

**Reprint
as at 26 September 2008**



**Forestry Rights Registration Act
1983**

Public Act 1983 No 42
Date of assent 29 November 1983
Commencement see section 1(2)

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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.

This Act is administered by the Ministry of Agriculture and Forestry.

An Act to provide for the creation and registration of forestry rights

1 Short Title and commencement

- (1) This Act may be cited as the Forestry Rights Registration Act 1983.
- (2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

Section 2(1): this Act brought into force, on 1 January 1984, by the Forestry Rights Registration Act Commencement Order 1983 (SR 1983/265).

2 Interpretation

In this Act, unless the context otherwise requires,—

crop means—

- (a) a single crop of trees of 1 or more species:
- (b) multiple crops of trees of 1 or more species:
- (c) any planting of trees of 1 or more species having the same or different expected harvest dates

forestry covenant means any covenant, whether positive or restrictive in effect, contained in a forestry right registered under the Land Transfer Act 1952, or in any variation thereof registered under that Act

forestry right means a right created in accordance with this Act

forest sink covenant means any covenant established under regulations made under section 67Y of the Forests Act 1949, or any variation of that covenant, for the purpose of establishing and maintaining a forest sink; including, but not limited to, controlling the harvesting of timber from the forest sink

holder means a person who holds a forestry right created in accordance with this Act

land has the same meaning as in the Land Transfer Act 1952

proprietor, in relation to the creation of a forestry right over any land, means the owner or the lessee of the land or the holder of a deferred payment licence for the land under the Land Act 1948

units has the same meaning as in section 4(1) of the Climate Change Response Act 2002.

Section 2 **carbon sequestration**: repealed, on 26 September 2008, by section 55(2) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 2 **crop**: inserted, on 30 March 1995, by section 2 of the Forestry Rights Registration Amendment Act 1995 (1995 No 9).

Section 2 **forestry right**: substituted, on 3 June 1998, by section 2(2) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 2 **forest sink**: repealed, on 26 September 2008, by section 55(2) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 2 **forest sink covenant**: inserted, on 14 November 2006, by section 32(1) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 2 **grantor**: repealed, on 3 June 1998, by section 2(1) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 2 **greenhouse gas**: repealed, on 26 September 2008, by section 55(2) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 2 **holder**: inserted, on 3 June 1998, by section 2(2) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 2 **proprietor**: inserted, on 3 June 1998, by section 2(2) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 2 **units**: inserted, on 14 November 2006, by section 32(1) of the Climate Change Response Amendment Act 2006 (2006 No 59).

2A Creation of forestry rights

- (1) A forestry right may be created by the proprietor of land—
 - (a) by creating in accordance with subsection (3); or
 - (b) by granting to any other person; or
 - (c) by reserving to the proprietor on the sale of the land,—the right to—
 - (d) establish, maintain, and harvest; or
 - (e) maintain and harvest,—a crop of trees on that land.
- (2) The forestry right may also—
 - (a) grant or reserve rights of access and rights of construction and use of tracks, culverts, bridges, buildings, and other works and facilities if those rights are ancillary to and necessary for the purposes of subsection (1):
 - (b) provide for charges, payments, royalties, or division of the crop or the proceeds of the crop including the right to receive and the obligation to surrender units,—

whether or not such rights or provisions are coupled with an obligation.

- (3) Despite any enactment or rule of law, the proprietor may, in accordance with this section, create a forestry right for the proprietor.
- (4) No right created under this section is capable of conferring a right of exclusive possession of the land.

Section 2A: inserted, on 3 June 1998, by section 3 of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 2A(2)(b): amended, on 26 September 2008, by section 55(3) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 2A(2)(b): amended, on 14 November 2006, by section 32(2) of the Climate Change Response Amendment Act 2006 (2006 No 59).

3 Forestry rights to be *profits à prendre*

- (1) Notwithstanding any rule of law or equity to the contrary, every forestry right shall be deemed to be a *profit à prendre*.
- (2) Every forestry right over any land may be registered under the Land Transfer Act 1952 against the title of the estate of the proprietor of the land in the same manner, but subject to any modifications prescribed by regulations made under section 7, as that applicable to a *profit à prendre* (not being a forestry right).
- (2A) Where a forestry right is created over land in respect of which no certificate of title has been issued under the Land Transfer Act 1952, the forestry right may be registered in accordance with section 5A.
- (3) Every forestry right when executed by the parties signing the same shall have the force and effect of a deed.

Section 3(2): amended, on 3 June 1998, by section 4(b) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 3(2A): inserted, on 1 July 1994, by section 2 of the Forestry Rights Registration Amendment Act 1994 (1994 No 67).

Section 3(2A): amended, on 3 June 1998, by section 4(a) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

4 Forestry covenants

Notwithstanding any rule of law or equity to the contrary, every forestry covenant relating to any land of a covenantor or

to any land capable of being bound by him by covenant shall, unless a contrary intention is expressed in the forestry right to which it relates or in any variation thereof, be binding on the heirs, executors, administrators, and assignees of the covenantor.

5 Plan requirements

- (1) For the purposes of the Land Transfer Act 1952, instead of complying with section 167 of that Act, the applicant for registration of a forestry right may indicate the boundaries of the forestry right by reference to a diagram or an aerial photograph:
provided that no action shall lie against the Crown under Part 11 of the Land Transfer Act 1952 in respect of any such boundary not defined in accordance with the said section 167.
- (2) The proprietor or holder of any forestry right registered pursuant to subsection (1) may at any time deposit a plan in accordance with section 167(5) of the Land Transfer Act 1952 and in accordance with the regulations for the time being in force in that behalf, which plan shall define such area or areas as may be mutually agreed upon by the proprietor and the holder, and shall for all purposes supersede the diagram or aerial photograph or relevant part of the diagram or aerial photograph, and such plan, when deposited, shall be deemed to be incorporated in the grant or reservation.
- (3) On the deposit of such plan as aforesaid the Registrar shall, if necessary, amend the description of the parcels included in the grant or reservation and shall endorse on any relevant certificate of title, lease, or licence a memorial to the effect that the boundaries, or such of the boundaries as are defined, have been surveyed.

Section 5(2): amended, on 3 June 1998, by section 5(a) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5(2): amended, on 3 June 1998, by section 5(b) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5(2): amended, on 3 June 1998, by section 5(c) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5(3): amended, on 1 June 2002, pursuant to section 38(2) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 5(3): amended, on 3 June 1998, by section 5(d) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

5A Registration of forestry rights over unregistered land

- (1) Where a forestry right is created over land in respect of which no certificate of title has been issued under the Land Transfer Act 1952, the holder may request the appropriate Registrar to register the forestry right in accordance with this section.
- (2) The Registrar shall, at the request of the holder, constitute a notification of the grant or reservation a separate folium of the register.
- (3) No forestry right shall be received under this section for notification as a separate folium of the register unless there is endorsed thereon a certificate by a licensed cadastral surveyor to the effect that the land to which that forestry right relates is within the boundaries of a parcel of land identified on a plan lodged in the office of the Surveyor-General or Registrar for the district in which the land is situated.
- (4) Notwithstanding any rule of law or equity to the contrary, every forestry right registered under this section shall run with and bind the land to which it relates and shall be deemed to be an interest in land for the purposes of the Land Transfer Act 1952.
- (5) Nothing in this section limits anything in section 5.

Section 5A: inserted, on 1 July 1994, by section 3 of the Forestry Rights Registration Amendment Act 1994 (1994 No 67).

Section 5A(1): amended, on 1 June 2002, pursuant to section 38(2) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 5A(1): amended, on 3 June 1998, by section 6(a) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5A(1): amended, on 3 June 1998, by section 6(b) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5A(2): amended, on 1 June 2002, pursuant to section 38(2) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 5A(2): amended, on 3 June 1998, by section 6(c) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5A(2): amended, on 3 June 1998, by section 6(d) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5A(3): amended, on 1 June 2002, by section 68(1) of the Cadastral Survey Act 2002 (2002 No 12).

Section 5A(3): amended, on 1 June 2002, pursuant to section 69(1) of the Cadastral Survey Act 2002 (2002 No 12).

Section 5A(3): amended, on 1 June 2002, pursuant to section 38(2) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 5A(3): amended, on 3 June 1998, by section 6(e) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 5A(3): amended, on 3 June 1998, by section 6(f) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

6 Subdivisions and rights of way

For the purposes of the Resource Management Act 1991, the creation of a forestry right shall be deemed not to be a subdivision of the land of the proprietor, and any right of access created as ancillary to a forestry right over the land of the proprietor shall be deemed not to be the creation of a right of way under section 348 of the Local Government Act 1974.

Section 6: amended, on 3 June 1998, by section 7(a) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 6: amended, on 3 June 1998, by section 7(b) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 6: amended, on 3 June 1998, by section 7(c) of the Forestry Rights Registration Amendment Act 1998 (1998 No 47).

Section 6: amended, on 23 July 1993, by section 2(a) of the Forestry Rights Registration Amendment Act 1993 (1993 No 76).

Section 6: amended, on 23 July 1993, by section 2(b) of the Forestry Rights Registration Amendment Act 1993 (1993 No 76).

7 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make all such regulations as are necessary or expedient for giving effect to the provisions of this Act and the due administration thereof.
- (2) Without limiting the general power to make regulations conferred by subsection (1), regulations may be made under this section prescribing such matters as are necessary or expedient for regulating the mode of registration and the form of forestry rights under the Land Transfer Act 1952.

**8 Land Settlement Promotion and Land Acquisition Act
1952 not to apply**
[Repealed]

Section 8: repealed, on 1 February 2002, by section 7(a) of the Overseas Investment Amendment Act 1998 (1998 No 11).

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Notes

1 General

This is a reprint of the Forestry Rights Registration Act 1983. The reprint incorporates all the amendments to the Act as at 26 September 2008, 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)***

Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85): section 55

Climate Change Response Amendment Act 2006 (2006 No 59): section 32

Cadastral Survey Act 2002 (2002 No 12): sections 68(1), 69(1)

Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11): section 38(2)

Forestry Rights Registration Amendment Act 1998 (1998 No 47)

Overseas Investment Amendment Act 1998 (1998 No 11): section 7(a)

Forestry Rights Registration Amendment Act 1995 (1995 No 9)

Forestry Rights Registration Amendment Act 1994 (1994 No 67)

Forestry Rights Registration Amendment Act 1993 (1993 No 76)

Forestry Rights Registration Act Commencement Order 1983 (SR 1983/265)
