Version
as at 23 December 2023

Forestry Rights Registration Act 1983

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

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

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry for Primary Industries.

1 Short Title and commencement

(1) This Act may be cited as the Forestry Rights Registration Act 1983.

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

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

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

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

2 Interpretation

In this Act, unless the context otherwise requires,—

crop means—

(a) a single crop of trees of 1 or more species:

(b) multiple crops of trees of 1 or more species:

(c) any planting of trees of 1 or more species having the same or different expected harvest dates

forestry covenant means any covenant, whether positive or restrictive in effect, contained in a forestry right registered under the Land Transfer Act 2017, or in any variation thereof registered under that Act

forestry right means a right created in accordance with this Act

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

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

land has the same meaning as in the Land Transfer Act 2017

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

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

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

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

Section 2 **forestry covenant**: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

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

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

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

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

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

Section 2 **land**: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

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

2A Creation of forestry rights

(1) A forestry right may be created by the proprietor of land—

(a) by creating in accordance with subsection (3); or

(b) by granting to any other person; or

(c) by reserving to the proprietor on the sale of the land,—

the right to—

(d) establish, maintain, and harvest; or

(e) maintain and harvest,—

a crop of trees on that land.

(2) The forestry right may also—

(a) grant or reserve rights of access and rights of construction and use of tracks, culverts, bridges, buildings, and other works and facilities if those rights are ancillary to and necessary for the purposes of subsection (1):

(b) provide for charges, payments, royalties, or division of the crop or the proceeds of the crop including the right to receive and the obligation to surrender units,—

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

(3) Despite any enactment or rule of law, the proprietor may, in accordance with this section, create a forestry right for the proprietor.

(4) No right created under this section is capable of conferring a right of exclusive possession of the land.

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

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

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

3 Forestry rights to be *profits à prendre*

(1) Notwithstanding any rule of law or equity to the contrary, every forestry right shall be deemed to be a *profit à prendre*.

(2) Every forestry right over any land may be registered under the Land Transfer Act 2017 against the title of the estate of the owner of the land in the same manner, but subject to any modifications prescribed by regulations made under section 7, as that applicable to a *profit à prendre* (not being a forestry right).

(2A) Where a forestry right is created over land in respect of which no record of title has been issued under the Land Transfer Act 2017, the forestry right may be registered in accordance with section 5A.

(3) Every forestry right when executed by the parties signing the same shall have the force and effect of a deed.

Section 3(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

Section 3(2A): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

4 Forestry covenants

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

5 Plan requirements

(1) For the purposes of the Land Transfer Act 2017, instead of complying with section 224 of that Act, the applicant for registration of a forestry right may indicate the boundaries of the forestry right by reference to a diagram or an aerial photograph:

provided that no action shall lie against the Crown under 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.

(2) The proprietor or holder of any forestry right registered pursuant to subsection (1) may at any time deposit a plan in accordance with section 224(4) of the Land Transfer Act 2017 and in accordance with the regulations for the time being in force in that behalf, which plan shall define such area or areas as may be mutually agreed upon by the proprietor and the holder, and shall for all purposes supersede the diagram or aerial photograph or relevant part of the diagram or aerial photograph, and such plan, when deposited, shall be deemed to be incorporated in the grant or reservation.

(3) On the deposit of such plan as aforesaid the Registrar shall, if necessary, amend the description of the parcels included in the grant or reservation and shall endorse on any relevant record of title, lease, or licence a memorial to the effect that the boundaries, or such of the boundaries as are defined, have been surveyed.

Section 5(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 5(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

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

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

Section 5(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

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

5A Registration of forestry rights over unregistered land

(1) Where a forestry right is created over land in respect of which no record of title has been issued under the Land Transfer Act 2017, the holder may request the Registrar-General of Land to register the forestry right in accordance with this section.

(2) The Registrar-General of Land must, at the request of the holder, create a record of title for the forestry right.

(3) No record of title may be issued unless a licensed cadastral surveyor certifies that the land to which that forestry right relates is within the boundaries of a parcel of land identified on a plan lodged in the office of the Surveyor-General or Registrar-General of Land.

(4) Notwithstanding any rule of law or equity to the contrary, every forestry right registered under this section shall run with and bind the land to which it relates and shall be deemed to be an interest in land for the purposes of the Land Transfer Act 2017.

(5) Nothing in this section limits anything in section 5.

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

Section 5A(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

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

Section 5A(2): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 5A(3): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 5A(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

6 Subdivisions and rights of way

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

Section 6: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

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

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

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

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

7 Regulations

(1) The Governor-General may from time to time, by Order in Council, make all such regulations as are necessary or expedient for giving effect to the provisions of this Act and the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1), regulations may be made under this section prescribing such matters as are necessary or expedient for regulating the mode of registration and the form of forestry rights under the Land Transfer Act 2017.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 7(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 7(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

8 Land Settlement Promotion and Land Acquisition Act 1952 not to apply

[Repealed]

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

Notes

1 General

This is a consolidation of the Forestry Rights Registration Act 1983 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Secondary Legislation Act 2021 (2021 No 7): section 3

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

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

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

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

Forestry Rights Registration Amendment Act 1998 (1998 No 47)

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

Forestry Rights Registration Amendment Act 1995 (1995 No 9)

Forestry Rights Registration Amendment Act 1994 (1994 No 67)

Forestry Rights Registration Amendment Act 1993 (1993 No 76)

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

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