

Departmental Disclosure Statement

Forests (Log Traders and Forestry Advisers Repeal) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry for Primary Industries.

The Ministry for Primary Industries certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

2 May 2024

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Part One: General Policy Statement

To support the Government's priorities of reducing regulation and associated compliance costs on businesses, the Forests (Log Traders and Forestry Advisers Repeal) Amendment Bill (the Bill) provides for the:

- disestablishment of the registration system and all associated requirements for log traders and forestry advisers; and
- Ministry for Primary Industries (MPI) to refund any fees or levies paid to MPI under the scheme and waive any fees or levies that are due but not yet paid at the time of commencement.

The Bill also defers the commencement date of, and makes consequential amendments to, the Forests (Legal Harvest Assurance) Amendment Act 2023. This is to ensure that there are no regulatory gaps and that full engagement with affected persons and trading partners can be delivered. It also ensures that the secondary legislation for the legal harvest system is developed and implemented in a way that appropriately manages risk and does not add unnecessary compliance costs.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>No consultation has been undertaken on the policies within this Bill.</p> <p>Relevant reports are available from when the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 was originally introduced, as well as from the implementation of the associated regulations.</p> <p>Regulatory Impact Analysis. May 2020. Available on the Treasury's website at: Strengthening the Integrity of the Forestry Supply Chain: Licensing and Registration</p> <p>Registration for Log Traders and Forestry Advisers – Summary of submissions. February 2022. Available at the Ministry for Primary Industries website at: Registration for Log Traders and Forestry Advisers – Summary of submissions</p> <p>Regulatory Impact Statement. March 2022. Available at the Ministry for Primary Industries website at: Regulatory Impact Statement: Registration for log traders and Forestry Advisers under the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
<p>A Supplementary Analysis Report (SAR), authored by the Ministry for Primary Industries in April 2024 was provided to the relevant Cabinet Committee with the Bill and will be published at www.mpi.govt.nz following enactment.</p>	
2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
<p>The MPI Regulatory Impact Analysis Panel (RIAP) has reviewed the Forests (Log Traders and Forestry Advisers Repeal) Amendment Bill Supplementary Analysis Report (SAR) prepared by the MPI. The review team considers that <i>'the information and analysis summarised in the SAR provides decision makers with sufficient information on the likely impacts of the policy proposals'</i> (18 April 2024).</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO
The legislation does not create new obligations or standards.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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No inconsistencies with international obligations were identified.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Māori represent a large proportion of forest ownership, and these changes will likely reduce costs from being passed on to Māori forest owners. However, consultation has not been undertaken and so there is no detailed information on the potential impacts of the LTFA repeal on Māori.

In addition to MPI's Legal team, Te Puni Kōkiri was consulted on the policies within this Bill.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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Advice provided to the Attorney-General by the Ministry of Justice is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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Under the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020:

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| <ul style="list-style-type: none">• Section 63ZI and 63ZJ provided for a complaints and disputes resolution process which included the referral of disputes to mediation, or where the parties were unable to resolve the dispute at mediation, arbitration.• Sections 63ZK and 63ZK provided for offences and penalties for breaches of the Act. It was an offence if the person failed to comply with any of the provisions set out in Section 63ZK. Penalties for not complying with these provisions were set out in Section 63ZL.• The Act also provided for a registration authority (either MPI or a delegated professional association) to have the power to exercise these rights, and to create supporting bylaws or regulations (through a consultative process). |
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These provisions are all being repealed as part of the Bill. These offences related only to the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 and without the registration system, there will be no ability to commit offences or require penalties for breaches.
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3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
<p>The registration system for LTFA required registered persons to provide information, including personal contact details, as specified by regulations as part of an application for registration. It also required log traders and forestry advisers to meet a range of ongoing reporting requirements.</p> <p>It required the Forestry Authority to keep and maintain a forestry register, being –</p> <p>(a) the register of log traders maintained under section 63ZN; or</p> <p>(b) the register of forestry advisers maintained under section 63ZO of the Forests Act 1949.</p> <p>Under the proposed repeal, all these requirements will be revoked in full. Information provided to support the register will be archived and secured from further use once the repeal comes into effect in accordance with the requirements of the Privacy Act 2020 and Public Records Act 2005.</p> <p>All personal information required to give effect to the repeal itself will also be managed in accordance with the Privacy Act 2020.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
<p>The Office of the Privacy Commissioner was consulted on all proposals associated with the Bill and noted its expectation that:</p> <ul style="list-style-type: none"> - personal information about log traders and forestry advisers that has been made public through the public register created under the repealed provisions will be removed from public access; - with respect to personal information about log traders and forestry advisers collected and held by MPI under the repealed provisions, MPI will consider whether it still has a legal basis to retain this information in terms of the Privacy Act and Public Records Act, or whether the information should be deleted. <p>MPI will ensure that both expectations are met.</p>	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	NO

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO