



Forestry Rights Registration Act 1990

An Act to provide for the registration of certain forestry rights granted in respect of land and to amend the Land Titles Act 1980

[Royal Assent 11 July 1990]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the Forestry Rights Registration Act 1990.

2. Commencement

This Act commences on the day on which it receives the Royal Assent.

3. Interpretation

In this Act, unless the contrary intention appears –

carbon sequestration, by a tree or forest, means the process by which the tree or forest absorbs carbon dioxide from the atmosphere;

carbon sequestration right, in relation to land, means a right conferred on a person (by agreement or otherwise) to the legal, commercial or other benefit (whether present or future) of carbon sequestration by any existing or future tree or forest on the land;

forestry covenant means –

(a) a covenant, whether positive or restrictive in effect, that is –

(i) incidental to a forestry right; and

(ii) contained in the instrument by which the forestry right is created or varied; and

(iii) registered under the Land Titles Act 1980 or the Registration of Deeds Act 1935; or

(b) a variation of any such covenant;

forestry right, in relation to land, means any (or any combination) of the following interests in the land granted by its owner:

(a) ownership of trees;

(b) a carbon sequestration right;

(c) a right to establish, maintain or harvest, or maintain and harvest, trees –
together with –

(d) any ancillary rights of access or of constructing or using tracks, culverts, bridges, buildings or other works or facilities in connection with the enjoyment of the interest, whether or not those ancillary rights are coupled with obligations; and

(e) any provisions for charges, payments or royalties or for the division of trees or the proceeds of trees, whether or not those provisions are coupled with obligations;

grantee, in relation to the grant of a forestry right over land, means the person to whom the owner of the land grants the forestry right;

land has the meaning assigned to that expression in the Land Titles Act 1980;

owner of land, in relation to land over which a forestry right is granted, means –

(aa) in the case of Crown land that is permanent timber production zone land within the meaning of the Forest Management Act 2013–

(i) the Crown; or

(ii) the Forestry corporation continued by section 6 of the Forest Management Act 2013; or

(ab) in the case of other Crown land –

(i) the Crown; or

(ii) an Agency or instrumentality of the Crown that, by virtue of an Act, has exclusive or primary responsibility for the management of the land; or

(a) in the case of land held in fee simple, the person in whom the estate of fee simple is vested; or

(b) in the case of land held under a tenancy for life, the person who is the life tenant; or

(c) in the case of land held under a lease for a term of not less than 99 years, the person who is the lessee of the land; or

(d) in the case of land that is not registered under the Land Titles Act 1980 and is subject to a mortgage, the person having for the time being the equity of redemption in that mortgage; or

(e) in the case of land held under any other interest declared by the regulations to be an interest for the purposes of this definition, the person who is the holder of the land under that interest;

trees has the meaning assigned to that expression in the Forest Management Act 2013.

4. Application of Act

The application of this Act extends to, and in relation to, a forestry right that was in force immediately before the commencement of this Act.

5. Forestry rights to be *profits à prendre*

(1) A forestry right shall, notwithstanding any rule of law or equity to the contrary, be deemed to be a *profit à prendre* but shall not confer a right of exclusive possession of the land to which it relates.

(2) Every forestry right over any land may be registered under the Land Titles Act 1980 or the Registration of Deeds Act 1935 against the title of the estate of the owner of the land in the same manner as that applicable to a *profit à prendre* that is not a forestry right.

(3) Every forestry right shall, when executed by the parties signing it, have the force and effect of a deed.

(4) If a forestry right over any land consists in whole or in part of a carbon sequestration right, the *profit à prendre* that is taken to exist under subsection (1) in relation to the carbon sequestration right consists of the legal, commercial or other benefit (whether present or future) of carbon sequestration by any existing or future tree or forest on the land.

6. Forestry covenants to bind assignees, &c.

Notwithstanding any rule of law or equity to the contrary, a forestry covenant relating to land of a covenantor or to land capable of being bound by him by covenant shall, unless a contrary intention is expressed in the forestry right to which that land is subject or in any variation of that right, be binding on the assignees and personal representatives of the covenantor and on all successors in title of the covenantor to the land.

7. Life tenant not liable to impeachment of waste

A life tenant who is in possession of land that is subject to a forestry right is not liable to impeachment of waste in respect of anything done pursuant to that forestry right.

8. Plan requirements

(1) For the purposes of the *Land Titles Act 1980* and the *Registration of Deeds Act 1935*, an application for registration of a forestry right may specify the boundaries of the forestry right by reference to a diagram that is satisfactory to the Recorder of Titles or the Registrar of Deeds.

(2) Where the boundaries of a registered forestry right have been specified by reference to a diagram as provided by subsection (1), the owner of the land or the grantee of the forestry right may at any time deposit a plan in accordance with the *Land Titles Act 1980* or the *Registration of Deeds Act 1935* so as to define such area or areas of the land affected by the forestry right as may be agreed on by the owner of the land and the grantee.

(3) A plan deposited under subsection (2) shall for all purposes supersede the diagram or, as the case may be, the relevant part of the diagram to which it relates and shall be deemed to be incorporated in the grant of the relevant forestry right.

(4) On the deposit of a plan under subsection (2), the Recorder of Titles or Registrar of Deeds, as may be appropriate, shall, if necessary, amend the description of the parcels included in the grant of forestry right and, without limiting the generality of this subsection, may endorse on any relevant certificate of title or lease a memorial to the effect that the boundaries, or such of the boundaries as are defined, have been surveyed or register a memorial in the registry of deeds to that effect.

9. Non-application of *Local Government (Building and Miscellaneous Provisions) Act 1993*

For the purposes of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, the grant of a forestry right shall be deemed not to be a subdivision of the land to which it relates.

10. Regulations

The Governor may make regulations for the purposes of this Act.

11.

The amendments effected by this section have been incorporated into the authorised version of the *Land Titles Act 1980*.

SCHEDULE 1 - Consequential Amendments to the Land Titles Act 1980

Section 11

The amendments effected by this Schedule have been incorporated into the authorised version of the Land Titles Act 1980.

Table Of Amendments

Act	Number and year	Date of commencement
Forestry Rights Registration Act 1990	No. 11 of 1990	11.7.1990
Local Government (Consequential Amendments) Act 1995	No. 30 of 1995	1.9.1995
Forestry Rights Registration Amendment Act 1999	No. 4 of 1999	7.4.1999
Forestry Rights Registration Amendment Act 2002	No. 8 of 2002	30.5.2002
Forest Management (Consequential Amendments) Act 2013	No. 50 of 2013	11.12.2013