

FACTSHEET

Laws Applying to **Forest Activists** in **Victoria**

Current as at 20 May 2023

*This document is not legal
advice and should not be relied
upon as legal advice.*



**We use the law to create a world that works for all of us
- not just some of us.** envirojustice.org.au

Laws Applying to Forest Activists in Victoria

This fact sheet describes offences that people can be charged with when protesting logging in Victoria's forests and powers of authorised officers under the Sustainable Forests (Timber) Act 2014.

The Sustainable Forests (Timber) Act is primarily enforced by "authorised officers" who may be Game Management Authority officers. Authorised officers exercising their powers may or may not be in uniform, however must always carry official identification.



What is a 'timber harvesting safety zone'?

A timber harvesting safety zone includes a coupe, any road within a coupe that has been closed for the purposes of logging or planned burns, and any area of state forest that is within 150 metres from the boundary of that coupe.

Notice of the timber harvesting safety zone must be displayed around the zone and at each road that is an entry point, specifying its location; the commencement date of logging; and the offences and penalties which apply in that zone.

A coupe is an area of forest designated for timber harvesting in a Timber Release Plan or a Timber Utilisation Plan.

What do 'timber harvesting operations' include?

'Timber harvesting operations' are defined in section 3 of the Sustainable Forests (Timber) Act as activities carried out by VicForests, or another person or body involving:

- felling or cutting trees
- taking or removing timber (including salvage logging)
- delivering or transporting timber to a buyer for collection or sale
- any roadworks ancillary to those activities
- regeneration burning
- the provision or use of machinery or equipment for timber harvesting
- an authorised person engaging in timber harvesting operations

Do I have to follow directions?

Authorised officers can direct you to leave a Timber Harvesting Safety Zone, and to stop or remove a vehicle from a timber harvesting safety zone. Failure to comply with these directions can result in an infringement or charge against you.

We use the law to create a world that works for all of us - not just some of us. envirojustice.org.au

Do I have to give my name and address or answer questions?

Authorised officers can ask you for your name and address. Failure to provide this information can result in an infringement or charge against you.

You do not have to answer any other questions asked by an authorised officer (other than your name and address) – you have the right to answer “no comment” to all other questions. If you are invited to an interview, you do not have to attend or participate. During an interview you have the right to answer “no comment.”

Refusing to answer questions cannot be used against you in court to infer guilt but being selective about the questions you answer can be. If you chose to answer no comment, it is best to be consistent with this.

Search and Seizure

An authorised officer or a police officer can only exercise their powers to search you or seize a prohibited thing or other item in a timber harvesting safety zone: s88A(1) Sustainable Forests (Timber) Act.

Outside of a timber harvesting safety zone, an authorised officer does not have the power to search you and a police officer may only conduct a search in certain circumstances.

When can an authorised officer search me and seize my property?

If an authorised officer believes on reasonable grounds that you have committed, are committing, or about to commit, an offence against the Sustainable Forests (Timber) Act (see Table of Offences below), they may search you and/or your vehicle and seize any item that they believe was used, is being used, or is about to be used in the offence: s88 Sustainable Forests (Timber) Act.

After seizing any items, an authorised officer must inform you of your right to have your property returned and immediately provide you with a receipt for the seized item that describes the nature of the item, the date, time, and location of the seizure, and where the item will be kept: s88 Sustainable Forests (Timber) Act.

Can I get my property back?

This will depend on the property in question (whether it is a ‘prohibited thing’ or not) and whether you are charged with an offence or receive an infringement notice for an offence under the Sustainable Forests (Timber) Act. The authorised officer must return the item to you within 90 days unless the item is a prohibited thing or charges are brought against you.

What is a ‘prohibited thing’?

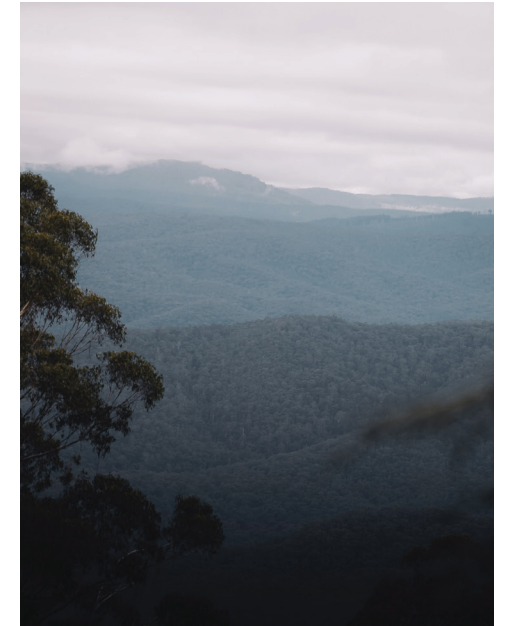
Defined in section 3 of the Sustainable Forests (Timber) Act as:

- (a) A bolt cutter
- (b) Cement or mortar mix
- (c) A constructed metal or timber frame
- (d) A linked or a heavy steel chain
- (e) A shackle or joining clip
- (f) PVC pipe or metal pipe or
- (g) Any other prescribed prohibited thing

[Note: There are no other prescribed things as at 20 May 2023].

Banning Notices

If an authorised officer or police officer reasonably believes that you have committed or are committing a ‘specified offence’, you may be issued with a Notice banning you from a timber harvesting safety zone for up to 28 days. All offences listed in the table below are ‘specified offences’, except failing to provide a name and address.



**We use the law to create a world that works for all of us
- not just some of us. envirojustice.org.au**

Common Offences and infringements

Depending on the nature and seriousness of the offence, and your personal circumstances, you may be charged with an offence or receive an Infringement Notice only.

COURT CHARGES:

Sustainable Forests (Timber) Act section	DESCRIPTION	MAXIMUM PENALTY*
s77D	Offence to fail or refuse to comply with a direction to leave a timber harvesting safety zone	60 penalty units
s77E	Offence to fail or refuse to comply with direction to stop or move a vehicle in a timber harvesting safety zone	60 penalty units
s77G	Offence to enter or remain in a timber harvesting safety zone	60 penalty units
s77H	Offence to be in possession of a prohibited thing in a timber harvesting safety zone	60 penalty units
s77J	Offence to remove or destroy a barrier or fence restricting access to a timber harvesting safety zone	60 penalty units
s77K	Offence to remove or destroy timber harvesting safety zone Notice displayed in accordance with section 77C	60 penalty units
s84	Offence to refuse to give name and address, or provide false name and address, if requested, and the authorised officer: <ul style="list-style-type: none"> identifies themselves (including their name and official status) believes on reasonable grounds that a person has committed or is committing an offence against the Sustainable Forests (Timber) Act and informs the person of the grounds for their belief that the person has committed or is committing the offence. 	20 penalty units
s86	Offence to hinder or obstruct an authorised officer	120 penalty units or 12 months imprisonment
s87	Offence to threaten or abuse an authorised officer	120 penalty units or 12 months imprisonment
s94A	Offence to hinder, obstruct or interfere with timber harvesting operations by using a prohibited thing	120 penalty units or 12 months imprisonment
s94B	Offer to hinder, obstruct or interfere with timber harvesting operations	60 penalty units
s94F	Offence to contravene exclusion order	120 penalty units

Sustainable Forests (Timber) Act section	DESCRIPTION	MAXIMUM PENALTY*
s94H	Offence to fail or refuse to comply with direction to leave area to which exclusion order applies	120 penalty units
s94CD	Offence to contravene a banning notice	60 penalty units
s94CF	Offence to contravene a direction to leave area to which banning notice applies	60 penalty units

* One penalty unit is \$184.92 in the 2022-23 financial year, and it increases a little each year. For more information and updated penalty unit values, see: <https://www.justice.vic.gov.au/justice-system/fines-and-penalties/penalties-and-values>

* The penalties prescribed for the offences in the above table are the maximum possible penalties available to the Court, and are reserved for the very worst-case scenario. Note that under the laws in place prior to the 2022 amendments, no person had been fined the maximum penalty nor given a sentence of imprisonment under the Sustainable Forests (Timber) Act.

* The actual penalty imposed is decided by a Magistrate in Court who considers an appropriate penalty for each individual charged. Penalties could be a diversion, an undertaking to be of good behaviour, a fine, a corrections order, or imprisonment. In deciding an appropriate penalty, the Magistrate considers things like the seriousness and circumstances of the offending, as well as your personal and financial circumstances, including any criminal history.

INFRINGEMENT NOTICES:

Sustainable Forests (Timber) Act section	DESCRIPTION	INFRINGEMENT AMOUNT*
s77D	Offence to fail or refuse to comply with a direction to leave a timber harvesting safety zone	4 penalty units (\$739.68)
s77E	Offence to fail or refuse to comply with direction to stop or move a vehicle in a timber harvesting safety zone	4 penalty units (\$739.68)
s77G	Offence to enter or remain in a timber harvesting safety zone	3 penalty units (\$554.76)
s77H	Offence to be in possession of a prohibited thing in a timber harvesting safety zone	4 penalty units (\$739.68)
s77J	Offence to remove or destroy a barrier or fence	6 penalty units (\$1,109.52)
s77K	Offence to remove or destroy Notice	6 penalty units (\$1,109.52)

* The penalty units prescribed for infringements are the set amount that you will be fined under the infringement notice for the offence, up to 30 June 2023. For infringements, the court does not select a penalty individually for each person based on their circumstances.

* One penalty unit is \$184.92 in the 2022-23 financial year, and it increases a little each year.

* You have rights to a process to seek review and withdrawal of infringement notices.

**We use the law to create a world that works for all of us
- not just some of us. envirojustice.org.au**



**ENVIRONMENTAL
JUSTICE
AUSTRALIA**

Contact:

Environmental Justice Australia

Envirojustice.org.au

hello@envirojustice.org.au

(03) 8341 3100 or 1300 336 842 (cost of a local call
from anywhere in Australia)

Lawyers for Forests

www.lawyersforforests.org.au

lawyersforforests@gmail.com

0415 764 015

We acknowledge the Traditional Custodians of the lands on which we live and work. We pay respect to their elders past and present, and pay tribute to the vital role First Nations peoples play in caring for Country across Australia.