

# CLAUSE NOTES

## Forestry (Miscellaneous Amendments) Bill 2023

- Clause 1      **Short Title**  
Forestry (Miscellaneous Amendments Bill 2023)
- Clause 2      **Commencement**  
Provides that the Amendment Act will commence on the day it receives Royal Assent.
- PART 2 – FOREST PRACTICES ACT 1985 AMENDED**
- Clause 3      **Principal Act**  
Identifies that the amendments relate to the *Forest Practices Act 1985* (the Act).
- Clause 4      **Section 3 (Interpretation)**  
Currently the Act does not have any reference to the *Forestry Rights Registration Act 1990*.  
  
This clause allows for section 3 (1) of the Principal Act to be amended by inserting “registered under the *Forestry Rights Registration Act 1990* or “any forestry right” in the definition of *forestry rights*.
- Clause 5      **Section 4ZB inserted**  
  
This clause adds a new provision into the Bill by adding 4ZB. The amendment of a new 4ZB will provide clarity in relation to land boundary size. A minor boundary extension will be defined by an existing PTR that is proposed to increase in size by no more than 10 per cent in area to a maximum of 40 additional hectares and which would not result in the new boundary being within 50 metres of a neighbour’s property.  
  
The abbreviated process would remove the requirement for public notification and the opportunity for objections from prescribed persons other than a local government authority. Applications that did not meet the definition of a minor boundary extension would need to follow the existing legislated process.
- Clause 6      **Section 6 (amended (Notice of application, & c).**  
  
This clause is amended by omitting “the Authority shall” and substituting “other” than for a minor boundary extension.
- Clause 7      **Section 7 amended (Objections to declaration of land as private timber reserve)**  
  
This clause amends the Principal Act by inserting “other than for a minor boundary extension,” after “reserve.”

**Clause 8                    Section 8 amended (Grant or refusal of application for declaration of land as private timber reserve)**

This clause refers to a new paragraph being inserted in Section 8. This addition restricts the frequency with which a private timber reserve can have a minor boundary extension to just once in any three-year period.

Section 8(1) of the Principal Act is amended by inserting after paragraph (a) in subsection (1) “(ab) in the case of an application for a minor boundary extension, receiving the application; or (b) by inserting the following paragraph after paragraph(e) in subsection (2) and “in the case of an application for a minor boundary extension, an application for a minor boundary extension has been granted for that timber reserve by the Authority in the 3 years immediately preceding the current application; or”.

**Clause 9                    Section 10 and 11 substituted**

This clause repeals and substitutes section 10 and section 11.

This clause revokes the requirement for a recommendation to the Governor that land be declared a private timber reserve.

The amended clause outlines the process for the FPA Board to recommend that a PTR be declared.

The legal status and land use provisions that apply to the PTRs is not to change.

**Clause 10                    Section 13 amended (Revocation of private timber reserve at instigation of Authority)**

This clause also concerns revocation of private timber reserve at instigation of Authority. This clause omits from section 13 (1) (a) “recommend to the Governor” and substitutes “declare”.

Section 13 (1) is amended by omitting (1) “shall” and substituting “is to”.

Section 13 (2) is amended by omitting (2) “to make a recommendation”.

Section 13 (3) is amended by omitting “shall be” and substituting “is to”.

Section 13 (5)(a) is amended by omitting from subsection 5(a) “recommend to the Governor” and substituting “declare”.

Section 13 (5)(a) is amended by omitting from subsection (5)(a) “shall” and substituting “is to”;

Subsection (5) is amended by omitting from sub section (5) “shall recommend to the Governor” and substituting “may declare, by notice published in the *Gazette*”.

Subsection (5) is also amended by omitting from subsection (5) “shall” third occurring and substituting “is to”.

Section 13 (6) is omitted from the Act.

Section 13 (7) is amended by omitting “shall” and substituting “is to”.

Section 13 (7) is also amended by omitting “subsection (6)” and substituting subsection (5).

Section 13 (8) is amended by omitting “subsection (6)” and substituting “subsection (5)”.

**Clause 11      Section 14 amended (Revocation of private timber reserve on application of owner of reserve)**

This clause provides a similar process for revocation of a private timber reserve.

Section 14 (10) is amended by omitting “shall recommend to the Governor” and substituting “by notice published in the Gazette, declare”.

Section 14 (10) is amended by omitting “shall” second occurring and substituting “is to”.

Section 14(11) is amended by omitting (11) removing all requirements for the Governor to recommend to the Authority or gazette the private timber reserve.

Section 14(12) is amended by omitting “subsection (11)” and substituting “subsection (10)”.

Section 14 (13) is amended by substituting “subsection (11)” and substituting “subsection (10)”.

**Clause 12      Section 16 repealed**

This Clause refers to compensation to be paid for a refused PTR application if timber on the land is made less valuable because it cannot be used for timber production.

It is considered that the PTR compensation provisions are redundant, being a duplication of the compensation provisions currently in force under Section 41 of the *Nature Conservation Act 2002* for a refused Forest Practice Plan (FFP). It is intended that this amendment would not affect the compensation provisions in the *Nature Conservation Act* for refused FFP's. That opportunity for landowners to be compensated for losing access to timber on their land would remain.

**PART 4 – PRIVATE FORESTS ACT 1994 AMENDED**

**Clause 13      Principal Act**

This Clause refers to the *Private Forests Act 1984*

**Clause 14 Section 3 amended (Interpretation)**

This Clause refers to section 3 of the Principal Act is amended by omitting the definition of “*Stakeholder Minister*”.

**Clause 15 Section 6 amended (functions of Authority)**

This clause contains provisions that modernise and update the functions of the Authority. These provisions were first introduced in 1994 and some are now obsolete and or outdated. This clause amends modernise and update functions which better reflect PFT’s current and future operating environment.

Section 6(1) (a) is amended by inserting in paragraph (b) “establishment and “after “forest”.

Section 6 (b) by omitting from paragraph (e) “commercial “ and substituting “relevant”.

Section 6 (f) is amended by omitting from paragraph (f) “, prepare five-yearly reviews of private forests and report on compliance with export and other licence conditions as required by any agreement entered into between the State and the Commonwealth” and substituting “and prepare five-yearly review of private forests”.

Section 6 (d) is amended by omitting from paragraph (k) “non-commercial forestry” and substituting “whole farm planning”.

Section 6 (3) is amended by inserting the following paragraphs after (l):

(la) to contribute to state and national reporting on private forest matters; (lb) to advocate on behalf of private forest owners in the formulation and review of state and national forest related policies, programmes, and legislation; (lc) to implement and manage priority projects on behalf of private forest owners.

**Clause 16 Section 17 amended (role of chief executive officer)**

This Clause refers to the role of chief executive officer.

Section 17 (1) is amended by removing “and the State Authorities *Financial Management Act 1990*.”

**Clause 17 Section 19A amended (Ministerial charter)**

This clause refers to Ministerial Charters.

Section 19(a) of the Principal Act is amended by omitting from subsection 19(3) “the Stakeholder Minister and “

Section 19(b) by omitting subsection (5).

**Clause 18 Section 19D amended (Corporate plan)**

This clause refers to Corporate Plan

Section 19D (3) is amended by omitting from the subsection “Stakeholder Minister”.

Section 19D (9) is amended by omitting from subsection (9) “Stakeholder Minister and “.

**Clause 19 Section 19E amended (Consultation with Portfolio Minister)**

This clause refers to Consultation with Portfolio Minister. Several references to “Stakeholder Minister” particularly in relation to consultation requirements. There has been no longer any definition of “Stakeholder Minister” in Tasmanian legislation since the definition was removed from the *Government Business Enterprise Act 1985*. Removing the reference will have no practical or legal consequence.

Section 19E of the Principal Act is amended by omitting (1) and substituting 19E(1) “In the course of preparing the draft corporate plan the Board must consult with the Minister in relation to – (a) the interests of the State as a whole; and (b) the financial performance objectives of the authority; and (c) the long term objective of the authority”

Section 19E(3) is amended by omitting “ and the Stakeholder Minister jointly”.

Section 19 E(4) is omitted and substituted with “ Subject to subsection (5), the Board must comply with a direction referred to in subsection (2) or (3) if it is in writing and signed by the Minister”.

**Clause 20 Section 25B amended (Interpretation of Division)**

This clause refers to the definition of nett area of forest operation to remove the requirement for landowners to pay the levy where the first rotation planting is on previously cleared non-forest ground.

Schedule 3 to the Principal Act is amended as follows: by omitting from subclause (1) “sign twice occurring and substituting “approve”; by omitting from subclause (1) “signed” and substituting “approved”; by omitting from subclause (1) “signs” and substituting “approves”; by omitting from subclause (3) “signed” and substituting “approved”.

**Clause 21 Section 25 K inserted**

This clause refers to the waiving of the Private Forest Service Levy. There have been several occasions where PFT has been requested to waive the payment of the levy based on a range of circumstances such as the devastating bushfires in 2019 or personal hardship.

Section 25K is inserted after section 25J of the Principal Act, the following section is inserted in Division 1A:

**25K. Waiving of levy**

The Authority may, in such circumstances as the Authority determines, waive all or part of a levy payable under this Division.

**Clause 22 Section 32E amended (Annual report)**

This clause refers to Annual Report. This clause provides amendment because there is no longer any definition of a “Stakeholder Minister” in Tasmanian legislation since the definition was removed from the *Government Business Enterprise Act 1995*.

Section 32E (4) of the Principal Act is amended by omitting “, the Stakeholder Minister”.

**Clause 23 Section 32G repealed**

This clause refers to annual reports and Section 32G is repealed from the Principal Act.

**Clause 24 Section 32H amended (Minister may require information)**

This clause refers to the fact that the Minister may require information.

Section 32H(1) of the Principal Act is amended by omitting “or the Stakeholder Minister”.

**Clause 25 Schedule 3 amended (Meeting of the Board)**

This clause refers to meetings of the Board. This clause details the process for passing PFT Board resolutions without a meeting being convened. This clause is modernised to accommodate for modern forms of communication such as email and modernises and simplify standard procedures.

Section 5 of Schedule 3 is amended by omitting from subclause (1) “sign” twice occurring and substituting “approve”, by omitting from subclause (1) “signed” and substituting “approved”, by omitting from (1) “signs” and substituting “approves” and by omitting from(3) “signed” and substituting “approved”.

**Part 5 – REPEAL OF ACT**

**Clause 26 Repeal of Act**

This clause refers to the repeal of this Act on the first anniversary of the day on which it commenced.