



# Victoria Government Gazette

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## Flora and Fauna Guarantee Act 1988

### FLORA AND FAUNA GUARANTEE (FOREST PRODUCE HARVESTING) ORDER NO. 2/2004

The Lieutenant-Governor, as the Governor's deputy, with the advice of the Executive Council, makes the following Order:

**1. Title**

This Order may be cited as the Flora and Fauna Guarantee (Forest Produce Harvesting) Order No. 2/2004.

**2. Objective**

The objective of this Order is to authorise, subject to certain terms and conditions, the taking of protected flora in State forest and Crown land where that taking is a result of or incidental to forest produce (including timber) harvesting operations or associated roadworks authorised under the **Forests Act 1958** or timber harvesting operations authorised under the **Sustainable Forests (Timber) Act 2004**.

**3. Authorising provision**

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

**4. Revocation**

The "Flora and Fauna Guarantee (Forest Produce Harvesting) Order No. 1/2004" made on 20 January 2004 and published in Government Gazette G 4 on 22 January 2004 (pages 164 to 165) is revoked.

**5. Definitions**

In this Order—

"**allocation order**" has the same meaning as it has in the **Sustainable Forests (Timber) Act 2004**;

"**approved timber release plan**" has the same meaning as it has in the **Sustainable Forests (Timber) Act 2004**;

"**authorised operations**" has the same meaning as it has in section 45(2)(a) and (b)(i) of the **Sustainable Forests (Timber) Act 2004**;

"**Forest Management Plan**" has the same meaning as it has in the Code of Forest Practices for Timber Production made under Part 5 of the **Conservation, Forests and Lands Act 1987**;

"**forest management area**" means an area to which a Forest Management Plan applies;

"**forest produce**" has the same meaning as it has in the **Forests Act 1958**;

"**grasstree**" means any plant of the taxon *Xanthorrhoea*;

"**harvest**" includes cut, dig or take away;

"**regeneration**" means the renewal of forest flora by natural or artificial means;

"**restoration work**" means further action taken to renew forest flora where regeneration has not achieved the conservation objectives of this Order;

"**roadworks**" means the construction, inspection, maintenance or repair of roads or tracks;

"**taxon**" has the same meaning as it has in the **Flora and Fauna Guarantee Act 1988**;

"**timber harvesting operations**" has the same meaning as it has in the **Sustainable Forests (Timber) Act 2004**;

**SPECIAL**

“**sphagnum moss**” means any plant of the taxon *Sphagnum*;

“**State forest**” has the same meaning as it has in the **Forests Act 1958**;

“**tree fern**” means plants that are members of the taxa—

- (i) *Dicksonia antarctica* (Soft Tree-fern); and
- (ii) *Todea barbara* (Austral King-fern); and
- (iii) *Cyathea australis* (Rough Tree-fern); and
- (iv) *Cyathea cunninghamii* (Slender Tree-fern); and
- (v) *Cyathea leichhardtiana* (Prickly Tree-fern); and
- (iv) *Cyathea X marcescens* (Skirted Tree-fern);

“**Wood Utilisation Plan**” has the same meaning as in the Code of Forest Practices for Timber Production made under Part 5 of the **Conservation, Forests and Lands Act 1987**.

#### 6. **Conservation objectives**

The conservation objectives of this Order are —

- (a) the objectives set out in section 4(1)(a) to (e) of the **Flora and Fauna Guarantee Act 1988**; and
- (b) to ensure that, across each forest management area, each taxon of protected flora that is taken is maintained in a state that is no less viable than it was before the taking occurred.

#### 7. **Authority to take protected flora**

- (1) A person may take protected flora as a result of or incidental to timber or other forest produce harvesting, including roadworks, in State forest or Crown land if that person —
  - (a) is undertaking timber harvesting operations that are authorised operations under the **Sustainable Forests (Timber) Act 2004** and that are conducted in accordance with the relevant allocation order and approved timber release plan; or
  - (b) is harvesting timber or other forest produce in accordance with a licence or permit issued under the **Forests Act 1958** and in accordance with any relevant Forest Management Plan or Wood Utilisation Plan; or
  - (c) is an employee or contractor of the Secretary to the Department of the Sustainability and Environment; or
  - (d) is authorised to carry out roadworks in State forest or Crown land — and the taking of the protected flora —
  - (e) is planned, executed and followed by regeneration work that is carried out in such a way that it is reasonable to expect that the conservation objectives of this Order will be achieved; and
  - (f) if regeneration has not achieved the conservation objectives of this Order within 2 years of the taking occurring, is followed by restoration work.
- (2) Sub-clause (1) does not authorise a person to take protected flora from a critical habitat determined under section 20 of the **Flora and Fauna Guarantee Act 1988**.
- (3) Sub-clause (1) does not authorise a person to take tree ferns, grasstrees or sphagnum moss for the purpose of sale.

Dated 3 August 2004

Responsible Minister  
JOHN THWAITES  
Minister for Environment

DIANE CASEY  
Clerk of the Executive Council