

Forests Amendment Act 1996

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1996, No. 25

An Act to amend the Forests Act 1949

[4 June 1996]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement--- (1) This Act may be cited as the Forests Amendment Act 1996, and shall be read together with and deemed part of the Forests Act 1949 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

2. New sections inserted---The principal Act is hereby amended by inserting, after section 68, the following sections:

“68A. Supply contracts---(1) In this section, ‘forest produce’ means trees and materials produced from trees.

“(2) Any person may enter into a contract (in this section referred to as a supply contract) with any other person, for the exclusive right to harvest, purchase, or sell or arrange for the harvesting, purchase, or sale of all or any part of the forest produce owned by that other person.

“(3) Where the owner or occupier of any land has entered into a supply contract, that contract may be registered against the title of that owner or occupier to the land to which the supply contract relates.

“(4) No such contract shall be so registered unless notice has been given to every mortgagee and other person having a charge on any estate or interest in the land at the date of registration.

“(5) Where no certificate of title to the land has been issued, the District Land Registrar shall constitute the contract a separate folium of the register.

“(6) No supply contract shall be constituted a separate folium of the register unless there is endorsed on the contract a certificate by a registered surveyor to the effect that the land to which the contract relates is within the boundaries of a parcel of land identified on a

plan lodged in the office of the Chief Surveyor or District Land Registrar for the district in which the land is situated.

“(7) For the purpose of effecting registration, a duplicate of the supply contract shall be lodged with the appropriate District Land Registrar and there shall be endorsed on or attached to the duplicate an application signed by all parties to the contract which shall---

- “(a) Specify the land against which it is desired to register the supply contract or the land in relation to which it is desired to constitute the contract a separate folium of the register, as the case may be; and
- “(b) Certify that the supply contract is one that may be registered under this section, that all notices have been given, and that the duplicate is a true copy of the original.

“(8) The District Land Registrar shall---

- “(a) Enter a memorial of the supply contract upon the register against the title of the owner or occupier whose land is specified in the supply contract and upon the outstanding duplicate of the instrument evidencing title (if any) of the owner or occupier; or
- “(b) Constitute the supply contract a separate folium of the register,---
as the case may be.

“(9) A memorial under subsection (8) (a) of this section may sufficiently describe the contract as a supply contract under the Forests Act 1949.

“68B. Effect of registration of supply contract--- Any supply contract registered pursuant to section 68A of this Act shall,---

- “(a) As against all subsequent owners or occupiers of the land, burden the land against which it is registered and shall bind those persons and be enforceable against them as if they had been parties to the supply contract:
- “(b) As against all other persons acquiring any estate or interest in the land, other than an estate or interest to which paragraph (a) of this section applies, be deemed to be a covenant running with the land and be binding accordingly.

“68C. Registration of discharge of supply contract--- (1) Upon the expiration, termination, cancellation, or discharge as to the whole or any part of the land affected of a supply contract, a discharge in the prescribed form, executed by the parties to the contract, may be registered with the appropriate District Land Registrar, who shall enter an appropriate memorial upon the register against the title to the land or, if the contract constitutes a folium of the register, against the contract as so constituted.

“(2) Subject to subsection (3) of this section, in the absence of a discharge in the prescribed form, the District Land Registrar, on application to him or her by the owner or occupier of the land affected or by any party to the execution of the supply contract, may, on being

satisfied by such evidence as he or she considers adequate that the supply contract is no longer of any force or effect against the whole or any part of the land affected, cancel the registration of the supply contract as to the whole or part of the land, as the case may be.

“(3) The District Land Registrar shall not cancel the registration of a supply contract under subsection (2) of this section unless the District Land Registrar has given to every other party to the contract not less than 21 days notice in writing of the making of the application, and either---

“(a) No person to whom any such notice is given gives notice to the District Land Registrar within that period of the making of an application to the High Court for an order prohibiting the District Land Registrar from cancelling the registration of the supply contract; or

“(b) If any person to whom any such notice is given gives notice to the District Land Registrar within that period of the making of an application to the High Court for an order prohibiting the District Land Registrar from cancelling the registration of the supply contract, the application is withdrawn or dismissed by the Court.

“(4) Any person to whom a notice is given by the District Land Registrar under subsection (3) of this section may, within the period specified in that subsection, apply to the High Court for an order prohibiting the District Land Registrar from cancelling the registration of the supply contract and must, within that period, give notice to the District Land Registrar of the making of the application.

“(5) On the hearing of an application under subsection (4) of this section, the High Court may---

“(a) Make an order prohibiting the District Land Registrar from cancelling the registration of the supply contract; or

“(b) Dismiss the application; or

“(c) Make such other order as the Court thinks fit.

“(6) Where the registration of a supply contract is cancelled as to the whole or part of the land affected, the supply contract shall have no effect in respect of the whole or part of the land burdened, as the case may be.

“(7) A supply contract registered pursuant to section 68A of this Act, while in force, shall continue to apply to any substituted or renewed estate or interest in the land.”

3. Regulations---Section 72 (1) of the principal Act is hereby amended by inserting, after paragraph (bc) (as inserted by section 5 (1) of the Forests Amendment Act 1993), the following paragraph:

“(bd) Prescribing forms for the purposes of section 68A of this Act and providing for such matters as are necessary or expedient for regulating the registration of supply contracts under that section:”.

4. Amendments to Co-operative Forestry Companies Act 1978---The Co-operative Forestry Companies Act 1978 is hereby amended by repealing sections 17 and 18 of, and the Second and Third Schedules to, that Act.

This Act is administered in the Ministry of Forestry.