisation of a system of education and training in scientific forestry and prescribing and regulating the powers and functions of the Board and the Secretary in connexion with that system;
- (19A) Prescribing the fees which members of the board of forestry education who are not engaged in full time employment as officers of the Crown or the public service or as members or officers of any public statutory corporation shall be entitled to receive;

S. 99(17A) inserted by No. 8945 s. 5(b).

S. 99 (17B)–(17E) inserted by No. 8945 s. 5(b), repealed by No. 48/2004 s. 116(1).

S. 99(18) amended by No. 6976 s. 21(b).

S. 99(19) substituted by No. 6976 s. 21(c), amended by Nos 41/1987 s. 103(Sch. 4 item 24.116), 76/1998 s. 10(1)(u).

S. 99(19A) inserted by No. 6976 s. 21(c).

s. 99

S. 99(19B)
inserted by
No. 6976
s. 21(c).

(19B) Prescribing the fees to be paid by persons entering upon or pursuing any course of training or entering for any examination or for any certificate or diploma;

S. 99(19C)
inserted by
No. 7740 s. 8,
amended by
Nos 8587
s. 11(b),
41/1987
s. 103(Sch. 4
item 24.116),
76/1998
s. 10(1)(u),
repealed by
No. 48/2004
s. 100(2).

* * * * *

S. 99(20)
amended by
No. 9212
s. 2(2).

- (20) The protection of trees in Crown lands reserved under the **Crown Land (Reserves) Act 1978** from sale permanently for the purposes of public parks or gardens or for the recreation convenience and amusement of the people and vested in trustees and whether there is a committee of management of such lands or not; and regulating or prohibiting the cutting or removal of such trees and other forest produce;
- (21) Prescribing such annual cutting sections as are deemed necessary under a working plan;
- (22) Prescribing the procedure for the sale by auction or by tender of rights to leases licences or permits or of forest produce and enabling upset prices or minimum royalties dues or charges to be fixed;
- (23) Prescribing the fees or deposits to be paid with any application or tender;

-
- (24) Providing for the inspecting of timber and other forest produce for export and for local use, and prescribing the forms and certificates to be used, the fees to be paid and the brands or marks to be used;
- (25) Prescribing rules for the grading of timber for export and for local use;
- (26) Regulating the export of prescribed species of timber or other forest produce;
- (26A) Prescribing standards for the treatment by preservative of timber (whether grown in Victoria or not) which is sold or offered for sale in Victoria; **S. 99(26A) inserted by No. 6976 s. 21(d).**
- (26B) Prohibiting the sale or offering for sale as timber treated with preservative any timber which has not been treated with preservative or which has not been treated in accordance with the prescribed standards or regulations with respect thereto; **S. 99(26B) inserted by No. 6976 s. 21(d).**
- * * * * *
- S. 99(27) repealed by No. 48/2004 s. 116(4).**
- (28) Providing for the keeping by the Secretary of a register of the names addresses and occupations of all persons engaged or employed in any industry in any State forest; **S. 99(28) amended by Nos 41/1987 s. 103(Sch. 4 item 24.116), 76/1998 s. 10(1)(u).**
- (29) Regulating or prohibiting the carrying or use of dangerous matches and fire-arms in State forests and national parks, and subject to the provisions of the **Transport Act 1983** and the **Road Management Act 2004** the use of steam engine locomotives and traction engines in State forests and national parks, and generally for the protection of State **S. 99(29) amended by Nos 9921 s. 255, 12/2004 s. 158(5), 109/2004 s. 22(b).**
-

s. 99

forests and national parks from damage by fire;

S. 99(30)
amended by
No. 6976
s. 21(e).

- (30) Regulating or prohibiting the destruction shooting hunting pursuing or snaring of animals or birds in any reserved forest;

S. 99(31)
amended by
Nos 8945
s. 7(c), 9464
s. 2(c), 10235
s. 3(o).

- (31) Prescribing either generally or particularly penalties not exceeding 50 penalty units for breaches of any regulations;

S. 99(32)
amended by
No. 41/1987
s. 103(Sch. 4
item 24.117),
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.118).

* * * * *

- (33) Prescribing any matters required or permitted or necessary or expedient to be prescribed for carrying this Act into effect, and generally for carrying into effect the objects of this Act.

For the purposes of this section the expression *dangerous matches* means any matches other than those so made as to strike only on a preparation affixed to the containing box or to a box containing the same description of matches.

99A Regulation-making powers

S. 99A
inserted by
No. 8945 s. 6,
amended by
No. 97/2003
s. 5 (ILA
s. 39B(1)).

(1) Regulations under paragraphs (13)(13A)(13B)
(13C)(13D)(17) or (17A) of section 99 may—

S. 99A(1)
amended by
No. 48/2004
s. 116(3).

(a) be general or varied or be restricted in
operation according to time place persons or
circumstances and whether any such time
place person or circumstance is determined
or ascertainable before at or after the making
of the regulation;

(b) authorize the Secretary, an employee in the
Department or an authorised officer by
notice in writing given to a person—

S. 99A(1)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(i) to grant a full or partial exemption from
any regulation subject to such
reasonable conditions (if any) the
Secretary, employee or authorised
officer considers appropriate and to
revoke any such exemption;

S. 99A(1)(b)(i)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.121),
76/1998
s. 10(1)(v)(i)
(iii).

(ii) to require that specified measures
facilities equipment apparatus or other
things be taken carried out or provided;

(iii) to grant permits or authorities subject to
such reasonable conditions (if any) the
Secretary, employee or authorised
officer considers appropriate and to
revoke any such permit or authority;

S. 99A(1)(b)(iii)
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.121),
76/1998
s. 10(1)(v)(i)
(iii).

s. 99A

S. 99A(1)(c)
amended by
No. 9427
s. 6(1)(Sch. 5
item 68).

(c) require that—

S. 99A(1)(c)(i)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(i) any act matter or thing be done carried out or provided within a time or in a manner specified by or to the satisfaction of the Secretary, an employee in the Department or an authorised officer;

S. 99A(1)(c)(ii)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(ii) any work matter or thing be approved by or of a type kind or class approved by the Secretary, an employee in the Department or an authorised officer;

S. 99A(1)(d)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(d) confer on the Secretary, an employee in the Department or an authorised officer any discretionary power in relation to the regulations;

S. 99A(1)(e)
amended by
Nos 41/1987
s. 103(Sch. 4
items 24.119,
24.120),
76/1998
s. 10(1)(v)(i)(ii).

(e) leave any matter or thing to be determined from time to time by the Secretary, an employee in the Department or an authorised officer.

S. 99A(2)
inserted by
No. 97/2003
s. 5.

(2) Regulations made under this Act 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—

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

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

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

100 Power to make regulations as to eradication etc. of tree pests, diseases in timber etc.

No. 6073 s. 99.

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

(a) securing—

- (i) the treatment of diseased trees;
- (ii) the eradication of diseases of trees;
- (iii) the treatment of timber affected with disease;
- (iv) the prevention and eradication of diseases in timber—

whether any such trees are or any such timber is upon or in any State forest or wherever situate in Victoria;

(b) prescribing penalties (not exceeding 9 penalty units in any case) for the breach of any regulation under this section; and

S. 100(1)(b) amended by No. 10235 s. 3(p).

(c) generally, prescribing all matters and things necessary or convenient to be prescribed for carrying into effect the purposes of this section.

(2) In this section unless inconsistent with the context or subject-matter—

disease means any disorder affecting trees or timber and which on the recommendation of the Secretary the Governor in Council from time to time by proclamation in the Government Gazette declares to be a disease within the meaning of this section and whether or not caused by or consisting of the presence of insects or fungus;

S. 100(2) def. of *disease* amended by Nos 41/1987 s. 103(Sch. 4 item 24.122), 76/1998 s. 10(1)(w).

S. 100(2) def.
of *fungus*
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.122),
76/1998
s. 10(1)(w).

diseased means affected with disease;

fungus means any fungus or any tree parasite or timber parasite whatever which on the recommendation of the Secretary the Governor in Council from time to time by proclamation in the Government Gazette declares to be a fungus within the meaning of this section;

S. 100(2) def.
of *insect*
amended by
Nos 41/1987
s. 103(Sch. 4
item 24.122),
76/1998
s. 10(1)(w).

insect means any insect whatever which on the recommendation of the Secretary the Governor in Council from time to time by proclamation in the Government Gazette declares to be an insect within the meaning of this section, and includes any such insect in whatever stage of existence the same may be and any eggs of any such insect;

timber includes any timber imported into Victoria;

tree means any tree (within the meaning of this Act) of any genus species or variety usually growing in a forest, and includes every part of such a tree.

S. 100(3)
amended by
Nos 52/1994
s. 97(Sch. 3
item 13),
51/1995 s. 75.

- (3) This section shall be read and construed as in aid of and not in derogation from the provisions of the **Catchment and Land Protection Act 1994** or of the **Plant Health and Plant Products Act 1995** or of any other enactment relating to the subject-matter hereof.

Transitional provisions

101 Continuation of licences and leases—2005 Act

- (1) On and from the commencement of Part 4 of the 2005 Act—
 - (a) any licence granted under section 52; or
 - (b) any permit granted under section 52—

over the forest park land, being a licence or permit existing immediately before that commencement, continues in force and may be dealt with as a licence or permit under section 52 until its expiry.
- (2) On and from the commencement of Part 4 of the 2005 Act any lease granted under section 51 over the forest park land, being a lease existing immediately before that commencement, continues in force and may be dealt with as a lease under section 51 until its expiry.
- (3) On and from the commencement of Part 4 of the 2005 Act any lease or licence granted under the **Land Act 1958** over the forest park land, being a lease or licence existing immediately before that commencement, continues in force and may be dealt with as a lease or licence (as the case requires) under the **Land Act 1958** until its expiry.
- (4) On and from the commencement of Part 4 of the 2005 Act any lease or licence granted under the **Crown Land (Reserves) Act 1978** over the forest park land, being a lease or licence existing immediately before that commencement, continues in force and may be dealt with as a lease or licence (as the case requires) under the **Crown Land (Reserves) Act 1978** until its expiry.

Heading preceding s. 101 inserted by No. 60/2005 s. 37.

S. 101 repealed by No. 6886 s. 3, new s. 101 inserted by No. 60/2005 s. 37.

(5) In this section and in section 102—

forest park land means the land placed under the control and management of the Secretary under section 18(1B) of the **Crown Land (Reserves) Act 1978**;

2005 Act means the **National Parks (Otways and Other Amendments) Act 2005**.

S. 102
inserted by
No. 60/2005
s. 37.

102 Once only harvesting of pines in Otway Forest Park

The amendment to section 18A by section 35(5) of the 2005 Act does not apply to the land shown hatched on the plan lodged in the Central Plan Office and numbered LEGL./05-346 for the purposes of harvesting, once only, pines existing on that land at the commencement of the 2005 Act for the purposes of sawlog or pulpwood production.

Forests Act 1958
No. 6254 of 1958

Sch. 1

SCHEDULES

FIRST SCHEDULE

S. 2

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
6073	Forests Act 1957	The whole.
6148	Forests (Mount Bulla Lease) Act 1957	The whole.

Ss 3, 42.
Sch. 2
substituted by
Nos 6976
s. 7(1)(k), 7228
s. 7(Sch. 4
Pt 12(d)),
10087
s. 3(1)(Sch. 1
item 90).

SECOND SCHEDULE

RESERVED FORESTS

The areas of Crown lands delineated by projections bearing a distinguishing colour or shading on maps—

- (a) sealed with the seal of the Board of Land and Works before 15 March 1965;
- (b) signed by the Minister of Lands on or after 15 March 1965 and before 1 September 1983; or
- (c) signed by the Minister for Conservation, Forests and Lands on or after 1 September 1983—

and deposited with the Clerk of the Parliaments and described—

- (d) where the maps were sealed and deposited before 18 December 1962—as permanent forests or as timber reserves; or
- (e) in any other case—as reserved forests.

Forests Act 1958
No. 6254 of 1958

Sch. 3

* * * * *

Sch. 3
repealed by
No. 6976
s. 7(1)(l),
new Sch. 3
inserted by
No. 82/1990
s. 5,
amended by
GG 16.1.97
p. 128,
repealed by
No. 48/2004
s. 109(c).

* * * * *

Sch. 4
amended by
Nos 6976
s. 22, 7547
s. 3, 7876
s. 2(3), 8945
s. 8,
repealed by
No. 41/1987
s. 103(Sch. 4
item 24.123).

ENDNOTES

1. General Information

The **Forests Act 1958** was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 892.

2. Table of Amendments

This Version incorporates amendments made to the **Forests Act 1958** by Acts and subordinate instruments.

Public Officers Salaries and Allowances Act 1958, No. 6471/1958 (as amended by No. 6489/1958)

Assent Date: 9.12.58
Commencement Date: 1.7.58: s. 1(2)
Current State: All of Act in operation

Statute Law Revision Act 1959, No. 6547/1959

Assent Date: 20.10.59
Commencement Date: 1.4.59: s. 1(2)
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1960, No. 6624/1960

Assent Date: 1.6.60
Commencement Date: 21.2.60: s. 1(2)
Current State: All of Act in operation

Land (Unused Roads and Water Frontages) Act 1961, No. 6794/1961

Assent Date: 8.11.61
Commencement Date: 1.4.63: Government Gazette 20.3.63 p. 620
Current State: All of Act in operation

Crown Leases Act 1961, No. 6842/1961

Assent Date: 19.12.61
Commencement Date: 19.12.61
Current State: All of Act in operation

Forests (Amendment) Act 1962, No. 6870/1962

Assent Date: 2.5.62
Commencement Date: 2.5.62
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962

Assent Date: 8.5.62
Commencement Date: 1.8.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

Forests (Further Amendment) Act 1962, No. 6976/1962

Assent Date: 18.12.62
Commencement Date: 18.12.62
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1963, No. 7054/1963

Assent Date: 26.11.63
Commencement Date: Ss 12–14 on 12.5.63: s. 1(2)(b); ss 2–11 on 1.7.63: s. 1(2)(a); s. 1 on 26.11.63
Current State: All of Act in operation

Statute Law Revision Act 1963, No 7065/1963

Assent Date: 3.12.63
Commencement Date: 3.12.63
Current State: All of Act in operation

Forests (Amendment) Act 1964, No. 7205/1964

Assent Date: 15.12.64
Commencement Date: 15.12.64
Current State: All of Act in operation

Public Lands and Works Act 1964, No. 7228/1964

Assent Date: 15.12.64
Commencement Date: 15.3.65: Government Gazette 11.3.65 p. 557
Current State: All of Act in operation

Statute Law Revision Act 1965, No. 7332/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65: subject to s. 3.
Current State: All of Act in operation

Forests (Amendment) Act 1965, No. 7340/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1965, No. 7356/1965

Assent Date: 14.12.65
Commencement Date: Ss 12–14 on 4.7.65: s. 1(3); ss 2–11 on 1.12.65:
s. 1(2); s. 1 on 14.12.65
Current State: All of Act in operation

Extractive Industries Act 1966, No. 7499/1966

Assent Date: 20.12.66
Commencement Date: 15.5.68: Government Gazette 10.4.68 p. 1129
Current State: All of Act in operation

Instruments (Corporate Bodies Contracts) Act 1967, No. 7547/1967

Assent Date: 17.3.67
Commencement Date: 1.7.67: Government Gazette 21.6.67 p. 2027
Current State: All of Act in operation

Judges and Public Officers Salaries Act 1967, No. 7581/1967

Assent Date: 21.11.67
Commencement Date: 1.7.67: s. 1
Current State: All of Act in operation

Forests (Amendment) Act 1968, No. 7674/1968

Assent Date: 18.4.68
Commencement Date: 18.4.68
Current State: All of Act in operation

Forests (Amendment) Act 1968, No. 7740/1968

Assent Date: 2.12.68
Commencement Date: 23.1.69: Government Gazette 22.1.69 p. 125
Current State: All of Act in operation

Local Government Act 1969, No. 7835/1969

Assent Date: 20.5.69
Commencement Date: S. 9 on 1.6.69; rest of Act on 21.5.69: Government Gazette 21.5.69 p. 1504
Current State: All of Act in operation

Justices (Amendment) Act 1969, No. 7876/1969

Assent Date: 25.11.69
Commencement Date: 1.4.70 (*except* ss 3, 5, 6, 7(k)(m)–(o)); ss 3, 5, 6, 7(k)(m)–(o) on 1.7.70: Government Gazette 25.2.70 p. 463
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1970, No. 7954/1970

Assent Date: 7.4.70
Commencement Date: 1.1.70: s. 2
Current State: All of Act in operation

Forests (Amendment) Act 1970, No. 8035/1970

Assent Date: 8.12.70
Commencement Date: 8.12.70
Current State: All of Act in operation

Statutory Salaries Act 1970, No. 8082/1970

Assent Date: 22.12.70
Commencement Date: 22.12.70
Current State: All of Act in operation

National Parks (Amendment) Act 1971, No. 8210/1971

Assent Date: 14.12.71
Commencement Date: 14.12.71
Current State: All of Act in operation

Crimes (Powers of Arrest) Act 1972, No. 8247/1972

Assent Date: 6.4.72
Commencement Date: 1.7.72: Government Gazette 28.6.72 p. 2360
Current State: All of Act in operation

Forests (Amendment) Act 1974, No. 8587/1974

Assent Date: 30.10.74
Commencement Date: 20.11.74: Government Gazette 20.11.74 p. 4032
Current State: All of Act in operation

National Parks Act 1975, No. 8702/1975

Assent Date: 16.5.75
Commencement Date: 1.12.75: Government Gazette 26.11.75 p. 3888
Current State: All of Act in operation

Forests (Advances) Act 1976, No. 8892/1976

Assent Date: 16.11.76
Commencement Date: 16.11.76
Current State: All of Act in operation

Forests (Fire Prevention and Protection) (Amendment) Act 1976, No. 8945/1976

Assent Date: 14.12.76
Commencement Date: 14.12.76
Current State: All of Act in operation

Statute Law Revision Act 1977, No. 9019/1977

Assent Date: 17.5.77
Commencement Date: 17.5.77: subject to s. 2(2)
Current State: All of Act in operation

National Parks (Amendment) Act 1978, No. 9114/1978

Assent Date: 16.5.78
Commencement Date: 16.5.78
Current State: All of Act in operation

Crown Land (Reserves) Act 1978, No. 9212/1978

Assent Date: 19.12.78
Commencement Date: 1.3.79: Government Gazette 21.2.79 p. 441
Current State: All of Act in operation

National Parks Act 1978, No. 9247/1978

Assent Date: 19.12.78
Commencement Date: S. 17 on 26.4.79: s. 1(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests (Reserved Land) Act 1979, No. 9280/1979

Assent Date: 10.7.79
Commencement Date: 1.8.79: Government Gazette 1.8.79 p. 2407
Current State: All of Act in operation

Forests (Amendment) Act 1980, No. 9416/1980

Assent Date: 20.5.80
Commencement Date: 20.5.80
Current State: All of Act in operation

Forests (Further Amendment) Act 1980, No. 9417/1980 (as amended by No. 9549/1981)

Assent Date: 20.5.80
Commencement Date: 20.5.80
Current State: All of Act in operation

Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80: subject to s. 6(2)
Current State: All of Act in operation

Forests (Penalties) Act 1980, No. 9464/1980

Assent Date: 16.12.80
Commencement Date: 16.12.80
Current State: All of Act in operation

Statute Law Revision Act 1981, No. 9549/1981

Assent Date: 19.5.81
Commencement Date: 19.5.81: subject to s. 2(2)
Current State: All of Act in operation

Crimes (Classification of Offences) Act 1981, No. 9576/1981

Assent Date: 26.5.81
Commencement Date: 1.9.81: Government Gazette 26.8.81 p. 2799
Current State: All of Act in operation

Forests (Amendment) Act 1981, No. 9615/1981

Assent Date: 1.12.81
Commencement Date: 1.12.81
Current State: All of Act in operation

Companies (Consequential Amendments) Act 1982, No. 9699/1982

Assent Date: 5.1.82
Commencement Date: S. 23 on 1.7.82: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Parliamentary Committees (Joint Investigatory Committees) Act 1982, No. 9765/1982

Assent Date: 13.7.82
Commencement Date: 25.8.82: Government Gazette 25.8.82 p. 2793
Current State: All of Act in operation

Public Account (Trust Funds) Act 1982, No. 9861/1982

Assent Date: 5.1.83
Commencement Date: 12.1.83: Government Gazette 12.1.83 p. 81
Current State: All of Act in operation

Transport Act 1983, No. 9921/1983

Assent Date: 23.6.83
Commencement Date: S. 255(Sch. 12) on 1.7.83: s. 1(2)(c)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Mines (Amendment) Act 1983, No. 9936/1983

Assent Date: 5.7.83
Commencement Date: 30.10.83: Government Gazette 5.10.83 p. 3293
Current State: All of Act in operation

Alpine Resorts Act 1983, No. 9974/1983

Assent Date: 29.11.83
Commencement Date: Ss 1–43, 44(2) on 28.3.84: Government Gazette 28.3.84 p. 977; rest of Act on 17.4.85: Government Gazette 17.4.85 p. 1101
Current State: All of Act in operation

Education (Amendment) Act 1983, No. 9993/1983 (as amended by No. 10087/1984)

Assent Date: 13.12.83
Commencement Date: S. 20 on 8.2.84: Government Gazette 8.2.84 p. 402
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Amendment) Act 1984, No. 10073/1984

Assent Date: 15.5.84
Commencement Date: S. 15 on 15.5.84: s. 3(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Water (Central Management Restructuring) Act 1984, No. 10081/1984

Assent Date: 15.5.84
Commencement Date: 1.7.84: Government Gazette 20.6.84 p. 1937
Current State: All of Act in operation

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84
Commencement Date: 22.5.84: subject to s. 3(2)
Current State: All of Act in operation

National Parks (Further Amendment) Act 1984, No. 10166/1984

Assent Date: 20.11.84
Commencement Date: S. 22 on 18.12.84: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests and Country Fire Authority (Penalties) Act 1985, No. 10235/1985

Assent Date: 10.12.85
Commencement Date: 10.12.85
Current State: All of Act in operation

Courts Amendment Act 1986, No. 16/1986

Assent Date: 22.4.86
Commencement Date: S. 30 on 1.7.86: Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Land Acquisition and Compensation Act 1986, No. 121/1986

Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Coal Mines (Amendment) Act 1987, No. 6/1987

Assent Date: 28.4.87
Commencement Date: 11.5.87: Government Gazette 6.5.87 p. 1004
Current State: All of Act in operation

Conservation, Forests and Lands Act 1987, No. 41/1987

Assent Date: 19.5.87
Commencement Date: Ss 103(Sch. 4 items 24.1–24.123), 116(9) on 1.7.87: Government Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Water (Consequential Amendments) Act 1989, No. 81/1989

Assent Date: 5.12.89
Commencement Date: 1.11.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

Conservation, Forests and Lands Acts (Amendment) Act 1989, No. 90/1989

Assent Date: 5.12.89
Commencement Date: S. 10 on 5.12.89: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Local Government (Amendment) Act 1990, No. 13/1990

Assent Date: 8.5.90
Commencement Date: S. 40 on 8.5.90: s. 2(2)(a)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Forests (Timber Harvesting) Act 1990, No. 82/1990

Assent Date: 11.12.90
Commencement Date: 11.12.90
Current State: All of Act in operation

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 items 12.1–12.8) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Victorian Plantation Corporation Act 1993, No. 61/1993

Assent Date: 8.6.93
Commencement Date: S. 34 on 1.7.93: Government Gazette 24.6.93 p. 1596
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Mineral Resources Development (Amendment) Act 1993, No. 86/1993

Assent Date: 3.11.93
Commencement Date: S. 41 on 17.1.94: Government Gazette 16.12.93 p. 3317
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 3(Sch. 1 items 30.1, 30.2) on 7.7.94: Government Gazette 7.7.94 p. 1878—see **Interpretation of Legislation Act 1984**
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Catchment and Land Protection Act 1994, No. 52/1994

Assent Date: 15.6.94
Commencement Date: S. 97(Sch. 3 item 13) on 15.12.94: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Impounding of Livestock Act 1994, No. 89/1994

Assent Date: 6.12.94
Commencement Date: 6.12.94
Current State: All of Act in operation

Crown Lands Acts (Amendment) Act 1994, No. 96/1994

Assent Date: 13.12.94
Commencement Date: Pt 1 (ss 1, 2) on 13.12.94: s. 2(1); rest of Act (ss 3–59) on 26.1.95: Government Gazette 26.1.95 p. 163
Current State: All of Act in operation

Plant Health and Plant Products Act 1995, No. 51/1995

Assent Date: 14.6.95
Commencement Date: S. 75 on 14.6.96: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Yarra Ranges and Other Amendments) Act 1995, No. 57/1995

Assent Date: 20.6.95
Commencement Date: S. 46 on 15.12.95: Government Gazette 14.12.95 p. 3488
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Extractive Industries Development Act 1995, No. 67/1995 (as amended by No. 74/2000)

Assent Date: 17.10.95
Commencement Date: Pt 1 (ss 1–7), s. 60(1)(2) on 17.10.95: s. 2(1); rest of Act on 1.6.96: Special Gazette (No. 60) 31.5.96 p. 4
Current State: All of Act in operation

Electricity Industry (Further Amendment) Act 1995, No. 79/1995

Assent Date: 28.11.95
Commencement Date: S. 32 on 28.11.95: Special Gazette (No. 116) 28.11.95 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Electricity Industry (Further Amendment) Act 1996, No. 48/1996

Assent Date: 26.11.96
Commencement Date: 26.11.96: s. 2
Current State: All of Act in operation

Electricity Industry (Further Miscellaneous Amendment) Act 1997, No. 55/1997

Assent Date: 21.10.97
Commencement Date: Ss 26, 27 on 21.10.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Alpine Resorts (Management) Act 1997, No. 89/1997

Assent Date: 9.12.97
Commencement Date: S. 72 on 30.4.98: Government Gazette 30.4.98 p. 926
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Audit (Amendment) Act 1997, No. 93/1997

Assent Date: 16.12.97
Commencement Date: S. 28(Sch. item 14) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Victorian Plantations Corporation (Amendment) Act 1998, No. 35/1998

Assent Date: 19.5.98
Commencement Date: S. 15 on 26.6.98: Government Gazette 25.6.98 p. 1561
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998, No. 76/1998

Assent Date: 10.11.98
Commencement Date: S. 10 on 15.12.98: s. 2(5)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Transfer of Land (Single Register) Act 1998, No. 85/1998 (as amended by No. 76/1998)

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 25) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Audit (Amendment) Act 1999, No. 53/1999

Assent Date: 14.12.99
Commencement Date: S. 26(Sch. item 12) on 1.1.2000: Government Gazette
23.12.99 p. 2764
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Water Industry (Amendment) Act 2000, No. 66/2000

Assent Date: 8.11.00
Commencement Date: S. 55 on 15.4.99: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Electricity Industry Legislation (Miscellaneous Amendments) Act 2000,
No. 69/2000**

Assent Date: 21.11.00
Commencement Date: S. 53 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 52) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001,
No. 11/2001**

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 27) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 49) on 15.7.01: s. 2
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Auction Sales (Repeal) Act 2001, No. 84/2001

Assent Date: 11.12.01
Commencement Date: S. 5 on 1.1.03: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

National Parks (Box-Ironbark and Other Parks) Act 2002, No. 50/2002

Assent Date: 29.10.02
Commencement Date: S. 27 on 30.10.02: s. 2
Current State: This information relates only to the provision/s
amending the **Forests Act 1958**

Forests and National Parks Acts (Amendment) Act 2003, No. 97/2003

Assent Date: 2.12.03
Commencement Date: Ss 3–5 on 3.12.03: s. 2
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: Ss 157, 158 on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Sustainable Forests (Timber) Act 2004, No. 48/2004

Assent Date: 16.6.04
Commencement Date: Ss 97, 98, 100(1), 103–105, 107, 108, 110, 112, 116, 122, 123(1), 124, 125 on 17.6.04: s. 2(1); ss 99, 101, 102, 106, 111, 113–115, 117–121, 123(2)–(4), 126 on 1.8.04: Government Gazette 29.7.04 p. 2120; s. 100(2) on 31.8.05: Government Gazette 14.7.05 p. 1550; s. 109 on 18.5.06: Government Gazette 18.5.06 p. 929
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Additions and Other Amendments) Act 2004, No. 64/2004

Assent Date: 12.10.04
Commencement Date: S. 35 on 13.10.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 83) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

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

Assent Date: 21.12.04
Commencement Date: Ss 21, 22 on 22.12.04: s. 2
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

National Parks (Otways and Other Amendments) Act 2005, No. 60/2005

Assent Date: 20.9.05
Commencement Date: Ss 34–37 on 24.10.06: Special Gazette (No. 285) 24.10.06 p. 1
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 19) on 1.1.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 16) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Education and Training Reform Miscellaneous Amendments At 2007, No. 58/2007

Assent Date: 27.11.07
Commencement Date: S. 53 on 28.11.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Forests Act 1958**

Metric Conversion (Forests Act) Regulations 1974, S.R. No. 258/1974

Date of Making: 19.6.74
Date of Commencement: 30.6.74: reg. 1

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3. Explanatory Details

¹ Ss 9–17:

Heading preceding s. 9 repealed by No. 96/1994 s. 56(a).

Ss 9, 10 repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 11 amended by Nos 6471 s. 3 (as amended by No. 6489 s. 4), 6624 s. 4(a)(b), 7054 s. 3(a)(b), 7356 s. 3(a)(b), 7581 s. 5(a)(b), 7954 s. 4(a)(b), 8082 s. 3(1), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 12 repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 13 amended by No. 9019 s. 2(1)(Sch. item 76), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

Ss 14, 15 repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 16 amended by Nos 9576 s. 11(1), 9615 s. 2, 10235 s. 3(a), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

S. 17 amended by Nos 9019 s. 2(1)(Sch. item 76), 9615 s. 3(1)(a)(i)(ii)(b)(2), repealed by No. 41/1987 s. 103(Sch. 4 item 24.17).

² Ss 23–26:

S. 23 amended by Nos 7674 s. 2, 8587 s. 4, 9417 s. 3(1)(a)(b)(2), repealed by No. 41/1987 s. 103(Sch. 4 item 24.28).

Ss 24–26 repealed by No. 41/1987 s. 103(Sch. 4 item 24.28).

³ Ss 28–37:

Heading preceding s. 28 repealed by No. 96/1994 s. 56(c).

S. 28 amended by No. 9019 s. 2(1)(Sch. item 76), repealed by No. 41/1987 s. 103(Sch. 4 item 24.34).

Heading preceding s. 29 repealed by No. 96/1994 s. 56(c).

S. 29 repealed by No. 41/1987 s. 103(Sch. 4 item 24.34).

S. 30 amended by Nos 6976 s. 6(1), 9549 s. 2(1)(Sch. item 63), repealed by No. 9861 s. 3(1).

S. 31 amended by No. 6976 s. 6(2), repealed by No. 41/1987 s. 103(Sch. 4 item 24.34).

S. 32 amended by No. 8035 s. 5, repealed by No. 41/1987 s. 103(Sch. 4 item 24.34).

S. 32A inserted by No. 6976 s. 6(3), substituted by No. 9861 s. 3(1), repealed by No. 41/1987 s. 103(Sch. 4 item 24.35).

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S. 32AA inserted by No. 9861 s. 3(1), repealed by No. 41/1987 s. 103(Sch. 4 item 24.36).

S. 33 amended by Nos 6976 s. 6(4), 9549 s. 2(1)(Sch. item 63), repealed by No. 41/1987 s. 103(Sch. 4 item 24.37).

Heading preceding s. 34 repealed by No. 96/1994 s. 56(c).

Ss 34–36 repealed by No. 41/1987 s. 103(Sch. 4 item 24.37).

S. 37 amended by No. 10087 s. 3(1)(Sch. 1 item 79), repealed by No. 41/1987 s. 103(Sch. 4 item 24.37).

⁴ Ss 38A, 39:

S. 38A inserted by No. 8035 s. 6, amended by No. 121/1986 s. 112, repealed by No. 41/1987 s. 103(Sch. 4 item 24.39).

Heading preceding s. 39 repealed by No. 96/1994 s. 56(d).

S. 39 amended by No. 9019 s. 2(1)(Sch. item 75), repealed by No. 41/1987 s. 103(Sch. 4 item 24.40).

⁵ S. 48(1): Refer to section 5 of the **Decimal Currency Act 1965**, No. 73/1965.

⁶ S. 63(5): See note 5.

⁷ Ss 86, 87:

S. 86 amended by Nos 9549 s. 2(1)(Sch. item 63), 41/1987 s. 103(Sch. 4 item 24.99), 13/1990 s. 40(g), repealed by No. 89/1994 s. 37.

S. 87 amended by Nos 41/1987 s. 103(Sch. 4 item 24.100), 13/1990 s. 40(h), repealed by No. 89/1994 s. 37.

⁸ S. 91: Section 20(3) of the **Education (Amendment) Act 1983**, No. 9993/1983 reads as follows:

20 Amendment of No. 6254, ss 91, 92

(3) On and from the commencement of this section—

- (a) every school council of a State school which by virtue of the amendments made to the **Forests Act 1958** by this section is a committee of management of a State school forest plantation for the purposes of the **Crown Land (Reserves) Act 1978** or the **Forests Act 1958** shall become and be the successor in law of the body of persons that was the committee of management under the

- Forests Act 1958** of that plantation immediately before that commencement;
- (b) all duties liabilities responsibilities and obligations of that body in relation to that plantation shall be transferred to that school council and thereafter that school council shall be subject to all those duties liabilities responsibilities and obligations; and
- (c) no act matter or thing shall be in any way abated or affected by the fact that that school council has become the successor in law of that body or by reason of the transfer under paragraph (b) of all duties liabilities responsibilities and obligations of that body to that school council.

⁹ S. 91(b): See note 5.

¹⁰ S. 92: See note 8.

¹¹ S. 94A (*repealed*): Section 114 of the **Conservation, Forests and Lands Act 1987**, No. 41/1987 reads as follows:

114 Continuation of section 94A of the Forests Act 1958

If before the date of commencement of item 24.107 of Schedule 4—

- (a) an advance was made; or
- (b) an agreement was entered into; or
- (c) a caveat was lodged—

under section 94A of the **Forests Act 1958**, that section as in force immediately before the date of commencement of that item continues to apply on and after that date to that advance, agreement or caveat, despite the repeal of that section by this Act.