

Crown Land Acts (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 29 April 1993

(Brought in by Mr Coleman and Mr Gude)

A BILL

to amend the **Land Act 1958**, the **Crown Land (Reserves) Act 1978**,
the **National Parks Act 1975** and the **Conservation, Forests and
Lands Act 1987** and for other purposes.

Crown Land Acts (Amendment) Act 1993

The Parliament of Victoria enacts as follows:

1. Purposes

The purposes of this Act are—

- (a) to amend the **Land Act 1958** concerning the
transfer and renewal of certain licences;

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Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

- (b) to amend the **Crown Land (Reserves) Act 1978** to permit leases and licences for certain purposes over reserved land;
- (c) to amend the **National Parks Act 1975** concerning the Mount Buffalo Chalet and associated areas; 5
- (d) to amend the **Conservation, Forests and Lands Act 1987** to make further provision concerning the body corporate established by that Act.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent. 10

3. Sections 130A to 130D inserted in Land Act 1958

After section 130 of the **Land Act 1958** insert—

“130A. Licence granted where fee paid

- (1) If— 15
 - (a) under this subdivision or a corresponding previous enactment a grazing licence over land was granted to a person; and
 - (b) the land has been continuously occupied for grazing purposes since the grant of the licence by the licensee or the licensee’s successors in law; and 20
 - (c) since the expiry of the term of the licence originally granted notices for payment of licence fees, purporting to be given under this subdivision or a corresponding previous enactment, have been sent to the licensee or his or her successors in law and those fees have been paid— 25 30

No. 6284.
Reprinted to
No. 59/1986.
Subsequently
amended by
Nos 110/1986,
121/1986,
122/1986,
41/1987,
45/1987,
55/1987,
75/1987,
44/1988,
18/1989,
44/1989,
57/1989,
84/1989,
81/1989,
90/1989,
13/1990,
92/1990 and
48/1991.

the licensee and each of his or her successors in law (as the case requires) is deemed to hold and always to have held successive licences over that land under this subdivision or a corresponding previous enactment, while the licensee or successor occupied the land.

(2) A licence referred to in sub-section (1)—

(a) must be taken to have remained in force for the period in respect of which the fee specified in the notice was paid; and

(b) otherwise, is deemed to have been granted on the same terms and conditions as those applying to the original licence; and

(c) is deemed to be and always to have been subject to the provisions of this subdivision or a corresponding previous enactment (as the case requires) and any regulations made for the purposes of those provisions, applying when the licence is deemed to be or to have been in force.

130B. *Licence presumed where fee paid*

(1) The Director-General may send by post to a person who is or is deemed to be the holder of a licence under this subdivision or a corresponding previous enactment, a notice for payment of the licence fee determined under this subdivision.

(2) The sending of the notice constitutes an offer of a new licence to that person for the land covered by the current licence.

(3) On payment by that person of the fee specified in the notice a new licence is

- deemed to have been granted under this subdivision to that person for that land.
- (4) A licence referred to in sub-section (3)—
- (a) remains in force for the period in respect of which the fee is paid; and 5
 - (b) otherwise, is subject to the same terms and conditions as applied to the licence originally granted or deemed to be granted to that person for that land; and 10
 - (c) is subject to the provisions of this subdivision and any regulations made for the purposes of this subdivision applying to that licence. 15
- (5) At the request of the licensee or the licensee's legal personal representative, the notice referred to in sub-section (1) may be sent to— 20
- (a) a person to whom the licensee's interest has passed by operation of the law relating to the estates of people who have died; or
 - (b) any one or more of the licensees, if the licence is held by more than one person. 25
- (6) This section applies to a notice referred to in sub-section (5) (a) as if the person to whom the notice is sent were a holder of the licence. 30

130c. *Licence not to expire on death of licensee*

- (1) A licence granted or deemed to have been granted under this subdivision or a corresponding previous enactment does not expire, and is deemed never to have expired, merely because of the death of the licensee. 35

- (2) Sub-section (1) does not take away from any other provision of this Act, the regulations or the licence under which the licence may expire.

130D. *Application of sections 130A, 130B and 130C*

- (1) Sections 130A, 130B and 130C have effect—

- (a) despite anything to the contrary in this subdivision or a corresponding previous enactment; and
(b) even though there is no application for a new licence.

- (2) Sections 130A, 130B and 130C do not—

- (a) relieve a person from liability for breach of a licence referred to in those sections; or
(b) give a person a greater entitlement to compensation for improvements on land than the entitlement (if any) the person would have if the person had not held the licence; or
(c) prevent the grant of a new licence under section 130.

- (3) Sections 130A, 130B and 130C apply even if the grazing licence originally granted has been lost, if it appears from records kept by the Director-General that the licence was originally granted.

- (4) If—

- (a) the records kept by the Director-General show that a person has been granted a licence under this subdivision or a corresponding previous enactment but do not specify the period for which the licence was granted; and

(b) the licence is lost—

the licence must be taken to have been granted for a period of 7 years.”.

4. *Agistment permits*

In section 133A of the **Land Act 1958** for sub-section (4) **substitute—** 5

“(4) If before the expiry of the term of an agistment permit the holder of the permit pays to the Director-General the appropriate fee fixed under this section, the permit is deemed to be renewed for the same period as that of the previous permit.”. 10

5. *New section substituted for section 140E Land Act 1958*

For section 140E of the **Land Act 1958** **substitute—**

“140E. *Renewal presumed where fee paid* 15

(1) The sending by the Director-General to a licensee of a notice for payment of the appropriate renewal fee determined under this subdivision constitutes an offer to renew the licence. 20

(2) The payment of the fee specified in that notice constitutes a renewal of the licence for the same period and otherwise on the same covenants, conditions, reservations and restrictions as applied to the previous licence. 25

(3) This section is in addition to any other method of renewing a licence.

(4) This section applies to licences of every kind under this subdivision.”. 30

6. Amendment of section 17B Crown Land (Reserves) Act

No. 9212.
Reprinted to
No. 9902.
Subsequently
amended by
N s 10087,
10144, 10187,
121/1986,
41/1987,
45/1987,
80/1988,
12/1989,
18/1989,
57/1989,
81/1989 and
92/1990.

(1) In section 17B (2) (a) of the **Crown Land (Reserves) Act 1978**—

(a) after “unless” insert “—(i)”;

(b) at the end of the paragraph insert—

“or

(ii) in the case of land for which there is no recommendation of a kind referred to in sub-paragraph (i), the Minister is satisfied that there are special reasons which make the granting of the licence or entering into the agreement reasonable and appropriate in the particular circumstances and that to do this will not be substantially detrimental to the use and enjoyment of any adjacent land reserved under this Act; or”.

(2) In section 17B of the **Crown Land (Reserves) Act 1978** for sub-section (3) substitute—

“(3) The Minister must not give approval under sub-section (1) unless—

(a) in the case of land referred to in sub-section (2) (a) (ii), he or she states in the approval that there are special reasons which make granting the licence or entering into the agreement reasonable and appropriate in the particular circumstances and that to do this will not be substantially detrimental to the use and enjoyment of any adjacent land reserved under this Act; or

(b) in the case of any other land, he or she is satisfied that the purpose for which the licence is to be granted or the agreement entered into is not detrimental to the purpose for which the land is reserved.”.

7. Amendment of section 17D Crown Land (Reserves) Act

- (1) In section 17D (2) (a) of the **Crown Land (Reserves) Act 1978**—

(a) after “unless” **insert** “—(i)”;

(b) at the end of the paragraph **insert**—

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“or

(ii) in the case of land for which there is no recommendation of a kind referred to in sub-paragraph (i), the Minister is satisfied that there are special reasons which make granting the lease reasonable and appropriate in the particular circumstances and that to do this will not be substantially detrimental to the use and enjoyment of any adjacent land reserved under this Act;”.

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- (2) In section 17D of the **Crown Land (Reserves) Act 1978** for sub-section (3) **substitute**—

“(3) The Minister must not give approval under sub-section (1) unless—

(a) in the case of land referred to in sub-section (2) (a) (ii) he or she states in the approval that there are special reasons which make granting the lease reasonable and appropriate in the particular circumstances and that to do this will not be substantially detrimental to the use and enjoyment of any adjacent land reserved under this Act; or

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(b) in the case of any other land, he or she is satisfied that the purpose for which the lease is to be granted is not detrimental to the purpose for which the land is reserved.”.

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8. New section 17DA inserted

After section 17D of the **Crown Land (Reserves) Act 1978** **insert**—

‘17DA. *Parliamentary scrutiny of certain approvals*

(1) An approval that includes a statement referred to in section 17B (3) (a) or 17D (3) (a) must be given by the Minister by Order published in the Government Gazette.

(2) An Order under sub-section (1) may be disallowed by resolution of either House of the Parliament.

(3) Sections 5, 6 and 6A of the **Subordinate Legislation Act 1962** apply to an Order published under sub-section (1) and a resolution referred to under sub-section (2) as if—

(a) the Order were a statutory rule within the meaning of that Act notice of which had been published in the Government Gazette on the day on which the Order was so published; and

(b) in section 5 (3) (a) and 6 (2) of that Act for “eighteenth” there were **substituted** “fifth”; and

(c) in section 5 (3) (b) and 6 (2) of that Act for “twelfth” there were **substituted** “tenth”; and

(d) disallowance by either House of the Parliament were disallowance by Parliament.

(4) An Order under sub-section (1) comes into force, if it is not disallowed by either House of Parliament, on the day after the last day on which it could have been so disallowed.’

No. 8702.
Reprinted to
N . 52/88.
Subsequently
amended by
Nos 12/1989,
37/1989,
38/1989,
39/1989,
44/1989,
81/1989,
43/1990,
92/1990,
2/1991,
40/1992 and
81/1992.

9. New Section substituted for section 31AA of the National Parks Act 1975

For section 31AA of the **National Parks Act 1975** substitute—

“31AA. Leases in Mount Buffalo National Park	5
(1) After consulting the National Parks Advisory Council, the Minister may lease any area of land in the park described in Part 17 of Schedule Two which is shown hatched on the plan lodged in the Central Plan Office of the Department of Finance and numbered N.P.17L.	10
(2) A lease under sub-section (1) may only be for all or any of the following purposes—	15
(a) for land for buildings which are available for use by the public;	
(b) for land to be used for skiing;	
(c) for land to be used for ski lifts or ski tows;	20
(d) for any other purpose permitted by the Minister and that the Minister considers is consistent with the objects of this Act.	25
(3) A lease under sub-section (1)—	
(a) must be in writing; and	
(b) must not be for a period of more than 21 years; and	
(c) is subject to any terms and conditions determined by the Minister.	30
(4) If a lease is entered into under this section, those relevant laws within the meaning of the Conservation, Forests and Lands Act 1987 which applied to	35

the land immediately before the lease was entered into continue to apply to that land after the lease is entered into unless the lease otherwise expressly provides.”.

5 **10. Amendment of section 3 of the Conservation, Forests and Lands Act 1987**

No. 41/1987.
Reprinted to
No. 82/1990.
Subsequently
amended by
No. 36/1992.

(1) In section 3 (1) of the **Conservation, Forests and Lands Act 1987**—

10 (a) for the definition of **“chief administrator”** substitute—

“**“chief administrator”** means the person who is for the time being the Department Head (within the meaning of the **Public Sector Management Act 1992**) of the Department;’;

15 (b) for the definition of **“Department”** substitute—

“**“Department”** means the Department of Conservation and Natural Resources;’.

20 (2) In section 3 of the **Conservation, Forests and Lands Act 1987** sub-section (2) is **repealed**.

25 **11. Amendment of section 6 of the Conservation, Forests and Lands Act 1987**

(1) In section 6 of the **Conservation, Forests and Lands Act 1987** for sub-section (1) substitute—

25 ‘(1) The person who is for the time being the Department Head (within the meaning of the **Public Sector Management Act 1992**) of the Department and the successors in office of that person are a body corporate under the name “Secretary to the Department of Conservation and Natural Resources”.’.

30 (2) After section 6 (4) of the **Conservation, Forests and Lands Act 1987** insert—

35 “(5) The body corporate under sub-section (1) is the successor in law of the body corporate established

under section 6 (1) of this Act as in force immediately before the commencement of the **Crown Land Acts (Amendment) Act 1993**.

- (6) In an Act other than this Act or the **Public Sector Management Act 1992** or in any document a reference to the Director-General of Conservation, Forests and Lands or the Director-General of Conservation and Environment or the Secretary to the Department of Conservation and Natural Resources is deemed—
 - (a) in relation to an act to which sub-section (7) applies, to be a reference to the body corporate established by this section; or
 - (b) in any other case, to be a reference to the chief administrator.
- (7) Any act required to be done under an Act other than this Act or the **Public Sector Management Act 1992** by the Director-General of Conservation, Forests and Lands, the Director-General of Conservation and Environment or the Secretary to the Department of Conservation and Natural Resources that requires dealing with an interest in land or that is intended to bind any person holding the office of Department Head (within the meaning of the **Public Sector Management Act 1992**) of the Department and that person’s successors in office must be done by the body corporate established by this section.”.

12. *Transitional provisions*

- (1) Any act done under the seal of the body corporate established by section 6 of the **Conservation, Forests and Lands Act 1987** before the commencement of this Act which was an act which was required to be done in the name of the Director-General of Conservation, Forests and Lands, the Director-General of Conservation and Environment or the Secretary to the Department of

Conservation and Natural Resources is not invalid merely because it was done under the seal of the body corporate.

- 5 (2) Any act done in the name of the Director-General of Conservation, Forests and Lands, the Director-General of Conservation and Environment or the Secretary to the Department of Conservation and Natural Resources before the commencement of this Act that was an act that was required to be done under the seal of the body corporate established by section 6 of the **Conservation, Forests and Lands Act 1987** is not invalid merely because it was not under the seal of the body corporate.

- 10 (3) Any act done—
15 (a) under seal in the name of the Director-General of Conservation and Environment; or
(b) under seal in the name of the Secretary to the Department of Conservation and Natural Resources—

20 before the commencement of this Act, which was an Act which was required to be done under seal in the name of the Director-General of Conservation, Forests and Lands is not invalid merely because it was not done under that seal.

