



Victoria Government Gazette

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Crown Land (Reserves) Act 1978

CROWN LAND (RESERVES) (OUTDOOR DINING) REGULATIONS 2021

I, Lily D'Ambrosio, Minister for Energy, Environment and Climate Change, make the following Regulations.

Dated 24 November 2021

HON. LILY D'AMBROSIO MP
Minister for Energy, Environment and Climate Change

Part 1 – Preliminary

1 Objectives

The objectives of these Regulations are to provide for –

- (a) the issuing and cancellation of permits in relation to outdoor dining in the whole or any part of the reserve; and
- (b) the giving of permission to the holder of a permit for outdoor dining to provide entertainment as part of that outdoor dining; and
- (c) the imposition of fees for permits for the use of the whole or any part of the reserve for outdoor dining; and
- (d) the exemptions from, or the reduction, waiver or refund, in whole or in part, of any fee.

2 Authorising provision

These Regulations are made under section 13 of the **Crown Land (Reserves) Act 1978**.

3 Commencement

These Regulations come into operation on the day on which they are published in the Government Gazette.

4 Expiry

These Regulations expire on 30 June 2022.

5 Revocation

The following regulations are **revoked** –

- (a) Crown Land (Reserves) (Outdoor Dining) Regulations 2020; and
- (b) Crown Land (Reserves) (Outdoor Dining) Amendment Regulations 2020.

6 Definitions

In these Regulations –

Act means the **Crown Land (Reserves) Act 1978**;

agreed activity has the same meaning as in section 79 of the **Traditional Owner Settlement Act 2010**;

emergency has the same meaning as in the **Emergency Management Act 2013**;

emergency activity has the same meaning as in the **Emergency Management Act 1986**;

emergency services agency has the same meaning as in the **Emergency Management Act 1986**;

food business has the same meaning as it has in the **Food Act 1984**;

liquor has the same meaning as in the **Liquor Control Reform Act 1998**;

outdoor dining does not include –

- (a) supplying liquor for consumption in a reserve without the provision for food to be consumed with the liquor supplied; or

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(b) supplying packaged liquor for consumption outside of the reserve.

relevant land Act means –

- (a) the **Forests Act 1958**; or
- (b) the **Land Act 1958**; or
- (c) the **National Parks Act 1975**; or
- (d) Parts II and IIA of the **Wildlife Act 1975**;

reserve means any land reserved under section 4 of the **Crown Land (Reserves) Act 1978**;

temporary structure includes a marquee, shade sail or similar structure that is not permanently affixed to land;

the Act means the **Crown Land (Reserves) Act 1978**;

traditional owner group has the same meaning as in the **Traditional Owner Settlement Act 2010**;

traditional owner group agreement means an agreement under Part 6 of the **Traditional Owner Settlement Act 2010**;

traditional owner group entity has the same meaning as in the **Traditional Owner Settlement Act 2010**;

volunteer emergency worker has the same meaning as in the **Emergency Management Act 1986**.

7 Application of Regulations to permit, lease or licence holders etc.

These Regulations do not apply to a person acting in accordance with the terms and conditions of any permit, lease, licence or other authority granted under the Act or a relevant land Act to the extent that the activities authorised by the permit, lease, licence or authority are inconsistent with these Regulations.

8 Application of Regulations to employees etc.

The following persons do not commit an offence against these Regulations when acting in the course of the person's duties or functions or exercising a power for that purpose –

- (a) an employee of the land manager;
- (b) an authorised officer;
- (c) a police officer or protective services officer within the meaning of the **Victoria Police Act 2013**;
- (d) a contractor, agent, volunteer or other person carrying out any work for or acting on the authority or instruction of the land manager;
- (e) a person employed under Part 3 of the **Public Administration Act 2004** who is exercising a power or carrying out a duty or function under –
 - (i) the **Conservation, Forests and Lands Act 1987** or regulations made under that Act; or
 - (ii) an Act or part of an Act (as the case requires) specified in Schedule 1 to the **Conservation, Forests and Lands Act 1987**; or
 - (iii) regulations made under an Act or part of an Act (as the case requires) specified in Schedule 1 to the **Conservation, Forests and Lands Act 1987**; or
 - (iv) the **Water Act 1989** or regulations made under that Act;
- (f) a person employed by a public entity within the meaning of the **Public Administration Act 2004** who is exercising a power or carrying out a duty or function under –
 - (i) the **Conservation, Forests and Lands Act 1987** or regulations made under that Act; or
 - (ii) an Act or part of an Act (as the case requires) specified in Schedule 1 to the **Conservation, Forests and Lands Act 1987**; or

- (iii) regulations made under an Act or part of an Act (as the case requires) specified in Schedule 1 to the **Conservation, Forests and Lands Act 1987**; or
- (iv) the **Water Act 1989** or regulations made under that Act;
- (g) an operational staff member within the meaning of the **Ambulance Services Act 1986**;
- (h) an officer, employee or volunteer emergency worker of an emergency services agency when engaged in an emergency activity or the discharge of a responsibility, function or other role in relation to an emergency.

9 Application of these Regulations to traditional owner group entities under the Traditional Owner Settlement Act 2010

If a traditional owner group entity within the meaning of the **Traditional Owner Settlement Act 2010** has an agreement under Part 6 of that Act, any provision of these Regulations that provides for an offence or the contravention of which constitutes an offence against the Act to carry out an agreed activity within the meaning of that Act does not apply to a member of the traditional owner group –

- (a) who is bound by the agreement; and
- (b) who carries out the agreed activity to which the offence relates in accordance with the agreement and on land to which the agreement applies.

Part 2 – General provisions

10 Permits

- (1) If the land manager is authorised to issue a permit under these Regulations, the permit must be in writing.
- (2) A permit issued under these Regulations must specify –
 - (a) the purpose of the permit; and
 - (b) the period of permit; and
 - (c) in the case of an activity or conduct that is being permitted, the conditions subject to which that activity or conduct must be carried out; and
 - (d) in the case of a permit for related to entry or use, the conditions for that entry or use.
- (3) The land manager must not issue a permit under these Regulations that is for a term exceeding 6 months.
- (4) A permit issued under these Regulations –
 - (a) must specify the area of the reserve to which it applies; and
 - (b) may specify that it applies on specified days, times or periods.
- (5) A permit holder must produce the permit when requested by an authorised officer or police officer.

Penalty: 10 penalty units

11 Cancellation of permits

- (1) The land manager may cancel a permit issued under these Regulations at any time –
 - (a) if the holder of the permit has –
 - (i) contravened the permit; or
 - (ii) otherwise contravened these Regulations; or
 - (b) if the continuation of the permit is likely to be detrimental to, or interfere with, the management and protection of the natural environment, features, or visitors in the reserve; or
 - (c) for the purposes of management of the reserve

- (2) The cancellation of a permit under subregulation (1) does not take effect until the holder of the permit is given notification in writing of that cancellation.
- (3) The notice of cancellation of a permit under this regulation may specify that the holder of the permit has not more than 7 days specified in the notice after the cancellation takes effect to remove –
 - (a) any temporary structure erected or maintained by the holder of the permit;
 - (b) any equipment used by the holder of the permit.
- (4) If the holder of a permit has paid a fee for a permit under these Regulations and that permit is cancelled under subregulation (1)(b) or (c), the holder may apply in writing to the land manager, for a pro rata refund of the fee.
- (5) Upon receipt of an application under subregulation (4), the land manager may refund the remaining portion of the fee, calculated from the time at which the cancellation becomes effective until the time the permit would have expired.

12 Fees

- (1) The land manager may impose and recover reasonable fees for or in respect of the issuing of a permit under these Regulations.
- (2) The land manager may grant an exemption from or a reduction, waiver or refund, in whole or in part, of any fee imposed under subregulation (1).

13 Power to give directions

- (1) Subject to subregulation (3), an authorised officer may, in writing, direct a person –
 - (a) to leave the reserve or an area of the reserve; or
 - (b) to remain in the reserve or an area of the reserve.
- (2) A direction given under subregulation (1)(a) may include a direction not to re-enter the reserve or an area of the reserve for a specified period not exceeding 24 hours.
- (3) An authorised officer must not give a direction under subregulation (1) unless the authorised officer considers the direction is necessary for any of the following purposes –
 - (a) to avoid a contravention of these Regulations;
 - (b) to prevent the continuing contravention of these Regulations;
 - (c) for the safety of persons within the reserve;
 - (d) for the care, protection or management of the reserve.
- (4) A person to whom a direction is given under subregulation (1) must comply with that direction.

Penalty: 20 penalty units

Part 3 – Outdoor dining

14 Outdoor dining

- (1) A person must not operate a food business providing outdoor dining in a reserve unless that person does so in accordance with a permit issued under subregulation (2).
Penalty: 5 penalty units
- (2) For the purposes of subregulation (1), the land manager may issue a permit authorising a person to operate a food business providing outdoor dining in a reserve.
- (3) If a permit issued under this regulation does not specify an expiry date or period of operation, that permit expires on 6 months from the date of issue.

- (4) Without limiting regulation 10, a permit issued under subregulation (2) –
 - (a) must include the following condition requiring the holder of permit to –
 - (i) obtain public liability insurance over the area of the reserve specified in the permit in an amount and subject to any conditions determined by the land manager;
 - (ii) make good all damage caused to the reserve as a consequence of permitted use to the satisfaction of the land manager;
 - (b) may, as determined by the land manager, include conditions that –
 - (i) authorise or regulate the erection, maintenance or removal of any temporary structure;
 - (ii) authorise or regulate the use, storage or removal of any equipment used by the food business under the permit;
 - (iii) require the holder of the permit to provide portable toilet, washing and hygiene facilities;
 - (iv) allow the holder of the permit to provide entertainment to patrons of the food business subject to the approval of land manager.
 - (5) For the purposes of subregulation (4)(b)(iii), if the land manager gives approval for the holder of a permit to provide entertainment to patrons, that approval –
 - (a) must be in writing; and
 - (b) may be subject to any conditions the land manager considers reasonable.
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