

Version No. 002
Forests (Licences and Permits) Regulations
2009

S.R. No. 166/2009

Version as at
13 March 2013

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PART 1—PRELIMINARY

1 Objectives

The objectives of these Regulations are to prescribe—

- (a) certain acts which may not be done within a reserved forest without a licence, permit or authority; and
- (b) the manner in which applications for licences and permits granted or issued under section 52 of the **Forests Act 1958** must be made; and
- (c) the terms and conditions of those licences and permits; and
- (d) the mode of branding of forest produce.

2 Authorising provision

These Regulations are made under section 99 of the **Forests Act 1958**.

3 Commencement

These Regulations come into operation on 13 December 2009.

4 Revocation

The Forests (Licences and Permits) Regulations 1999¹ and Parts 2 and 5 and regulations 8 and 10 of the Forests (Miscellaneous) Regulations 2000² are **revoked**.

5 Definitions

In these Regulations—

agistment licence or permit means a licence or permit to graze cattle under agistment granted under section 52(1A)(b) of the Act;

bull means an uncastrated male bovine over 9 months old;

grazing licence or permit means a licence or permit to graze cattle granted under section 52(1A)(a) of the Act;

the Act means the **Forests Act 1958**.

PART 2—OFFENCES

6 Offences within reserved forest

(1) In this regulation—

experimental area means an area in which scientific monitoring is undertaken for research purposes;

experimental equipment means an object or class of objects used to undertake scientific monitoring.

(2) Within a reserved forest, a person must not, without the written authority of the Secretary—

(a) leave without being properly closed and fastened a gate, slip, panel or portion of any fence within or on the boundary of the forest; or

(b) damage, destroy or remove a gate, panel, rail, cattle ramp, cattle pit or the hinge, lock, catch or fastening on a gate or gate post.

Penalty: 20 penalty units.

(3) Within a reserved forest, a person must not, without the written authority of the Secretary, fell a tree which bears an inscribed survey mark or deface such a mark.

Penalty: 20 penalty units.

(4) Within a reserved forest, a person must not, without the written authority of the Secretary, enter into and upon or remain in an experimental area, tree nursery, plantation or portion thereof which is fenced if the person knew or ought reasonably to have known that entry was prohibited.

Penalty: 20 penalty units.

- (5) Within a reserved forest, a person must not, without the written authority of the Secretary, damage or interfere with or hinder the operation of any experimental equipment used in connection with research activities.

Penalty: 20 penalty units.

- (6) Within a reserved forest, a person must not, without the written authority of the Secretary, sell or offer for sale any goods, things or services.

Penalty: 20 penalty units.

- (7) The Secretary may give written authority to a person or persons to do any one of the things otherwise prohibited by subregulation (2), (3), (4), (5) or (6).

- (8) A written authority given under subregulation (7)—

- (a) must state the acts or things to which it relates and the person or class of persons to whom it applies; and
- (b) is subject to any conditions specified in the written authority.

7 Entry of cattle into reserved forest

An owner or person in charge of cattle—

- (a) must not enter any part of a reserved forest with the cattle or allow cattle to remain in any part of a reserved forest without a permit in writing from the Secretary; and
- (b) must comply with the restrictions and conditions contained in that permit.

Penalty: 20 penalty units.

PART 3—LICENCES AND PERMITS

8 Applications for licences and permits

- (1) An application for a licence or permit under section 52 of the Act must be made on the form approved by the Minister.
- (2) An application must—
 - (a) include the name and address of the applicant; and
 - (b) specify the purpose for which the licence or permit is required; and
 - (c) specify the forest block or area for which the licence or permit is required; and
 - (d) if requested by the Minister, specify any additional information relating to the application; and
 - (e) be lodged with the Minister.

9 Conditions of all licences and permits

- (1) It is a condition of a licence or permit issued or granted under section 52 of the Act that the licence holder or permit holder must ensure that any damage to, or obstruction of, any road, track, fire break, culvert, drain, water race, dam, building, bridge or other structure in the forest block or area for which the licence or permit is issued or granted caused by the licence holder or permit holder or his or her employees is rectified by the licence holder or permit holder at his or her own expense to the satisfaction of, and within the time specified by, the Minister.
- (2) It is a condition of a licence or permit issued or granted under section 52 of the Act that the licence holder or permit holder must ensure that any obstruction or pollution of any reservoir, river, stream or watercourse in the forest block or

area for which the licence or permit is issued or granted caused by the licence holder or permit holder or his or her employees is rectified by the licence holder or permit holder at his or her own expense to the satisfaction of, and within the time specified by, the Minister.

- (3) It is a condition of a licence or permit issued or granted under section 52 of the Act that the licence holder or permit holder must pay to the Minister on demand all royalties, dues, fees or charges determined by the Minister and payable in respect of the licence or permit.
- (4) It is a condition of a licence or permit issued or granted under section 52 of the Act that the licence holder or permit holder must not, without the authority in writing of the Minister, sow any seed or attempt any cultivation or pasture improvement in the forest block or area for which the licence or permit is issued or granted.
- (5) It is a condition of a licence or permit issued or granted under section 52 of the Act that the licence holder or permit holder must not use any poison, insecticide or agricultural spray in the forest block or area for which the licence or permit is issued or granted except in accordance with the written authority of the Minister.
- (6) It is a condition of a licence or permit issued or granted under section 52 of the Act that—
 - (a) the licence holder or permit holder must not, without the authority in writing of the Minister, construct or alter any landing, building, fence, gate, ramp, dam or other structure or improvement in the forest block or area for which the licence or permit is issued or granted; and

- (b) if such an authority has been granted by the Minister, the licence holder or permit holder must ensure that any landing, building, fence, gate, ramp, dam or other structure or improvement is constructed in accordance with the directions of the Minister.

10 Conditions of licences or permits to cut, dig or take away forest produce

- (1) It is a condition of a licence or permit to cut, dig or take away forest produce issued or granted under section 52 of the Act that the licence holder or permit holder must ensure that only those trees, or groups of trees, that the Minister has branded or otherwise specified are felled or taken.
- (2) It is condition of a licence or permit to cut, dig or take away forest produce issued or granted under section 52 of the Act that the licence holder or permit holder must ensure that any requirements of the Minister with regard to the removal or disposal of any structure, debris, materials or residue arising from the cutting, digging or taking away of forest produce by the licence holder or permit holder in the location specified in the licence or permit are carried out to the satisfaction of, and within the time specified by, the Minister.

Note

It is an offence against the Act for the holder of a licence or permit issued or granted under section 52 of the Act to fail to comply with a prescribed condition of that licence or permit: see section 52(4).

11 Conditions of licences or permits to cut and take away forest produce

It is a condition of a licence or permit to cut and take away forest produce issued or granted under section 52 of the Act that the licence holder or permit holder must comply with the requirements of the Code of Practice approved under the **Conservation, Forests and Lands Act 1987** and

called the Code of Practice for Timber Production 2007 as amended from time to time.

Note

It is an offence against the Act for the holder of a licence or permit issued or granted under section 52 of the Act to fail to comply with a prescribed condition of that licence or permit: see section 52(4).

12 Reporting requirements for holders of licences or permits to cut, dig or take away forest produce

- (1) The Minister at any time may request the holder of a licence or permit to cut, dig or take away forest produce issued or granted under section 52 of the Act to make a declaration under this regulation.
- (2) A request under subregulation (1) must—
 - (a) be in writing; and
 - (b) specify the period to which the declaration is to relate.
- (3) On receiving a request under subregulation (1), the holder of a licence or permit to cut, dig or take away forest produce issued or granted under section 52 of the Act must—
 - (a) make the declaration in a form approved by the Minister; and
 - (b) include in the declaration in respect of the specified period the following—
 - (i) the quantity and description of the forest produce cut, dug or taken away by the holder of the licence or permit; and
 - (ii) the marking or identification of that forest produce; and
 - (iii) the location from which that forest produce was taken; and

- (iv) the place or places to which that forest produce is consigned; and
- (v) any other information relating to the cutting, digging and taking away of forest produce required by the Minister.

Penalty: 10 penalty units.

- (4) The holder of a licence or permit to cut, dig or take away forest produce issued or granted under section 52 of the Act must provide a declaration under this regulation to the Minister within 14 days after receiving a request under subregulation (1).

Penalty: 10 penalty units.

- (5) The holder of a licence or permit to cut, dig or take away forest produce issued or granted under section 52 of the Act must not make a false or misleading statement in a declaration under this regulation.

Penalty: 10 penalty units.

13 Conditions of grazing licences and permits and agistment licences and permits

- (1) It is a condition of a grazing licence or permit and an agistment licence or permit that the licence holder or permit holder must not admit cattle or allow cattle to be admitted to an area of reserved forest unless prior notice has been given to an authorised officer.
- (2) It is a condition of a grazing licence or permit and an agistment licence or permit that the licence holder or permit holder must not admit a bull or allow a bull to be included amongst the cattle admitted to an area of reserved forest.

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- (3) It is a condition of a grazing licence or permit and an agistment licence or permit that the licence holder or permit holder must notify the Minister within 14 days following the removal of any cattle from an area of reserved forest.
- (4) It is a condition of a grazing licence or permit and an agistment licence or permit that before any cattle are admitted to an area of reserved forest, the licence holder or permit holder must advise the Minister in writing of—
- (a) the number; and
 - (b) the sex; and
 - (c) the identification marks—
- of those cattle.
- (5) It is a condition of a grazing licence or permit and an agistment licence or permit that the licence holder or permit holder must obtain the written authority of the Minister before mustering any cattle that are depastured in an area of reserved forest.
- (6) It is a condition of a grazing licence or permit and an agistment licence or permit that the licence holder or permit holder must meet any costs associated with mustering or removal of any cattle that are depastured in an area of reserved forest.

Note

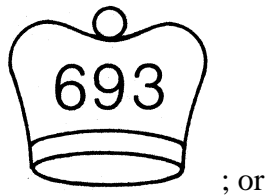
It is an offence against the Act for the holder of a licence or permit issued or granted under section 52 of the Act to fail to comply with a prescribed condition of that licence or permit: see section 52(4).

PART 4—BRANDS FOR FOREST PRODUCE

14 Brands for forest produce

For the purposes of section 99(24) of the Act, the brands to be used by authorised officers for the purpose of branding or marking forest produce are—

- (a) a crown brand with a number as illustrated—



- (b) a broad arrow brand as illustrated—



15 Use of crown brand

For the purposes of section 99(8) of the Act, an authorised officer may use the crown brand described in regulation 14(a)—

- (a) to mark trees as an indication that felling of those trees is approved; or
- (b) to indicate the release of forest produce which has been seized under the Act; or
- (c) to indicate that the removal of forest produce from State forest has been authorised under the Act; or
- (d) to indicate that a log has been graded by an authorised officer.

16 Use of broad arrow brand

For the purposes of section 99(8) of the Act, an authorised officer may use the broad arrow brand set out in regulation 14(b)—

- (a) to mark trees in a timber harvesting area which are not to be felled; or
- (b) to indicate forest produce which has been seized under the Act; or
- (c) to indicate that forest produce lawfully cut or obtained is not to be removed until the brand is obliterated with the crown brand by any authorised officer.

17 Licensee's brand

For the purposes of section 99(8) of the Act, the holder of a licence or permit to cut and take away forest produce issued or granted under section 52 of the Act, if required to do so by the Secretary, must submit a distinctive brand for registration with the Secretary.

ENDNOTES

1. General Information

The Forests (Licences and Permits) Regulations 2009, S.R. No. 166/2009 were made on 8 December 2009 by the Governor in Council under section 99 of the **Forests Act 1958**, No. 6254/1958 and came into operation on 13 December 2009: regulation 3.

The Forests (Licences and Permits) Regulations 2009 will sunset 10 years after the day of making on 8 December 2019 (see section 5 of the **Subordinate Legislation Act 1994**).

Forests (Licences and Permits) Regulations 2009
S.R. No. 166/2009

Endnotes

2. Table of Amendments

There are no amendments made to the Forests (Licences and Permits) Regulations 2009 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

¹ Reg. 4: S.R. No. 137/1999.

² Reg. 4: S.R. No. 66/2000.

Table of Applied, Adopted or Incorporated Matter

Note that the following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 11	Code of Practice for Timber Production 2007 as amended from time to time	The whole

Penalty Units

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

In accordance with section 11 of the **Monetary Units Act 2004**, the value of a penalty unit for the financial year commencing 1 July 2012 is \$140.84.

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

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