



## **Climate Change (Forestry Sector) Amendment Regulations 2011**

Anand Satyanand, Governor-General

### **Order in Council**

At Wellington this 16th day of May 2011

Present:

His Excellency the Governor-General in Council

Pursuant to sections 163, 166, 167, and 168 of the Climate Change Response Act 2002, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Amendment Regulations 2011**

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## Regulations

### 1 Title

These regulations are the Climate Change (Forestry Sector) Amendment Regulations 2011.

### 2 Commencement

- (1) Regulations 4(1) to (3), 5, and 9 to 11 come into force on 1 September 2011.
- (2) The rest of these regulations come into force on 19 June 2011.

### 3 Principal regulations amended

These regulations amend the Climate Change (Forestry Sector) Regulations 2008.

### 4 Interpretation

- (1) Regulation 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**FMA** means field measurement approach

“**FMA information** means information collected in accordance with regulation 22B(1)(c)

“**FMA participant**—

“(a) means a post-1989 forest land participant who has 100 or more hectares of registered post-1989 forest land at any time during a mandatory emissions return period; but

“(b) excludes any post-1989 forest land participant—

“(i) who had 100 or more hectares of registered post-1989 forest land before this definition came into force; but

“(ii) who otherwise has fewer than 100 hectares of registered post-1989 forest land from the date this definition comes into force until the end of the first commitment period

“**mandatory emissions return period** has the same meaning as in section 189(9) of the Act

“**non-FMA participant** means a post-1989 forest land participant who is not an FMA participant

“**participant-specific forest carbon stock table** means a table that shows the carbon stock per hectare for an FMA participant’s registered post-1989 forest land by forest type and age of trees

“**participant-specific residual carbon stock table** means a table that shows the carbon stock per hectare for an FMA participant’s registered post-1989 forest land from above ground residual wood and below ground roots immediately following clearing by forest type and age of trees at the time of clearing

“**participant-specific table** means, as the case may require, 1 or both of the following produced by the chief executive under regulation 22D:

“(a) a participant-specific forest carbon stock table:

“(b) a participant-specific residual carbon stock table

“**registered post-1989 forest land**, in relation to a post-1989 forest land participant, means all the post-1989 forest land in respect of which the participant, regardless of the activity listed in Part 1 of Schedule 4 of the Act to which the land relates,—

“(a) is recorded as a participant under section 188 of the Act; or

“(b) becomes a participant under section 192 of the Act

“**shrub species**—

“(a) means a perennial woody-stemmed species that is self-supporting and capable of reaching at least 0.3 metres in height at maturity in the place where it is located; but

“(b) does not include a forest species”.

(2) Paragraph (b) of the definition of **sub-area** in regulation 4(1) is amended by revoking subparagraph (ii) and substituting the following subparagraph:

“(ii) that, if the forest type is *Pinus radiata*, and the carbon stock change of the sub-area is required to be calculated using the tables in Schedule 6, is in one region; and”.

(3) Paragraph (b)(iv) of the definition of **sub-area** in regulation 4(1) is amended by revoking subparagraph (D) and substituting the following subparagraph:

- “(D) are, if the trees cleared were *Pinus radiata*, and the carbon stock change of the sub-area is required to be calculated using the tables in Schedule 6, in one region”.
- (4) Regulation 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:
- “**area**, in relation to the measurement of land, means the area of that land as determined by planimetric measurement
- “**forest type**, in relation to a hectare of forest land, means the forest type determined under—
- “(a) regulation 16(c), if the forest land is pre-1990 forest land; or
- “(b) regulation 22(c), if the forest land is post-1989 forest land
- “**tree** means a tree of a forest species”.
- (5) Paragraph (b) of the definition of **sub-area** in regulation 4(1) is amended by inserting “single” after “within a”.

## 5 Chief executive may issue guidelines or standards

Regulation 7(1) is amended by omitting “regulation 14 or 19” and substituting “regulation 14, 19, 22B, or 22C”.

## 6 Fees and charges

Regulation 8(3) is amended by revoking paragraph (a) and substituting the following paragraph:

- “(a) in the case of the fees for the following matters, at the time of making the application, notifying the chief executive, or submitting the return:
- “(i) an application for—
- “(A) registration as a participant:
- “(B) the addition of a carbon accounting area:
- “(C) the removal of a carbon accounting area:
- “(ii) a notification of a transmission of interest:
- “(iii) a submission of an emissions return; and”.

## 7 New regulation 8A inserted

The following regulation is inserted after regulation 8:

**“8A Waivers and refunds for fees and charges**

- “(1) The chief executive may, in whole or in part, waive or refund the payment of any fee or charge payable under these regulations if the chief executive is satisfied that—
- “(a) the services performed do not justify the payment or the payment in full; or
  - “(b) the waiver or refund is reasonable in the circumstances.
- “(2) The chief executive’s decision must—
- “(a) be in writing; and
  - “(b) specify the reason for the waiver or refund.”

**8 Rules for application of tables in Schedule 4**

- (1) Regulation 16(c) is amended by adding the following subparagraph:
- “(v) indigenous forest if the predominant forest species on the land is indigenous.”
- (2) Regulation 16 is amended by inserting the following paragraph after paragraph (f):
- “(fa) if a hectare of forest land contains regenerating indigenous forest species of mixed ages as the predominant forest species, the age of all of the trees in that hectare is calculated from the time since regeneration of the first of the indigenous forest species in that hectare began.”
- (3) Regulation 16(g) is amended by omitting “paragraph (f)” and substituting “paragraph (f) or (fa)”.
- (4) Regulation 16(h) is amended by revoking subparagraph (ii) and substituting the following subparagraph:
- “(ii) is determined—
    - “(A) in the manner specified in paragraph (f) by using values of the basal area for the predominant forest species only; or
    - “(B) in the case of regenerating indigenous forest species, in accordance with paragraph (fa).”

**9 Calculation of carbon stock**

- (1) Regulation 21(1) is amended by revoking paragraph (a) and substituting the following paragraph:

- “(a) using—
- “(i) table 1 or 2 of Schedule 6 for non-FMA participants, or the table required under regulation 22E for FMA participants, to calculate the forest carbon stock of the sub-area other than from any above ground residual wood and below ground roots from previously cleared trees referred to in subparagraph (ii) ( $T_1$ ); and
  - “(ii) if relevant, table 3 or 4 of Schedule 6 for non-FMA participants, or the table required under regulation 22E for FMA participants, to calculate the carbon stock of the sub-area from above ground residual wood and below ground roots from previously cleared trees that are to be treated as decaying on the land under regulation 22(h) ( $T_2$ ); and”.
- (2) Item C of the formulation in regulation 21(2) is amended by inserting “for non-FMA participants, or the table required under regulation 22E for FMA participants,” after “Schedule 6”.
- (3) Paragraph (c) of item C of the formulation in regulation 21(2) is amended by inserting “and a table in Schedule 6 is being used” after “*Pinus radiata*”.
- (4) Item  $T_1$  of the formulation in regulation 21(2) is amended by omitting “is the carbon stock of the sub-area from growing trees (or where trees have been cleared as a part of deforestation),” and substituting “is the forest carbon stock of the sub-area, other than from any above ground residual wood and below ground roots from previously cleared trees,”.
- (5) Item C of the formulation in regulation 21(3) is amended by inserting “for non-FMA participants, or the table required under regulation 22E for FMA participants,” after “Schedule 6”.
- (6) Paragraph (c) of item C of the formulation in regulation 21(3) is amended by inserting “and a table in Schedule 6 is being used” after “*Pinus radiata*”.
- (7) Regulation 21(4) is amended by inserting “or any participant-specific table required under regulation 22E” after “Schedule 6”.

**10 Rules for application of tables in Schedule 6**

- (1) The heading to regulation 22 is amended by inserting “**or participant-specific tables**” after “**Schedule 6**”.
- (2) Regulation 22 is amended by inserting “or participant-specific tables” after “Schedule 6”.
- (3) Regulation 22(b) is amended by omitting “exotic species” and substituting “exotic forest species”.
- (4) Regulation 22(g) is amended by omitting “paragraph (f)” and substituting “paragraph (f) or (fa)”.
- (5) Regulation 22(h) is amended by omitting “of an exotic forest species”.

**11 New heading and regulations 22A to 22O inserted**

The following heading and regulations are inserted after regulation 22:

*“FMA participants*

**“22A Assignment of forest class**

- “(1) An FMA participant may, by giving notice to the chief executive, assign—
  - “(a) a forest class of exotic to any area of the FMA participant’s registered post-1989 forest land on which 1 or more exotic forest species are growing or being managed with the intention that an exotic forest species will be the predominant forest species on each hectare of the land (or part thereof); and
  - “(b) a forest class of indigenous to any area of the FMA participant’s registered post-1989 forest land on which 1 or more indigenous forest species are growing or being managed with the intention that an indigenous forest species will be the predominant forest species on each hectare of the land (or part thereof).
- “(2) An FMA participant who assigns a forest class by notice to the chief executive under subclause (1) must assign a forest class of exotic or indigenous (as the case may be) to all areas of the FMA participant’s registered post-1989 forest land.



**“22B Field measurement-based assessment process**

- “(1) An FMA participant must, in accordance with any relevant standard issued by the chief executive,—
- “(a) apply to the chief executive for the allocation of permanent sample plots to be located on the FMA participant’s registered post-1989 forest land, which application must request—
    - “(i) the minimum number of plots required under regulation 22C; or
    - “(ii) a greater number of plots than the minimum number of plots required; and
  - “(b) establish a permanent sample plot at each location allocated for a plot by the chief executive under regulation 22C; and
  - “(c) at least once in each mandatory emissions return period, collect the following information in relation to each permanent sample plot located on the FMA participant’s registered post-1989 forest land:
    - “(i) the identifier and location of the plot; and
    - “(ii) the following information for the plot or each part of the plot:
      - “(A) the shape, dimensions, and area; and
      - “(B) the type and dimensions of any trees present; and
      - “(C) if the FMA participant wishes, the type and dimensions of the shrub species present; and
      - “(D) silvicultural information in relation to trees (if applicable), including (but not limited to) the actual or intended dates, intensity, and types of pruning and thinning up to the expected time of clearing; and
      - “(E) information about any adverse event (for example, fire or windthrow) that has caused clearing of any trees, including (but not limited to) the date, intensity, and type of the adverse event; and
    - “(iii) the date on which any information was collected for the purpose of subparagraph (ii); and

- “(d) submit the FMA information collected under paragraph (c) for each permanent sample plot to the chief executive together with a written declaration that states that—
  - “(i) the FMA information submitted—
    - “(A) is true and correct; and
    - “(B) has been collected from the plot to which the FMA information is attributed; and
  - “(ii) the management and silvicultural regime of the FMA participant’s registered post-1989 forest land within the plot is consistent with the management and silvicultural regime of the FMA participant’s registered post-1989 forest land of the same forest type and age in the locality of the plot.
- “(2) Subject to any waiver granted under regulation 22K, an FMA participant who submits FMA information to the chief executive under subclause (1)(d) must submit FMA information for all the permanent sample plots that, at the date of submission of the FMA information, have been allocated to the FMA participant’s registered post-1989 forest land.
- “(3) However, as long as the FMA participant complies with the requirements in subclauses (1)(c) and (d) to collect information from all the permanent sample plots on the FMA participant’s registered post-1989 forest land at least once in each mandatory emissions return period and submit it to the chief executive, FMA information submitted under subclause (1)(d) may be information that has already been provided to the chief executive.

**“22C Allocation of permanent sample plots**

- “(1) The chief executive must, on receipt of an application under regulation 22B, allocate plots to an FMA participant’s registered post-1989 forest land in accordance with any standard issued by the chief executive and in accordance with the following rules:
  - “(a) subject to paragraph (b), the minimum number of plots required for an FMA participant’s registered post-1989 forest land is—
    - “(i) 30 plots for 100 hectares of forest land:

- “(ii) 200 plots for 10 000 or more hectares of forest land:
- “(iii) a number determined on a sliding scale between 30 and 200 plots for forest land between 100 and 10 000 hectares:
- “(b) if an FMA participant has assigned a forest class or classes to its registered post-1989 forest land, the chief executive must determine the minimum number of plots for each of the following areas in accordance with the formula in paragraph (c):
- “(i) the area of the FMA participant’s land to which a forest class of exotic has been assigned:
- “(ii) the area of the FMA participant’s land to which a forest class of indigenous has been assigned:
- “(c) the formula for determination of the minimum number of plots for an area of land in an assigned forest class is—

$$N_{P-FC} = A_{FC}/A_{TOTAL} \times N_{P-TOTAL} \times C_{FC}$$

where—

$N_{P-FC}$  is the minimum number of permanent sample plots for the area of the FMA participant’s registered post-1989 forest land in the assigned forest class

$A_{FC}$  is the area in hectares of the FMA participant’s registered post-1989 forest land in the assigned forest class

$A_{TOTAL}$  is the total area in hectares of the FMA participant’s registered post-1989 forest land

$N_{P-TOTAL}$  is the minimum number of permanent sample plots required for the FMA participant’s total registered post-1989 forest land under paragraph (a)

$C_{FC}$  is—

- (i) 1, if the assigned forest class for the area is exotic:
- (ii) 0.5, if the assigned forest class for the area is indigenous:

- “(d) the chief executive must allocate plots to the FMA participant’s post-1989 forest land as follows:
    - “(i) if the FMA participant has not assigned a forest class or classes to the land, the chief executive must allocate—
      - “(A) the minimum number of plots determined under paragraph (a) for the land; or
      - “(B) any greater number of plots requested by the FMA participant:
    - “(ii) if the FMA participant has assigned a forest class or classes to the land, the chief executive must allocate, in respect of the area of the FMA participant’s land in each of the forest class of exotic and the forest class of indigenous,—
      - “(A) the minimum number of plots determined under paragraph (c) for that area; or
      - “(B) any greater number of plots requested by the FMA participant:
  - “(e) if the number of plots required to be allocated to an area of land under paragraph (d) is—
    - “(i) not a whole number, the chief executive must round the number to the nearest whole number, with 0.5 being rounded up to the nearest whole number:
    - “(ii) less than 2, the chief executive must allocate 2 plots to the area:
  - “(f) the required number of plots for an area of the FMA participant’s registered post-1989 forest land must be allocated as uniformly as practicable within that area.
- “(2) The chief executive must give notice to the FMA participant of the identifier and location of the permanent sample plots allocated to the FMA participant’s registered post-1989 forest land under subclause (1).
- “(3) This regulation is subject to regulation 22J(3) and (4).

**“22D Production of participant-specific tables**

- “(1) The chief executive must, on receipt of any FMA information from an FMA participant (together with any declaration re-

quired) or when requested by an FMA participant under regulation 22G(6) or 22H(3),—

- “(a) use the FMA information that the FMA participant has provided and, as necessary, carbon stock expansion factors from related parameters, to model forest growth and carbon yield (including forecast growth and yield) for the FMA participant’s registered post-1989 forest land with the same forest type by age of trees; and
  - “(b) produce and provide to the relevant FMA participant the following tables for each forest type covered by the FMA information:
    - “(i) a participant-specific forest carbon stock table expressed as tonnes of carbon dioxide per hectare; and
    - “(ii) a participant-specific residual carbon stock table expressed as tonnes of carbon dioxide per hectare.
- “(2) The participant-specific tables produced by the chief executive under subclause (1) must be based on national or international industry standard approaches for determination and forecasting of forest carbon stocks (for example, industry standard models or allometric equations) that have been peer reviewed by a person or persons that the chief executive considers to be expert in the fields of forest inventory, forest growth modelling, or forest carbon stock estimation.
- “(3) The participant-specific tables may be produced automatically by a computer or other electronic means as a result of information entered or held in the computer or other electronic means, and tables produced by these means—
- “(a) must be treated as tables produced by the chief executive; and
  - “(b) are not invalid by virtue of being produced automatically.
- “(4) The chief executive may, if any FMA information provided by an FMA participant appears to be incomplete or abnormal, seek further information or confirmation of the information from the FMA participant before producing participant-specific tables based on the information.

“(5) A participant-specific table produced by the chief executive under subclause (1) must be provided to the relevant FMA participant in accordance with section 147 of the Act as if the participant-specific table were a notice given under that section.

**“22E Use of participant-specific tables**

“(1) A post-1989 forest land participant who is an FMA participant in the first commitment period must,—

“(a) if the FMA participant is required to submit an emissions return within 3 months of the end of that period under section 189(4) of the Act, use the following participant-specific tables to calculate carbon stock for the purposes of the emissions return:

“(i) a participant-specific forest carbon stock table generated from FMA information collected during the first commitment period to calculate carbon stock under regulation 21(1)(a)(i):

“(ii) a participant-specific residual carbon stock table generated from FMA information collected during the first commitment period to calculate carbon stock under regulation 21(1)(a)(ii); and

“(b) use the tables required to be used by a non-FMA participant under regulation 21 to calculate carbon stock for the purposes of any emissions return submitted in respect of any part of the first commitment period other than the emissions return referred to in paragraph (a).

“(2) A post-1989 forest land participant who is an FMA participant in any mandatory emissions period other than the first commitment period must,—

“(a) if the FMA participant has participant-specific tables provided by the chief executive, use for any emissions return (other than the emissions return referred to in paragraph (c)) the FMA participant’s most recent—

“(i) participant-specific forest carbon stock table to calculate carbon stock under regulation 21(1)(a)(i):

“(ii) participant-specific residual carbon stock table to calculate carbon stock under regulation 21(1)(a)(ii); and

- “(b) if the FMA participant does not yet have participant-specific tables provided by the chief executive, use the tables required to be used by a non-FMA participant under regulation 21 to calculate carbon stock for the purposes of any emissions return submitted in respect of any part of the mandatory emissions return period other than the emissions return referred to in paragraph (c); and
- “(c) if the FMA participant is required to submit an emissions return within 3 months of the end of the mandatory emissions return period under section 189(4) of the Act, use the following participant-specific tables to calculate carbon stock for the purposes of the emissions return:
  - “(i) a participant-specific forest carbon stock table generated from FMA information collected during the mandatory emissions return period to calculate carbon stock under regulation 21(1)(a)(i);
  - “(ii) a participant-specific residual carbon stock table generated from FMA information collected during the mandatory emissions return period to calculate carbon stock under regulation 21(1)(a)(ii).
- “(3) If an FMA participant is required by these regulations to calculate carbon stock for a forest type using participant-specific tables and those participant-specific tables do not include the forest type, the FMA participant must use the tables set out in Schedule 6 to calculate the carbon stock as if the FMA participant were a non-FMA participant.
- “(4) If, when calculating carbon stock for the purpose of an emissions return, an FMA participant is aware that any of the silvicultural or adverse event information on which the FMA participant’s most recent participant-specific tables are based is incomplete or no longer valid for the period covered by the emissions return (for example, because of a change in silvicultural intentions, or an intervening adverse event), the FMA participant—
  - “(a) may not use the FMA participant’s most recent participant-specific tables to calculate carbon stock; but

- “(b) must submit FMA information that includes updated silvicultural or adverse event information to the chief executive under regulation 22B(1)(d), together with the declaration required by that regulation; and
  - “(c) must request the chief executive to produce, and provide to the FMA participant, updated participant-specific tables that take into account the new information; and
  - “(d) must use the updated participant-specific tables provided by the chief executive for the purposes of the emissions return.
- “(5) An FMA participant must, when submitting an emissions return that shows emissions or removals calculated using a participant-specific table, also submit a declaration that states that the silvicultural and adverse event information provided for all the permanent sample plots on the FMA participant’s registered post-1989 forest land and on which the participant-specific table used for the purposes of the emissions return was based, remains valid and complete.
- “(6) Subclauses (1) and (2) are subject to—
- “(a) subclause (4); and
  - “(b) regulations 22F to 22J and 22L.
- “(7) Subclauses (4) and (5) do not apply if the emissions return is submitted under section 189(3) of the Act.
- “22F Application for allocation of new permanent sample plots**
- “(1) An FMA participant who has permanent sample plots on the FMA participant’s registered post-1989 forest land may apply for the allocation of new plots to the land if the FMA participant—
- “(a) has not previously applied for the allocation of plots to the land in the mandatory emissions return period in which the application is made (other than applying for additional plots as provided in regulation 22G or 22J); and
  - “(b) has not yet submitted an emissions return in respect of any of the FMA participant’s registered post-1989 forest land that relates to any part of the mandatory emissions return period in which the application is made.



- “(2) Before making an application under subclause (1), the FMA participant—
- “(a) may, in accordance with regulation 22A,—
    - “(i) assign a forest class or classes to the FMA participant’s registered post-1989 forest land; or
    - “(ii) notify any change to the forest class or classes assigned to the FMA participant’s registered post-1989 forest land; or
  - “(b) may, by notice to the chief executive, advise that the FMA participant no longer wishes a forest class or classes to be assigned to the FMA participant’s registered post-1989 forest land.
- “(3) An FMA participant who is allocated new permanent sample plots following an application made under this regulation must—
- “(a) establish those plots at the locations allocated by the chief executive; and
  - “(b) use, for any emissions return submitted after the date of allocation of the plots that is in respect of the mandatory emissions return period in which the application was made, participant-specific tables produced by the chief executive based on FMA information collected from the plots allocated to the land.

**“22G Rules to apply if FMA participant’s registered post-1989 forest land is reduced but remains 100 or more hectares**

- “(1) This regulation applies if—
- “(a) an FMA participant’s registered post-1989 forest land is reduced by—
    - “(i) the FMA participant removing a carbon accounting area or removing land from a carbon accounting area; or
    - “(ii) the operation of section 192 of the Act; and
  - “(b) despite the reduction, the FMA participant retains 100 hectares or more of registered post-1989 forest land.
- “(2) If the number of permanent sample plots on the FMA participant’s remaining registered post-1989 forest land does not meet the minimum requirements in regulation 22C, the FMA participant must—

- “(a) apply to the chief executive for allocation of—
    - “(i) additional plots that will bring the number of plots on the FMA participant’s registered post-1989 forest land up to the minimum required for the land; or
    - “(ii) any greater number of additional plots than the number required to bring the number of plots up to the minimum required for the land, that the FMA participant would like to establish; and
  - “(b) establish the additional plots in the locations allocated by the chief executive.
- “(3) If the FMA participant is unable to determine whether the number of permanent sample plots on the FMA participant’s remaining post-1989 forest land meets the minimum requirements specified in regulation 22C,—
- “(a) the FMA participant may request the chief executive to determine the minimum required number of plots; and
  - “(b) the chief executive must, if requested to do so by an FMA participant, determine the minimum number of plots required for the FMA participant’s registered post-1989 forest land (taking into account any forest class or classes assigned to the land) and advise the FMA participant of that number.
- “(4) If the number of permanent sample plots on the FMA participant’s remaining registered post-1989 forest land meets the minimum requirements specified in regulation 22C, the FMA participant—
- “(a) may apply to the chief executive for allocation of any additional plots that the FMA participant would like to establish; and
  - “(b) must, if allocated additional plots in accordance with paragraph (a), establish the additional plots in the locations allocated by the chief executive.
- “(5) Subject to subclause (6), the FMA participant must use, for any emissions return submitted in respect of the FMA participant’s remaining registered post-1989 forest land, participant-specific tables produced by the chief executive based on FMA information collected from all the permanent sample plots al-

located to the land (that is, the previously allocated plots and any additional plots) if the FMA participant—

- “(a) is required by regulation 22E to use participant-specific tables for the purposes of calculating carbon stock for any emissions return; and
  - “(b) is required to have or has elected to apply for additional permanent sample plots under subclause (2)(a) or (4)(a).
- “(6) If the FMA participant wishes to submit an emissions return under section 189(3) of the Act before the FMA participant has been provided with participant-specific tables based on FMA information collected from all the permanent sample plots allocated to the land, the FMA participant must—
- “(a) request the chief executive to produce interim participant-specific tables based on FMA information previously provided in respect of the plots on the FMA participant’s remaining registered post-1989 forest land; and
  - “(b) use the interim tables produced as a result of the request to calculate carbon stock under regulation 21 for the emissions return.
- “(7) For the purposes of subclause (6), the FMA participant must request the production of interim participant-specific tables under subclause (6)(a) when the FMA participant—
- “(a) applies to remove the carbon accounting area or to remove land from the carbon accounting area; or
  - “(b) gives notice of transmission of the interest under section 192 of the Act.

**“22H Rules to apply if FMA participant’s registered post-1989 forest land is reduced below 100 hectares**

- “(1) This regulation applies if—
- “(a) an FMA participant’s registered post-1989 forest land is reduced by—
    - “(i) the FMA participant removing a carbon accounting area or removing land from a carbon accounting area; or
    - “(ii) the operation of section 192 of the Act; and

- “(b) the FMA participant has, as a result of the reduction, less than 100 hectares of registered post-1989 forest land.
- “(2) The FMA participant must use to calculate carbon stock for the purposes of any emissions return submitted in respect of the FMA participant’s remaining registered post-1989 forest land, in respect of which the FMA participant is required by regulation 22E to use participant-specific tables,—
- “(a) participant-specific tables produced by the chief executive based on FMA information collected from the permanent sample plots on the FMA participant’s remaining registered post-1989 forest land if at least 2 permanent sample plots are on that land:
- “(b) the tables required to be used by a non-FMA participant to calculate carbon stock, if fewer than 2 permanent sample plots are on the FMA participant’s remaining registered post-1989 forest land.
- “(3) For the purposes of complying with subclause (2)(a), the FMA participant may request the chief executive to produce participant-specific tables based on the FMA information that was previously submitted in respect of the permanent sample plots on the FMA participant’s remaining registered post-1989 forest land.
- “(4) However, if the tables are to be used to calculate carbon stock for the purposes of an emissions return other than a return under section 189(3) of the Act, and the FMA participant is aware that any of the silvicultural or adverse event information previously submitted is incomplete or no longer valid (for example, because of a change in silvicultural intentions, or any intervening adverse event), the FMA participant—
- “(a) may not use participant-specific tables produced by the chief executive based on the previously submitted FMA information; but
- “(b) must—
- “(i) submit FMA information for the permanent sample plots on the FMA participant’s remaining registered post-1989 forest land that includes updated silvicultural or adverse event information to the chief executive under regulation

- 22B(1)(d), together with the declaration required by that regulation; and
- “(ii) use the participant-specific tables produced by the chief executive based on the information referred to in subparagraph (i) for the purposes of calculating carbon stock for the emissions return.
- “(5) To avoid doubt, subclauses (2), (3), and (4) do not override regulation 22E(1)(a) or (2)(c).
- “(6) The FMA participant must make any request for participant-specific tables under subclause (3) when the FMA participant—
- “(a) applies to remove a carbon accounting area or remove land from a carbon accounting area; or
- “(b) gives notice of transmission of an interest under section 192 of the Act.
- “(7) An FMA participant who has 2 or more permanent sample plots on the FMA participant’s remaining registered post-1989 forest land, and who subsequently adds further post-1989 forest land but still has less than 100 hectares of registered post-1989 forest land, must, if required by regulation 22E to use participant-specific tables for the purposes of calculating carbon stock for any emissions return,—
- “(a) use, for the FMA participant’s remaining registered post-1989 forest land, participant-specific tables based on FMA information from the plots on that land as referred to in subclauses (2) to (4); and
- “(b) use, for the added land, the tables that a non-FMA participant would be required to use under regulation 21 to calculate carbon stock.
- “(8) An FMA participant who has reduced the FMA participant’s remaining registered post-1989 forest land to less than 100 hectares and who subsequently adds further post-1989 forest land so that the FMA participant’s total registered post-1989 forest land is 100 hectares or more,—
- “(a) must, at the time the FMA participant adds the land that takes the FMA participant up to or over the 100-hectare threshold, apply to the chief executive for an allocation of new permanent sample plots for the FMA participant’s registered post-1989 forest land; and

- “(b) may at the same time as complying with paragraph (a) comply with regulation 22F(2)(a) or (b); and
- “(c) must establish those plots at the locations allocated by the chief executive; and
- “(d) must, if required by regulation 22E to use participant-specific tables, use participant-specific tables produced by the chief executive based on FMA information collected from the plots allocated to the land for any emissions return submitted after the date of allocation of the plots and in respect of the FMA participant’s registered post-1989 forest land after the increase in the area of land.

**“22I Reconfiguration of registered post-1989 forest land**

- “(1) This regulation applies if—
  - “(a) an FMA participant—
    - “(i) applies to remove a carbon accounting area from the FMA participant’s registered post-1989 forest land; or
    - “(ii) is removed from the register in respect of all the land in respect of which the FMA participant is recorded as carrying out an activity listed in Part 1 of Schedule 4 of the Act; and
  - “(b) within 20 working days of the matter in paragraph (a), the FMA participant applies to—
    - “(i) add a carbon accounting area or areas consisting of all the post-1989 forest land that was in the carbon accounting area removed from the FMA participant’s registered post-1989 forest land; or
    - “(ii) register as a participant under section 57 of the Act in relation to all the post-1989 forest land in respect of which the FMA participant has ceased to be registered as a participant.
- “(2) If this regulation applies,—
  - “(a) the FMA participant is not required to comply with regulation 22G or 22H; and
  - “(b) regulations 22B to 22F and 22K to 22M continue to apply to the FMA participant as if there has been no change in—

- “(i) the post-1989 forest land in respect of which the FMA participant was recorded as a participant;  
or
- “(ii) the FMA participant’s registration under the Act.

**“22J Rules to apply if FMA participant’s registered post-1989 forest land is 100 hectares or more and is increased**

- “(1) This regulation applies if an FMA participant’s registered post-1989 forest land is 100 hectares or more and is increased by—
  - “(a) the FMA participant adding 1 or more carbon accounting areas to the FMA participant’s registered post-1989 land; or
  - “(b) the operation of section 192 of the Act.
- “(2) Subject to subclause (9), the FMA participant must—
  - “(a) apply to the chief executive for allocation of—
    - “(i) the minimum number of permanent sample plots required for the FMA participant’s registered post-1989 forest land under regulation 22C(1)(a) or (b), as applicable; or
    - “(ii) any greater number of plots than the minimum required for the land under those provisions that the FMA participant would like; and
  - “(b) establish the plots allocated by the chief executive in accordance with subclause (3).
- “(3) Subclause (4) applies to an application made under subclause (2)(a) if—
  - “(a) the FMA participant has not assigned a forest class or classes to the FMA participant’s registered post-1989 forest land, in respect of all the FMA participant’s registered post-1989 forest land:
  - “(b) the FMA participant has assigned a forest class or classes to the FMA participant’s registered post-1989 forest land in the required locations, in respect of—
    - “(i) the area of the FMA participant’s registered post-1989 forest land to which a class of exotic has been assigned:

- “(ii) the area of the FMA participant’s registered post-1989 forest land to which a class of indigenous has been assigned.
- “(4) If this subclause applies, the chief executive must, when allocating permanent sample plots in respect of an area of registered post-1989 forest land,—
- “(a) determine the number of plots per hectare on the FMA participant’s registered post-1989 forest land (or registered post-1989 forest land in that forest class) prior to the new land being added ( $D_{EXIST}$ ); and
- “(b) determine, if the number of new plots applied for under subclause (2)(a) were to be allocated as uniformly as practicable across both the prior land and the added land (or the prior land in that forest class and the added land in that forest class, as applicable),—
- “(i) the number of new plots that would, if allocated, be located on the prior land or the prior land in that forest class ( $N_{NEW-PRIOR}$ ); and
- “(ii) the number of new plots that would, if allocated, be located on the added land or the added land in that forest class ( $N_{NEW-ADDED}$ ); and
- “(iii) the number of new plots per hectare that would, if allocated, be located on the added land or the added land in that forest class ( $D_{NEW-ADDED}$ ); and
- “(c) if  $D_{NEW-ADDED}$  is greater than  $D_{EXIST}$ , determine the number of new plots that would be allocated to the added land if  $D_{NEW-ADDED}$  were equal to  $D_{EXIST}$ ; and
- “(d) allocate new plots to the FMA participant’s registered post-1989 forest land (or the FMA participant’s registered post-1989 forest land in that forest class, as applicable) as follows:
- “(i) unless paragraph (c) applies, allocate to the added land the number of new plots that is equal to  $N_{NEW-ADDED}$ ;
- “(ii) if paragraph (c) applies, allocate to the added land the number of new plots that is equal to the number determined under paragraph (c):



- “(iii) retain from the existing plots on the prior land and treat as newly allocated plots the number of plots equal to  $N_{\text{NEW-PRIOR}}$ .
- “(5) The chief executive must give notice to the FMA participant of the identifier and location of the permanent sample plots allocated to the FMA participant’s registered post-1989 forest land under subclause (4).
- “(6) To avoid doubt, any permanent sample plots that are not retained on the prior land, or that existed on the added land before it was added to the FMA participant’s registered post-1989 forest land, are not to be treated as allocated to the FMA participant’s registered post-1989 forest land.
- “(7) Subject to subclause (8), the FMA participant must, if required by regulation 22E to use participant-specific tables for the purposes of calculating carbon stock for any emissions return, use participant-specific tables produced by the chief executive based on FMA information collected from all the permanent sample plots allocated to the land under subclause (4) for any emissions return submitted in respect of the FMA participant’s registered post-1989 forest land after the increase in the area of land.
- “(8) If the FMA participant wishes to submit an emissions return under section 189(3) of the Act before the participant-specific tables based on FMA information collected from all the permanent sample plots allocated to the land under subclause (4) are produced, the FMA participant may use,—
- “(a) for calculating the carbon stock of the prior land, the FMA participant’s most recent participant-specific tables generated before the addition of the land; and
- “(b) for calculating the carbon stock of the added land, the tables from the following list that lead to the lesser amount of removals or the greater amount of emissions:
- “(i) the participant-specific tables used for the prior land under paragraph (a):
- “(ii) the tables that a non-FMA participant would be required to use under regulation 21 to calculate carbon stock.
- “(9) If the FMA participant would be entitled to apply for allocation of new permanent sample plots to the FMA participant’s

registered post-1989 forest land under regulation 22F(1), the FMA participant may, instead of complying with this regulation, comply with regulation 22F.

**“22K Permanent waivers in relation to requirement to establish permanent sample plots**

- “(1) Despite regulation 22B, 22G, 22H, or 22J, if an FMA participant determines that establishing, or collecting FMA information from, a permanent sample plot in a location specified by the chief executive is, or has become, impractical or dangerous, the FMA participant may submit an application to the chief executive for a permanent waiver of the requirement to establish, or collect FMA information from, the plot in that location.
- “(2) An application made under subclause (1)—
- “(a) may be made at any time before FMA information from the specified permanent sample plot is required to be submitted to the chief executive for the generation of participant-specific tables; and
  - “(b) must specify—
    - “(i) why establishing, or collecting FMA information from, the plot is impractical or dangerous; and
    - “(ii) if an estimate of the FMA information that would otherwise be required to be collected from the plot is possible, how the estimate is to be made, including, if the FMA participant proposes to establish an alternative plot, the proposed location of that plot.
- “(3) The chief executive may grant a permanent waiver under this regulation if the chief executive is satisfied that establishing, or collecting FMA information from, a permanent sample plot in the allocated location is impractical or dangerous.
- “(4) An FMA participant who is granted a permanent waiver under this regulation is not required to establish the permanent sample plot in the location allocated for the plot, but must, if required by the chief executive, and in accordance with any conditions prescribed by the chief executive,—
- “(a) provide estimates of the FMA information that would have been collected from a plot in the location allocated

- for the plot when required to submit FMA information from the plot under these regulations; or
- “(b) establish a plot in an alternative location specified by the chief executive and comply with these regulations as if that plot were a plot allocated to the FMA participant’s registered post-1989 forest land.
- “(5) If the chief executive grants a permanent waiver to an FMA participant under this regulation and does not require the FMA participant to provide estimated or actual FMA information for a permanent sample plot under subclause (4),—
- “(a) the FMA participant is not required to comply with these regulations in respect of the submission of FMA information from the allocated plot; and
  - “(b) these regulations apply with any necessary modifications as if the FMA participant had not been allocated a sample plot in that location.

**“22L Waivers in relation to use of participant-specific tables**

- “(1) An FMA participant may apply to the chief executive for a waiver of—
- “(a) any requirement under regulation 22G(5) or 22J(7) to use participant-specific tables generated from FMA information that includes information from additional permanent sample plots required to be established under regulation 22G or from new plots to be allocated or added under regulation 22J, when calculating carbon stock under regulation 21, on the basis that—
    - “(i) insufficient time exists before an emissions return is required to be submitted under the Act to establish the plots, or collect the required FMA information from the plots and provide it to the chief executive to enable the required participant-specific tables to be produced; or
    - “(ii) owing to circumstances beyond the FMA participant’s control, the FMA participant is unable to establish the plots, or collect the required FMA information from the plots and provide it to the chief executive to enable the required participant-specific tables to be produced; or

- “(b) the requirement for the FMA participant to use any particular participant-specific tables when calculating carbon stock under regulation 21, on the basis that owing to circumstances beyond the FMA participant’s control, the FMA participant is unable to establish permanent sample plots, or collect the required FMA information and provide it to the chief executive to enable participant-specific tables to be produced, before an emissions return is required to be submitted under the Act.
- “(2) If the chief executive grants a waiver under—
  - “(a) subclause (1)(a), the FMA participant must,—
    - “(i) if the FMA participant’s registered post-1989 forest land has reduced,—
      - “(A) submit FMA information for the permanent sample plots already established on the FMA participant’s remaining registered post-1989 forest land (that includes updated silvicultural or adverse event information) to the chief executive under regulation 22B(1)(d), together with the declaration required by that regulation; and
      - “(B) use the participant-specific tables produced by the chief executive based on the information referred to in subparagraph (A) for the purposes of calculating carbon stock for the emissions return; or
    - “(ii) if the FMA participant’s registered post-1989 forest land has increased, subject to regulation 22E(4), use the tables that would be required to be used under regulation 22J(8) to calculate carbon stock for the purposes of the emissions return; or
  - “(b) subclause (1)(b), the FMA participant must,—
    - “(i) subject to regulation 22E(4), use the most recent participant-specific tables that apply to the FMA participant’s registered post-1989 forest land to determine carbon stock under regulation 21; or

- “(ii) in the absence of an applicable participant-specific table, use the tables that a non-FMA participant would be required to use under regulation 21 to calculate carbon stock.
- “(3) An application for a waiver under—
- “(a) subclause (1)(a) must—
    - “(i) be made—
      - “(A) at the same time as any application or notification that relates to an addition to or a removal from the FMA participant’s registered post-1989 forest land; or
      - “(B) if the FMA participant is unable to meet the requirement of subsubparagraph (A), as soon as practicable after the circumstances requiring the waiver become apparent, but before the date by which the relevant emissions return is required to be submitted; and
    - “(ii) describe the actions that the FMA participant has taken to attempt to comply with the requirements in the regulations and state the reasons why the FMA participant has been unable to comply; and
    - “(iii) be accompanied by evidence that corroborates the information provided under subparagraph (ii):
  - “(b) subclause (1)(b) must—
    - “(i) be made as soon as practicable after the circumstances requiring the waiver become apparent, but before the date by which the relevant emissions return is required to be submitted; and
    - “(ii) describe the actions that the FMA participant has taken to attempt to comply with the requirements in the regulations and state the reasons why the FMA participant has been unable to comply; and
    - “(iii) be accompanied by evidence that corroborates the information provided under subparagraph (ii).

**“22M Cost recovery for assessment under section 121 of Act**

- “(1) An FMA participant is liable to pay for any actual and reasonable costs incurred by the chief executive in making an assessment under section 121 of the Act in respect of any matters required to be in the FMA participant’s emissions return, including (but not limited to) the costs associated with—
- “(a) establishing permanent sample plots at locations specified by the chief executive:
  - “(b) collecting the FMA information required for each permanent sample plot:
  - “(c) obtaining forest sub-area information:
  - “(d) using participant-specific tables produced by the chief executive in reliance on the information collected to determine the emissions or removals from the FMA participant’s carbon accounting areas.
- “(2) An FMA participant is liable to pay for—
- “(a) any services carried out by the chief executive:
  - “(b) the actual and reasonable costs of services carried out by third parties on behalf of the chief executive for the purposes of making the assessment (including any time spent travelling to carry out field-based services) plus the disbursements of the third parties at actual cost.
- “(3) An FMA participant is liable to pay for any services carried out by the chief executive for the purposes of making the assessment (including any time spent travelling to carry out field-based services) at the rate of \$132.88 per hour plus disbursements at actual cost.
- “(4) Any costs payable under subclause (1), (2), or (3) must be paid to the chief executive upon an invoice issued by or on behalf of the chief executive and within the time specified in the invoice.
- “(5) Despite subclause (4), the chief executive may approve other arrangements for the payment of costs payable under subclause (1), (2), or (3).
- “(6) The rate specified in subclause (3) is inclusive of goods and services tax under the Goods and Services Tax Act 1985.

**“22N Form of certain documents**

To avoid doubt, any application, request, or notice under regulations 22A to 22M must be submitted, made, or given in the manner and be in the form and format, if any, prescribed by the chief executive under section 90 of the Act.

**“22O Transitional provision**

Despite anything in regulations 22A to 22N, an FMA participant may not submit any FMA information to the chief executive before 1 September 2012 without the consent of the chief executive.”

**12 New Schedule 2 substituted**

Schedule 2 is revoked and the schedule set out in Schedule 1 of these regulations substituted.

**13 Schedule 4 amended**

Schedule 4 is amended by revoking table 2 and substituting the table set out in Schedule 2 of these regulations.

**14 Schedule 6 amended**

- (1) Schedule 6 is amended as specified in Part 1 of Schedule 3 of these regulations.
  - (2) Schedule 6 is amended by revoking table 4 and substituting the table set out in Part 2 of Schedule 3 of these regulations.
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**Schedule 1**

r 12

**New Schedule 2 substituted****Schedule 2**

r 8

**Fees and charges payable for applications  
and other matters relating to post-1989  
forest land**

<b>Matter for which fee or charge is payable</b>	<b>Fee or charge payable</b>	<b>Fee or charge payable by</b>
1. Except where item 7 applies, application for registration as participant in respect of activity listed in Part 1 of Schedule 4 of Act	\$562.22 plus \$132.88 per hour in excess of 4.25 hours for checking and processing application	Applicant
2. Except where item 7 applies, submitting emissions return under section 189, 191, or 193 of Act	\$102.22 plus \$132.88 per hour in excess of 45 minutes for processing emissions return	Participant
3. Travel for purpose of checking that land is post-1989 forest land	\$132.88 per hour plus disbursements at actual cost	Applicant or participant
4. Except where item 7 applies, an application to add 1 or more carbon accounting areas	\$102.22 plus \$132.88 per hour in excess of 45 minutes for processing application	Participant
5. Application to remove 1 or more carbon accounting areas	No charge	—
6. Notification of transmission of interest	\$102.22 plus \$132.88 per hour in excess of 45 minutes for processing notification	Transferor
7. Application to be removed from the register as participant in respect of all carbon accounting areas for which participant is recorded as participant for activity in Part 1 of Schedule 4 of Act, combined with—	\$562.22 plus \$132.88 per hour in excess of 4.25 hours for processing applications and emissions returns	Participant
(a) submission of emissions return under section 191 of Act for those carbon accounting areas:		
(b) application to be registered as participant in relation to all the post-1989 forest land covered by return referred to in paragraph (a):		



Schedule 2—*continued*

<b>Matter for which fee or charge is payable</b>	<b>Fee or charge payable</b>	<b>Fee or charge payable by</b>
(c) submission of emissions return under section 189(4A) of Act for all land referred to in paragraph (b)		

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**Schedule 2**  
**Schedule 4 amended**

r 13

Table 2  
Carbon stock per hectare for Douglas fir,  
exotic softwoods, exotic hardwoods, and  
indigenous forest  
(expressed as tonnes of carbon dioxide per  
hectare)

Age (yrs)	Douglas fir	Exotic softwoods	Exotic hardwoods	Indigenous forest
9	131	137	282	109
10	135	139	310	107
11	143	144	337	108
12	155	151	364	111
13	170	161	390	115
14	187	172	414	121
15	208	185	438	129
16	230	199	460	137
17	254	214	481	146
18	281	229	502	155
19	293	245	522	165
20	308	260	541	175
21	326	276	559	185
22	347	291	576	195
23	370	307	594	205
24	394	321	610	214
25	420	335	626	223
26	446	349		232
27	454	363		240
28	475	377		248
29	500	390		255
30	524	403		262
31	550	416		268
32	576	429		274
33	601	442		279

Table 2—*continued*

<b>Age (yrs)</b>	<b>Douglas fir</b>	<b>Exotic softwoods</b>	<b>Exotic hardwoods</b>	<b>Indigenous forest</b>
34	629	454		284
35	654	466		289
36	682	478		293
37	706	490		297
38	732	502		300
39	732	513		303
40	753	525		306
41	774	536		309
42	795	548		311
43	816	559		313
44	837	571		315
45	858	582		317
46	878	594		319
47	899	606		320
48	919	617		322
49	938	629		323
50	957	642		324
51	976			
52	995			
53	1 013			
54	1 032			
55	1 050			
56	1 068			
57	1 086			
58	1 103			
59	1 121			
60	1 138			
61	1 155			
62	1 171			
63	1 188			
64	1 204			
65	1 220			

Table 2—*continued*

<b>Age (yrs)</b>	<b>Douglas fir</b>	<b>Exotic softwoods</b>	<b>Exotic hardwoods</b>	<b>Indigenous forest</b>
66	1 235			
67	1 251			
68	1 266			
69	1 281			
70	1 296			
71	1 310			
72	1 324			
73	1 338			
74	1 352			
75	1 366			
76	1 379			
77	1 392			
78	1 405			
79	1 417			
80	1 430			

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### Schedule 3

### Schedule 6 amended

r 14

#### Part 1

#### Amendments to tables 1 and 2

Table 1: insert above the item relating to 1:

0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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Table 2: insert above the item relating to 1:

0	0.0	0.0	0.0	0.0
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#### Part 2

#### New table 4 substituted

#### Table 4

Carbon stock per hectare in above ground residual wood and below ground roots from cleared Douglas fir, exotic softwoods, exotic hardwoods, and indigenous forest

(expressed as tonnes of carbon dioxide per hectare)

Age (yrs)	Douglas fir	Exotic softwoods	Exotic hardwoods	Indigenous forest
0	0.0	0.0	0.0	0.0
1	0.1	0.2	0.1	0.6
2	0.1	1	3	1.2
3	0.4	3	13	2.5
4	1	12	34	4.6
5	2	26	48	8
6	4	41	64	12
7	7	52	83	18
8	20	64	101	24
9	31	73	119	30
10	39	80	136	31
11	48	83	152	35
12	57	86	166	38
13	67	90	178	42

Part 2—*continued*

Age (yrs)	Douglas fir	Exotic softwoods	Exotic hardwoods	Indigenous forest
14	77	94	190	46
15	89	99	200	52
16	100	104	210	56
17	112	110	219	61
18	125	116	227	66
19	159	122	234	87
20	169	128	242	94
21	187	134	248	104
22	194	140	255	107
23	200	146	262	109
24	208	152	268	111
25	216	157	274	114
26	225	163		116
27	233	168		122
28	239	174		124
29	247	179		125
30	255	184		127
31	265	190		129
32	274	196		130
33	283	202		131
34	294	208		132
35	303	213		134
36	315	219		135
37	324	224		136
38	335	230		137
39	342	235		141
40	350	240		142
41	357	246		142
42	365	251		143
43	373	256		143
44	381	262		143
45	389	267		144

Part 2—*continued*

Age (yrs)	Douglas fir	Exotic softwoods	Exotic hardwoods	Indigenous forest
46	397	273		144
47	405	278		144
48	413	284		144
49	421	289		145
50	429	295		145

Rebecca Kitteridge,  
Clerk of the Executive Council.

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### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations amend the Climate Change (Forestry Sector) Regulations 2008. *Regulations 4(1) to (3), 5, and 9 to 11* come into force on 1 September 2011. The rest of these regulations come into force on 19 June 2011. The amendments provide a new carbon assessment method for registered post-1989 forest land.

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These regulations are administered by the Ministry of Agriculture and Forestry.

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