

# Victorian Plantations Corporation (Amendment) Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

- Clause 1 states the main purpose of the Act.
- Clause 2 provides for the commencement of the Act, Part 1 comes into operation on the day of Royal Assent. The remaining provisions come into operation on a day or days to be proclaimed, or otherwise on 1 July 2000.
- Clause 3 identifies the Principal Act as the **Victorian Plantations Corporation Act 1993**.

### PART 2—AMENDMENTS TO VICTORIAN PLANTATIONS CORPORATION ACT 1993

- Clause 4 inserts a new section 5A into the Principal Act setting out a number of exemptions to the application of the **State Owned Enterprises Act 1992** to the Corporation.
- Clause 5 Inserts a new section 8E into the Principal Act allowing for the closure of roads listed in proposed Schedule 5.
- Clause 6 inserts sections 8F, 8G, and 8H into the Principal Act, where 8F divests land listed in proposed Schedule 6 from the Corporation back to the Crown, 8G removes reservations on land described in proposed Schedule 7, and 8H vests additional land listed in proposed Schedule 8 with the Corporation.
- Clause 7 amends section 9 of the Principal Act to exempt land vested in the Corporation ("vested land") from the **Crown Lands (Reserves) Act 1978**.
- Clause 8 inserts a new Part 3A into the Principal Act relating to plantation licences.

Proposed section 27A provides for definitions of terms used in Part 3A.

Proposed section 27B provides the power for the Corporation to grant a perpetual licence for plantation purposes over vested land.

Proposed section 27C allows for the assignment of the whole or part of those licences.

Proposed section 27D sets out the application of the Act to licensees including exemptions from particular sections of the Act.

Proposed section 27E provides that a licensee is to be liable to pay rates and levies and other charges under the **Water Act 1989** in respect of land subject to a licence under Part 3A ("licensed land") as if the licensee was the owner of the land and the land was not Crown land. It also requires a licensee to comply with codes of practice under the **Conservation, Forests and Lands Act 1987** as if the licensed land was private land.

Proposed section 27F allows the licensee to construct roads on licensed land.

Proposed section 27G provides for the direct granting of freehold title to the licensee if it is decided by Government to issue freehold.

Proposed section 27H provides for the voluntary cancellation of the licence.

Proposed section 27I provides for the cancellation of the licence by the Governor in Council if it is determined by the Minister that the land is not being used solely for plantation purposes.

Proposed section 27J provides that no compensation is payable to the licensee by the Crown or the Corporation if the licence is cancelled under this Part.

Proposed section 27K provides for a registrar of plantation licences.

Proposed section 27L sets out the functions of the registrar in relation to the keeping of the register of plantation licences.

Proposed section 27M sets out the effect of registration.

Proposed section 27N provides the creation or assignment of an interest in the licence or a dealing affecting an interest in the

licence has no effect until the appropriate instrument is registered in the register.

Proposed section 27O ensures that a devolution of any right under a licence does not take effect until an instrument evidencing the devolution is registered.

Proposed section 27P empowers the registrar to correct the register.

Proposed section 27Q provides for the disclosure of registered information.

Proposed section 27R gives the registrar, subject to regulations, the power to specify survey standards.

Proposed section 27S provides that a certificate issued by the registrar relating to information contained in the register is evidence of that information.

Proposed section 27T sets out an offence relating to the register.

Clause 9 inserts a new section 33A into the Principal Act to allow the Governor in Council to make regulations necessary to give effect to the Principal Act.

Clause 10 substitutes a new Part 5 into the Principal Act.

Proposed section 34 sets out definitions and application of Part 5.

Proposed section 35 empowers the Corporation to sell, transfer, assign or dispose of its entire business undertaking and empowers the Treasurer to give written directions to the Corporation in relation to this.

Proposed section 36 allows the Treasurer to be a party to any agreement under Part 5.

Proposed section 37 provides for the preparation of allocation statements for the allocation of property rights and liabilities of the Corporation.

Proposed section 38 provides for a certificate of the chief executive officer of the Corporation to be conclusive evidence as to the matters in an allocation statement. The Secretary to the Department of Treasury and Finance is required to keep a register of such certificates.

Proposed section 39 provides for the property, rights and liabilities of the Corporation included in an allocation statement to vest in or become liabilities of the transferee.

Proposed section 40 provides for the transfer of property, rights and liabilities to be subject to existing encumbrances and rights.

Proposed section 41 provides that the value of the transferred property is the value stated in the allocation statement.

Proposed section 42 provides for the rights and liabilities of the Corporation under an agreement to vest in or become liabilities of the transferee.

Proposed section 43 provides that a Corporation instrument continues to have effect as if a reference to the Corporation were a reference to the transferee.

Proposed section 44 provides that the transferee is substituted for the Corporation as a party to proceedings.

Proposed section 45 provides for the transferee to be taken to be the registered proprietor of interests in land under the **Transfer of Land Act 1958** for which the Corporation was the registered proprietor before the relevant day.

Proposed section 46 requires the Registrar of Titles to make any amendments to the Register under the **Transfer of Land Act 1958** and the Registrar-General to make any recordings that are necessary because of the operation of Part 5.

Proposed section 47 provides that documentary or other evidence that would have been admissible for or against the interests of the Corporation if Part 5 had not been enacted is admissible for or against the interests of the transferee and provides for the continued application of Division 3A of Part III of the **Evidence Act 1958** to the books of accounts of the Corporation.

Proposed section 48 provides for the validity of things done under Part 5.

Proposed section 49 provides for the creation of a list of staff by the Corporation.

Proposed section 50 transfers those staff included in the list to the new employer and preserves existing entitlements.

Proposed section 51 provides that the operation of section 50 does not prevent terms and conditions of a transferred staff member from being altered by a law, award or agreement in the future and does not prevent the resignation or dismissal of the transferred staff member in accordance with the terms and conditions of his or her employment with the new employer.

Clause 11 inserts new Schedules 5, 6, 7, and 8 into the Principal Act.

### **PART 3—AMENDMENTS TO OTHER ACTS**

Clause 12 amends section 3 of the **Catchment and Land Protection Act 1994** to exclude the Corporation from the definition of "land owner" and amends Part 7 of that Act (relating to extractive industry) to apply that Part to licensed land.

Clause 13 amends the **Conservation, Forests and Land Act 1987**, to make provision in relation to the making and registration of agreements under Part 8 of the **Conservation, Forests and Land Act 1987** in respect of vested land and licensed land.

Clause 14 amends the **Extractive Industries Development Act 1995** to provide that for the purposes of that Act a licensee of licensed land is to be treated as the owner of private land.

Clause 15 amends the **Forests Act 1958** to remove vested land from the definition of protected public land to ensure that responsibility for fire protection of licensed land comes under the **Country Fire Authority Act 1958**.

Clause 16 amends the **Land Tax Act 1958** to deem a licensee of licensed land to be the owner of the land for the purposes of that Act.

Clause 17 amends the **Local Government Act 1989** to ensure that the licensee of licensed land is liable to pay the rates and charges under that Act on that land as if it were rateable land.

Clause 18 amends the **Mineral Resources Development Act 1990** to provide that for the purposes of that Act a licensee of licensed land is to be treated as the owner of private land.

Clause 19 amends the definition of private land in the **Petroleum Act 1958** to include licensed land and amends section 36 of that Act to treat a licensee as an owner of private land for the purposes of that section.

- Clause 20 amends sections 20 and 21 of the **Pipelines Act 1967** to prevent the Crown or a public authority from granting easements over licensed land and amends section 23 of that Act to provide for notice to be given to a licensee and the registrar of plantation licences of the compulsory acquisition of an easement over licensed land.
- Clause 21 amends sections 51, 67 and 232 of the **Water Act 1989** to exclude licensed land from Crown land in those sections.