

# VICTORIA GOVERNMENT G A Z E T T E

No. S 2 Friday 5 January 1990

By Authority Jean Gordon Government Printer Melbourne

**SPECIAL**

## *Flora and Fauna Guarantee Act 1988* ORDER IN COUNCIL

The Deputy Governor in Council makes the following Order:

Dated: 5 January 1990

Responsible Minister:

KAY SETCHES

Minister for Conservation, Forests and Lands

LAWRENCE A. FISHER

Acting Clerk of the Executive Council

## FLORA AND FAUNA GUARANTEE (TIMBER HARVESTING) ORDER 1990

### Title

1. This Order may be cited as the Flora and Fauna Guarantee (Timber Harvesting) Order 1990.

### Power

2. This Order is made under section 48 (3) of the *Flora and Fauna Guarantee Act 1988*.

Authority to take protected fauna

3. The Deputy Governor in Council authorises the taking, keeping and moving of protected flora, other than flora which is part or member of a taxon or community listed as threatened in Schedule 2 of the *Flora and Fauna Guarantee Act 1988*, in connection with timber harvesting operations as follows:

#### (a) A person who is—

- (i) the holder of a lease, licence or other authority granted by or under an Act to harvest timber; or
- (ii) authorised to act for the holder of such a lease, licence or authority; or
- (iii) acting under the instruction of the holder of such a lease, licence or authority—

may take, keep and move protected flora if the taking, keeping and moving—

- (iv) is a result of and incidental to timber harvesting operations, not being operations for the construction or maintenance of a road or track, in accordance with the lease, licence or authority; and

- (v) is consistent with any Code under the *Conservation, Forests and Lands Act 1987* for timber production, regulations under the *Forests Act 1958* and any coupe plan or forest management plan of a kind referred to in any such Code or regulations applicable to the lease, licence or authority; and

- (vi) does not take place in a critical habitat determined under section 20 of the *Flora and Fauna Guarantee Act 1988*;

#### (b) A person who is—

- (i) the holder of a lease, licence or other authority granted by or under an Act to harvest timber; or
- (ii) acting under the instruction of the holder of such a lease, licence or authority; or
- (iii) an employee or contractor of the Director-General of Conservation, Forests and Lands; or
- (iv) any other person authorised to construct or maintain a road or track in a State forest or on other land of the Crown—

may take, keep and move protected flora if the taking, keeping and moving is—

- (v) a result of and incidental to the construction or maintenance of a road or track in a State forest or on other land of the Crown in connection with timber harvesting operations; or
- (vi) in the course of the person's duty or contractual obligation to construct or maintain a road or track in connection with timber harvesting operations as directed by an employee of the Department of Conservation, Forests and Lands authorised to give such directions; or
- (vii) in accordance with any legal authority to construct or maintain a road or track in a State forest or on other land of the Crown—

and does not take place in a critical habitat determined under section 20 of the *Flora and Fauna Guarantee Act 1988*.

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Protected flora

4. In this Order—

“Harvest” includes cut, dig and take away.

“Protected flora” means any flora which is declared to be protected by Order of the Governor in Council published in the *Government Gazette* but does not include any flora which is part or member of a taxon or community listed as threatened in Schedule 2 of the *Flora and Fauna Guarantee Act 1988*.

Expiry of Order

5. This Order has no effect on or after 6 January 1991.

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