

Reprint
as at 1 March 1998



Forestry Encouragement Loans Regulations 1967 (SR 1967/29)

Bernard Fergusson, Governor-General

Order in Council

At the Government Buildings at Wellington this 6th day of March 1967

Present:

The Right Hon Keith Holyoake, CH, presiding in Council

Pursuant to the Forestry Encouragement Act 1962, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Agriculture and Forestry.

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Regulations

1 Title and commencement

- (1) These regulations may be cited as the Forestry Encouragement Loans Regulations 1967.
- (2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Forestry Encouragement Act 1962

agreement means a forestry encouragement agreement made under the Act and in accordance with these regulations, and includes any agreement by way of variation thereof, supplement thereto, or substitution therefor, and any contract intended to be incorporated or merged therein

approved forest plantation means 1 or more parcels of land, each being not less than 0.5 hectare in area, whether contiguous or not, being together a unit—

- (a) designated or used for the growing of trees in rows at least 5 trees wide, except in the case of poplar (*Populus*, any species), for the production of wood for sale; and
- (b) not less than 2 hectares in area

approved woodlot means any 1 or more parcels of land, each of not less than 0.5 hectare in area, whether contiguous or not, being together a unit—

- (a) designated or used for the growing of trees in rows at least 5 trees wide, except in the case of poplar (*Populus*, any species), for the production of wood for sale; and
- (b) not less than 2 hectares nor more than 240 hectares in area

chief executive means the chief executive of Agriculture and Forestry

determining date, in relation to any agreement, means the date as at which the provisions of these regulations for remission of principal and interest operate

loan means a sum of money lent to an owner by the Minister for the purposes of the Act; and includes any subsequent sum so lent

loan area, in relation to any loan, means the land that carries or is to carry the approved woodlot or approved forest plantation in respect of which the loan is made

local authority means a local authority within the meaning of Part 6 of the Local Authorities Loans Act 1956

major utilisation means any tree felling relating to a disposal of forest produce appreciably fulfilling, in the opinion of the Minister, an object specified in the relevant plan of operations and comprising all or part of the tree crop in the loan area

owner, in relation to any secured area, means the registered proprietor for the time being of the secured area, and includes any surety liable under the agreement relating to that area

plan of operations, in relation to any approved woodlot or approved forest plantation, means a written declaration, approved by the Minister, of the objects for which the approved woodlot or approved forest plantation is established or tended, and the programme of management through which those objects are intended to be achieved, and forming, or intended to form, part of a registered agreement; and includes all amendments or variations of or substitutions for the declaration that are registered or are intended to be registered

public company means any company within the meaning of the Companies Act 1955, other than a private company within the meaning of that Act

registered means registered or recorded by a Registrar as defined in the Act

secured area means the land against the title or titles to which an agreement is registered

title includes a lease within the meaning of the Act.

Regulation 2 **approved forest plantation**: amended, on 1 November 1974, by regulation 2(a) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 2 **approved forest plantation** paragraph (b): amended, on 1 November 1974, by regulation 2(b) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 2 **approved woodlot**: amended, on 1 November 1974, by regulation 2(c) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 2 **approved woodlot** paragraph (b): amended, on 1 November 1974, by regulation 2(d) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 2 **approved woodlot** paragraph (b): amended, on 1 November 1974, by regulation 2(e) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 2 **chief executive**: inserted, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 2 **Conservator**: revoked, on 1 April 1987, pursuant to section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

3 Terms and conditions of applications

All applications for advances made under the Act shall be upon the terms and conditions set out in these regulations.

4 General basis of applications

- (1) Any local authority may apply for a loan in accordance with the provisions of Schedule 1.
- (2) Subject to the provisions of subclauses (3), (4), and (5), the normal maximum amount to be offered to the applicant shall be ascertained by multiplying the amount of the normal maximum loan per hectare specified in Schedule 1 by the number of hectares in the loan area (to the nearest whole hectare) as ascertained by survey plan or as determined in accordance with regulation 11.
- (3) Notwithstanding anything to the contrary in Schedule 1, the chief executive of Agriculture and Forestry may, at the request of an applicant, increase by not more than 5% the amount calculated in accordance with subclause (2) without further authority than this regulation in any case where—
 - (a) the additional money is required to reimburse the applicant for sums actually expended by him for purposes approved in the granting of the loan; and
 - (b) a revised determination of the size of the planted area discloses that a greater loan could have been approved by the appropriate authority in the first instance; and
 - (c) provision for securing the proportionate increase is made in the agreement or a variation thereof; and
 - (d) the lessor (if any) consents to the increase.
- (4) Notwithstanding anything to the contrary in Schedule 1, where an increase by more than 5% but not more than 10% in the amount of the loan is requested in the circumstances set out in paragraphs (a) to (d) of subclause (3), the increase may be authorised by the authority by whom the original amount was approved.
- (5) A supplementary sum up to the amount needed to pay the applicant's cash contribution in respect of repayment insurance premium as hereinafter specified

may be added to the foregoing amounts and shall in any such case be included in the total loan secured by agreement.

- (6) It shall be a condition of every loan that, in addition to such other terms as the Minister may consider expedient, the agreement shall contain provision to the effect that, at the option of the Minister,—
- (a) all money secured by the agreement shall become due and payable if any applicant or approved subsequent owner dies or ceases personally to own the secured area, or his or its original share thereof; and
 - (b) the Minister may, in the name of, as the attorney and agent of, and at the expense of, the owner—
 - (i) do all work and acts necessary for the due and punctual performance, observance, and fulfilment of the plan of operations and of all other terms, covenants, and conditions contained in the agreement;
 - (ii) fulfil all covenants (including the payment of all money due and payable), and obtain all renewals or extensions upon expiration, that are provided for in any lease against which the agreement is registered; and
 - (iii) execute all documents and pay all money and incur all debts and other obligations and obtain all information necessary in the opinion of the Minister for the protection of the loan, and charge such fees as may seem to him to be reasonable and proper in respect of that protection.
- (7) Every application shall be made to the chief executive of Agriculture and Forestry whose conservancy includes the proposed loan area on a form approved by the chief executive of Agriculture and Forestry.
- (8) The Minister may, as a condition of any loan, require that a forest consultant approved by him prepare and carry out the plan of operations or do either of those things.
- (9) It shall be an implied condition of every loan offered by the Minister that he may revoke the offer, whether accepted or not, unless within 3 years from the date of the offer the owner has established on the loan area at least the minimum area defined as an approved woodlot or approved forest plantation under these regulations.
- (10) It shall be a condition of every loan that no wood in the loan area be cut or removed without the prior consent of the Minister.

Regulation 4(1): amended, on 1 November 1974, by regulation 3 of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 4(2): amended, on 1 November 1974, by regulation 2(f) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 4(2): amended, on 1 November 1974, by regulation 2(g) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 4(3): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 4(7): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

4A Special conditions

In relation to loans approved after the commencement of this regulation, the following provisions shall apply:

- (a) the loan may be made for forestry projects on reserves and other land already held by a local authority or on additional land being acquired by a local authority to make the project economic:
- (b) where a local authority intends to purchase or otherwise acquire title to additional land for afforestation under a forestry encouragement loan, prior consultation shall be had with the chief executive of Agriculture and Forestry to ensure that the acquisition of the land is not in conflict with plans of the New Zealand Forest Service or Government policy:
- (c) the remission of principal and interest under regulation 8(3)(b) shall be conditional on the local authority covenanting to continue with production forestry following clear-felling any stand for which a loan has been approved unless an exemption is given by the Minister of Forestry.

Regulation 4A: inserted, on 1 November 1974, by regulation 4(1) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 4A(b): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 4A(c): amended, on 1 April 1987, pursuant to section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

5 Special applicants

- (1) Except in the case of any applicant who is a man or woman of full age able in the ordinary course to comply personally with the requirements of the plan of operations contained in the agreement, and except in the further case of any applicant which is a local authority, all loans shall be subject to the provision of such personal surety or sureties by covenanting parties to the agreement as the Minister may require, and the agreement shall contain all conveyancing provisions considered by the Minister to be usual or requisite for security given by a person of the status or capacity of the applicant.
- (2) Where the Minister is not satisfied that the value of the applicant's equity in the secured area apart from the value of the tree crop to which the loan relates exceeds the amount of the proposed loan, he may grant the loan subject to the applicant being required—
 - (a) to give security by way of additional land so that the necessary value will be attained under the total secured area; or

- (b) to provide for supplementary repayment insurance in the name of and to the satisfaction of the Minister so that the period of insurance in accordance with regulation 9 shall be increased to a debt period of 20 years.
- (3) Except where the Minister is satisfied that the margin of security is large, or where the applicant is a local authority, provision shall, in the case of a loan to trustees, or to a company, club, incorporated society, or other body of persons, be made in the agreement restricting the charging or disposal of assets (including the disposition of shares) without the written consent of the Minister.

6 Disbursement of loans

- (1) It shall be the basis of every application that,—
 - (a) except in respect of the payment of contributions to repayment insurance, each loan or portion of a loan shall be paid to the applicant by the chief executive of Agriculture and Forestry, unless in the opinion of the chief executive of Agriculture and Forestry certified accounts submitted by the applicant can more conveniently be paid by the chief executive of Agriculture and Forestry; and
 - (b) the chief executive of Agriculture and Forestry may retain such portion of any loan as in his opinion will be required to complete the establishment of the approved woodlot or approved forest plantation.
- (2) Each such payment shall be by way of reimbursement of the applicant for money actually expended or by direct payment of accounts, or in allowance for work performed by or on behalf of the applicant, in respect in each instance of the purposes for which the loan has been approved, and in the case of expenditure relating to establishment shall not exceed any limit of reimbursement (taking into account retention money) set out in Schedule 1.
- (3) Before authorising any such payment, the chief executive of Agriculture and Forestry shall, in respect of other than minor payments require appropriate title searches, and in the case of reimbursement require to be produced for his inspection proper receipts, vouchers, or other evidence of compliance with sub-clause (2) to his satisfaction, and shall in all cases by inspection or otherwise satisfy himself that all work and material are complete and satisfactory and that the expenditure relates to the loan area.
- (4) The chief executive of Agriculture and Forestry shall cause proper records to be kept of vouchers, receipts, and other evidence as aforesaid, and of accounts paid by him, and shall, where possible, retain either the originals or certified copies or a certified abstract thereof.
- (5) The applicant shall, by accepting the offer of a loan, be deemed thereby to authorise the chief executive of Agriculture and Forestry to act as his agent for the purpose of disbursing the loan money (when appropriated to the applicant) in payment of contributions to repayment insurance premiums and of accounts.

Regulation 6(1)(a): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 6(1)(b): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 6(3): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 6(4): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 6(5): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

7 Computing and compounding of interest

- (1) All loans or portions of loans shall carry interest chargeable from the day of disbursement up to the next ensuing 31 December as a broken period, and thereafter interest shall be calculated with annual rests as at 31 December in each successive year until the determining date.
- (2) Except in the case of a local authority, the applicant may, before any portion of the loan is disbursed, irrevocably elect that up to the determining date all or one-half of the interest shall not be paid as it falls due, but shall as it accrues be added to the principal sum so as itself to bear interest at the rate provided for in the agreement, with annual rests.
- (3) In the case of a local authority all interest up to the determining date shall as it accrues be added to the principal sum so as itself to bear interest at the rate provided for in the agreement, with annual rests.
- (4) The Minister may, with the prior written agreement of the local authority, amend the rate of interest payable under any agreement to the rate currently prescribed in Schedule 1.

Regulation 7(4): inserted, on 1 January 1978, by regulation 2 of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

8 Remission of principal and interest

- (1) Except in the case of loans to local authorities approved on or after the commencement of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 provision in accordance with these regulations and section 5(4) of the Act shall be made on a suspensory basis in each agreement for the remission of—
 - (a) up to one-half of such portion of the loan as has been expended by or on behalf of the owner in operations on the loan area in relation to the establishment or management of an approved woodlot or an approved forest plantation and has not been repaid; and
 - (b) such interest (including interest added to the principal sum) as remains due and unpaid on the portion of the loan remitted under paragraph (a).

- (2) Each agreement shall provide for the remission to be calculated as at, and (subject to the conditions contained in these regulations) to take effect as at, the determining date hereinafter mentioned.
- (3) The time for deciding the determining date shall be fixed,—
 - (a) in the case of an owner other than a local authority, upon the happening of the earlier of the following events:
 - (i) the expiration of 20 years from the date of the first payment of the loan or any portion thereof; or
 - (ii) the commencement to the satisfaction of the Minister of the first major utilisation of the tree crop in the loan area proposed as such to the Minister by the owner in writing (whether by way of written prescription of work proposed under the plan of operations or otherwise) and approved by the Minister:
 - (b) in the case of a local authority, upon the happening of the earlier of the following events:
 - (i) the expiration of 30 years, or such longer period as the Minister may approve, from the date of the first payment of the loan or any portion thereof; or
 - (ii) the commencement to the satisfaction of the Minister of the clear-felling of the tree crop in the loan area proposed as such to the Minister by the local authority in writing (whether by way of written prescription of work proposed under the plan of operations or otherwise) and approved by the Minister.
- (4) Upon the arrival of the time for deciding the determining date, the owner shall in writing request the chief executive of Agriculture and Forestry to compute the determining date or the chief executive may himself decide to compute the determining date. Thereupon the chief executive shall cause the loan area and the loan records to be inspected with a view to the issue by him of a certificate by way of determination as hereinafter provided.
- (5) Each agreement shall provide that the chief executive of Agriculture and Forestry shall, if fully satisfied upon the inspection that all terms and conditions contained in the agreement have been complied with and that the event according to which the determining date should be calculated has occurred, issue a certificate by way of determination in or to the effect of the form set out in Schedule 2, and the date shown as such in the certificate shall be the determining date for the purposes of this regulation.
- (6) Each agreement shall provide that from and after the determining date the total debt remaining shall be paid as follows:
 - (a) where the owner is not a local authority, under a 20 years' instalment table at 3%, with provision that the balance owing from time to time be

on demand as to principal and interest on the commencement of clear-felling:

- (b) where the owner is a local authority, on demand as to both principal and interest, with interest pending demand at the rate specified in subclause (6A) as to the unremitted one-half of the above defined principal sum and without alteration of rate as to any additional establishment or tending loan.
- (6A) The rate of interest referred to in paragraph (b) of subclause (5) shall be the rate prescribed in respect of the item “Charging of interest” in Schedule 1.
- (7) Special provisions modifying the periods of time set out in this regulation may be approved by the Minister in the case of long rotation species of trees.

Regulation 8(1): amended, on 1 January 1978, by regulation 3(1) of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

Regulation 8(1): amended, on 1 November 1974, by regulation 5(1)(a) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 8(3)(b)(i): replaced, on 1 November 1974, by regulation 5(2) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 8(4): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 8(5): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 8(6)(b): amended, on 1 November 1974, by regulation 5(1)(b) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 8(6A): replaced, on 1 January 1978, by regulation 3(2) of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

8A Total remission of principal and interest

- (1) Any owner, other than a local authority, developing an approved woodlot pursuant to these regulations, may apply in writing to the Minister for remission of the principal and interest of any loan made under these regulations.
- (2) On receipt of any such application the Minister may, in his absolute discretion, decline the application, approve the application, or conditionally approve the application subject to such terms and conditions as he thinks fit, including, without limiting the generality of the terms and conditions that may be imposed, a condition that the remission of the loan shall be deferred until the owner has carried out specified work on the woodlot to the satisfaction of the chief executive of Agriculture and Forestry.
- (3) Where an application is approved subject to the fulfilment of certain terms or conditions, that conditional approval shall become operative if those terms or conditions are fulfilled to the satisfaction of the chief executive of Agriculture and Forestry within 2 years after the date of the conditional approval, and shall be deemed to have been effective from the date of that conditional approval.
- (4) Where an application is approved subject to the fulfilment of certain terms or conditions, and those terms or conditions are not fulfilled to the satisfaction of

the chief executive of Agriculture and Forestry within 2 years after the date of the conditional approval, that conditional approval shall be deemed to have been withdrawn and the application declined.

- (5) Where the chief executive of Agriculture and Forestry is satisfied that the principal and interest under any loan pursuant to these regulations has been totally remitted and the agreement to which the loan relates has been terminated, he shall issue a certificate of termination in the form set out in Schedule 5.
- (6) Where any application is declined a new application may be made not sooner than 1 year after the date on which any immediately preceding application was declined or deemed to have been declined.

Regulation 8A: inserted, on 1 January 1978, by regulation 4 of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

Regulation 8A(2): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 8A(3): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 8A(4): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 8A(5): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

9 Insurance

- (1) In respect of every loan or portion of a loan paid out towards the cost of planting trees or tending trees on the loan area, the Minister may, in pursuance of any relevant arrangement forming part of the conditions under which the loan has been granted, pay, or (in the case of an applicant that is a local authority) require the applicant to pay annually, to an insurance office approved by the Minister (which insurance office is hereinafter referred to as the **insurer**) a premium sufficient to obtain for and in the name of Her Majesty the Queen an indemnity in respect of the trees, logs, timber products, and fences grown, produced, or erected pursuant to the plan of operations, all as situated on or relating to and whilst contained in the loan area (hereinafter called the **risk**), covering the total indebtedness of the owner from time to time in connection with each agreement in respect of each payment so made, including capitalised interest thereon (if any). Any such payment shall be deemed to include such other loan money as may be apportioned by the chief executive of Agriculture and Forestry, being loan money paid out from time to time in respect of any other work specified in the plan of operations or in respect of repayment insurance premiums.
- (2) Every such indemnity shall, as far as can be obtained, provide to the effect that in the event of the total or partial loss, destruction, injury, or damage of or to all or any portion of the risk by fire (other than through the wilful act of the owner) the insurer will, on proof thereof, pay to the Minister on behalf of Her Majesty the Queen a sum (not exceeding per hectare in respect of trees the total

- indebtedness per hectare for the time being under the relevant agreement, as ascertained in accordance with subclause (1)) equal to the amount of the loss, as that amount is estimated by the Minister and the insurer, or, in the event of their failure to agree on that estimation, by arbitration.
- (3) On receipt of the sum payable to him by the insurer under subclause (2), the Minister shall cancel the liability of the owner under the agreement to the extent of that sum, by applying that sum firstly in payment of interest accrued and other money due but not yet paid or added to the principal sum and secondly in repayment of principal; and the Minister and the owner may thereupon enter into a further agreement in respect of such new loan as the Minister may be willing to make to the owner in respect of the same or any other loan area.
 - (4) Subject to the provisions of subclause (5), the sum to be stated in the agreement relating to any loan as being the original principal amount of the loan shall be so calculated as to state and include the total amount of the repayment insurance premium relating to the period of the cover in respect of that loan, so that all provisions of the agreement relating to the charging, payment, and compounding of principal and interest shall apply to that premium, but not the provisions thereof relating to remission.
 - (5) Where the owner elects or is required to pay in cash to the Minister all or any part of the repayment insurance premium due in respect of his loan, the principal sum referred to in subclause (4) shall abate accordingly.
 - (6) Subject to the provisions of subclause (10),—
 - (a) in every case to which paragraph (b) does not apply, the applicant shall, on taking up the loan or the portion thereof referred to in subclause (1), contribute to or be debited by the Minister by way of repayment insurance premium a sum per hectare calculated in accordance with the rate for a debt period insured of 10 years as stated in Schedule 3:
 - (b) where as a condition of a proposed loan the Minister requires any applicant, or where the applicant elects, to provide for repayment insurance for a debt period insured of 20 years, the applicant shall contribute to or be debited by the Minister by way of the repayment insurance premium required under paragraph (a) a sum per hectare calculated in accordance with the rate for such debt period as is stated in Schedule 3.
 - (7) An owner who has obtained a loan or loans on the terms set out in the notice published in the *Gazette* on 21 February 1963 at page 243, or in the notice published in the *Gazette* on 20 May 1965 at page 794, may in the form of election set out in Schedule 4 at any time before 30 June 1967 elect in writing, subject to the consent of the Minister, to vary the terms on which he obtained the loan or loans to such extent as is necessary to obtain, instead of any previous insurance, the benefit of the insurance provisions of this regulation, and shall in the election covenant that in consideration of the consent of the Minister the owner will execute in substitution for the existing agreement in respect of the loan or

loans an appropriate agreement complying in all respects with these regulations.

- (8) For the purposes of subclauses (4) and (5), any sum at any time paid in cash to or debited by the Minister in respect of an owner pursuant to subclause (7) for insurance purposes shall be deemed to have been paid or debited as a contribution in respect of a repayment insurance premium under this regulation, but shall, for every year or part of a year elapsing between the date of the loan in respect of which the Minister received the sum and the date on which the election to vary terms became operative, abate by one-tenth in the case of an insurance originally for a period of 10 years.
- (9) The Minister may, in any case of election pursuant to subclause (7),—
 - (a) on application by the owner, increase the amount of the balance owing under the loan by debiting such sum as may be required to make up the full contribution required from the owner under subclause (6); and
 - (b) rearrange the period of the loan and the terms of repayment as may be appropriate.
- (10) Special arrangements modifying the periods of time and rates of premium set out in this regulation may be approved by the Minister in the case of long rotation species of trees.
- (11) Notwithstanding the foregoing provisions of this regulation, any local authority that agrees to pay and pays interest on any loan under these regulations at a rate 0.5% above the rate prescribed in Schedule 1 shall not be required to comply with those foregoing provisions and shall be indemnified pursuant to subclause (12).
- (12) Every such indemnity given under subclause (11) shall provide that, in the event of the total or partial loss, destruction, injury, or damage of or to all or any portion of the trees, logs, timber products, and fences grown, produced, or erected pursuant to the plan of operations, all as situated on or relating to and while contained in the loan area (other than through the wilful act of the owner), the Minister shall remit an amount of the principal and interest of the loan (not exceeding per hectare in respect of trees the total indebtedness per hectare for the time being under the relevant agreement, as ascertained in accordance with subclause (1)) equal to the amount of the loss, as estimated by the Minister.

Regulation 9(1): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 9(2): amended, on 1 November 1974, by regulation 2(h) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Regulation 9(11): inserted, on 1 January 1978, by regulation 5 of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

Regulation 9(12): inserted, on 1 January 1978, by regulation 5 of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

Regulation 9(12): amended, on 12 January 1989, by regulation 2 of the Forestry Encouragement Loans Regulations 1967, Amendment No 5 (SR 1988/314).

10 Forestry encouragement agreements and plans of operations

- (1) It shall be an implied condition of every loan that it be secured by a registered agreement between Her Majesty the Queen and the owner containing, in addition to the special conditions on which the loan has been approved, such general terms, covenants, conditions, and provisions as in the opinion of the Minister are necessary to ensure sound management of the loan area, the provision of a good and appropriate personal covenant by the owner for the time being of the secured area, and generally the proper securing of the money lent, including interest, and of the due performance of all conditions of the loan.
- (2) Every agreement shall contain a plan of operations setting out the programme of preparatory work, planting, tending, and other forest management operations proposed by the applicant or required of the owner by the Minister, and shall provide that the Minister may require the owner to supply him before commencing each stage of the programme a written prescription for his approval of the work proposed at that stage. Any such prescription may, with the approval of the Minister, declare that the work shall, when completed to his satisfaction, comprise for the purposes of remission of principal and interest a major utilisation or (in the case of a local authority) a clear-felling.
- (3) Provision shall be made in every agreement for the owner—
 - (a) to take proper precautions to the satisfaction of the Minister against the destruction or damage by fire of the risk as defined in regulation 9 and to comply in all respects with the requirements of all Acts, regulations, requisitions, and other lawful authorities, and all provisions in the plan of operations in respect of the prevention and control of fire, including the payment of all contributions and levies:
 - (b) to comply in all respects with the requirements of all Acts, regulations, requisitions, and other lawful authorities, and all provisions in the plan of operations in respect of the prevention, eradication, and control of plant diseases, plant pests, and noxious animals and in respect of all other precautions, and safety or conservation measures, affecting or relating to the loan area or the tree crop thereon, including protection from animals of all kinds.

11 Locality plans

- (1) There shall be endorsed on or annexed to every agreement a neat scale locality plan sufficient to show, to the satisfaction of the chief executive of Agriculture and Forestry, the peripheral dimensions of the loan area together with its location in relation to some readily identifiable portion of the legal boundary of the secured area.

- (2) It shall be sufficient for the purposes of this regulation if the locality plan is compiled wholly or in part from data obtained by any 1 or more of the following methods, namely, scaling, aerial photography, compass and chain survey, and any other approved method, based on official survey data, if the loan area so defined has been sufficiently identified by field inspection and the area determined from the locality plan is within 5% of probable true area.
- (3) Where any boundary of the loan area is also the boundary of the secured land, the chief executive of Agriculture and Forestry shall, as a condition of the advance, confirm that the loan will be expended within the loan area by ensuring that either—
 - (a) the common boundary has been physically verified on the ground; or
 - (b) the common boundary lies at the end of a proportionally narrow portion of the loan area and planting is not less than 20 metres distant from the reasonably apparent location of the common boundary.
- (4) It shall be sufficient for the purpose of this regulation if all copies of the agreement contain copies, made by photographic or other copying means, of the original locality plan complying with the requirements of this regulation, and if the plan copies are properly annexed to the copies of the agreement and are duly authenticated by the parties.

Regulation 11(1): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 11(3): amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Regulation 11(3)(b): amended, on 1 November 1974, by regulation 2(i) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

12 Revocation

These regulations are in substitution for the Farm Forestry Notice 1965 (*Gazette* 1965, Vol II, p 794), and that notice is hereby consequentially revoked.

Schedule 1

General basis of applications by local authorities

r 4

Schedule 1: replaced, on 1 November 1974, by regulation 6 of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Eligibility: local authorities as defined in regulation 2 are eligible to apply.

(**Note:** the consent of the Local Authorities Loans Board must be obtained in the usual manner.)

Final date in each calendar year for the receipt of applications for that year: 31 August.

Loan area in any 5-year period:

For approval by chief executive of Agriculture and Forestry or the Senior Forest Extension Officer of the New Zealand Forest Service on behalf of Minister	Maximum 40 hectares.
For approval by Minister	Maximum 80 hectares.
For joint approval by Minister and Minister of Finance	Above 80 hectares.

Term of Loan: 30 years or such longer period as the Minister may approve, subject to the provisions hereunder regarding payment.

Normal maximum loan per hectare of loan area:

For establishing, tending, and protecting a tree crop, but not including permanent roads, bridges, or buildings	\$1,200 per hectare.
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Charging of interest: payable by annual instalments on 31 December in each and every year on all sums lent at the rate of 6.5% per annum.

Insurance: fire insurance to at least the amount of the principal sum owing from time to time is to be arranged to the satisfaction of the Minister in accordance with the provisions of regulation 9, or to the like effect as nearly as may be arranged by the applicant.

Repayment: the Minister may, on being satisfied that any clear-felling has commenced in the loan area, require that the net proceeds thereof be applied towards reduction or repayment of the balance owing under the loan. Where, however, the local authority satisfies the Minister that it will reafforest the loan area, he may permit it to retain up to 20% of the proceeds. From commencement of clear-felling the loan will be on demand. All or any part of the principal sum, including sums compounded, may be repaid at any time on 1 month's notice, interest to cease on repayment.

Schedule 1: amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Schedule 1: amended, on 25 December 1980, by regulation 2(a) of the Forestry Encouragement Loans Regulations 1967, Amendment No 4 (SR 1980/249).

Schedule 1: amended, on 25 December 1980, by regulation 2(b) of the Forestry Encouragement Loans Regulations 1967, Amendment No 4 (SR 1980/249).

Schedule 1: amended, on 1 January 1978, by regulation 6 of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

Schedule 2

Certificate by way of determination

r 8

Forestry Encouragement Agreement now in the name of [*name*] registered under No [*number*] in the (Land) Registry of [*place*]

Having considered proper reports concerning the performance of the terms, covenants, and conditions contained or implied in or by the above described agreement in respect of—

- (a) the plan of operations, including all registered variations thereof; and
- (b) the payments covenanted to be made that have fallen due and become payable; and
- (c) all other provisions required to be performed—

I hereby certify that:

- (1) Up to the determining date specified in this certificate all such terms, covenants, and conditions have to the best of my knowledge and belief been fully performed to my satisfaction:
- (2) The determining date for the purposes of remission of indebtedness under the agreement shall be the date shown hereunder, namely:
 - (A) [*Date*] (being in my opinion the date of commencement of major utilisation¹/clear-felling² of the tree crop in the loan area);
 - (B) [*Date*] (being the date of expiration of 20¹ /30² years from the first payment made to the original owner in respect of the loan under the agreement):

Delete (A) or (B) and ¹ or ².

- (3) The sum or sums requiring to be remitted under the above described agreement having been so remitted (as is set out hereunder), the total debt owing by the owner under the agreement has thereupon been computed as follows:

Sum remitted as suspensory portion of loan—

One-half of loan money (other than any additional advance to a local authority for establishment or tending) expended in operations on the loan area in relation to establishment or management of approved woodlot or approved forest plantation	\$
Compounded interest accumulated on that one-half	\$
Total suspensory sum remitted	\$ _____

Sum remaining owing as fully repayable portion of loan—

Remaining one-half of the above loan money, plus repayment insurance premium advanced (if any)	\$
Interest compounded (if any) on last-mentioned amount	\$

Loan money (if any) expended otherwise than as above (eg additional advance to local authority)	\$
Compounded interest (if any) on last-mentioned loan money	\$
Total debt owing on determining date after remission	\$

Dated at [*place*], [*date*].

Chief executive of Agriculture and Forestry:

Witness:

Occupation:

Address:

Note:

- (1) Except in the case of a local authority, on 31 December next succeeding the determining date the first instalment of interest and principal in respect of the repayment of the above total debt over a period of 20 years will fall due. On commencement of clear-felling, repayment of any balance will be expected.
- (2) In the case of a local authority, repayment of the above total debt falls due on the determining date upon demand, with interest pending demand calculated with annual rests on 31 December in each year until repayment, and all net proceeds of clear-felling are payable to the chief executive of Agriculture and Forestry (who may however release up to 20% for reforestation proposed to his satisfaction).

Schedule 2: amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Schedule 2: amended, on 1 November 1974, by regulation 7(a) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Schedule 2: amended, on 1 November 1974, by regulation 7(b) of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Schedule 3

Repayment insurance premium

r 9(6)

Schedule 3: replaced, on 1 November 1974, by regulation 8 of the Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260).

Rate per hectare of loan area	Establishment (including tending)	Tending alone
(a) Short rotation species—		
Where debt period insured is first 10 years	\$7.50	\$3.75
Where debt period insured is first 20 years	\$18.75	\$8.00
Where debt period insured is second* 10 years	\$11.25	\$4.25
(b) Long rotation species—		
Where debt period insured is first 20 years	\$15.00	\$8.00

*To be arranged, with any supplementary loan, before first 10 years expired.

Schedule 4

Election to take up repayment insurance for first 20 years of loan

r 9(7)

To the chief executive of Agriculture and Forestry:

Subject to the consent of the Minister of Forestry, the undermentioned owner hereby elects to vary the terms of forestry encouragement loan by the increase of repayment insurance to cover all sums payable during the first 20 years thereof, the extra premium to be paid—

*(a) by the owner:

*(b) by a supplementary loan to be added to the present loan, and to bear interest at the same rate and payable in the same manner as the interest on the present loan.

In consideration of the Minister's consent to the variation, the owner hereby covenants to execute in substitution for the existing agreement or other contract in respect of the above loan a forestry encouragement agreement complying with the provisions of the Forestry Encouragement Loans Regulations 1967.

Name of owner:

Address of owner:

Signature of owner:

*Strike out alternatives not desired.

[Not printed]

Schedule 4: amended, on 1 March 1998, pursuant to section 5(1)(b) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Schedule 4: amended, on 1 April 1987, pursuant to section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Schedule 5

Certificate of termination

Schedule 5: inserted, on 1 January 1978, by regulation 7 of the Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320).

Forestry Encouragement Agreement. Now in the name of *[name]*

Registered under No *[number]* in the (Land) Registry of *[place]*

The total amount of the loan secured by the Forestry Encouragement Agreement No *[number]* having been remitted I hereby certify that the said Forestry Encouragement Agreement has been terminated.

Dated at *[place]*, *[date]*.

Chief executive of Agriculture and Forestry:

Witness:

Occupation:

Address:

T J Sherrard,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 9 March 1967.

Contents

- 1 General
- 2 Status of reprints
- 3 How reprints are prepared
- 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
- 5 List of amendments incorporated in this reprint (most recent first)

Notes

1 *General*

This is a reprint of the Forestry Encouragement Loans Regulations 1967. The reprint incorporates all the amendments to the regulations as at 1 March 1998, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 5(1)(b)

Forestry Encouragement Loans Regulations 1967, Amendment No 5 (SR 1988/314)

State-Owned Enterprises Act 1986 (1986 No 124): section 32(1)

Forestry Encouragement Loans Regulations 1967, Amendment No 4 (SR 1980/249)

Forestry Encouragement Loans Regulations 1967, Amendment No 3 (SR 1977/320)

Forestry Encouragement Loans Regulations 1967, Amendment No 2 (SR 1974/260)