



## ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. Forestry rights to be <i>profits a prendre</i></p>	<p>4. Forestry covenants</p> <p>5. Plan requirements</p> <p>6. Subdivisions and rights of way</p> <p>7. Regulations</p>
---	---

1983, No. 42

**An Act to provide for the creation and registration of forestry rights**  
[29 November 1983]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**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.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Forestry covenant” means any covenant, whether positive or restrictive in effect, contained in a forestry right registered under the Land Transfer Act 1952, or in any variation thereof registered under that Act:

“Forestry right” means a right granted by the grantor of any land to any other person to—

(a) Establish, maintain, and harvest; or

(b) Maintain and harvest,—

a crop of trees on that land, together with—

(c) Any ancillary rights of access and of constructing and using such tracks, culverts, bridges, buildings, and other works and facilities as may be necessary to establish, maintain, and harvest or, as the case may be, to maintain and harvest that crop; and

(d) Any provisions for charges, payments, royalties, or division of the crop or the proceeds of the crop,—whether or not such rights or provisions are coupled with an obligation; but no such right shall be capable of conferring a right of exclusive possession of that land:

“Grantor”, in relation to the grant 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; and “grantee” has a corresponding meaning:

“Land” has the same meaning as in the Land Transfer Act 1952.

### **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 1952 against the title of the estate of the grantor of the land in the same manner, but subject to any modifications prescribed by regulations made under section 7 of this Act, as that applicable to a *profit à prendre* (not being a forestry right).

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

**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 1952, instead of complying with section 167 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 Part XI of the Land Transfer Act 1952 in respect of any such boundary not defined in accordance with the said section 167.

(2) The grantor or grantee of any forestry right registered pursuant to subsection (1) of this section may at any time deposit a plan in accordance with section 167 (5) of the Land

Transfer Act 1952 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 grantor and the grantee, 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.

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

**6. Subdivisions and rights of way**—For the purposes of the Local Government Act 1974, the grant of a forestry right shall be deemed not to be a subdivision of the land of the grantor, and any right of access granted by or created as ancillary to a forestry right over the land of the grantor shall be deemed not to be the grant of a right of way under section 348 of that Act.

**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) of this section, 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 1952.