



# **Regional Forest Agreements Act 2002**

**No. 30, 2002**

**An Act relating to Regional Forest Agreements,  
and for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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## **An Act relating to Regional Forest Agreements, and for other purposes**

[Assented to 5 April 2002]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Regional Forest Agreements Act 2002*.

### **2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	5 April 2002
2. Sections 3 to 12	A single day to be fixed by Proclamation, subject to subsection (3)	3 May 2002 ( <i>Gazette</i> 2002, No. S133)
3. Schedule 1	At the same time as the provisions covered by item 2 of this table	3 May 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

### **3 Objects**

The main objects of this Act are as follows:

- (a) to give effect to certain obligations of the Commonwealth under Regional Forest Agreements;
- (b) to give effect to certain aspects of the Forest and Wood Products Action Agenda and the National Forest Policy Statement;
- (c) to provide for the existence of the Forest and Wood Products Council.

### **4 Definitions**

In this Act, unless the contrary intention appears:

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***comprehensive, adequate and representative reserve system***, in relation to an RFA, has the same meaning as in the RFA.

***Forest and Wood Products Action Agenda*** means the Action Agenda for the Forest and Wood Products Industry that was announced by the Minister for Forestry and Conservation on 1 November 2000.

***forest and wood products industry*** means:

- (a) the forest products industry; and
- (b) the wood products industry.

***National Forest Policy Statement*** means the National Forest Policy Statement signed on behalf of the Commonwealth and each of the States (other than Tasmania) in December 1992, and on behalf of Tasmania in April 1995.

***plantation*** means an intensively managed stand of trees of either native or exotic species that is created by the regular placement of seedlings or seed.

***RFA or Regional Forest Agreement*** means an agreement that is in force between the Commonwealth and a State in respect of a region or regions, being an agreement that satisfies all the following conditions:

- (a) the agreement was entered into having regard to assessments of the following matters that are relevant to the region or regions:
  - (i) environmental values, including old growth, wilderness, endangered species, national estate values and world heritage values;
  - (ii) indigenous heritage values;
  - (iii) economic values of forested areas and forest industries;
  - (iv) social values (including community needs);
  - (v) principles of ecologically sustainable management;
- (b) the agreement provides for a comprehensive, adequate and representative reserve system;
- (c) the agreement provides for the ecologically sustainable management and use of forested areas in the region or regions;
- (d) the agreement is expressed to be for the purpose of providing long-term stability of forests and forest industries;

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- (e) the agreement is expressed to be a Regional Forest Agreement.

**RFA forestry operations** means:

- (a) forestry operations (as defined by an RFA as in force on 1 September 2001 between the Commonwealth and New South Wales) that are conducted in relation to land in a region covered by the RFA (being land where those operations are not prohibited by the RFA); or
- (b) forestry operations (as defined by an RFA as in force on 1 September 2001 between the Commonwealth and Victoria) that are conducted in relation to land in a region covered by the RFA (being land where those operations are not prohibited by the RFA); or
- (c) harvesting and regeneration operations (as defined by an RFA as in force on 1 September 2001 between the Commonwealth and Western Australia) that are conducted in relation to land in a region covered by the RFA (being land where those operations are not prohibited by the RFA); or
- (d) forestry operations (as defined by an RFA as in force on 1 September 2001 between the Commonwealth and Tasmania) that are conducted in relation to land in a region covered by the RFA (being land where those operations are not prohibited by the RFA).

For the purposes of paragraph (b), the East Gippsland RFA (as in force on 1 September 2001) is taken to include a definition of **forestry operations** that is identical to the definition of **forestry operations** in the Central Highlands RFA (as in force on 1 September 2001).

**RFA wood** means processed or unprocessed wood (including woodchips) sourced from a region covered by an RFA, but does not include wood sourced from a plantation in a State unless:

- (a) a code of practice for that State has been approved under regulation 4B of the Export Control (Unprocessed Wood) Regulations; and
- (b) that approval has not been revoked under regulation 4C of those regulations.

**State** includes the Australian Capital Territory and the Northern Territory.



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## 5 Act binds the Crown

This Act binds the Crown in right of the Commonwealth.

## 6 Certain Commonwealth Acts not to apply in relation to RFA wood or RFA forestry operations

- (1) RFA wood is not prescribed goods for the purposes of the *Export Control Act 1982*.

Note: The *Export Control Act 1982* regulates the export of “prescribed goods”.

- (2) An export control law does not apply to RFA wood unless it expressly refers to RFA wood. For this purpose, *export control law* means a provision of a law of the Commonwealth (other than the *Export Control Act 1982*) that prohibits or restricts exports, or has the effect of prohibiting or restricting exports.
- (3) The effect of RFA forestry operations must be disregarded for the purposes of section 30 of the *Australian Heritage Commission Act 1975*.
- (4) Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* does not apply to an RFA forestry operation that is undertaken in accordance with an RFA.

Note: This subsection does not apply to some RFA forestry operations. See section 42 of the *Environment Protection and Biodiversity Conservation Act 1999*.

## 7 Termination of RFA by Commonwealth

The termination of an RFA by the Commonwealth is of no effect unless it is done in accordance with the termination provisions of the RFA, being those provisions as in force:

- (a) at the time of commencement of this section; or  
(b) at the time the RFA comes into force;

whichever is later.

## 8 Compensation for breach of RFA by Commonwealth

- (1) The Commonwealth is liable to pay any compensation that:
- (a) is in relation to reasonable loss or damage arising from the curtailment of legally exercisable rights; and

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- (b) is calculated as at the time of the curtailment; and
  - (c) the Commonwealth is required to pay to a State in accordance with the compensation provisions of an RFA, being those provisions as in force:
    - (i) at the time of commencement of this section; or
    - (ii) at the time the RFA comes into force;whichever is later.
- (2) The Commonwealth's liability incurred under subsection (1) while an RFA is in force continues even though the RFA may subsequently have expired or been terminated.
  - (3) Compensation that the Commonwealth is liable to pay under this section:
    - (a) may be recovered as a debt in a court of competent jurisdiction; and
    - (b) is payable out of money appropriated by the Parliament.

## **9 Publication of information about RFAs**

- (1) As soon as practicable after an RFA is entered into, the Minister must publish a notice in the *Gazette*:
  - (a) stating that the RFA has been entered into; and
  - (b) giving details of the region and the date when the RFA comes into force or came into force.
- (2) As soon as practicable after an RFA ceases to be in force, the Minister must publish a notice in the *Gazette*:
  - (a) stating that the RFA has ceased to be in force; and
  - (b) giving details of the region and the date when the RFA ceased to be in force.

## **10 Tabling of RFAs etc.**

### *RFAs*

- (1) The Minister must cause a copy of an RFA to be tabled in each House of the Parliament within 15 sitting days of that House after:
  - (a) the commencement of this section; or
  - (b) the RFA is entered into;whichever is later.

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- (2) Subsection (1) does not require an RFA to be tabled in a House of the Parliament if the RFA was tabled in that House before the commencement of this section.

*Amendments of RFAs*

- (3) The Minister must cause a copy of an amendment of an RFA to be tabled in each House of the Parliament within 15 sitting days of that House after:
- (a) the commencement of this section; or
  - (b) the amendment is made;
- whichever is later.

*RFA annual reports*

- (4) The Minister must cause a copy of an RFA annual report to be tabled in each House of the Parliament within 15 sitting days of that House after:
- (a) the commencement of this section; or
  - (b) the report is provided to the Minister;
- whichever is later.
- (5) Subsection (4) does not require an RFA annual report to be tabled in a House of the Parliament if the report was tabled in that House before the commencement of this section.

*RFA review reports*

- (6) The Minister must cause a copy of an RFA review report to be tabled in each House of the Parliament within 15 sitting days of that House after:
- (a) the commencement of this section; or
  - (b) the report is provided to the Minister;
- whichever is later.

*Definitions*

- (7) In this section:

***RFA annual report*** means an annual report about the achievement of milestones under an RFA during one of the first 5 years of operation of the RFA.

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***RFA review report*** means a report of the 5 yearly review of the performance of an RFA.

## **10A Source of forestry information**

- (1) The Minister must cause to be established a comprehensive and publicly available source of information:
  - (a) for national and regional monitoring and reporting in relation to all of Australia's forests; and
  - (b) to support decision-making in relation to all of Australia's forests.
- (2) To avoid doubt, subsection (1) does not, by implication, limit the sources of information that may be used for a purpose mentioned in paragraph (1)(a) or (b).

## **11 Forest and Wood Products Council**

- (1) The Minister must take all reasonable steps to ensure that, at all times, there is in existence a committee that is:
  - (a) known as the Forest and Wood Products Council; and
  - (b) established under the executive power of the Commonwealth.

### *Objects*

- (2) The main objects of subsection (1) are as follows:
  - (a) the provision of a forum by which the Minister and stakeholders in the forest and wood products industry may:
    - (i) consult together; and
    - (ii) exchange advice and information; and
    - (iii) participate in the formulation of advice in relation to the Forest and Wood Products Action Agenda;
  - (b) the promotion of co-operation between different sectors of the forest and wood products industry.

### *Functions*

- (3) The Minister must take all reasonable steps to ensure that the functions of the Council include the following:
  - (a) to act as a means of liaison between the Minister and stakeholders in the forest and wood products industry, and

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- between different sectors of that industry, in matters relating to that industry;
- (b) to facilitate co-operation between different sectors of the forest and wood products industry;
  - (c) to give advice and information to the Minister in relation to the implementation of the Forest and Wood Products Action Agenda;
  - (d) to carry out tasks allocated to the Council under the Forest and Wood Products Action Agenda;
  - (e) to do anything else conducive to the achievement of the objects mentioned in subsection (2).
- (4) The Council may perform its functions only to the extent that they are not in excess of the functions that may be conferred on the Council by virtue of any of the legislative powers of the Parliament and, in particular, may perform its functions:
- (a) in relation to matters arising in the course of, or that concern:
    - (i) trade or commerce with other countries, or among the States; or
    - (ii) the activities of a corporation to which paragraph 51(xx) of the Constitution applies; or
  - (b) for purposes in relation to any or all of the Territories.

*Meetings*

- (5) The Minister:
- (a) may convene a meeting of the Council at any time; and
  - (b) must convene a meeting of the Council on receipt of a written request from a majority of members of the Council.
- (6) The Minister must ensure that the Council meets at least twice in every calendar year.

*Review by the end of 2004*

- (7) During the period beginning on 1 July 2004 and ending on 31 December 2004, the Council must conduct a review of whether the Council should continue to exist and, if so, what should be the Council's functions and procedures.
- (8) In conducting a review under subsection (7), the Council must consult stakeholders in the forest and wood products industry.

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- (9) The Council must:
- (a) prepare a report of a review under subsection (7); and
  - (b) give the report to the Minister.
- (10) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the receipt of the report.

## **12 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendment of the Environment Protection and Biodiversity Conservation Act 1999

### 1 Section 38

Repeal the section, substitute:

#### 38 Part 3 not to apply to certain RFA forestry operations

- (1) Part 3 does not apply to an RFA forestry operation that is undertaken in accordance with an RFA.
- (2) In this Division:

*RFA* or *regional forest agreement* has the same meaning as in the *Regional Forest Agreements Act 2002*.

*RFA forestry operation* has the same meaning as in the *Regional Forest Agreements Act 2002*.

Note: This section does not apply to some RFA forestry operations. See section 42.

### 2 Subsection 40(2)

Repeal the subsection, substitute:

- (2) In this Division:

*forestry operations* means any of the following done for commercial purposes:

- (a) the planting of trees;
- (b) the managing of trees before they are harvested;
- (c) the harvesting of forest products;

and includes any related land clearing, land preparation and regeneration (including burning) and transport operations. For the purposes of paragraph (c), *forest products* means live or dead trees, ferns or shrubs, or parts thereof.

*RFA region* has the meaning given by section 41.

### 3 Section 42

Omit “Subdivisions A and B do not apply to forestry operations”, substitute “Subdivisions A and B of this Division, and subsection 6(4) of the *Regional Forest Agreements Act 2002*, do not apply to RFA forestry operations, or to forestry operations, that are”.

**4 Paragraph 42(c)**

Omit “that are”.

**5 Section 528 (definition of *forestry operations*)**

Repeal the definition.

**6 Section 528 (definition of *regional forest agreement*)**

Repeal the definition.

**7 Section 528 (definition of *RFA forestry operations*)**

Repeal the definition.

**8 Section 528 (definition of *RFA region*)**

Repeal the definition.

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*[Minister’s second reading speech made in—  
Senate on 13 February 2002  
House of Representatives on 21 March 2002]*

(21/02)