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## Forests Act 1949

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Commencement    see section 1

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**This Act is administered by the Ministry for Primary Industries.**

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**Provisions relating to sustainable forest management plans**

**An Act to consolidate and amend the law relating to forestry**

Title: replaced (with effect on 1 April 1987), on 1 July 1987, by section 2 of the Forests Amendment Act 1987 (1987 No 118).

**1 Short Title and commencement**

This Act may be cited as the Forests Act 1949 and shall come into force on 1 January 1950.

**2 Interpretation**

(1) In this Act, unless the context otherwise requires,—

**aircraft** has the same meaning as in section 2 of the Civil Aviation Act 1990

**amenity values** means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

**animal** means any living stage of any member of the animal kingdom except human beings; and includes the eggs and the whole or any part of the carcass of any such member

**approved**, in relation to a sustainable management plan, means approved by the Secretary under section 67F

**coupe** means an area of forest that has been or is to be harvested

**exotic**, in relation to a species of flora, means a species that is not an indigenous species

**finished or manufactured indigenous timber product**—

- (a) means any indigenous wood product that has been manufactured into its final shape and form and is ready to be installed or used for its intended purpose without the need for any further machining or other modification; and
- (b) includes a complete item or a component of an item (whether assembled or in kitset form) such as joinery, furniture, toys, tools, and household utensils, household fixtures such as rails and toilet seats, ornaments such as picture frames and carvings, and similar items; but
- (c) does not include dressed or rough sawn timber, mouldings, panelling, furniture blanks, joinery blanks, building blanks, or similar items

**forest land** means land on which forest is growing, land used for agroforestry, and land intended to be forested or used for agroforestry by the owner or occupier of the land

**forest produce** or **forest product** includes trees and other plants and the produce of trees and other plants, and also includes earth, rock, sand, shingle, and minerals when found in or removed from any forest land or any other land for the time being administered by the Minister

**forestry officer** means—

- (a) the chief executive of the Ministry;
- (b) any person appointed as a forestry officer under section 11

**forestry sector** means all matters and activities concerned with or affecting the production and use of goods from or on all forest land that is devoted primarily to commercial production; and shall include protection from disease and fire of all forests, the protective effects of forests, the harvesting and processing of trees and other forest plants, and other matters associated with commercial forestry production

**groundline**, in relation to any living or dead tree, means the point at the base of the tree where the tree, when standing, commenced or commences to be naturally in contact with the ground

**indigenous**, in relation to a species of flora or fauna, means a species that occurs naturally in New Zealand or arrived in New Zealand without human assistance

**indigenous forest land** means land wholly or predominantly under the cover of indigenous flora

**landholding**,—

- (a) in the case of land subject to a forest sink covenant as defined in section 67X, means a registered—

- (i) freehold estate in that land; or
  - (ii) leasehold estate in that land; or
  - (iii) interest in that land that entitles a person to receive units or the value of units based on carbon sequestration by that forest sink; but does not include a registered interest by way of charge or security:
- (b) in any other case, means an estate, right, title, or interest of any kind in or over an area of land by or under which indigenous timber may be harvested; but does not include an interest by way of charge or security

**mineral** has the same meaning as in section 2(1) of the Crown Minerals Act 1991

**mining operation** means any operation in connection with mining, exploring, or prospecting for any mineral

**Minister** means the Minister of Forestry

**Ministry** means the Ministry of Agriculture and Forestry or such other Ministry as has, with the authority of the Prime Minister, for the time being assumed responsibility for the relevant function or matter

**organism** means a living animal or plant; and includes any micro-organism not classifiable as either but having the properties of living matter

**owner**—

- (a) means any person who owns any landholding; and
- (b) includes—
  - (i) the owners of any landholding where it is owned by 2 or more persons; and
  - (ii) a group of owners of landholdings who are operating under the same sustainable management plan

**planted indigenous forest** means any indigenous timber trees or tree ferns that have been planted on land that was not indigenous forest land immediately before such planting and was not indigenous forest land immediately before the land was prepared for such planting

**registered** means,—

- (a) in relation to a sustainable forest management plan or sustainable forest management permit, recorded in accordance with section 67K;
- (b) in relation to a sawmill, registered in accordance with section 67D

**salvaged timber** means—

- (a) timber from trees that have fallen naturally;
- (b) timber from trees that were felled to waste before 3 July 1989;
- (c) stumps remaining from any timber felled before that date:



(d) roots remaining from any timber felled before that date;—

and **salvaged stump** and **salvaged root** have corresponding meanings

**sawmill** means any factory or industrial plant (whether permanently fixed or portable) that is directly dependent on supplies of logs and produces sawn timber or wood chips from the timber, whether for sale, use, or further treatment or processing; and includes any chipmill that produces woodchips and any industrial plant (whether permanently fixed or portable) used to process tree ferns; and includes any industrial plant (whether combined with or separate from any plant used to produce sawn timber or woodchips) that is used to produce veneer

**Secretary** means the chief executive of the Ministry

**specified Maori land** means land having the status of Maori land or General land owned by Maori, as defined in section 4 of Te Ture Whenua Maori Act 1993, and originally reserved or granted under—

- (a) the South Island Landless Maori Act 1906; or
- (b) section 12 of the Maori Land Amendment Act 1914; or
- (c) section 88 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1916; or
- (d) section 110 of the Maori Purposes Act 1931

**stump** means the basal part of a living or dead tree (whether rooted or uprooted), being the roots and that part of the trunk that extends from the groundline to a point (up the trunk) equal to the maximum diameter of the trunk; and, for the purposes of this definition, any remnant of a tree shall be regarded as part of a complete tree

**sustainable forest management** means the management of an area of indigenous forest land in a way that maintains the ability of the forest growing on that land to continue to provide a full range of products and amenities in perpetuity while retaining the forest's natural values

**sustainable forest management permit** means a sustainable forest management permit executed under section 67M

**sustainable forest management plan** or **plan** means a sustainable forest management plan approved under section 67F

**timber**—

- (a) means—
  - (i) trees (excluding cuttings, suckers, and shoots); and
  - (ii) woody plants able to be milled; and
- (b) includes branches, roots, and stumps of trees and other woody plants able to be milled, logs, woodchips, wood products, veneer, tree ferns, and tree fern fibre

**tree fern** means all species of the families *Cyatheaceae* and *Dicksoniaceae*

**trees** includes not only timber trees, but also all other kinds of trees, shrubs, and bushes, seedlings, saplings, cuttings, suckers, and shoots of every description

**vehicle** means any wheeled or tracked device or hovercraft capable of carrying a person or persons, whether or not it is powered by an internal combustion engine

**vessel** has the same meaning as in section 2 of the Harbours Act 1950

**working day** means any day except—

- (a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
  - (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
  - (b) a day in the period commencing with 20 December in any year and ending with 15 January in the following year.
- (2) Unless in any case the context otherwise requires, every reference in this Act or any other Act or in any regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever in force at the date on which this subsection comes into force—
- (a) to the Minister of Forests, shall hereafter be read as a reference to the Minister of Forestry;
  - (b) to the New Zealand Forest Service, shall hereafter be read as a reference to the Ministry of Forestry;
  - (c) to the Director-General of Forests or to a Conservator, shall hereafter be read as a reference to the Secretary of Forestry;
  - (d) to a forest officer, shall hereafter be read as a reference to a forestry officer.

Compare: 1921–22 No 43 s 2; 1939 No 39 s 25

Section 2(1) **aircraft**: inserted, on 19 November 1976, by section 2(1) of the Forests Amendment Act 1976 (1976 No 45).

Section 2(1) **aircraft**: amended, on 1 September 1990, pursuant to section 101(1) of the Civil Aviation Act 1990 (1990 No 98).

Section 2(1) **amenity values**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **animal**: inserted, on 19 November 1976, by section 2(1) of the Forests Amendment Act 1976 (1976 No 45).

Section 2(1) **approved**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **cattle**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **conservancy**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **Conservator**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **coupe**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **Director**: repealed, on 25 October 1960, by section 2(2) of the Forests Amendment Act 1960 (1960 No 62).

Section 2(1) **Director-General**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **exotic**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **finished or manufactured indigenous timber product**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **firearm**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **forest land**: inserted (with effect on 1 April 1987), on 1 July 1987, by section 3(2) of the Forests Amendment Act 1987 (1987 No 118).

Section 2(1) **forest officer**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **forest produce** or **forest product**: amended (with effect on 1 April 1987), on 1 July 1987, by section 3(3) of the Forests Amendment Act 1987 (1987 No 118).

Section 2(1) **forest produce** or **forest product**: amended, on 26 October 1967, by section 2 of the Forests Amendment Act 1967 (1967 No 37).

Section 2(1) **forestry officer**: replaced, on 11 November 1998, by section 9(1) of the Ministry of Agriculture and Forestry (Restructuring) Act 1998 (1998 No 106).

Section 2(1) **forestry sector**: inserted (with effect on 1 April 1987), on 1 July 1987, by section 3(2) of the Forests Amendment Act 1987 (1987 No 118).

Section 2(1) **groundline**: inserted, on 30 March 1995, by section 2(1) of the Forests Amendment Act 1995 (1995 No 10).

Section 2(1) **hunt or kill**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **indigenous**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **indigenous forest land**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **indigenous State forest land**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **landholding**: replaced, on 14 November 2006, by section 31(1) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 2(1) **management plan**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **mineral**: inserted, on 30 March 1995, by section 2(2) of the Forests Amendment Act 1995 (1995 No 10).

Section 2(1) **mining operation**: inserted, on 30 March 1995, by section 2(2) of the Forests Amendment Act 1995 (1995 No 10).

Section 2(1) **Minister**: replaced, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **Ministry**: replaced, on 1 March 1998, by section 4 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 2(1) **organism**: inserted, on 16 December 1983, by section 2(1) of the Forests Amendment Act 1983 (1983 No 136).

Section 2(1) **owner**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **planted indigenous forest**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **planted indigenous forest**: amended, on 20 May 2004, by section 3(2) of the Forests Amendment Act 2004 (2004 No 49).

Section 2(1) **registered**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **registered** paragraph (a): amended, on 30 March 1995, by section 2(5) of the Forests Amendment Act 1995 (1995 No 10).

Section 2(1) **salvaged timber**: replaced, on 30 March 1995, by section 2(3) of the Forests Amendment Act 1995 (1995 No 10).

Section 2(1) **sawmill**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **sawmill**: amended, on 1 July 1994, by section 2 of the Forests Amendment Act 1994 (1994 No 33).

Section 2(1) **Secretary**: replaced, on 1 March 1998, by section 4 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 2(1) **Service** or **Forest Service**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **specified Maori land**: inserted, on 20 May 2004, by section 3(3) of the Forests Amendment Act 2004 (2004 No 49).

Section 2(1) **State forest land**: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 2(1) **stump**: inserted, on 30 March 1995, by section 2(4) of the Forests Amendment Act 1995 (1995 No 10).

Section 2(1) **sustainable forest management**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **sustainable forest management permit**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **sustainable forest management plan** or **plan**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **timber**: replaced, on 20 May 2004, by section 3(4) of the Forests Amendment Act 2004 (2004 No 49).

Section 2(1) **tree fern**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **vehicle**: inserted, on 19 November 1976, by section 2(1) of the Forests Amendment Act 1976 (1976 No 45).

Section 2(1) **vessel**: inserted, on 19 November 1976, by section 2(1) of the Forests Amendment Act 1976 (1976 No 45).

Section 2(1) **West Coast indigenous production forest**: repealed, on 20 May 2004, by section 3(5) of the Forests Amendment Act 2004 (2004 No 49).

Section 2(1) **wildlife**: repealed (with effect on 1 April 1987), on 1 July 1987, by section 3(1) of the Forests Amendment Act 1987 (1987 No 118).

Section 2(1) **working day**: inserted, on 1 July 1993, by section 2(1) of the Forests Amendment Act 1993 (1993 No 7).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1) **working plan**: repealed, on 19 November 1976, by section 2(2) of the Forests Amendment Act 1976 (1976 No 45).

Section 2(2): inserted, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

## Part 1 Administration

### 3 Minister of Forestry

- (1) The Governor-General may from time to time appoint a member of the Executive Council to hold office during his pleasure as Minister of Forestry.
- (2) The member of the Executive Council holding office as the Commissioner of State Forests when this Act comes into force shall be deemed to have been appointed as Minister of Forestry under this Act.
- (3) All references to the Commissioner of State Forests in any Act, regulation, rule, bylaw, order, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, unless inconsistent with the context, be read hereafter as references to the Minister of Forestry.
- (4) Any contract, agreement, licence, lease, permit, or other right or authority which the Minister is authorised to enter into or grant under this or any other enactment shall be entered into or granted by him in the name and on behalf of the Sovereign. All such contracts, agreements, licences, leases, permits, and other authorities that have been entered into or granted by the Commissioner of State Forests before this Act comes into force shall be deemed to have been entered into or granted by him on behalf of the Sovereign, and all rights, powers, and liabilities vested in or imposed upon the Commissioner of State Forests or the Minister by any such contracts, agreements, licences, leases, permits, and other rights and authorities shall be deemed to vest in the Sovereign when this Act comes into force.
- (5) The Minister may from time to time exercise on behalf of the Sovereign all the Sovereign's rights and powers under any such contract, agreement, licence, lease, permit, right, or authority.

Compare: 1921–22 No 43 s 4

Section 3 heading: replaced, on 1 April 1987, by section 2(2)(a).

Section 3(1): amended, on 1 April 1987, by section 2(2)(a).

Section 3(2): amended, on 1 April 1987, by section 2(2)(a).

Section 3(3): amended, on 1 April 1987, by section 2(2)(a).

**4 Delegation of Minister's powers**

*[Repealed]*

Section 4: repealed, on 15 December 2005, by section 3 of the Forests Amendment Act 2005 (2005 No 103).

**4A Delegation of powers by Secretary**

*[Repealed]*

Section 4A: repealed, on 15 December 2005, by section 4 of the Forests Amendment Act 2005 (2005 No 103).

**5 New Zealand Forest Service**

*[Repealed]*

Section 5: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**6 Conservancies**

*[Repealed]*

Section 6: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**7 Director-General of Forests**

*[Repealed]*

Section 7: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**8 Appointment of Conservators of Forests**

*[Repealed]*

Section 8: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**9 Deputy of Secretary**

*[Repealed]*

Section 9: repealed, on 1 March 1998, by section 4 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

**10 Appointment of other officers**

- (1) There may from time to time be appointed as officers or employees of the public service such other officers and employees as may be necessary for the administration of this Act.

- (2) *[Repealed]*

Compare: 1921–22 No 43 s 5(1)(d)

Section 10(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 10(2): repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

## **11 Forestry officers**

- (1) There may from time to time be appointed under the Public Service Act 2020 such forestry officers as may be required for the purposes of this Act.
- (2) The Minister may from time to time appoint as a forestry officer for the purposes of this Act any person employed in a State enterprise within the meaning of the State-Owned Enterprises Act 1986 or in a Crown Research Institute within the meaning of the Crown Research Institutes Act 1992, and may prescribe the functions and powers of a person so appointed.
- (3) No person is to be treated as employed in the State services for the purposes of the Public Service Act 2020, or in the Government service for the purposes of the Government Superannuation Fund Act 1956, by reason only of the person's appointment under subsection (2).

Section 11: replaced, on 11 November 1998, by section 9(2) of the Ministry of Agriculture and Forestry (Restructuring) Act 1998 (1998 No 106).

Section 11(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 11(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

## **12 Officers not eligible to hold licence or lease under this Act**

*[Repealed]*

Section 12: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

## **13 Protection of forestry officers, etc**

Nothing done by any forestry officer, by an employee of the Ministry, or by any person appointed to a committee under section 15(2)(b) or to an Authority under section 71A shall, if done in good faith in the exercise of powers or in the performance of duties under this Act, subject that person to any personal liability in respect thereof.

Section 13: replaced (with effect on 1 April 1987), on 1 July 1987, by section 5 of the Forests Amendment Act 1987 (1987 No 118).

## **14 Functions of the Forest Service**

*[Repealed]*

Section 14: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

## **15 Powers of Minister**

- (1) The Minister shall have such powers as are reasonably necessary to enable the Ministry to perform its functions.
- (2) Without limiting the provisions of subsection (1) the Minister may, from time to time,—

- (a) make financial grants or loans to persons and bodies engaged in the forestry sector:
- (b) appoint persons to such committees as the Minister thinks fit to advise or otherwise assist the Minister or the Secretary on any matters relating to forestry that the Minister may specify:
- (c) by agreement acquire any interest in land for the purposes of research, training, regulatory functions, or demonstrating any matter relating to the forestry sector, and may likewise dispose of any such interest.

Section 15: replaced (with effect on 1 April 1987), on 1 July 1987, by section 6 of the Forests Amendment Act 1987 (1987 No 118).

### **15A Powers in respect of leased land**

*[Repealed]*

Section 15A: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

### **15B Collection and disclosure of statistical information**

- (1) The Secretary may from time to time require returns to be made by growers, producers, distributors, processors, importers, exporters, or consumers of forest produce, and by other persons engaged in the forestry sector, and such returns shall give details as may be required relating to trees, timber, forest produce, or other goods grown, acquired, sawn, cut, manufactured, processed, converted, held, produced, sold, imported, exported, or disposed of.
- (2) Information furnished to the Secretary under this section shall be used for statistical purposes only.
- (3) All statistical information made available by the Secretary shall be arranged in such a manner as to prevent any particulars being identifiable by any person (other than the person by whom such particulars were supplied) as particulars relating to any particular person.
- (4) Notwithstanding subsection (3) the Secretary may disclose the following information:
  - (a) information supplied by a person in respect of which disclosure is consented to in writing by the person who supplied it:
  - (b) information available to the public under any Act or public document:
  - (c) information supplied by a local authority.
- (5) Except in respect of a prosecution under this Act, no return or copy of a return made pursuant to this Act shall be disclosed or used as evidence in any proceedings whatever, and no forestry officer shall be compelled to give oral testimony in any proceedings regarding any return.

Section 15B: inserted (with effect on 1 April 1987), on 1 July 1987, by section 7 of the Forests Amendment Act 1987 (1987 No 118).



### *Financial provisions*

#### **16 Receipts and expenditure**

- (1) All moneys received by the Crown from the operation of this Act shall be paid into a Crown Bank Account and shall be credited to such funds or accounts as may be determined from time to time by the Minister of Finance.
- (2) All moneys payable under this Act shall be paid out of moneys from time to time appropriated by Parliament for the purpose.
- (3) *[Repealed]*
- (4) Notwithstanding subsection (2), any person or body, unless prohibited from doing so by any Act, regulation, or instrument of trust, may make to the Minister a grant or gift of money for specified or general purposes of this Act, and the Minister may accept any such grant or gift for such purposes.
- (5) All money received by the Minister under subsection (4) shall be paid into a Crown Bank Account to the credit of an account known as the Forest Service Grants and Gifts Trust Account, and shall be applied, without further appropriation than this subsection, to the purposes for which the grant or gift was accepted by the Minister.

Compare: 1948 No 56 s 3

Section 16(1): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 16(3): repealed (with effect on 1 April 1987), on 1 July 1987, by section 8 of the Forests Amendment Act 1987 (1987 No 118).

Section 16(4): inserted, on 22 October 1981, by section 3 of the Forests Amendment Act 1981 (1981 No 69).

Section 16(5): inserted, on 22 October 1981, by section 3 of the Forests Amendment Act 1981 (1981 No 69).

Section 16(5): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 16(5): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

#### **17 Proportion of timber royalties applicable for roadmaking in certain cases**

*[Repealed]*

Section 17: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

## **Part 2**

### **State forest land**

#### **18 Minister may set apart land as State forest land**

*[Repealed]*

Section 18: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**18A Certificates of title for State forest land**

*[Repealed]*

Section 18A: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**19 Effect of setting apart land as State forest land**

*[Repealed]*

Section 19: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**20 Forest sanctuaries**

*[Repealed]*

Section 20: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**21 Errors of description in Proclamations may be amended**

*[Repealed]*

Section 21: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**22 Exchanges of land and forest produce**

*[Repealed]*

Section 22: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**23 Fencing of State forest land**

*[Repealed]*

Section 23: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**24 State forest land not to be dealt with except pursuant to this Act**

*[Repealed]*

Section 24: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**25 Maps of State forest land to be prepared and recorded**

*[Repealed]*

Section 25: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**26 Management plans**

*[Repealed]*

Section 26: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**27 Forest produce presumed to be the property of the Crown**

*[Repealed]*

Section 27: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**28 Property in forest produce not to pass until paid for**

*[Repealed]*

Section 28: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**29 Power to sell by auction without licence as auctioneer**

*[Repealed]*

Section 29: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

*Licences, leases, permits, etc*

*[Repealed]*

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

**30 Power to grant licences, leases, permits, etc**

*[Repealed]*

Section 30: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**31 Licences**

*[Repealed]*

Section 31: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**32 Leases**

*[Repealed]*

Section 32: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**33 Permits**

*[Repealed]*

Section 33: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**34 Service tenancies**

*[Repealed]*

Section 34: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**35 Mining privileges and coal-mining rights***[Repealed]*

Section 35: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**36 Timber-cutting leases or licences over coal-bearing lands in State forests***[Repealed]*

Section 36: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**37 Minister to enforce obligations of licensee, etc***[Repealed]*

Section 37: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**38 Boundaries to be kept clear***[Repealed]*

Section 38: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**39 Forfeiture of forest produce not removed during currency of licence***[Repealed]*

Section 39: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**40 Forfeiture of licences, etc***[Repealed]*

Section 40: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**41 Production of licence, etc, on demand***[Repealed]*

Section 41: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**41A Seizure of firearms***[Repealed]*

Section 41A: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**42 Power of entry on land***[Repealed]*

Section 42: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

*Seizure of forest produce*

*[Repealed]*

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

**43 Seizure of forest produce**

*[Repealed]*

Section 43: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**44 Procedure subsequent to seizure**

*[Repealed]*

Section 44: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**45 Disposal of forfeited produce**

*[Repealed]*

Section 45: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

*Protection of State forest land against fire*

*[Repealed]*

Heading: repealed, on 20 October 1955, pursuant to section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**46 Unlawful lighting of fires on State forest land**

*[Repealed]*

Section 46: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**47 Offence to leave burning or smouldering substance**

*[Repealed]*

Section 47: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**48 Right holders to provide firefighting equipment**

*[Repealed]*

Section 48: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**49 Duty to endeavour to extinguish fires**

*[Repealed]*

Section 49: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**50 Offence not to comply with 2 last preceding sections**

*[Repealed]*

Section 50: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**51 Requisition of assistance to extinguish fires**

*[Repealed]*

Section 51: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**52 Costs of firefighting**

*[Repealed]*

Section 52: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

**53 Operation of Forest and Rural Fires Act 1947**

*[Repealed]*

Section 53: repealed, on 20 October 1955, by section 62(1) of the Forest and Rural Fires Act 1955 (1955 No 44).

*Offences***54 False entries or returns**

Every person who makes or causes to be made, in any book, return, declaration, or statement required by this Act or by the regulations thereunder to be kept or made, any entry or writing which he knows to be false in any material particular commits an offence and shall be liable on conviction to a fine not exceeding \$500:

provided that if it be proved that the payment of royalties or other moneys payable to the Crown has been evaded, and that the false entry or writing has been made or used for any purpose in connection with the evasion, the court may add to the fine imposed on the conviction a further penalty not exceeding 3 times the amount of the moneys, the payment whereof shall be proved to have been so evaded.

Compare: 1921–22 No 43 s 42

Section 54: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 54: amended, on 19 November 1976, by section 12 of the Forests Amendment Act 1976 (1976 No 45).

**55 Unlawful cutting or removal of forest produce**

*[Repealed]*

Section 55: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**56 Unlawful interference with property of Crown**

*[Repealed]*

Section 56: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**57 Offences with respect to State forest land and wildlife thereon**

*[Repealed]*

Section 57: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**58 Cattle trespassing on State forest land may be destroyed**

*[Repealed]*

Section 58: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

**59 Offences with respect to forestry officers**

Every person commits an offence against this Act who—

- (a) offers violence to, or assaults, obstructs, threatens, or attempts to intimidate, any forestry officer or other person under the control of the Secretary while that officer or person is acting in the exercise of his powers or the discharge of his duties under this Act; or
- (b) gives, or agrees to give, or offers to any such officer or person, any gift, or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown, by that officer or person in or in relation to the exercise of such powers or the discharge of such duties as aforesaid.

Compare: 1921–22 No 43 s 41

Section 59 heading: amended, on 1 April 1987, by section 2(2)(d).

Section 59(a): amended (with effect on 1 April 1987), on 1 July 1987, by section 19(1)(b) of the Forests Amendment Act 1987 (1987 No 118).

Section 59(a): amended, on 1 April 1987, by section 2(2)(c).

Section 59(a): amended, on 1 April 1987, by section 2(2)(d).

Section 59(b): amended (with effect on 1 April 1987), on 1 July 1987, by section 19(1)(c) of the Forests Amendment Act 1987 (1987 No 118).

**60 Other offences**

Every person commits an offence against this Act who—

- (a) impersonates or falsely pretends to be a forestry officer or employee of the Ministry; or
- (b) without reasonable cause, fails to make a statistical or other return required by this Act before the time within which the Secretary requires it to be made expires; or

- (c) counterfeits upon or unlawfully fixes to any forest produce any marks, label, or certificate used by and appropriated for the use of forestry officers or other persons in the exercise of their duties under this Act, or without due authority makes or causes to be made or uses or causes to be used, or has, in that person's possession, any brand, stamp, or badge that resembles or purports to be a brand, stamp, or badge such as is usually used by forestry officers or other persons when exercising powers under this Act.

Section 60: replaced, on 1 July 1987, by section 9(1) of the Forests Amendment Act 1987 (1987 No 118).

## **61 General penalty for offences**

Every person who commits an offence against this Act shall be liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$2,000 and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues:
- (b) in the case of a body corporate, to a fine not exceeding \$12,000, and, if the offence is a continuing one, to a fine not exceeding \$1,200 for every day during which the offence continues.

Section 61: replaced, on 1 July 1987, by section 10(1) of the Forests Amendment Act 1987 (1987 No 118).

Section 61: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **62 Liability for loss or damage**

Every person convicted of an offence under this Act shall be liable for any loss or damage caused by the act constituting the offence in addition to the penalty for the offence, and the amount payable in respect of that liability may be awarded by the court in fixing the penalty and may be recovered as a fine. In assessing the amount so payable the court may take into account salaries, wages, and incidental expenses incurred in the investigation of the act constituting the offence and in remedying the damage caused by that act and all other relevant factors.

Compare: 1921–22 No 43 s 57

## **63 Limitation of proceedings**

Any proceedings in respect of any offence committed against this Act, or for the recovery of any penalty, fine, or forfeiture imposed thereunder, may be commenced at any time within 12 months from the time of the discovery of the offence.

Compare: 1921–22 No 43 s 58

Section 63: amended, on 19 November 1976, by section 18 of the Forests Amendment Act 1976 (1976 No 45).



## **Part 2A**

### **Use of State forest land for public recreation**

*[Repealed]*

Part 2A: repealed (with effect on 1 April 1987), on 1 July 1987, pursuant to section 11(1) of the Forests Amendment Act 1987 (1987 No 118).

#### **63A Recreation areas**

*[Repealed]*

Section 63A: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

#### **63B Establishment of State forest parks**

*[Repealed]*

Section 63B: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

#### **63C Management plans for State forest parks**

*[Repealed]*

Section 63C: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

#### **63D Open indigenous State forests**

*[Repealed]*

Section 63D: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

#### **63E Wilderness areas**

*[Repealed]*

Section 63E: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

#### **63F Regulations as to use of State forest land for public recreation**

*[Repealed]*

Section 63F: repealed (with effect on 1 April 1987), on 1 July 1987, by section 11(1) of the Forests Amendment Act 1987 (1987 No 118).

#### **63G Offences**

*[Repealed]*

Section 63G: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

#### **63H Application of other Parts of this Act**

*[Repealed]*

Section 63H: repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

### Part 3

#### Ministry of Forestry administration of private forests

Part 3 heading: amended, on 1 April 1987, by section 2(2)(b).

#### 64 Minister of Forestry may act as agent for owner of private forest

- (1) Subject to the terms of his appointment, the Minister of Forestry or Crown Forestry Management Limited may act as the agent of the Minister in charge of any other department of State or of any local authority or person for the purpose of establishing, managing, or protecting any forest, or managing or protecting any land used or intended to be used for any purpose in connection with any forest or proposed forest, or for the purpose of appraising or selling or utilising any timber or other forest produce, or making inspections and preparing reports for any such purpose as aforesaid, or for all or any of those purposes.
- (2) Any such Minister, local authority, or person having power to carry out any such purpose may appoint the Minister of Forestry or Crown Forestry Management Limited to act as his agent for that purpose for such period, on such terms and conditions, and at such remuneration, as may be determined by agreement.
- (3) *[Repealed]*
- (4) All expenses incurred by the Minister under this section may be paid out of moneys appropriated by Parliament for the purpose, and all fees and other moneys received by him in respect of services rendered by him while acting as agent under this section shall be paid into a Crown Bank Account.
- (5) Notwithstanding anything contained in Te Ture Whenua Maori Act 1993, the provisions of this section shall apply to Maori land as defined by that Act, and the assembled owners of any such land may pass, in the manner prescribed by Part 9 of that Act, a resolution appointing the Minister or Crown Forestry Management Limited as their agent.
- (6) Where the Minister is appointed under this section to act as agent for any purpose in connection with any land, forest, timber, or other forest produce—
  - (a) *[Repealed]*
  - (b) he may execute and issue in his own name as agent for and on behalf of the Minister, local authority, or person for whom he is acting such instruments as may be necessary to enable him to exercise his powers and carry out his duties; and
  - (c) he may fix or approve any price or payment to be paid or made under any such instrument.

Compare: 1926 No 69 s 2

Section 64 heading: amended, on 1 April 1987, by section 2(2)(a).

Section 64(1): amended, on 31 May 1996, by clause 3 of the State-Owned Enterprises (Crown Forestry Management Limited) Order 1996 (SR 1996/122).

Section 64(1): amended, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 64(1): amended, on 1 April 1987, by section 2(2)(a).

Section 64(2): amended, on 31 May 1996, by clause 3 of the State-Owned Enterprises (Crown Forestry Management Limited) Order 1996 (SR 1996/122).

Section 64(2): amended, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 64(2): amended, on 1 April 1987, by section 2(2)(a).

Section 64(3): repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 64(4): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 64(5): amended on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 64(5): amended, on 31 May 1996, by clause 3 of the State-Owned Enterprises (Crown Forestry Management Limited) Order 1996 (SR 1996/122).

Section 64(5): amended, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

Section 64(6)(a): repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).

## **65 Sale of Maori-owned forest**

*[Repealed]*

Section 65: repealed, on 1 April 1954, by section 473(1) of the Maori Affairs Act 1953 (1953 No 94).

## **66 Administration of certain timber-bearing land in Buller Coalfield Reserve**

*[Repealed]*

Section 66: repealed, on 27 November 1953, by section 5(5) of the Reserves and Other Lands Disposal Act 1953 (1953 No 107).

## **67 Revenue under last preceding section**

*[Repealed]*

Section 67: repealed, on 27 November 1953, by section 5(5) of the Reserves and Other Lands Disposal Act 1953 (1953 No 107).

# **Part 3A**

## **Provisions relating to indigenous forests**

Part 3A: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

## **67A Part binds the Crown**

This Part binds the Crown.

Section 67A: replaced, on 20 May 2004, by section 4(1) of the Forests Amendment Act 2004 (2004 No 49).

**67AB Part does not permit felling or harvesting other than in accordance with relevant enactment**

In the case of land held, managed, or administered by the Crown under the Conservation Act 1987 or any Act listed in Schedule 1 of that Act, this Part does not permit the felling or harvesting of timber other than in accordance with the provisions of the Act under which the land on which the timber is growing is held, managed, or administered.

Section 67AB: inserted, on 20 May 2004, by section 4(1) of the Forests Amendment Act 2004 (2004 No 49).

**67B Purpose**

The purpose of this Part is to promote the sustainable forest management of indigenous forest land.

Section 67B: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

*Export controls*

Heading: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

**67C Prohibition on export of certain indigenous forest produce**

- (1) No person shall export from New Zealand indigenous timber, except the following:
- (a) any grade of sawn beech or sawn rimu (other than wood chips), where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area subject to, and managed in accordance with, a registered sustainable forest management plan or registered sustainable forest management permit:
  - (b) any finished or manufactured indigenous timber product, regardless of the source of the timber used in the product:
  - (c) any personal effects:
  - (d) any stump or root, whether whole or sawn, where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area subject to, and managed in accordance with, a registered sustainable forest management plan:
  - (e) any salvaged stump or salvaged root, whether whole or sawn, where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area that is not indigenous forest land:
  - (f) any tree fern trunk or part of a tree fern trunk, or fibres from a tree fern trunk,—
    - (i) where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area subject to, and managed in accordance with, a registered sustainable forest management plan; or

- (ii) from indigenous forest land, where the Secretary has, subject to subsection (2), given his or her prior written approval to the removal of that timber; or
  - (iii) where the Secretary has stated in writing that he or she is satisfied that that timber is from land that is not indigenous forest land:
- (g) any indigenous timber—
  - (i) from a planted indigenous forest, if that timber is, or is from, a shrub, bush, seedling, or sapling; or
  - (ii) other than indigenous timber to which subparagraph (i) applies, if the Secretary has stated in writing that he or she is satisfied that the timber has been harvested from a planted indigenous forest; or
  - (iii) harvested from a forest subject to a forest sink covenant established in accordance with Part 3B.
- (2) Before giving approval under subsection (1)(f)(ii), the Secretary must be satisfied that the area concerned can continue to supply an annual or periodic non-diminishing yield of tree fern trunks in perpetuity.
- (3) No indigenous timber (other than personal effects and any finished or manufactured indigenous timber products) may be exported from New Zealand—
  - (a) unless—
    - (i) a notice of intention to export has been given to the Secretary in a form approved by the Secretary; and
    - (ii) the notice of intention includes or is accompanied by a statement of the source of the timber; and
    - (iii) the timber has been presented to a forestry officer for inspection and he or she has inspected and approved it; and
  - (b) until the expiry of a period (if any) specified for the purposes of this paragraph in the notice of intention.
- (4) For the purposes of this section,—
  - (a) **sawn beech** means sawn beech timber; and
  - (b) **sawn rimu** means sawn rimu timber—  
of any length that has a cross-sectional area not exceeding 30 000 square millimetres.

Section 67C: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67C(1)(e): amended, on 30 March 1995, by section 3(1) of the Forests Amendment Act 1995 (1995 No 10).

Section 67C(1)(g): inserted, on 20 May 2004, by section 5(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67C(1)(g)(ii): amended, on 14 November 2006, by section 31(2) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67C(1)(g)(iii): inserted, on 14 November 2006, by section 31(2) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67C(3): replaced, on 20 May 2004, by section 5(2) of the Forests Amendment Act 2004 (2004 No 49).

Section 67C(4): replaced, on 30 March 1995, by section 3(2) of the Forests Amendment Act 1995 (1995 No 10).

### *Sawmill controls*

Heading: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

#### **67D Prohibition on milling indigenous timber**

- (1) No person may mill any indigenous timber at a sawmill unless the sawmill is registered in accordance with regulations made under section 72, and at least 1 of the following paragraphs applies to the harvesting of the timber:
- (a) the timber has been harvested from an area of land subject to, and managed in accordance with, a registered sustainable forest management plan or a registered sustainable forest management permit and the harvest is in accordance with an annual logging plan approved under section 67H;
  - (b) the Secretary has stated in writing that he or she is satisfied that—
    - (i) the timber has been or will be harvested from—
      - (A) specified Maori land that is not land on which a forest specified in an Order in Council made under section 67DA is situated; or
      - (B) land held, managed, or administered by the Crown under the Conservation Act 1987 or any Act listed in Schedule 1 of that Act; or
      - (C) a planted indigenous forest; or
      - (D) a forest subject to a forest sink covenant established in accordance with Part 3B; or
    - (ii) the timber has been or will be felled—
      - (A) for a public work as defined in the Public Works Act 1981; or
      - (B) with the approval of the owner, for a mining operation; or
      - (C) for construction or maintenance of an access way or water impoundment, or for a purpose directly necessary or desirable for scientific research; or
    - (iii) the timber was first milled before 1 July 1993; or
    - (iv) the timber is salvaged timber that has been or will be harvested from an area of land that is not indigenous forest land; or

- (v) the timber has been or will be harvested from windthrown trees or trees (whether standing or not) that have died from natural causes on land that is not subject to either a registered sustainable forest management plan or a registered sustainable forest management permit, and that he or she is satisfied that the forest's natural values will be maintained:
  - (c) the timber is a tree fern trunk, or is from a tree fern trunk, and the Secretary has stated in writing that he or she is satisfied that the timber has been or will be harvested from an area of land that is not indigenous forest land:
  - (d) the timber is a tree fern trunk, or is from a tree fern trunk, and has been or will be harvested, with the prior written approval of the Secretary, from an area of land that is not subject to either a registered sustainable forest management plan or a registered sustainable forest management permit:
  - (e) the timber has been seized under section 67R and sold, released, or disposed of in accordance with section 67S and the provisions of subparts 1, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 and the Secretary has stated in writing that the person to whom the timber is sold, released, or disposed was not involved in the felling and harvesting of the timber in contravention of this Part.
- (2) Before giving an approval under subsection (1)(d), the Secretary must be satisfied that the area concerned can continue to supply an annual or periodic non-diminishing yield of tree fern trunks in perpetuity, and that yield must include the harvesting of windthrown ferns or dead ferns as they become available.
- (3) On the application of the owner of any area of land not subject to a sustainable forest management plan or a sustainable forest management permit, the Secretary may, in consultation with the Director-General of Conservation,—
- (a) approve the harvesting and milling, for the owner's personal use, of not more than 50 cubic metres of indigenous timber (being roundwood) in any 10-year period; and
  - (b) define the area from which the timber may be harvested and milled.

Section 67D: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67D(1): replaced, on 20 May 2004, by section 6(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67D(1)(b)(i)(D): inserted, on 14 November 2006, by section 31(3) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67D(1)(e): amended, on 1 October 2012, by section 317(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 67D(2): replaced, on 20 May 2004, by section 6(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67D(3): amended, on 20 May 2004, by section 6(2) of the Forests Amendment Act 2004 (2004 No 49).

**67DA Forests on specified Maori land to which sawmill controls apply**

- (1) The Governor-General may from time to time, by Order in Council, specify forests on specified Maori land to which section 67D(1)(b)(i)(A) does not apply.
- (2) The Governor-General may make an Order in Council under subsection (1) in relation to a forest only if he or she is satisfied that the owner of the forest has agreed with the Minister to—
  - (a) surrender the right to mill indigenous timber harvested from the forest; or
  - (b) surrender the right to mill indigenous timber harvested from the forest other than in accordance with a registered sustainable forest management plan or a registered sustainable forest management permit.

Section 67DA: inserted, on 20 May 2004, by section 7 of the Forests Amendment Act 2004 (2004 No 49).

*Felling controls*

Heading: inserted, on 20 May 2004, by section 7 of the Forests Amendment Act 2004 (2004 No 49).

**67DB Prohibition on felling indigenous timber**

Where any land is specified in a registered sustainable forest management plan or a registered sustainable forest management permit as land to which that plan or permit applies, no person may fell indigenous timber on that land except in accordance with that plan or permit.

Section 67DB: inserted, on 20 May 2004, by section 7 of the Forests Amendment Act 2004 (2004 No 49).

*Sustainable forest management plans*

Heading: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

**67E Sustainable forest management plans**

- (1) For the purposes of this Part, the Secretary may approve sustainable forest management plans under section 67F.
- (2) A sustainable forest management plan applies to the area or areas of indigenous forest land specified in that plan.
- (3) A sustainable forest management plan applies to the land specified in that plan,—
  - (a) in the case of a landholding having a term of less than 50 years, for the balance of that term; or
  - (b) in any other case, for the period specified in the plan, which period—
    - (i) must not be less than 50 years; and
    - (ii) may be renewed from time to time in accordance with section 67I.



Section 67E: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67E(2): replaced, on 20 May 2004, by section 8 of the Forests Amendment Act 2004 (2004 No 49).

Section 67E(3): replaced, on 20 May 2004, by section 8 of the Forests Amendment Act 2004 (2004 No 49).

### **67F Procedure for approval of sustainable forest management plans**

- (1) The owner of a landholding for an area of indigenous forest land may apply to the Secretary for approval of a draft sustainable forest management plan for all or part of that area.
- (1A) An application may be made by lodging the draft plan at a Ministry office.
- (2) As soon as practicable after lodgement of a draft plan and before making a decision in respect of the draft, the Secretary shall consult the Director-General of Conservation in every case, and shall also consult the chief executive of the Ministry of Maori Development if the area of indigenous forest land specified in the plan as the area of land to which the plan applies includes any Maori land.
- (3) The Secretary may require the owner to incorporate in the draft plan such amendments as the Secretary may specify in writing.
- (4) The Secretary may approve the draft plan with or without amendments.

Section 67F: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67F(1): replaced, on 20 May 2004, by section 9(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67F(1A): inserted, on 20 May 2004, by section 9(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67F(2): amended, on 20 May 2004, by section 9(2) of the Forests Amendment Act 2004 (2004 No 49).

### **67G Notice requirements**

Where the Secretary—

- (a) approves; or
- (b) amends; or
- (c) grants any exemption in respect of,—

the beech coupe size provisions in a sustainable forest management plan, and that approval, amendment, or exemption enables beech to be harvested in coupes of more than 0.5 hectares, he or she shall notify that approval, amendment, or exemption by a notice in writing to the owner and by a notice to the public published in 1 or more daily newspapers circulating in the area concerned.

Section 67G: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67G: amended, on 20 May 2004, by section 10 of the Forests Amendment Act 2004 (2004 No 49).

**67H Secretary's power to require amendments to plans**

- (1) Without limiting the generality of section 67F(3), the Secretary may, before approving a draft sustainable forest management plan, require the owner to amend the draft plan—
  - (a) to correct the description of the area or areas specified in the plan as the area or areas to which the plan applies:
  - (b) to reduce the proposed annual or periodic cut for any species:
  - (c) to provide for a recording system for the purposes of the plan, or to amend the proposed recording system:
  - (d) to reduce the size of, or to change the shape or location of, any coupe specified in the plan:
  - (e) to amend the low impact techniques specified in the plan for the single tree or small group harvesting:
  - (f) to incorporate such additional details as the Secretary may specify.
- (1A) Work for the harvesting of timber (including, but not limited to, the felling of timber and the construction of roads, tracks, or landings) must not be carried out on an area of land specified in a registered sustainable forest management plan unless that work is carried out in accordance with an annual logging plan approved by the Secretary.
- (2) In the case of an annual logging plan submitted to the Secretary in accordance with clause 9 of Schedule 2,—
  - (a) no work shall be carried out under the annual logging plan unless the plan has been approved by the Secretary:
  - (b) the Secretary may require the annual logging plan to be amended in such manner as he or she may specify in writing:
  - (c) the Secretary may require that the annual logging plan specify trees to be harvested and trees to be retained or may specify the trees to be harvested and the trees to be retained; and such trees shall be harvested or retained accordingly:
  - (d) as soon as practicable after receiving an annual logging plan, the Secretary shall either approve the plan or require the plan to be amended.
- (3) The Secretary shall give the owner notice in writing of any requirement under this section and shall include in the notice a statement to the effect that the owner has an opportunity to comment to the Secretary about the requirement.

Section 67H: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67H(1)(a): replaced, on 20 May 2004, by section 11(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67H(1A): inserted, on 20 May 2004, by section 11(2) of the Forests Amendment Act 2004 (2004 No 49).

**67I Other provisions relating to review and amendment of sustainable forest management plans**

- (1) While a sustainable forest management plan is current,—
  - (a) the Secretary and the owner may amend the plan at any time by agreement;
  - (b) the Secretary may amend the plan with or without the agreement of the owner, if either a natural event or an act constituting an offence against this Act—
    - (i) reduces significantly the amenity values or other natural values in the area to which the plan applies; or
    - (ii) reduces significantly the indigenous timber available for harvesting under the plan; or
    - (iii) otherwise renders the plan inoperative.
- (2) At 5-yearly or longer intervals, the Secretary, after consulting the owner and having regard to the views expressed by the owner, may review the plan and, subject to subsection (4), may require such amendments to be made to it as he or she thinks fit.
- (3) At the expiration of the term of the plan, the Secretary, after consulting the owner, may renew the plan subject to such amendments as the Secretary may require.
- (4) Before amending or renewing the plan, the Secretary shall consult with the Director-General of Conservation in every case, and shall also consult the chief executive of the Ministry of Maori Development if the land concerned includes any Maori land.
- (5) The Director-General of Conservation may require the Secretary to review any plan after 5 years has elapsed since the approval or last renewal of the plan.

Section 67I: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67I(1)(b)(ii): amended, on 20 May 2004, by section 12 of the Forests Amendment Act 2004 (2004 No 49).

**67J Matters to be incorporated in sustainable forest management plans**

- (1) The provisions of Schedule 2 shall apply in relation to sustainable forest management plans.
- (2) Where satisfied that compliance by an owner with any provision of a sustainable forest management plan is unreasonable or impractical, the Secretary may, after consultation with the Director-General of Conservation and also with the chief executive of the Ministry of Maori Development if the land concerned includes any Maori land, exempt the owner from compliance with that provision on such conditions as he or she thinks fit.

Section 67J: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

**67K Sustainable forest management plan to be recorded against record of title**

- (1) Every owner of land specified in a sustainable forest management plan shall, as soon as practicable after the plan has been approved, request the Registrar-General of Land to record the plan in accordance with this section.
- (2) The Registrar-General of Land must, at the request of the owner, note the plan in the register.
- (3) If no record of title for the land has been issued, the Registrar-General of Land must create a record of title for the plan.
- (4) No sustainable forest management plan may be received for the issue of a record of title under subsection (3) unless it has endorsed on it a certificate by a licensed cadastral surveyor certifying that the land specified in that plan is within the boundaries of a parcel of land identified on a plan lodged with the Surveyor-General or the Registrar-General of Land.
- (5) Where the land concerned is Maori land (as defined in section 4 of Te Ture Whenua Maori Act 1993) and that land is not within the boundaries of a parcel of land identified on a plan lodged in terms of subsection (4), the owner shall request the appropriate District Registrar of the Maori Land Court to enter on the memorial schedule of the Title Binder relating to the land a notification of the sustainable forest management plan; and the Registrar shall make the entry on that schedule accordingly and that entry shall be sufficient compliance with the requirements of this section.
- (6) Notwithstanding any rule of law or equity to the contrary, every sustainable forest management plan shall run with and bind the land specified in the plan and shall be deemed to be an interest in land for the purposes of the Land Transfer Act 2017.
- (7) Where any of the land to which the plan relates comprises part of land in a record or instrument of title, the owner may, instead of complying with section 224 of the Land Transfer Act 2017, indicate the boundaries of the land by reference to a diagram or an aerial photograph.
- (8) No action shall lie against the Crown under subpart 3 of Part 2 of the Land Transfer Act 2017 in respect of any such boundary not defined in accordance with section 224 of that Act.
- (9) The owner may at any time, in accordance with section 224 of the Land Transfer Act 2017 and in accordance with the regulations for the time being in force in that behalf, deposit a plan which shall—
  - (a) define such area or areas as may be mutually agreed upon by the Secretary and the owner; and
  - (b) for all purposes supersede the diagram or aerial photograph or relevant part of the diagram or aerial photograph; and
  - (c) when deposited, be deemed to be incorporated in the interest in land comprising the plan.

- (10) On the deposit of such plan, the Registrar-General of Land shall, if necessary, amend the description of the parcels included in the plan and shall endorse on any relevant record of title, lease, licence, or profit a memorial to the effect that the boundaries or such of the boundaries as are defined, have been surveyed.
- (11) Where—
- (a) the Secretary and an owner agree to vary or cancel any notification of a plan under this section; or
  - (b) pursuant to section 67I, the Secretary (with or without the agreement of the owner) amends or renews a sustainable forest management plan,—  
the Secretary may issue a certificate to the Registrar-General of Land or the appropriate District Registrar of the Maori Land Court, as the case may require, stating the effect of the agreement or amendment or renewal; and, upon receipt of the certificate, the Registrar-General of Land or the appropriate District Registrar must—
  - (c) record the certificate in accordance with this section as if it were a plan; and
  - (d) vary or cancel the notification to the extent necessary to give effect to the agreement or amendment or renewal stated in the certificate.

Section 67K: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67K heading: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(1): amended, on 20 May 2004, by section 13(a) of the Forests Amendment Act 2004 (2004 No 49).

Section 67K(2): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(3): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(4): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(5): amended, on 30 March 1995, by section 5(1)(a) of the Forests Amendment Act 1995 (1995 No 10).

Section 67K(5): amended, on 30 March 1995, by section 5(1)(b) of the Forests Amendment Act 1995 (1995 No 10).

Section 67K(5): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 67K(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(6): amended, on 20 May 2004, by section 13(c) of the Forests Amendment Act 2004 (2004 No 49).

Section 67K(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(9): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(10): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67K(11): inserted, on 30 March 1995, by section 5(2) of the Forests Amendment Act 1995 (1995 No 10).

Section 67K(11): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **67L Plan not to constitute subdivision**

The approval or registration of a sustainable forest management plan shall not constitute a subdivision of land for the purposes of the Local Government Act 1974 or the Resource Management Act 1991.

Section 67L: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

#### *Miscellaneous provisions*

Heading: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

### **67M Sustainable forest management permits**

- (1) An owner of a landholding for an area of indigenous forest land may apply to the Secretary for a sustainable forest management permit for all or part of that area to allow the harvesting and milling of indigenous timber.
- (2) A sustainable forest management permit has effect for 10 years from the date that permit is registered and—
  - (a) authorises the harvesting and milling of indigenous timber in accordance with the permit from an area within the area of land specified in the permit; and
  - (b) specifies the area of land to which the permit applies; and
  - (c) specifies the quantity of timber fixed by the Secretary (being timber capable of being milled irrespective of its quality) that may be harvested and milled in accordance with the permit.
- (3) A sustainable forest management permit must not authorise the harvesting and milling—
  - (a) of more than 10%—
    - (i) of the quantity of indigenous timber (excluding roots) capable of being milled standing on the area of land specified in the permit; and
    - (ii) of the quantity of each species of indigenous timber (excluding roots) capable of being milled standing on the area of land specified in the permit; and
  - (b) of more than the following volumes of indigenous timber:

- (i) 250 cubic metres of podocarp or kauri or shade-tolerant, exposure-sensitive, broadleaved hardwood species; and
  - (ii) 500 cubic metres of beech or other light-demanding hardwood species.
- (4) A second or subsequent sustainable forest management permit must not be issued in respect of any indigenous timber unless and until the Secretary is satisfied that the quantity of each species of indigenous timber (being timber capable of being milled, irrespective of its quality, but excluding roots) standing in the area to which the permit will apply is at least equivalent to the quantity of each species standing in the area at the date of the grant of the previous permit.
- (5) A sustainable forest management permit expires 18 months after the date of issue of the permit unless it is registered before the close of that period.
- (6) The Secretary must not grant a permit for an area of indigenous forest land that is specified—
  - (a) in a sustainable forest management plan as an area of land to which that plan applies; or
  - (b) in a permit, issued within the previous 18 months, as an area to which that permit applies; or
  - (c) in a permit, registered within the previous 10 years, as an area to which the permit applies.
- (7) The provisions of sections 67F(2), 67H(1A), (2), and (3), 67I, 67K, and 67L and the provisions and prescriptions set out in clauses 8, 9, and 10 of Schedule 2, with the necessary modifications, apply—
  - (a) to every proposal under this section as if it were a draft sustainable forest management plan; and
  - (b) to every permit under this section as if it were a sustainable forest management plan.

Section 67M: replaced, on 20 May 2004, by section 14(1) of the Forests Amendment Act 2004 (2004 No 49).

#### **67N Provisions relating to representative area to be set aside**

The representative area that may be set aside and accordingly be unavailable for harvesting in accordance with clause 10(2)(a) of Schedule 2 may be determined by the Secretary in accordance with the following provisions:

- (a) in exercising his or her discretion to determine the representative area in any case, the Secretary shall have regard to the flora, fauna, and other conservation values within the total area that is subject to, or is to be subject to, the plan:
- (b) the Secretary may determine a representative area if satisfied that—

- (i) the area is of an adequate size and location to be accurately representative in the region concerned and adequately protective of such flora, fauna, and other conservation values in that region; or
- (ii) the flora, fauna, and other conservation values are adequately protected in the representative area together with any indigenous forest land protected under any Act in the region concerned.

Section 67N: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

### **67O Beech coupe size**

- (1) Notwithstanding anything in clause 10(2)(c) of Schedule 2, an owner may apply to the Secretary for approval of the felling of beech in coupes having an area exceeding 0.5 hectares.
- (2) Subject to subsection (3), the Secretary may approve the felling of beech in coupes of such area not exceeding 20 hectares as he or she thinks appropriate.
- (3) In considering an application under this section, the Secretary shall have regard to whether coupes exceeding 0.5 hectares would result in any of the following:
  - (a) a significant adverse impact on flora and fauna, or other natural values:
  - (b) a significant increase in soil erosion or in the risk of soil erosion:
  - (c) a significant adverse impact on drainage or aquatic ecosystems:
  - (d) a significant impact on indigenous forest regeneration:
  - (e) a significant adverse impact on the amenity values of the forest.
- (4) The matters referred to in subsection (3) shall be considered in relation to the region concerned and nationally.

Section 67O: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

### **67P Rights of appeal**

- (1) An owner may appeal to the Environment Court against a decision of the Secretary under section 67O not to grant the approval sought by the owner under that section.
- (2) Any person or organisation having any interest in the decision greater than the public generally may, within 15 working days after the date on which the decision is notified under section 67G, appeal against a decision of the Secretary to the Environment Court if—
  - (a) the decision is to approve a beech coupe size exceeding 0.5 hectares; or
  - (b) the decision is the granting of an exemption under section 67J(2) in respect of beech coupe size provisions in a sustainable forest management plan.
- (3) For the purposes of this section, Part 11 of the Resource Management Act 1991 shall apply, with the necessary modifications, as if the decision appealed against were a resource consent under that Act.



Section 67P: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67P(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 67P(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### **67Q Records**

- (1) The operator of any sawmill milling indigenous timber shall maintain in such form as may be prescribed by regulations made under section 72 a record of particulars relating to the source of such timber, including separate records specifically relating to—
  - (a) timber from areas of land subject to a sustainable forest management plan; and
  - (ab) timber harvested from areas of land subject to a sustainable forest management permit; and
  - (b) timber harvested pursuant to an exemption given under this Act.
- (2) The owner of any land subject to a registered sustainable forest management plan or a registered sustainable forest management permit shall maintain in such form as may be prescribed by regulations made under section 72 a record of particulars relating to the volume, type, and destination of timber harvested under the plan or permit.

Section 67Q: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67Q(1)(ab): inserted, on 20 May 2004, by section 15(1) of the Forests Amendment Act 2004 (2004 No 49).

Section 67Q(2): amended, on 20 May 2004, by section 15(2) of the Forests Amendment Act 2004 (2004 No 49).

### **67R Powers of entry and seizure**

- (1) For the purposes of this Part, the Secretary and any forestry officer shall have power—
  - (a) to enter any land, premises, vehicle, conveyance, ship, aircraft, railway, railcar, or bulk cargo container for the purpose of inspecting any indigenous timber from any indigenous forest land or seeing whether any such timber exists there; and
  - (b) to search therein for any indigenous timber; and
  - (c) to enter any indigenous forest land; and
  - (d) to require the production and surrender of any document relating to indigenous timber; and
  - (e) to seize any indigenous timber that he or she reasonably believes is about to be, is being, or has been milled or exported, or has been felled or harvested, in contravention of this Part.

- (2) The provisions of Part 4 of the Search and Surveillance Act 2012 (except for subparts 2 and 3, sections 118 and 119, and subparts 5 and 8) apply.

Section 67R: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67R(1)(e): amended, on 20 May 2004, by section 16 of the Forests Amendment Act 2004 (2004 No 49).

Section 67R(2): inserted, on 1 October 2012, by section 317(3) of the Search and Surveillance Act 2012 (2012 No 24).

### **67S Forfeiture of seized indigenous timber**

- (1) *[Repealed]*

- (2) If satisfied that any indigenous timber seized under this Part may perish, rot, or spoil, the Secretary may arrange for its sale (at a price that is reasonable in the circumstances) in any manner the Secretary thinks fit.

- (3) *[Repealed]*

- (4) *[Repealed]*

- (5) *[Repealed]*

- (6) *[Repealed]*

- (7) *[Repealed]*

- (8) On the conviction of any person for any offence against this Act, any indigenous timber to which the offence relates that has been seized under this Act may, on the direction of the court, be forfeited to the Crown; and in that case shall be disposed of as the Secretary thinks fit.

- (9) Any person whose timber has been forfeited to the Crown under this section or any person having a legal or equitable interest in any such timber (not being, in either case, a person convicted of an offence out of which the forfeiture arose) may apply to the Minister within 30 days of the conviction concerned for the release of the timber forfeited; and the Minister may order the release of the timber on payment to the Crown of any amount the Minister thinks appropriate, being an amount not exceeding the amount the items forfeited are estimated by the Secretary to be likely to realise if sold by public auction in New Zealand.

Section 67S: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67S(1): repealed, on 1 October 2012, by section 317(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 67S(3): repealed, on 1 October 2012, by section 317(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 67S(4): repealed, on 1 October 2012, by section 317(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 67S(5): repealed, on 1 October 2012, by section 317(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 67S(6): repealed, on 1 October 2012, by section 317(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 67S(7): repealed, on 1 October 2012, by section 317(4) of the Search and Surveillance Act 2012 (2012 No 24).

## 67T Offences

Every person commits an offence who—

- (a) exports from New Zealand any indigenous timber in contravention of section 67C; or
- (b) mills any indigenous timber contrary to section 67D; or
- (c) falsifies any milling records required under this Part; or
- (d) contravenes any provision of a registered sustainable forest management plan or registered sustainable forest management permit; or
- (e) wilfully damages any indigenous timber in an area subject to a registered sustainable forest management plan or registered sustainable forest management permit; or
- (f) carries out work for the harvesting of timber (including, but not limited to, the felling of timber and the construction of roads, tracks, or landings) on an area of land subject to a registered sustainable forest management plan, or a registered sustainable forest management permit, other than in accordance with an annual logging plan approved under section 67H; or
- (fa) transports, mills (other than under section 67D(1)(e)), chips, cuts for firewood, or pulps any timber harvested from an indigenous forest, knowing that the timber is about to be, is being, or has been felled, harvested, milled, or exported in contravention of this Part; or
- (fb) fells any indigenous timber on land subject to a registered sustainable forest management plan, or a registered sustainable forest management permit, other than in accordance with that plan or permit; or
- (fc) harvests or mills indigenous timber that is subject to an approval under section 67D(3) other than in accordance with the approval; or
- (g) fails to keep records required under section 67Q; or
- (h) fails, without lawful excuse, to comply with the requirements of any forestry officer under this Part; or
- (i) gives to any forestry officer, under this Part, any particulars knowing that they are false or misleading in any material respect.

Section 67T: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67T(b): amended, on 30 March 1995, by section 7 of the Forests Amendment Act 1995 (1995 No 10).

Section 67T(f): replaced, on 20 May 2004, by section 17 of the Forests Amendment Act 2004 (2004 No 49).

Section 67T(fa): inserted, on 20 May 2004, by section 17 of the Forests Amendment Act 2004 (2004 No 49).

Section 67T(fb): inserted, on 20 May 2004, by section 17 of the Forests Amendment Act 2004 (2004 No 49).

Section 67T(fc): inserted, on 20 May 2004, by section 17 of the Forests Amendment Act 2004 (2004 No 49).

### **67U Penalties**

- (1) Every person who commits an offence against any of paragraphs (a) to (f) of section 67T is liable on conviction to a fine not exceeding \$200,000, and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues.
- (2) Every person who commits an offence against any of paragraphs (g) to (i) of section 67T is liable on conviction to a fine not exceeding \$10,000, and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues.
- (3) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of a like offence if it is proved—
  - (a) that the act that constituted the offence took place with his or her authority, permission, or consent; or
  - (b) that he or she knew or could be reasonably expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Section 67U: inserted, on 1 July 1993, by section 3 of the Forests Amendment Act 1993 (1993 No 7).

Section 67U(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 67U(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### **67V Relationship of Part with Resource Management Act 1991**

Nothing in this Part derogates from any provision of the Resource Management Act 1991.

Section 67V: replaced, on 20 May 2004, by section 18(1) of the Forests Amendment Act 2004 (2004 No 49).

## **Part 3B**

### **Mechanism allowing landowners to access value created by Kyoto Protocol of carbon sequestration on land through establishment of forest sink covenants**

Part 3B: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

#### **67W Purpose of Part**

The purpose of this Part is to provide a mechanism to allow landowners to access the value of carbon sequestration on land through the establishment of forest sink covenants.

Section 67W: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

#### **67X Interpretation of Part**

In this Part, unless the context otherwise requires,—

**carbon sequestration** means the removal of greenhouse gases from the atmosphere by a forest sink

**forest sink** means a forest prescribed in regulations made under section 67Y

**forest sink covenant** means any covenant established under regulations made under section 67Y, 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

**greenhouse gas** has the same meaning as in section 4(1) of the Climate Change Response Act 2002

**landowner** means the owner of a freehold estate

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

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

Section 67X: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **Subpart 1—Forest sink covenants**

Subpart 1: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

#### **67Y Regulation-making powers for forest sink covenants**

- (1) The Governor-General may make regulations to—
  - (a) establish a framework to facilitate the establishment and ongoing administration of forest sink covenants that allow landowners to access the

- value of carbon sequestration on land, including (but not limited to) Crown land:
- (b) prescribe and update methodologies or mechanisms for measuring carbon sequestration or emissions of greenhouse gases from a forest sink:
  - (c) prescribe the manner, quantity, type, and timing of units that may be transferred to or by a landowner:
  - (d) prescribe requirements that a forest must meet to be a forest sink:
  - (e) establish a dispute resolution process for disputes arising in relation to a forest sink or a forest sink covenant:
  - (f) prescribe reporting and verification requirements in relation to a forest sink or forest sink covenant:
  - (g) prescribe harvesting restrictions in relation to a forest sink:
  - (h) establish penalties for breaches of a forest sink covenant:
  - (i) prescribe any forms required to facilitate the framework specified in paragraph (a):
  - (j) prescribe procedures and requirements relating to the selection, appointment, and performance of persons who carry out functions in relation to a forest sink covenant:
  - (ja) prescribe the persons or organisations, or classes of persons or organisations, who have been recognised under section 92 of the Climate Change Response Act 2002 as being able to carry out verification functions under that Act, and who may carry out verification functions in relation to a forest sink or forest sink covenant:
  - (k) prescribe records, returns, or information in relation to a forest sink covenant that a person or class of persons must keep or provide to the Minister:
  - (l) prescribe requirements, including (but not limited to) ongoing obligations, or criteria for a landowner to provide a guarantor or insurer, or any other risk management arrangement that the Minister considers appropriate, to meet any obligations of the landowner under the Act or the forest sink covenant in the event of the landowner's default.
- (2) Without limiting subsection (1)(a), the framework may permit the Minister, on behalf of the Crown, to negotiate, and enter into, a forest sink covenant.
- (2A) Regulations made under subsection (1)(b) may incorporate by reference any relevant—
- (a) methodologies prescribed in regulations made under section 163(1)(b) of the Climate Change Response Act 2002; or
  - (b) guidelines or standards issued under regulations made under section 163(1)(d) of the Climate Change Response Act 2002.
- (3) Despite subsection (1)(h), a penalty—

- (a) may only be imposed in respect of the proportion of forest on land subject to a forest sink covenant that is harvested in breach of the covenant; and
  - (b) may not exceed the sum of—
    - (i) all units received in respect of that proportion of the forest (or their monetary equivalent); and
    - (ii) any additional units calculated on the basis of an annual compounding rate of 10% applied to each year's carbon sequestration from that proportion of the forest for the period beginning on the date that the covenant came into force and ending on the date that the breach occurred (or their monetary equivalent).
- (3A) Regulations made under subsection (1)(k) may incorporate by reference any form or format for a record, return, or information prescribed under section 90 of the Climate Change Response Act 2002, or in regulations made under section 168(1)(k) of that Act, or in any guidelines or standards issued under regulations made under section 163(1)(d) of that Act.
- (4) However, nothing in this Part requires the Minister to negotiate, enter into, or enforce any provisions of, any forest sink covenant.

Section 67Y: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67Y(1)(ja): inserted, on 26 September 2008, by section 54(2) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 67Y(2A): inserted, on 26 September 2008, by section 54(3) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 67Y(3A): inserted, on 26 September 2008, by section 54(4) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 67Y(3A): amended, on 8 December 2009, by section 88(1) of the Climate Change Response (Moderated Emissions Trading) Amendment Act 2009 (2009 No 57).

## **67Z Content of forest sink covenants**

Without limiting the content of forest sink covenants, a forest sink covenant may—

- (a) specify any or all of the following:
  - (i) the obligations of any landowner for monitoring and administrative costs;
  - (ii) the rights of any landowner with respect to receiving units based on carbon sequestration;
  - (iii) any exceptions to the covenant to control the harvesting of timber, including (but not limited to) the use of plants for traditional Maori purposes;
  - (iv) access to the land by the Secretary, or any of its contractors or agents, to—

- (A) verify carbon inventories; and
- (B) monitor compliance with the forest sink covenant:
- (v) the obligations of any landowner to meet any liabilities to the Crown arising if there is a loss of carbon from the landowner's forest sink:
- (vi) a requirement, including (but not limited to) an ongoing obligation, for the landowner to provide a guarantor or insurer, or any other risk management arrangement that the Minister considers appropriate, to meet any obligations of the landowner under the Act or the forest sink covenant in the event of the landowner's default:
- (vii) a requirement to control the harvesting of timber:
- (viii) a requirement to include a forest sink management plan:
- (b) be expressed to—
  - (i) have effect in perpetuity; and
  - (ii) terminate if certain circumstances arise or certain conditions are met; and
  - (iii) provide obligations if certain circumstances arise or certain conditions are met; and
  - (iv) come into effect when registered; and
  - (v) expire unless registered within 180 days of being agreed:
- (c) be varied or cancelled by agreement between the landowner and the Minister if that agreement is registered under section 67ZD.

Section 67Z: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZA Landowner must obtain written consent of interested persons to enter into, vary, or cancel forest sink covenants**

A landowner intending to enter into, vary, or cancel a forest sink covenant must obtain the written consent of each person with a registered interest in the affected land to enter into, vary, or cancel that forest sink covenant.

Section 67ZA: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZB Nothing in Part makes Crown liable**

- (1) Provided the Crown has acted in good faith and with reasonable care, nothing in this Part makes the Crown liable to any person for compensation or damages in respect of any matter arising from a forest sink covenant.
- (2) However, the Crown and the other party (or parties) to a forest sink covenant may agree to a different liability regime in that forest sink covenant.



Section 67ZB: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZC Sections 316 to 318 of Property Law Act 2007 do not apply to forest sink covenants**

Nothing in sections 316 to 318 of the Property Law Act 2007 applies to any forest sink covenant entered into in accordance with this Act.

Section 67ZC: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67ZC heading: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 67ZC: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

**67ZD Registrar-General of Land to register forest sink covenants**

- (1) A landowner who has entered into a forest sink covenant must, within 180 days of that covenant being agreed, submit that covenant to the Registrar-General of Land for registration under the Land Transfer Act 2017.
- (2) If a forest sink covenant relates to land for which no record of title has been created, the Registrar-General of Land must—
  - (a) create a record of title for the covenant if—
    - (i) a licensed cadastral surveyor has certified that the land to which the covenant relates is within the boundaries of an identified parcel of land; and
    - (ii) the Registrar-General of Land is satisfied that the certificate is correct; and
  - (b) record the certificate of the licensed cadastral surveyor on the record of title issued for the covenant.
- (3) If a forest sink covenant relates to Maori land (within the meaning of section 4 of Te Ture Whenua Maori Act 1993) for which no computer freehold register or provisional register has been created, the Registrar of the Maori Land Court must enter on the memorial schedule of the Title Binder relating to the Maori land a notification of the forest sink covenant.
- (4) If, in respect of a forest sink covenant, the Registrar-General of Land receives a submission under subsection (1) or a notice from the Minister under section 67ZG, the Registrar-General of Land must enter in the record of title notification of—
  - (a) that forest sink covenant; or
  - (b) the variation, cancellation, or termination of that forest sink covenant.
- (5) For the purposes of the Land Transfer Act 2017, a forest sink covenant, or an agreement to vary a forest sink covenant, is an instrument that—
  - (a) may be registered; and

- (b) if registered, creates an interest in land that runs with that land.
- (6) If a forest sink covenant is registered under the Land Transfer Act 2017, and any provision of that covenant has terminated, or has been varied or cancelled by an agreement,—
- (a) the Registrar-General of Land must, if satisfied that the provision has terminated, or has been varied or cancelled, make an entry on the record of title noting that the provision has terminated, or has been varied or cancelled; and
- (b) the forest sink covenant takes effect as varied or ceases to have effect (as the case may be).
- (7) The landowner must provide the Registrar-General of Land with—
- (a) a diagram or an aerial photo that shows the boundaries of the land to which the forest sink covenant applies; and
- (b) if required by the Registrar-General of Land, a plan capable of deposit under section 224 of the Land Transfer Act 2017.
- (8) A landowner subject to a registered forest sink covenant may, at any time, deposit a plan in accordance with section 224 of the Land Transfer Act 2017 and any relevant regulations that,—
- (a) with the agreement of the Minister, redefines the boundaries of the land subject to the covenant; and
- (b) supercedes any previously submitted diagram or aerial photograph, or any part of any previously submitted diagram or aerial photograph.
- (9) If a plan is deposited under section 224 of the Land Transfer Act 2017 with respect to a forest sink covenant, the Registrar-General of Land must, if necessary, endorse, on any relevant record of title, a memorial that indicates that the boundaries of the land subject to the covenant, as defined, have been surveyed.
- (10) A forest sink covenant may not be treated as a subdivision of land for the purposes of the Resource Management Act 1991.

Section 67ZD: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67ZD(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(2): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(6)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(7)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZD(9): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**67ZE The Crown may register charges with respect to land subject to forest sink covenants in certain circumstances**

- (1) The Minister may register a charge under subpart 5 of Part 3 of the Land Transfer Act 2017 against land subject to a forest sink covenant if—
  - (a) liabilities are owed to the Crown by an owner of a landholding arising from the emission of greenhouse gases in relation to the forest sink on that land;
  - (b) penalties are imposed for breaches by an owner of a landholding of the harvesting restrictions in relation to the forest sink on that land;
  - (c) costs are incurred by the Crown in—
    - (i) remedying a breach of the covenant; or
    - (ii) enforcing its right to payment in relation to the covenant;
  - (d) the covenant is breached.
- (2) If the owner of a landholding fails or refuses, within the time provided for payment in the forest sink covenant or otherwise, to make any payment for which a charge may be registered under subsection (1), the failed or refused payment is an unpaid statutory debt owed to the Crown, and the amount by which it, or any unpaid part of it, is deemed to have been increased is the sum of—
  - (a) 10% of the debt (or that part of the debt that remained unpaid after the expiry of the time provided for the debt's payment); and
  - (b) for every complete period of 12 months after that expiry during which the debt or any part of it (including any deemed increase calculated under this subsection) has remained unpaid, 10% of the debt or that part of the debt.
- (3) If the owner of a landholding pays the statutory debt (including any deemed increase) or the Crown releases the owner of the landholding from the obligation to pay the debt, the Minister must release the relevant charge on the land (if any).
- (4) For the purposes of this section, a charge that is registered by the Minister under subpart 5 of Part 3 of the Land Transfer Act 2017 against land subject to a forest sink covenant—
  - (a) has priority over any subsequently registered mortgages, charges, and encumbrances with respect to that land; but

- (b) does not have priority over any prior registered mortgages, charges, and encumbrances with respect to that land.

Section 67ZE: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67ZE(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 67ZE(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**67ZF Liability to the Crown of persons who have or had landholding subject to registered forest sink covenants**

- (1) If a person has a landholding in land that is subject to a registered forest sink covenant,—
- (a) the person is, unless a contrary intention appears in the covenant, personally liable to the Crown for the observance of all the obligations in the covenant:
- (b) the Crown may, in the event of a breach of an obligation in the covenant, seek any appropriate remedy directly against the person as if the person were a party to the covenant.
- (2) If a person acquires a landholding in land that is subject to a registered forest sink covenant,—
- (a) the person is, unless a contrary intention appears in the covenant, personally liable to the Crown for—
- (i) the observance of all the obligations in the covenant:
- (ii) any liabilities arising from the emission of greenhouse gases from that forest sink that are owed to the Crown by any person who was an owner of a landholding in that land before the acquisition:
- (iii) any penalties imposed for breaches of the harvesting restrictions in relation to the forest sink on that land by any person who was an owner of a landholding in that land before the acquisition:
- (iv) any costs incurred by the Crown in—
- (A) remedying a breach of the covenant by any person who was an owner of a landholding in that land before the acquisition; or
- (B) enforcing its right to payment in respect of any person who was an owner before the acquisition:
- (b) the Crown may, in relation to any matter specified in paragraph (a), seek any appropriate remedy directly against the person.
- (3) If a person ceases to have a landholding subject to a registered forest sink covenant, the person is no longer personally liable to the Crown for a breach of, or

liabilities that arise under, the covenant unless the breach occurred or the liabilities arose while the person had the landholding.

- (4) If 2 or more persons have a landholding subject to a registered forest sink covenant, the covenant is deemed to bind each person jointly and severally.

Section 67ZF: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZG Minister must give notice to Registrar-General of Land if forest sink covenants are varied, cancelled, or terminated**

If a forest sink covenant is varied, cancelled, or terminated, the Minister must give notice of the variation, cancellation, or termination in the prescribed form to the Registrar-General of Land.

Section 67ZG: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**Subpart 2—Cost recovery**

Subpart 2: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZH Principles of cost recovery**

- (1) The Minister must take all reasonable steps to ensure that the direct and indirect costs of administering this Part that are not provided for by money appropriated by Parliament for the purpose are recovered under this subpart, whether by way of fees, levies, or otherwise.
- (2) In determining the most appropriate method of cost recovery under section 67ZI, the Minister must have regard, as far as is reasonably practicable, to the following criteria:
- (a) equity, in that funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service;
  - (b) efficiency, in that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost;
  - (c) justifiability, in that costs should be collected only to meet the actual and reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service;
  - (d) transparency, in that costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.
- (3) Costs should not be recovered under this subpart unless there has been appropriate consultation with affected persons or representatives of persons substantially affected.

- (4) Nothing in subsection (3) requires consultation in relation to specific fees or charges, or the specific levels of fees or charges, so long as the fees or charges set are reasonably within the purview of any general consultation; and a failure to comply with subsection (3) does not affect the validity of any regulations made for the purposes of this subpart.
- (5) Nothing in this section requires a strict apportionment of the costs to be recovered for a particular function or service based on usage; and, without limiting the way in which fees or charges may be set, a fee or charge may be set at a level or in a way that—
- (a) is determined by calculations that involve an averaging of costs or potential costs:
  - (b) takes into account costs or potential costs of services that are not directly to be provided to the person who pays the fee or charge but which are an indirect or potential cost arising from the delivery of the service in question to a class of persons or all persons who use the service.

Compare: 2003 No 114 s 84

Section 67ZH: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZI Methods of cost recovery**

The methods by which costs may be recovered under this subpart are as follows:

- (a) fixed fees or charges:
- (b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:
- (c) use of a formula or other method of calculation for fixing fees and charges:
- (d) the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function:
- (e) estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appropriate further payment or refund after provision of the service or function:
- (f) levies:
- (g) any combination of the above.

Compare: 2003 No 114 s 85

Section 67ZI: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZJ Cost recovery to relate generally to financial year**

- (1) Except as provided in subsection (2), any regulations under this subpart that set a fee, charge, or levy that applies in any financial year—
  - (a) must have been made before the start of that financial year; but
  - (b) except as the regulations may otherwise provide, apply in that year and all subsequent years until revoked or replaced.
- (2) Subsection (1) does not prevent the alteration or setting during any financial year of a fee, charge, or levy payable in that year if either—
  - (a) the fee, charge, or levy is reduced, removed, or restated without substantive alteration; or
  - (b) in the case of an increase or a new fee, charge, or levy,—
    - (i) appropriate consultation has been carried out with persons or representatives of persons substantially affected by the alteration or setting; and
    - (ii) the Minister is satisfied that those persons, or their representatives, agree or do not substantially disagree with the alteration or setting.
- (3) Subsection (1) does not prevent the amendment of any regulation setting a fee, charge, or levy if any substantive alteration effected by the amendment is for the purpose of correcting an error.
- (4) Recovery may be made in any financial year of any shortfall in cost recovery for any of the preceding 4 financial years, and allowance may be made for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

Compare: 2003 No 114 s 86

Section 67ZJ: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZK Minister may review levels and methods of cost recovery**

- (1) The Minister may, as and when appropriate, review the levels and methods of cost recovery in relation to forest sink covenants.
- (2) A review may make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years, or make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).
- (3) To avoid doubt, all areas of cost recovery need not be reviewed at the same time, nor is there any time limit on the making of regulations to implement the results of a review.

Compare: 2003 No 114 s 87

Section 67ZK: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZL Fees and charges to be prescribed by regulations**

- (1) The Governor-General may, by Order in Council and on the recommendation of the Minister, make regulations prescribing fees and charges for the purposes of this Part.
- (2) The fees and charges may be prescribed using any 1 or more of the methods specified in section 67ZI, or any combination of those methods.
- (3) Different fees and charges, or different rates or types of fee or charge, may be prescribed in respect of different forest sink covenants.
- (4) Without limiting subsection (3), the fees and charges prescribed may—
  - (a) differ depending on whether a special or urgent service is provided:
  - (b) include more than 1 level of fee or charge for the same service provided in different ways, or provided in, or in respect of, different places:
  - (c) differ for otherwise similar services provided in different ways:
  - (d) differ depending on the amount of service required or the components of the service required for the particular person.
- (5) If regulations prescribe a formula for determining a fee or charge, the formula may specify the value attributed to any component of that formula.
- (6) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 67ZH and 67ZJ have been met.

Compare: 2003 No 114 s 88

Section 67ZL: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZM Levies**

- (1) The Governor-General may, by Order in Council and on the recommendation of the Minister, impose a levy payable to the Secretary for the purposes of wholly or partially funding a service provided or function performed by the Ministry or the Secretary for the purposes of this Act.
- (2) A levy order is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Compare: 1993 No 95 s 137

Section 67ZM: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

Section 67ZM(2): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).



**67ZN Contents of levy order**

- (1) Every levy order under section 67ZM must specify—
  - (a) the persons primarily responsible for paying the levy; and
  - (b) the basis on which the amount of levy is to be calculated or ascertained; and
  - (c) the persons (if any) to be exempt from paying the levy; and
  - (d) the persons responsible for collecting the levy from those primarily responsible for paying it; and
  - (e) the maximum rate of levy; and
  - (f) how the actual rate of the levy is to be set; and
  - (g) how the rates of the levy and variation of rates are to be notified; and
  - (h) whether or not the persons collecting the levy are entitled to recover the cost of levy collection and the estimated amount.
- (2) The levy order may prescribe any of the following matters:
  - (a) the making of returns to the Minister for the purpose of enabling or assisting the determination of amounts of levy payable:
  - (b) the circumstances in which, and conditions subject to which, persons may be allowed extensions of time for the payment of any levy:
  - (c) the payment of additional or increased levy when amounts of levy otherwise payable have been paid late, paid in part, or not paid at all:
  - (d) the holding of funds from which payments of levy are to be made, on trust in separate accounts.

Compare: 1993 No 95 s 140

Section 67ZN: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

**67ZO Trust accounts required to be kept by persons collecting levies**

- (1) If a levy order made under section 67ZM requires the operation of a trust account for any levy money by the person responsible for collecting the levy,—
  - (a) any amount held in such an account that is due to be paid to the Secretary by the levy collector is to be treated as levy money held on trust for the Secretary; and
  - (b) any amount so held on trust is not available for the payment of a creditor (other than the Secretary) of the levy collector, and is not liable to be attached or taken in execution at the instance of that creditor; and
  - (c) a person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account until all the levy money payable to the Secretary in respect of the period during which the person was responsible for collecting the levy has been paid.

- (2) Nothing in subsection (1)(c) affects any obligation or liability under this Act of any other person who has become responsible for collecting the levy concerned.

Compare: 2003 No 114 s 90

Section 67ZO: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZP Exemptions, waivers, and refunds**

Regulations made under this subpart may—

- (a) provide for exemptions from, or waivers or refunds of, any fee, levy, or charge payable under this subpart, in whole or in part, in any class of case:
- (b) authorise the Secretary to grant an exemption, waiver, or refund in any particular case or class of case.

Compare: 2003 No 114 s 92

Section 67ZP: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZQ Fees, levies, and charges to constitute debt due to Secretary**

Any fee, levy, or charge that has become payable is a debt due to the Secretary, and is recoverable by the Secretary as a debt in any court of competent jurisdiction. Until paid in full, it remains a debt due to the Crown.

Compare: 2003 No 114 s 93

Section 67ZQ: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZR Penalties for failure to pay fee, levy, or charge**

- (1) If a person has failed to pay to the Secretary by the due date any fee, levy, or charge payable under this subpart,—
  - (a) section 14 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 applies to increase the amount payable; and
  - (b) section 15 of that Act applies to allow the Secretary, in appropriate cases, to waive the payment of all or any of the amount of any such increase; and
  - (c) section 16 of that Act applies to allow the Secretary to withdraw, or refuse to provide the person in default with, any service of the kind to which the debt relates.
- (2) For the purposes of subsection (1)(c) and section 16 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997, and without limiting the generality of section 16 of that Act, the references in those provisions to the refusal to provide any service are to be treated as also authorising the Secretary, in an appropriate case, to refuse to perform any function under this Act leading to the issue of units in relation to the person in default.

- (3) If the refusal requires the Secretary to provide any further service, or perform any further function involved in the refusal, the Secretary may recover any reasonable amount for the additional service, function, or costs as a debt due from the person who owns or is responsible for the operation concerned.

Compare: 2003 No 114 s 94

Section 67ZR: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZS Obligation to pay fee, levy, charge, or penalty not suspended by dispute**

The obligation of a person to pay any fee, levy, charge, or penalty under this subpart, and the right of the Secretary to receive and recover the fee, levy, charge, or penalty, are not suspended by any dispute between the person and the Secretary regarding the person's liability to pay the fee, levy, charge, or penalty, or the amount of the fee, levy, charge, or penalty.

Compare: 2003 No 114 s 95

Section 67ZS: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

### **67ZT Levy orders are confirmable instruments**

The explanatory note of a levy order made under section 67ZM must indicate that—

- (a) it is a confirmable instrument under section 47B of the Legislation Act 2012; and
- (b) it is revoked at a time stated in the note, unless earlier confirmed by an Act of Parliament; and
- (c) the stated time is the applicable deadline under section 47C(1)(a) or (b) of that Act.

Section 67ZT: replaced, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

### **67ZU Relationship of Part with Resource Management Act 1991**

Nothing in this Part derogates from any provision of the Resource Management Act 1991.

Section 67ZU: inserted, on 14 November 2006, by section 31(4) of the Climate Change Response Amendment Act 2006 (2006 No 59).

## **Part 4 Miscellaneous provisions**

### **68 Annual report**

*[Repealed]*

Section 68: repealed, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

**69 Control of injurious importations and exportations**

*[Repealed]*

Section 69: repealed, on 8 July 2003, by section 28(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

**70 Regulations as to control and eradication of diseases affecting trees, etc**

*[Repealed]*

Section 70: repealed, on 8 July 2003, by section 28(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

**70A Compensation for destruction**

*[Repealed]*

Section 70A: repealed, on 8 July 2003, by section 28(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

**71 Plants Act 1970 not affected**

*[Repealed]*

Section 71: repealed, on 8 July 2003, by section 28(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

**71A Regulations as to establishment and powers of Timber Preservation Authority**

*[Repealed]*

Section 71A: deemed to have been repealed on 1 April 1988, by section 15(2)(a) of the Forests Amendment Act 1987 (1987 No 118).

**71B Restrictions on exercise of power of entry**

- (1) Notwithstanding any other provision of this Act but subject to subsection (2), any provision in this Act or any regulations made under this Act giving any person the power to enter any land or premises, vehicle, conveyance, ship, vessel, aircraft, bulk cargo container, railway, or drilling rig without the consent of the owner or occupier shall be subject to Part 4 of the Search and Surveillance Act 2012 and to the following conditions:
  - (a) entry shall only be made by the person or class of persons specified in the relevant provision or any constable authorised by the person or a member of that class of persons:
  - (b) *[Repealed]*
  - (c) *[Repealed]*
  - (d) *[Repealed]*
  - (e) entry—
    - (i) into any dwellinghouse; and

- (ii) on to any land or into any premises, vehicle, conveyance, ship, vessel, aircraft, railway, or drilling rig to obtain evidence of an offence—

shall be made following application in writing in the manner provided for an application for a search warrant in Part 4 of the Search and Surveillance Act 2012 by an authorised person to an issuing officer, who, if he has reason to believe that entry is necessary, may issue a warrant to every authorised person to enter for the stated purpose.

- (f) *[Repealed]*
- (2) The conditions specified in subsection (1), other than that specified in paragraph (a) of that subsection, and the conditions set out in Part 4 of the Search and Surveillance Act 2012 relating to time of entry, notification of intention to enter, and evidence of identification or authorisation to enter, shall not apply in circumstances where there are reasonable grounds to believe—
- (a) that there is an immediate danger to life or property; or
  - (b) that immediate entry is necessary to contain, eradicate, or prevent—
    - (i) *[Repealed]*
    - (ii) fire,—in order to avert serious damage to or destruction of any forest or forest produce.
- (c) *[Repealed]*
- (3) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.
- (4) Despite subsection (3), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Section 71B: inserted, on 16 December 1983, by section 6(1) of the Forests Amendment Act 1983 (1983 No 136).

Section 71B(1): amended, on 1 October 2012, by section 317(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(1): amended (with effect on 1 April 1987), on 1 July 1987, by section 16(a) of the Forests Amendment Act 1987 (1987 No 118).

Section 71B(1): amended (with effect on 1 April 1987), on 1 July 1987, by section 16(b) of the Forests Amendment Act 1987 (1987 No 118).

Section 71B(1)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 71B(1)(b): repealed, on 1 October 2012, by section 317(6) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(1)(c): repealed, on 1 October 2012, by section 317(6) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(1)(d): repealed, on 1 October 2012, by section 317(6) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(1)(e): amended, on 26 March 2015, by section 4 of the Forests Amendment Act 2015 (2015 No 12).

Section 71B(1)(e): amended, on 1 October 2012, by section 317(7) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(1)(f): repealed, on 1 October 2012, by section 317(6) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(2): amended, on 1 October 2012, by section 317(8) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(2)(b)(i): repealed, on 8 July 2003, by section 28(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 71B(2)(c): repealed, on 8 July 2003, by section 28(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 71B(3): inserted, on 1 October 2012, by section 317(9) of the Search and Surveillance Act 2012 (2012 No 24).

Section 71B(4): inserted, on 1 October 2012, by section 317(9) of the Search and Surveillance Act 2012 (2012 No 24).

## **71C Powers relating to ships**

*[Repealed]*

Section 71C: repealed, on 8 July 2003, by section 28(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

## **72 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make regulations not inconsistent with this Act for all or any of the following purposes:
  - (a) prescribing the mode in which any forest produce is to be branded or marked for any purpose whatever; and providing for the registration of brands or marks:
  - (b) prescribing the terms, conditions, and securities upon which money may be advanced to persons, local authorities, and companies for the establishment, maintenance, and protection of forests:
  - (ba) providing for the registration of sawmills and other related factories or industrial plants; authorising the Secretary to require sawmill operators to furnish information for the purposes of this Act; and prescribing the mode of registration and the fees to be paid in respect of registration:
  - (bb) prescribing such matters as are necessary or expedient for regulating the registration of sustainable forest management plans under the Land Transfer Act 1952:
  - (bc) providing for the establishment and functions of advisory committees, consisting of persons to be appointed by the Minister, to advise the Minister on phytosanitary matters arising in relation to forestry:
  - (c) prescribing offences for the breach of any regulations under this Act, or of the conditions of any licence, lease, permit, or other authority under this Act, and prescribing, on conviction,—

- (i) in the case of an individual, a term of imprisonment not exceeding 1 month, or a fine not exceeding \$2,000, and, if the offence is a continuing one, a further fine not exceeding \$200 for every day during which the offence continues, or to both such imprisonment and fine:
  - (ii) in the case of a body corporate, a fine not exceeding \$12,000, and, if the offence is a continuing one, a further fine not exceeding \$1,200 for every day during which the offence continues:
  - (d) prescribing the matters in respect of which fees are payable under this Act, the amounts of those fees or the method by which they are to be assessed, and the persons liable for payment of the fees:
  - (e) generally for any purposes for which regulations are required or contemplated by this Act, and for giving full effect to the provisions of this Act.
- (1A) *[Repealed]*
- (2) *[Repealed]*
- (3) Regulations made under this Act may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof, or within the whole of New Zealand except such part or parts as may be specified in the regulations.
- (4) *[Repealed]*
- Compare: 1921–22 No 43 s 63; 1941 No 26 s 28; 1948 No 56 s 6
- Section 72(1): replaced (with effect on 1 April 1987), on 1 July 1987, by section 17 of the Forests Amendment Act 1987 (1987 No 118).
- Section 72(1)(ba): inserted, on 1 July 1993, by section 5(1) of the Forests Amendment Act 1993 (1993 No 7).
- Section 72(1)(bb): inserted, on 1 July 1993, by section 5(1) of the Forests Amendment Act 1993 (1993 No 7).
- Section 72(1)(bc): inserted, on 1 July 1993, by section 5(1) of the Forests Amendment Act 1993 (1993 No 7).
- Section 72(1)(c): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).
- Section 72(1)(d): replaced, on 1 July 1993, by section 5(2) of the Forests Amendment Act 1993 (1993 No 7).
- Section 72(1A): repealed, on 1 April 1987, by section 32(1) of the State-Owned Enterprises Act 1986 (1986 No 124).
- Section 72(2): repealed, on 19 December 1989, by section 11 of the Regulations (Disallowance) Act 1989 (1989 No 143).
- Section 72(4): repealed (with effect on 1 April 1987), on 1 July 1987, by section 18(2) of the Forests Amendment Act 1987 (1987 No 118).

## **72A Remuneration and expenses**

There shall be paid out of money appropriated by Parliament for the purpose to the members of any Authority constituted under section 71A or to any person appointed to a committee under section 15(2)(b) remuneration by way of fees,

salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such authority or committee were a statutory Board within the meaning of that Act.

Section 72A: inserted (with effect on 1 April 1987), on 1 July 1987, by section 18(1) of the Forests Amendment Act 1987 (1987 No 118).

### **73 Repeals and savings**

- (1) The enactments mentioned in Schedule 1 are hereby repealed to the extent mentioned in that schedule.
- (2) All Proclamations, Orders in Council, orders, appointments, licences, leases, permits, grants, regulations, agreements, records, instruments, rights, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into force of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into force of this Act, may be continued, completed, and enforced as if this Act had not been passed.

Compare: 1921–22 No 43 s 65

Section 73(1): amended, on 1 July 1993, by section 9(1) of the Forests Amendment Act 1993 (1993 No 7).



## Schedule 1 Enactments repealed

s 73

Schedule 1 heading: amended, on 1 July 1993, by section 9(2) of the Forests Amendment Act 1993 (1993 No 7).

**Finance Act 1924 (1924 No 64) (Reprint of Statutes, Vol IV, p 786)**

*Amendment(s) incorporated in the Act(s).*

**Finance Act 1926 (1926 No 46) (Reprint of Statutes, Vol III, p 438; Vol VII, p 501)**

*Amendment(s) incorporated in the Act(s).*

**Finance Act 1927 (1927 No 5) (Reprint of Statutes, Vol III, p 436)**

*Amendment(s) incorporated in the Act(s).*

**Forests Act 1921–22 (1921–22 No 43) (Reprint of Statutes, Vol III, p 425)**

**Forests Amendment Act 1925 (1925 No 37) (Reprint of Statutes, Vol III, p 448)**

**Forests Amendment Act 1926 (1926 No 69) (Reprint of Statutes, Vol III, p 451)**

*Amendment(s) incorporated in the Act(s).*

**Forests Amendment Act 1948 (1948 No 56)**

**Forests and Rural Fires Act 1947 (1947 No 34)**

*Amendment(s) incorporated in the Act(s).*

**Public Service Amendment Act 1946 (1946 No 42)**

*Amendment(s) incorporated in the Act(s).*

**Statutes Amendment Act 1939 (1939 No 39)**

*Amendment(s) incorporated in the Act(s).*

**Statutes Amendment Act 1941 (1941 No 26)**

*Amendment(s) incorporated in the Act(s).*

**Statutes Amendment Act 1947 (1947 No 60)**

*Amendment(s) incorporated in the Act(s).*

**War Legislation and Statute Law Amendment Act 1918 (1918 No 10) (Reprint of Statutes, Vol III, p 447)**

*Amendment(s) incorporated in the Act(s).*

## Schedule 2

### Provisions relating to sustainable forest management plans

s 67J

Schedule 2: inserted, on 1 July 1993, by section 6 of the Forests Amendment Act 1993 (1993 No 7).

#### 1 Description of land

The plan shall describe the indigenous forest land to which the plan relates and its status, and shall include a map or plan showing clearly the extent and boundaries of the forest.

#### 2 Description of forest areas

The plan shall include—

- (a) a map showing the indigenous forest types; and
- (b) a description of any previous logging.

#### 3 Owner

- (1) The plan shall state the full name and address of the owner of the land.
- (2) The address to be stated—
  - (a) shall, in the case of a body corporate, be the owner's registered office;
  - (b) may, in the case of multiple owners of Maori land, be the office of the appropriate Registrar of the Maori Land Court.

#### 4 Plan to specify relevant requirements under Resource Management Act 1991

The plan shall specify the relevant details of all applicable district plans and regional plans under the Resource Management Act 1991.

#### 5 Term

The plan shall specify the period for which the plan shall be in force.

#### 6 Forestry inventory and produce to be removed

The plan shall specify—

- (a) the names and species of indigenous timber and tree ferns that are proposed to be removed from the indigenous forest land; and
- (b) details of the proposed volume of timber to be harvested; and
- (c) forest inventory information to justify the proposed level of harvest.

#### 7 Management

The plan shall specify details of the manner in which it is proposed to manage the indigenous forest land, including re-establishment of the forest.

## **8 Protection**

The plan shall specify—

- (a) any necessary measures to be taken to protect the forest, and, in particular, to protect the regenerating forest from pest, stock, fire, and other threats; and
- (b) any necessary measures to retain and enhance flora and fauna and soil and water quality.

## **9 Annual logging plan**

- (1) A logging plan or plans shall be submitted to the Secretary annually for approval under section 67H(2).
- (2) The Secretary may require the owner to mark, in such manner as the Secretary may specify, the trees that are intended to be harvested during the period to which the logging plan applies.
- (3) A logging plan shall—
  - (a) delineate the area proposed to be felled during the annual period of the logging plan; and
  - (b) describe the proposed methods of harvesting; and
  - (c) show the location of all roads, tracks, and landings that exist or are proposed to be constructed; and
  - (d) specify all special logging requirements, such as directional felling; and
  - (e) show all waterways, and mark and describe all topography.

## **10 Sustainable forest management prescriptions**

- (1) The principal sustainable forest management prescription is that the rate of harvest from a forest or group of forests managed as a unit shall be limited to a level at which the forest can continue to supply an annual or periodic non-diminishing yield in perpetuity, which yield shall include the harvest of wind-thrown or dead trees as they become available.
- (2) The other sustainable management prescriptions are as follows:
  - (a) an area that is representative of the forest area and does not exceed 20% of the total forest area to which the plan relates may be set aside and be unavailable for logging;
  - (b) podocarp and kauri species shall be harvested only by single tree or small group harvesting using low impact techniques. Harvesting shall, as far as possible, be restricted to the selective removal of trees predisposed to windthrow or early death. Throughout the term of the sustainable management plan, the character and structure of all parts of the forest shall be maintained:

- (c) beech and other light-demanding hardwood species shall be harvested only in coupes of 0.5 hectares or less:
  - (d) shade-tolerant and exposure-sensitive broadleaved hardwood species shall be harvested only by single tree or small group harvesting using low impact techniques. In creating gaps, regard shall be had for natural regeneration characteristics of the species targeted for logging:
  - (e) where any podocarp, kauri, or shade-tolerant or exposure-sensitive broadleaved hardwood species is harvested and sufficient advanced growth is lacking, there shall be planted for each tree removed at least 5 nursery-raised seedlings of at least 60 centimetres in height of the same species which seedlings shall, where practicable, be raised from seed collected from the district in which such seedlings are to be planted:
  - (f) where there is a failure of regeneration in a light-demanding hardwood forest, the failure shall be corrected by the planting of nursery-raised seedlings with preference being given to using seedlings of the same species which seedlings shall, where practicable, be raised from seed collected from the district in which the seedlings are to be planted.
- (3) Before harvesting any coupe within a distance from a harvested coupe equal to the width of the harvested coupe, regeneration on the harvested coupe must—
- (a) have reached a predominant mean height of 4 metres; and
  - (b) have reached a stocking of the harvested species equal to or greater than the forest before harvesting.

Schedule 2 clause 10(2)(e): amended, on 2 September 1996, by section 4 of the Forests Amendment Act (No 2) 1996 (1996 No 124).

## Forests Amendment Act 2004

Public Act	2004 No 49
Date of assent	19 May 2004
Commencement	see section 2

### 1 Title

- (1) This Act is the Forests Amendment Act 2004.
- (2) In this Act, the Forests Act 1949 is called “the principal Act”.

### 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

## Part 2

### Miscellaneous provisions

#### 19 Compensation

- (1) No person is entitled to compensation from the Crown in respect of any diminution, by reason of the enactment of this Act, in—
  - (a) the rights, or value of the rights, of that person under a contract relating to indigenous timber on any specified Maori land; or
  - (b) the value of indigenous timber on any specified Maori land; or
  - (c) the value of any specified Maori land.
- (2) This section is subject to section 20.

#### 20 Power to specify criteria and method of assessment in relation to payment of assistance

- (1) The Governor-General may, by Order in Council, specify the criteria and methods of assessment that must be applied by the Crown in determining any claim for financial losses suffered in relation to a specified contract as a direct result of the enactment of section 4.
- (2) In this section, **specified contract** means a written contract that—
  - (a) relates to the export of indigenous timber harvested from specified Maori land; and
  - (b) was entered into before 13 July 1999, being the date on which this Act was introduced as a Bill into the House of Representatives.

**21 Power to specify payment of money in relation to conservation covenant not gross income of recipient**

- (1) The Governor-General may, by Order in Council, made in accordance with a recommendation of the Minister of Finance, specify that a payment of money made in consideration of the entering into of a conservation covenant over specified Maori land is not gross income of the recipient.
- (2) An Order in Council under this section may relate to a payment of money that is made in any income year, beginning with the 2002–03 income year.
- (3) In this section **gross income** has the same meaning as in section BD 1 of the Income Tax Act 1994.

**22 Certain payments of money under deed of settlement relating to Waitutu Block not assessable income or gross income**

- (1) This section applies to payments of money made—
  - (a) in any of the 1995–96 to 1999–2000 income years; and
  - (b) to the Proprietors of Waitutu Incorporated under the deed of settlement in relation to that portion of the Waitutu Block that is specified Maori land.
- (2) A payment of money made in the 1995–96 or 1996–97 income year is not assessable income of the Proprietors of Waitutu Incorporated.
- (3) A payment of money made in any of the 1997–98 to 1999–2000 income years is not gross income of the Proprietors of Waitutu Incorporated.
- (4) In this section,—

**assessable income** has the same meaning as in the Income Tax Act 1994 as in force immediately before the commencement of the 1997–98 income year

**deed of settlement** has the same meaning as in the Waitutu Block Settlement Act 1997

**gross income** has the same meaning as in the Income Tax Act 1994 as in force at the commencement of the 1997–98 income year

**payment of money** includes the provision of consideration in kind

**Proprietors of Waitutu Incorporated** has the same meaning as in the Waitutu Block Settlement Act 1997

**Waitutu Block** has the same meaning as in the Waitutu Block Settlement Act 1997.

## Reprints notes

### 1 *General*

This is a reprint of the Forests Act 1949 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Public Service Act 2020 (2020 No 40): section 135

Land Transfer Act 2017 (2017 No 30): section 250

Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120): section 14

Forests Amendment Act 2015 (2015 No 12)

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Legislation Act 2012 (2012 No 119): section 77(3)

Search and Surveillance Act 2012 (2012 No 24): section 317

Criminal Procedure Act 2011 (2011 No 81): section 413

Climate Change Response (Moderated Emissions Trading) Amendment Act 2009 (2009 No 57): section 88(1)

Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85): section 54

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Property Law Act 2007 (2007 No 91): section 364(1)

Climate Change Response Amendment Act 2006 (2006 No 59): section 31

Forests Amendment Act 2005 (2005 No 103)

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Forests Amendment Act 2004 (2004 No 49)

Biosecurity Amendment Act 2003 (2003 No 38): section 28

Ministry of Agriculture and Forestry (Restructuring) Act 1998 (1998 No 106): section 9(1), (2)

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 4

Resource Management Amendment Act 1996 (1996 No 160): section 6(2)(a)

Forests Amendment Act (No 2) 1996 (1996 No 124)

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State-Owned Enterprises (Crown Forestry Management Limited) Order 1996 (SR 1996/122): clause 3

Forests Amendment Act 1995 (1995 No 10)

Forests Amendment Act 1994 (1994 No 33)

Forests Amendment Act 1993 (1993 No 7)

Te Ture Whenua Maori Act 1993 (1993 No 4): section 362(2)

Civil Aviation Act 1990 (1990 No 98): section 101(1)

Regulations (Disallowance) Act 1989 (1989 No 143): section 11

Public Finance Act 1989 (1989 No 44): section 83(7)

Forests Amendment Act 1987 (1987 No 118)

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

Forests Amendment Act 1983 (1983 No 136)

Forests Amendment Act 1981 (1981 No 69)

Forests Amendment Act 1976 (1976 No 45)

Forests Amendment Act 1967 (1967 No 37)

Forests Amendment Act 1960 (1960 No 62)

Forest and Rural Fires Act 1955 (1955 No 44): section 62(1)

Reserves and Other Lands Disposal Act 1953 (1953 No 107): section 5(5)

Maori Affairs Act 1953 (1953 No 94): section 473(1)

Forests Act 1949 (1949 No 19): section 2(2)