

Conservation, Forests and Lands Acts (Amendment) Bill

EXPLANATORY MEMORANDUM

The purpose of this Bill is to—

- (i) (a) amend the *Conservation, Forests and Lands Act 1987* to improve and clarify the provisions relating to authorised officers in sections 83 and 84; and
- (b) to empower an authorised officer to conduct proceedings on behalf of an informant in court proceedings taken under the legislation of the Conservation, Forests and Lands portfolio;
- (ii) amend the *Land Act 1958*—
 - (a) by inserting a new provision empowering the Director-General of Conservation, Forests and Lands to grant licences for the strata of Crown lands above or below the surface of such lands; and
 - (b) by extending the operation of the provisions of section 151AA. That section enables Crown land in the metropolitan area held under a lease for any purpose other than amusement and recreation and granted under subdivision 1 of Part 9 to be sold direct to the lessee. This amendment extends that power to apply to such leased land anywhere in Victoria;
- (iii) amend section 52 of the *Forests Act 1958* to clarify the intent that licences granted may be for any or a combination of any of the purposes for which licences may be granted;
- (iv) amend the *Wildlife Act 1975*—
 - (a) by introducing power to issue a game licence under that Act to replace the authority to hunt provisions in the *Firearms Act 1958*. Consequential amendments to the *Firearms Act 1958* are included in the Bill;
 - (b) by inserting a new power to enable the Minister to close areas to the hunting of wildlife by notice in the *Government Gazette* to protect endangered, notable or protected wildlife (other than game) under immediate threat of destruction, injury or disturbance from hunting or the presence of hunters.

PART 1

Preliminary

Clause 1 briefly describes the purposes of the Bill.

Clause 2 provides for Parts 1, 2, 3 and 4 and section 17 to commence on the date of the Royal Assent. Sections 11, 12, 13, 14, 15 and 18 (1) are to commence on a day to be proclaimed. Section 18 (2) is deemed to have come into operation on 19 April 1988.

PART 2

Amendment of the *Conservation, Forests and Lands Act 1987*

Clause 3 stipulates that in this Part, the Conservation, Forests and Lands Act is the Principal Act.

Clause 4 amends sections 83 and 84 of the *Conservation, Forests and Lands Act 1987* to improve and clarify provisions relating to the appointment of authorised officers. One important improvement of the amendment is that the Director-General of Conservation, Forests and Lands will only be required to execute one document in appointing an authorised officer.

Clause 5 amends section 96 of the *Conservation, Forests and Lands Act 1987* to enable any officer authorised under that section to take court proceedings, to conduct those proceedings in court in cases where such proceedings were initially brought by another person so authorised.

PART 3

Amendment to the *Land Act 1958*

Clause 6 states that in this part the *Land Act 1958* is the Principal Act.

Clause 7 inserts new provisions in the *Land Act 1958* to authorise the granting of a licence for a stratum of Crown land. Sub-clause (1) inserts a new section 138A in that Act which provides in the following sub-sections:

- (1) A definition of “Stratum of Crown land”;
- (2) Stipulates the purpose of a licence for a stratum of Crown land as a purpose for which a licence may be granted under section 138 of the *Land Act 1958*;
- (3) Provides for consultation with the relevant council of the relevant municipality and where a planning scheme applies and the Minister for Planning and Environment is the responsible authority with that Minister before granting any such licence it also binds the person granting such a licence to being satisfied that specific qualifications apply in respect of the proposed licensing;
- (4) Sets out the matters which the person authorised to grant such licence must take into account;
- (5) Enables the granting of any such licence over a stratum of any road set out on land of the Crown;
- (6) Provides that the terms and conditions to be contained in other kinds of licences do not apply to licences for strata of Crown land;
- (7) Empowers the person granting any such licence to determine the conditions applicable to that licence and authorises a term of 21 years or 50 years if the Minister grants or renews or approves of the grant or renewal of a licence;
- (8) Applies all provisions of the *Land Act 1958* relating to licences granted under section 138 of that Act, except the provision in section 140, to a licence for the stratum of Crown land;
- (9) Provides for forfeiture of any such licence if an interest, right or power has ceased to have effect or the licensee has no reasonable access to or use of the licensed stratum;
- (10) Applies any Acts, subordinate instruments or local laws relating to approval of plans and specifications or to the control of land use to any building or structure or any use or development of a stratum of Crown land held under licence;
- (11) Empowers the Governor in Council by Order to authorise the occupation without licence of any stratum or strata of Crown land;
- (12) Enables an Order under sub-clause (11) to be general or limited and to be subject to any conditions stated in the Order.

Clause 8 makes consequential amendments because of the new powers in section 138A of the *Land Act 1958*.

Clause 9 amends section 151AA to enable the sale direct to lessees of Crown leaseholds anywhere in Victoria granted under subdivision 1 of Part 9 for any purpose other than amusement or recreation. The existing legislation restricts application of the section to the metropolitan area.

PART 4

Amendments of the *Forests Act 1958*

Clause 10 substitutes a new section 52 so that a licence may be granted over reserved forest or protected forest for any or any combination of the purposes for which such licences may be granted.

PART 5

Amendment of the *Wildlife Act 1975*

Clause 11 states that in this Part the *Wildlife Act 1975* is the Principal Act.

Clause 12 inserts a definition of "Game licence".

Clause 13 inserts a new section numbered 22A to empower the granting of a licence to hunt, take or destroy any game. This power is a replacement of the power to issue an authority to hunt under section 22AA of the *Firearms Act 1958*.

The new section provides:

Sub-section (1)—penalty for hunting, taking or destroying game without a licence.

Sub-section (2)—application for a licence must be to the Director-General of Conservation Forests and Lands and in prescribed manner.

Sub-section (3)—power for the Director-General to grant a licence.

Sub-section (4) allows the licence to be general in application or restricted as to kinds or species of game, area or type of weapon used.

Sub-section (5) empowers the Director-General to grant any application for a game licence unless satisfied that specified circumstances apply.

Sub-clause (6) empowers the Director-General of Conservation Forests and Lands to refuse to grant any application for a game licence if the applicant has been convicted of an offence against the *Wildlife Act*.

Sub-section (7) states that licences may be granted for any period up to 3 years.

Sub-section (8) provides the penalty for breach of licence conditions.

Sub-clause (2) deems that an authority to hunt issued under the *Firearms Act 1958* and in force immediately before the commencement of this section shall be deemed to be a game licence for the unexpired period of that authority.

Clause 14 makes consequential amendments to the Principal Act.

Clause 15 makes consequential amendments to the *Firearms Act*.

Clause 16 inserts a new section 85A in the *Wildlife Act 1975*.

Sub-section (1) empowers the Governor in Council to make regulations to regulate or prohibit activity in the vicinity of a whale and to prescribe penalties for a contravention of the regulations.

Sub-section (2) specifies limits of application of and allows for time place or circumstances of application to be provided for in the regulations made under this section.

Clause 17 inserts a new section 86A in the *Wildlife Act 1975* to empower the Minister after considering the advice of the Director-General or an authorised officer nominated by the Director-General to close areas to hunting of wildlife at short notice where emergency closure measures are necessary.

Sub-clause (1) provides for the insertion of the new section 86A as follows:

Sub-section (1)—where the Minister is satisfied that endangered wildlife, notable wildlife or significant numbers of other wildlife other than game are under immediate threat from hunters or the presence of hunters, the Minister may by notice in the *Government Gazette* prohibit or regulate or control the taking, hunting or destroying of wildlife.

Sub-section (2)—that a notice may be general in application or restricted in operation and that it takes effect from the date of publication of the notice.

Sub-section (3)—that a notice under sub-section (1) prevails over regulations under the Principal Act or any licences, permits or other authorities to take, destroy or hunt wildlife.

Sub-clauses (2) and (3) make consequential amendments to the Principal Act.

Clause 18 makes minor amendments to correct errors.