

## FORESTS AMENDMENT BILL

---

### EXPLANATORY NOTE

#### GENERAL POLICY STATEMENT

Part IIIA of the Forests Act 1949 promotes the sustainable management of New Zealand's remaining indigenous forests by prohibiting the export of indigenous timber from unsustainably-managed forests. Indigenous timber may be exported when the timber has been harvested pursuant to a registered sustainable forest management plan or registered sustainable forest management permit.

Four categories of indigenous forests are currently exempted from the Part IIIA provisions:

- (a) West Coast indigenous production forests covered by the West Coast Accord; and
- (b) Indigenous forests on lands originally reserved or granted under the South Island Landless Maori Act 1906 (SILMA); or section 12 of the Maori Land Amendment Act 1914; or section 88 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1916; or section 110 of the Maori Purposes Act 1931; and having the status of Maori land or General land owned by Maori within the meaning of Te Ture Whenua Maori Act 1993; and
- (c) Indigenous forests on lands held, managed, or administered by the Crown under the Conservation Act 1987 or any Act listed in the First Schedule of that Act; and
- (d) Planted indigenous forests.

This Bill amends the export control provisions of the Forests Act 1949, and extends these amended provisions to cover indigenous forests previously exempt from Part IIIA, with the sole exception of timber harvested from planted indigenous forests.

The milling provisions in Part IIIA of the Act are also extended by removing the current exemptions for the Crown's West Coast indigenous production forests subject to the completion of sustainable management plans for individual forests. As a consequence, sawmills will only be able to mill timber from the Crown's indigenous production forests where the timber has been harvested in accordance with Part IIIA. The end-date for the transition to sustainable management is 31 December 2000.

Provision is made for individual SILMA forests to be voluntarily included within the Act's sustainable management provisions subject to the agreement of the landowners. Any inclusion through this provision is to be implemented by Order in Council.

The Bill also provides for transitional arrangements for harvesting from the Crown's indigenous production forests in the Buller subregion. Harvesting from these forests is permitted to continue until 31 December 2000, subject to the total volume of logs from the Buller subregion milled from 1 January 1999 to 31 December 2000 not exceeding two-thirds of the total milled from 1 January 1996 to 31 December 1998. The export of indigenous timber sourced from these forests, excluding finished products, is prevented during this transition.

The Bill rules out claims for compensation as a consequence of its enactment. Provision is made for regulations to specify the criteria for, and method of assessment of, claims against the Crown for financial losses suffered under written contracts that predate this Bill's introduction, where those losses relate to export controls in this Bill.

The Bill also contains technical amendments seeking to remove ambiguities, clarify certain meanings, and to remove impediments to achieving the purpose of Part IIIA of the Act as originally intended.

#### CLAUSE BY CLAUSE ANALYSIS

*Clause 1* relates to the Short Title and commencement. This Bill comes into force on the date on which it receives the Royal assent.

#### PART 1

##### AMENDMENTS TO PRINCIPAL ACT

*Clause 2* repeals and substitutes new definitions of the terms "landholding" and "timber" in section 2 (1) of the principal Act. The definition of "landholding" is altered to make it clear that it means an estate, right, title, or interest in land. The definition of "timber" is altered to make it clear that only trees and woody plants are covered by the definition and not all plants or all parts of plants.

A minor change is made to the definition of "planted indigenous forest", by including a reference to indigenous timber trees.

A new definition of "specified Maori land" is included in section 2 (1) of the principal Act. The term is defined to mean Maori land or General land owned by Maori originally reserved or granted under the South Island Landless Maori Act 1906, section 12 of the Maori Land Amendment Act 1914, section 88 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1916, or section 110 of the Maori Purposes Act 1931.

*Clause 3* repeals section 67A of the principal Act and substitutes 2 new sections. New *section 67A* provides that Part IIIA of the principal Act binds the Crown. New *section 67AA* makes it clear that timber cannot be felled or harvested on land held, managed, or administered under the Conservation Act 1987 or any Act listed in the First Schedule of that Act, except in accordance with the Act under which the land is held, managed, or administered.

*Clause 4* amends section 67C of the principal Act by—

- (a) Permitting the export of any indigenous timber that is taken from an area that is subject to, and managed in accordance with, a registered sustainable forest management plan or registered sustainable forest management permit (and making a number of consequential changes);
- (b) Adding a new paragraph permitting the export of indigenous timber where that timber is either a shrub, bush, seedling, or sapling, from a planted

indigenous forest or, in relation to other indigenous timber, the Secretary has stated in writing that he or she is satisfied that the timber has been taken from a planted indigenous forest:

- (c) Providing that the notice of intention to export required under subsection (3) must include or be accompanied by a statement of the source of the timber.

*Clause 5* repeals subsections (1) and (2) of section 67D of the principal Act, and substitutes 2 new subsections that remove an exemption from the prohibition on milling indigenous timber. This exemption applied to indigenous timber from West Coast indigenous production forests. The exemption in relation to windthrown trees is amended by adding the requirement that the forest's natural values will be maintained.

*Clause 6* inserts new sections 67DA and 67DB. New section 67DA provides that the Governor-General may, by Order in Council, specify forests on specified Maori land that are not exempt from the sawmilling controls in section 67D of the principal Act. Such an order may be made in relation to a particular forest only if the owner of the forest has reached a voluntary settlement with the Minister. Prior to such an Order in Council being made, indigenous timber from a forest on specified Maori land may be unsustainably harvested and milled, but not exported.

New section 67DB makes it clear that where any land is specified as land to which a registered sustainable forest management plan or a registered sustainable forest management permit applies, no person may fell indigenous timber on that land except in accordance with that plan or permit or in accordance with an approval given under section 67D (3) if that land is subject to a permit.

*Clause 7* amends section 67E of the principal Act by repealing subsections (2) and (3), and substituting new subsections (2) and (3). These new subsections make it clear that a sustainable forest management plan applies to the area of land specified in the plan.

*Clause 8* amends section 67F of the principal Act by repealing subsection (1), and substituting new subsections that make it clear that the owner of a landholding for an area of indigenous forest land may apply to the Secretary for approval of a draft sustainable forest management plan for all or part of that area. An amendment to subsection (2) makes it clear that the relevant area of land is the land specified in the sustainable forest management plan.

*Clause 9* amends section 67G of the principal Act to require notice to be given under this section where the approval, amendment, or exemption enables beech to be harvested in coupes of more than 0.5 hectares.

*Clause 10* amends section 67H (1) (a) of the principal Act to make it clear that the relevant areas are the areas specified in the plan. The clause also inserts a new subsection (1A) that provides that work for the harvesting of timber must be carried out in accordance with an annual logging plan approved by the Secretary or an approval given under section 67D.

*Clause 11* makes a minor alteration in terminology in section 67I of the principal Act.

*Clause 12* makes some minor alterations to section 67K of the principal Act to make it clear that a sustainable forest management plan applies to the area of land specified in the plan.

*Clause 13* repeals section 67M of the principal Act (which applies to sustainable forest management permits), and substitutes a new *section 67M*, which repeats much of the repealed section but makes it clear that—

- (a) The area of indigenous forest land to which a permit applies is the area of land specified in the permit;
- (b) The harvesting must be carried out in accordance with the permit and the permit must specify the quantity of timber to be harvested in accordance with that permit;
- (c) The permit cannot authorise the harvesting of more than 10% of the quantity of indigenous timber on the land specified in the permit, including not more than 250 cubic metres of podocarp or kauri or shade-tolerant, exposure-sensitive, broadleaved hardwood species and not more than 500 cubic metres of beech or other light-demanding hardwood species;
- (d) A permit expires unless it is registered within 18 months of the date of issue;
- (e) A permit must not be granted for an area of indigenous forest land if—
  - (i) A sustainable forest management plan applies to that area;
  - (ii) A permit applying to that area has been issued within the previous 18 months;
  - (iii) A permit applying to that area has been registered within the previous 10 years;
- (f) Protection measures must be specified in the development of sustainable forest management permits.

*Clause 14* amends section 67Q of the principal Act to require a sawmill operator to keep records for—

- (a) Timber from areas of land subject to a sustainable forest management permit; and
- (b) Timber harvested under any provision in *Part 2* of this Bill.

*Clause 15* makes a minor amendment to terminology in section 67R of the principal Act.

*Clause 16* amends section 67T of the principal Act by repealing paragraph (f), and inserting 3 new paragraphs. The new *paragraph (f)* creates a new offence of carrying out work on land subject to a sustainable forest management plan or a sustainable forest management permit other than in accordance with an annual logging plan and new *paragraph (fa)* amends the terminology in the present paragraph (f). New *paragraph (fb)* makes it an offence to fell indigenous timber on land subject to a registered sustainable forest management plan or a registered sustainable forest management permit other than in accordance with that plan or permit or, in respect of an area of land subject to a permit, other than in accordance with an approval under section 67D (3).

*Clause 17* amends section 67V of the principal Act. The amendment clarifies that nothing in Part IIIA of the principal Act derogates from any provision of the Resource Management Act 1991.

## PART 2

### TRANSITIONAL PROVISIONS

*Clause 18* defines the terms “affected forests” and “total allowable harvest” for the purposes of this Part of the Bill.

*Clause 19* provides that *Part 2* of the Bill binds the Crown.

*Clause 20* permits the export of indigenous timber from a West Coast indigenous production forest (other than an affected forest); if the Minister

consents, in writing, to the export, and the export complies with any conditions that the Minister's consent is subject to. The Minister may consent to an export if—

- (a) The export takes place before the earlier of 31 December 2000, or the date on which the Secretary approves a sustainable forest management plan that applies to the land on which the forest is situated; and
- (b) The Minister is satisfied that the forest is being managed in a manner that is generally consistent with sustainable forest management.

*Clause 21* permits the milling of indigenous timber from a West Coast indigenous production forest (other than an affected forest) until the earlier of 31 December 2000 or the date on which the Secretary approves a sustainable forest management plan that applies to the land on which the forest is situated.

*Clause 22* sets out the indigenous timber to which the transitional provisions in *clauses 23 and 24* apply. The timber affected is that harvested from an affected forest specified in the *Schedule* (being West Coast indigenous production forests in the Buller subregion).

*Clause 23* provides that the provisions of section 67D of the principal Act (as amended by *clause 5* of this Bill) do not apply to affected forests until 1 January 2001 or the date the Secretary publishes a notice in the *Gazette* stating that the total allowable harvest has been reached, whichever is the earlier.

*Clause 24* establishes the total allowable harvest.

*Clause 25 (1)* provides that no person is entitled to compensation from the Crown in respect of any diminution, caused by the enactment of this Bill, in the rights or value of rights of the person under a contract relating to indigenous timber, or the value of indigenous timber, on any specified Maori land or from a West Coast indigenous production forest, or in the value of any specified Maori land. *Subclause (2)* provides that this clause is subject to *clause 26*.

*Clause 26* provides that the Governor-General may, by Order in Council, specify the criteria for, and method of assessment of, claims against the Crown for financial losses suffered as a result of the enactment of *clause 4* in relation to written contracts that—

- (a) Relate to the export of indigenous timber from West Coast indigenous production forests or from specified Maori land; and
- (b) Were entered into before the date on which this Bill is introduced into the House of Representatives.

*Clause 27* provides that the Governor-General may from time to time, by Order in Council, amend the description of the land for any forest specified in the *Schedule*.

*Clause 28* revokes clause 4 of the Customs Export Prohibition Order 1996, and provides that any decision made by the Minister in reliance on that clause is and always has been valid.

*Clause 29* provides that nothing in *Part 2* of the Bill derogates from any provision of the Resource Management Act 1991.

The *Schedule* lists the affected forests.

---

Hon David Carter

## FORESTS AMENDMENT

### ANALYSIS

Title	16. Offences	
1. Short Title and commencement	17. Relationship of Part with Resource Management Act 1991	
<b>PART 1</b>		
AMENDMENTS TO PRINCIPAL ACT		
2. Interpretation	<b>PART 2</b>	
3. New sections substituted	TRANSITIONAL PROVISIONS	
67A. This Part binds the Crown	18. Interpretation	
67AA. Part does not permit felling or harvesting other than in accordance with relevant enactment	19. This Part binds the Crown	
4. Prohibition on export of certain indigenous forest produce	<i>Transitional Provision for Export of Timber</i>	
5. Prohibition on milling indigenous timber	20. Transitional provision for export of indigenous timber from West Coast indigenous production forests	
6. New sections and heading inserted	<i>Transitional Provisions for Milling of Timber</i>	
67DA. Forests on specified Maori land to which sawmill controls apply	21. Transitional provision for milling of timber from West Coast indigenous production forests	
<i>Felling Controls</i>		
67DB. Prohibition on felling indigenous timber	22. Application of sections 23 and 24 to affected forests	
7. Sustainable forest management plans	23. Transitional provisions to apply for fixed time or fixed harvest	
8. Procedure for approval of sustainable forest management plans	24. Establishment of total allowable harvest	
9. Notice requirements	25. Compensation	
10. Secretary's power to require amendments to plans	26. Power to specify criteria and method of assessment in relation to payment of assistance	
11. Other provisions relating to review and amendment of sustainable forest management plans	27. Variation of Schedule	
12. Sustainable forest management plan to be recorded against certificate of title	28. Revocation of clause 4 of Customs Export Prohibition Order 1996	
13. Sustainable forest management permits	29. Relationship of Part with Resource Management Act 1991	
14. Records	—————	
15. Powers of entry and seizure	SCHEDULE	
	List of Affected Forests	

## A BILL INTITULED

**An Act to amend the Forests Act 1949**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Forests Amendment Act 1999, and is part of the Forests Act 1949\* (“the principal Act”).

(2) This Act comes into force on the date on which it receives the Royal assent.

\*R.S. Vol. 34, p. 569  
Amendments: 1996, Nos. 25, 124

## PART 1

## AMENDMENTS TO PRINCIPAL ACT

**2. Interpretation**—(1) Section 2 (1) of the principal Act is amended by repealing the definition of the term “landholding”, and substituting the following definition:

“‘Landholding’ means an estate, right, title, or interest of any kind in or over an area of land by or under which indigenous timber may be harvested; but does not include an interest by way of charge or security.”

(2) Section 2 (1) of the principal Act is amended by inserting in the definition of the term “planted indigenous forest”, after the words “means any indigenous”, the word “timber”.

(3) Section 2 (1) of the principal Act is amended by inserting, after the definition of the term “Secretary”, the following definition:

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

“(a) The South Island Landless Maori Act 1906; or

“(b) Section 12 of the Maori Land Amendment Act 1914; or

“(c) Section 88 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1916; or

“(d) Section 110 of the Maori Purposes Act 1931.”

(4) Section 2 (1) of the principal Act is amended by repealing the definition of the term “timber”, and substituting the following definition:

“‘Timber’—

“(a) Means—

“(i) Trees (excluding cuttings, suckers, and shoots); and

5                   “(ii) Woody plants able to be milled; and  
                      “(b) Includes branches, roots, and stumps of trees  
                      and other woody plants able to be milled, logs,  
                      woodchips, wood products, veneer, tree ferns, and  
                      tree fern fibre.”

(5) Section 2 (2) of the Forests Amendment Act 1993 is  
consequentially repealed.

10           **3. New sections substituted**—(1) The principal Act is  
amended by repealing section 67A, and substituting the  
following sections:

**“67A. This Part binds the Crown**—This Part binds the  
Crown.

15                   **“67AA. Part does not permit felling or harvesting other  
than in accordance with relevant enactment**—In the case  
of land held, managed, or administered by the Crown under  
the Conservation Act 1987 or any Act listed in the First  
Schedule of that Act, this Part does not permit the felling or  
harvesting of timber other than in accordance with the  
provisions of the Act under which the land on which the timber  
20 is growing is held, managed, or administered.”

(2) Section 2 of the Forests Amendment Act (No. 2) 1996 is  
consequentially repealed.

25           **4. Prohibition on export of certain indigenous forest  
produce**—(1) The principal Act is amended by repealing  
section 67C, and substituting the following section:

**“67C. (1) No person may export indigenous timber from  
New Zealand, except the following:**

30                   “(a) Any indigenous timber, including sawn indigenous  
timber, woodchips, and logs, where the Secretary  
has stated in writing that he or she is satisfied that  
the timber has been harvested from an area subject  
to, and managed in accordance with, a registered  
sustainable forest management plan or registered  
sustainable forest management permit:

35                   “(b) Any finished or manufactured indigenous timber  
product, regardless of the source of the timber used  
in the product:

                      “(c) Any personal effects:

40                   “(d) Any salvaged stump or salvaged root, whether whole or  
sawn, where the Secretary has stated in writing that  
he or she is satisfied that the timber has been taken  
from an area that is not indigenous forest land:



- “(e) Any tree fern trunk or part of a tree fern trunk, or fibres from a tree fern trunk,—
- “(i) Where the Secretary has stated in writing that he or she is satisfied that the timber has been harvested from an area subject to, and managed in accordance with, a registered sustainable forest management plan or registered sustainable forest management permit; or
- “(ii) From indigenous forest land, where the Secretary has, subject to **subsection (2)**, given prior approval to the removal of that timber; or
- “(iii) Where the Secretary has stated in writing that he or she is satisfied that the timber has been harvested from land that is not indigenous forest land:
- “(f) Any indigenous timber—
- “(i) From a planted indigenous forest, if that timber is, or is from, a shrub, bush, seedling, or sapling; or
- “(ii) Other than indigenous timber to which **subparagraph (i)** applies, if the Secretary has stated in writing that he or she is satisfied that the timber has been harvested from a planted indigenous forest.
- “(2) Before giving approval under **subsection (1) (e) (iii)**, the Secretary must be satisfied that the area concerned can continue to supply an annual or periodic non-diminishing yield of tree fern trunks in perpetuity.
- “(3) No indigenous timber (other than personal effects) may be exported from New Zealand unless—
- “(a) A notice of intention to export has been given in accordance with any regulations for the time being in force under this Act; and
- “(b) The notice of intention includes or is accompanied by a statement of the source of the timber; and
- “(c) The timber has been presented to a Forestry Officer for inspection and he or she has inspected and approved it.”

(2) Section 3 of the Forests Amendment Act 1995 is consequentially repealed.

### **5. Prohibition on milling indigenous timber—**

(1) Section 67D of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) No person may mill any indigenous timber at a sawmill unless the sawmill is registered in accordance with regulations made under section 72, and at least 1 of the following paragraphs applies to the harvesting of the timber:

5 “(a) The timber has been harvested from an area of land subject to, and managed in accordance with, a registered sustainable forest management plan or a registered sustainable forest management permit and the harvest is in accordance with that plan or permit:

10 “(b) The Secretary has stated in writing that he or she is satisfied that—

“(i) The timber has been or will be harvested from—

15 “(A) Specified Maori land that is not land on which a forest specified in an Order in Council made under **section 67DA** is situated; or

20 “(B) Land held, managed, or administered by the Crown under the Conservation Act 1987 or any Act listed in the First Schedule of that Act; or

“(C) A planted indigenous forest; or

25 “(ii) The timber has been or will be felled—

“(A) For a public work as defined in the Public Works Act 1981; or

“(B) With the approval of the owner, for a mining operation; or

30 “(C) For construction or maintenance of an access way or water impoundment, or for a purpose directly necessary or desirable for scientific research; or

“(iii) The timber was first milled before 1 July 1993; or

35 “(iv) The timber is salvaged timber that has been or will be harvested from an area of land that is not indigenous forest land; or

40 “(v) The timber has been or will be harvested from windthrown trees or trees (whether standing or not) that have died from natural causes on land that is not subject to either a registered sustainable forest management plan or a registered sustainable forest management permit, and that he or she is satisfied that the forest’s natural values will be maintained:

45

“(c) The timber is a tree fern trunk, or is from a tree fern trunk, and the Secretary has stated in writing that he or she is satisfied that the timber has been or will be harvested from an area of land that is not indigenous forest land: 5

“(d) The timber is a tree fern trunk, or is from a tree fern trunk, and has been or will be harvested, with the prior written approval of the Secretary, from an area of land that is not subject to either a registered sustainable forest management plan or a registered sustainable forest management permit. 10

“(2) Before giving an approval under **subsection (1) (d)**, the Secretary must be satisfied that the area concerned can continue to supply an annual or periodic non-diminishing yield of tree fern trunks in perpetuity, and that yield must include the harvesting of windthrown ferns or dead ferns as they become available.” 15

(2) The following provisions are consequentially repealed:

(a) Section 4 of the Forests Amendment Act 1995:

(b) Section 3 of the Forests Amendment Act (No. 2) 1996. 20

**6. New sections and heading inserted**—The principal Act is amended by inserting, after section 67D, the following sections and heading:

“**67DA. Forests on specified Maori land to which sawmill controls apply**—(1) The Governor-General may from time to time, by Order in Council, specify forests on specified Maori land to which **section 67D (1) (b) (i) (A)** does not apply. 25

“(2) The Governor-General may make an Order in Council under **subsection (1)** in relation to a forest only if he or she is satisfied that the owner of the forest has agreed with the Minister to— 30

“(a) Surrender the right to mill indigenous timber harvested from the forest; or

“(b) Surrender the right to mill indigenous timber harvested from the forest other than in accordance with a registered sustainable forest management plan or a registered sustainable forest management permit. 35

“*Felling Controls*

“**67DB. Prohibition on felling indigenous timber**— Where any land is specified in a registered sustainable forest management plan or a registered sustainable forest 40

management permit as land to which that plan or permit applies, no person may fell indigenous timber on that land except in accordance with that plan or permit or in accordance with an approval given under section 67D (3) if that land is subject to a permit.”

**7. Sustainable forest management plans**—Section 67E of the principal Act is amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) A sustainable forest management plan applies to the area or areas of indigenous forest land specified in that plan.

“(3) A sustainable forest management plan applies to the land specified in that plan,—

“(a) In the case of a landholding having a term of less than 50 years, for the balance of that term; or

“(b) In any other case, for the period specified in the plan, which period—

“(i) Must not be less than 50 years; and

“(ii) May be renewed from time to time in accordance with section 67L.”

**8. Procedure for approval of sustainable forest management plans**—(1) Section 67F of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

“(1) The owner of a landholding for an area of indigenous forest land may apply to the Secretary for approval of a draft sustainable forest management plan for all or part of that area.

“(1A) An application may be made by lodging the draft plan at a Ministry office.”

(2) Section 67F(2) of the principal Act is amended by omitting the words “land concerned”, and substituting the words “area of indigenous forest land specified in the plan as the area of land to which the plan applies”.

**9. Notice requirements**—Section 67G of the principal Act is amended by inserting, after the words “forest management plan,”, the words “and that approval, amendment, or exemption enables beech to be harvested in coupes of more than 0.5 hectares,”.

**10. Secretary’s power to require amendments to plans**—(1) Section 67H (1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) To correct the description of the area or areas specified in the plan as the area or areas to which the plan applies:”.

(2) Section 67H of the principal Act is amended by inserting, after subsection (1), the following subsection: 5

“(1A) Work for the harvesting of timber (including, but not limited to, the felling of timber and the construction of roads, tracks, or landings) must not be carried out on an area of land specified in a registered sustainable forest management plan unless that work is carried out in accordance with an annual logging plan approved by the Secretary.” 10

**11. Other provisions relating to review and amendment of sustainable forest management plans—** Section 67I (1)(b)(ii) of the principal Act is amended by omitting the word “removal”, and substituting the word “harvesting”. 15

**12. Sustainable forest management plan to be recorded against certificate of title—**Section 67K of the principal Act is amended—

(a) By omitting from subsection (1) the words “to which a sustainable forest management plan relates”, and substituting the words “specified in a sustainable forest management plan”: 20

(b) By omitting from subsection (4) the words “to which that plan relates”, and substituting the words “specified in that plan”: 25

(c) By omitting from subsection (6) the words “to which it relates”, and substituting the words “specified in the plan”.

**13. Sustainable forest management permits—**(1) The principal Act is amended by repealing section 67M, and substituting the following section: 30

“67M. (1) An owner of a landholding for an area of indigenous forest land may apply to the Secretary for a sustainable forest management permit for all or part of that area to allow the harvesting and milling of indigenous timber. 35

“(2) A sustainable forest management permit has effect for 10 years from the date that permit is registered and—

“(a) Authorises the harvesting and milling of indigenous timber in accordance with the permit from an area within the area of land specified in the permit; and 40

“(b) Specifies the area of land to which the permit applies;  
and

5 “(c) Specifies the quantity of timber fixed by the Secretary  
(being timber capable of being milled irrespective of  
its quality) that may be harvested and milled in  
accordance with the permit.

“(3) A sustainable forest management permit must not  
authorise the harvesting and milling of more than 10% of the  
10 quantity of indigenous timber (excluding roots) capable of  
being milled standing on the area of land specified in the  
permit; and the quantity of indigenous timber authorised by  
that permit to be harvested and milled must not include more  
than—

15 “(a) 250 cubic metres of podocarp or kauri or shade-tolerant,  
exposure-sensitive, broadleaved hardwood species;  
and

“(b) 500 cubic metres of beech or other light-demanding  
hardwood species.

20 “(4) A second or subsequent sustainable forest management  
permit must not be issued in respect of any podocarp or kauri  
or shade-tolerant, exposure-sensitive, broadleaved hardwood  
species unless and until the Secretary is satisfied that the  
25 quantity of indigenous timber (being timber capable of being  
milled, irrespective of its quality, but excluding roots) standing  
in the area to which the permit will apply is at least equivalent  
to the quantity standing in the area at the date of the grant of  
the previous permit.

30 “(5) A sustainable forest management permit expires  
18 months after the date of issue of the permit unless it is  
registered before the close of that period.

“(6) The Secretary must not grant a permit for an area of  
indigenous forest land that is specified—

35 “(a) In a sustainable forest management plan as an area of  
land to which that plan applies; or

“(b) In a permit, issued within the previous 18 months, as an  
area to which that permit applies; or

“(c) In a permit, registered within the previous 10 years, as  
an area to which the permit applies.

40 “(7) The provisions of sections 67F (2), 67H (1A), (2), and (3), 67L,  
67K, and 67L and the provisions and prescriptions set out in  
clauses 8, 9, and 10 of the Second Schedule, with the necessary  
modifications, apply—

“(a) To every proposal under this section as if it were a draft  
sustainable forest management plan; and

“(b) To every permit under this section as if it were a sustainable forest management plan.”

(2) Section 6 of the Forests Amendment Act 1995 is consequentially repealed.

**14. Records**—(1) Section 67Q (1) of the principal Act is amended by inserting, after paragraph (a), the following paragraphs: 5

“(aa) Timber harvested from areas of land subject to a sustainable forest management permit; and

“(ab) Timber harvested under any provision in **Part 2** of the Forests Amendment Act 1999; and” 10

(2) Section 67Q (2) of the principal Act is amended by adding the words “or permit”.

**15. Powers of entry and seizure**—Section 67R (e) of the principal Act is amended by omitting the words “is being or about to be removed”, and substituting the words “is about to be, is being, or has been milled or exported, or has been felled or harvested,”. 15

**16. Offences**—Section 67T of the principal Act is amended by repealing paragraph (f), and substituting the following paragraphs: 20

“(f) Carries out work on an area of land subject to a registered sustainable forest management plan, or a registered sustainable forest management permit, other than in accordance with an annual logging plan approved under section 67H or on an area of land subject to a permit, an approval under section 67D (3); or 25

“(fa) Transports, mills, chips, cuts for firewood, or pulps any timber harvested from an indigenous forest, knowing that the timber is about to be, is being, or has been felled, harvested, milled, or exported in contravention of this Part; or 30

“(fb) Fells any indigenous timber on land subject to a registered sustainable forest management plan, or a registered sustainable forest management permit, other than in accordance with that plan or permit or other than in accordance with an approval given under section 67D (3); or” 35

**17. Relationship of Part with Resource Management Act 1991**—(1) The principal Act is amended by repealing section 67v, and substituting the following section:

5 “67v. Nothing in this Part derogates from any provision of the Resource Management Act 1991.”

(2) Section 8 of the Forests Amendment Act 1995 is consequentially repealed.

## PART 2

### TRANSITIONAL PROVISIONS

10 **18. Interpretation**—In this Part, unless the context otherwise requires,—

“Affected forests” means the forests listed in the **Schedule** and identified by a description of the land on which the forest is situated, being West Coast indigenous production forests in the Buller subregion:

15 “Total allowable harvest” means the quantity of logs specified in **section 24** as able to be milled from affected forests.

20 **19. This Part binds the Crown**—This Part binds the Crown.

#### *Transitional Provision for Export of Timber*

**20. Transitional provision for export of indigenous timber from West Coast indigenous production forests**—

25 (1) Where the Minister consents in writing to the export of indigenous timber under this section, the provisions of this section apply during the period applicable under **subsection (2)** in place of section 67C of the principal Act (as amended by **section 4** of this Act) so long as the export complies with any conditions to which the Minister’s consent is subject.

30 (2) The Minister may consent to an export of indigenous timber from a West Coast indigenous production forest (other than an affected forest) if—

(a) The export takes place on or before the earlier of—

35 (i) 31 December 2000; or  
(ii) The date on which the Secretary approves a sustainable forest management plan that applies to the land on which the forest is situated; and

(b) The Minister is satisfied that the forest is being managed in a manner that is generally consistent with sustainable forest management.

40 (3) The Minister’s consent given under **subsection (2)** may be subject to such conditions as the Minister thinks fit.



*Transitional Provisions for Milling of Timber*

- 21. Transitional provision for milling of timber from West Coast indigenous production forests**—Section 67D of the principal Act (as amended by **section 5** of this Act) does not apply to the milling of indigenous timber from a West Coast indigenous production forest (other than an affected forest) until the earlier of—
- (a) 31 December 2000; or
  - (b) The date on which the Secretary approves a sustainable forest management plan that applies to the land on which the forest is situated.
- 22. Application of sections 23 and 24 to affected forests**—Sections 23 and 24 apply to indigenous timber if the Secretary has stated in writing that he or she is satisfied that the timber has been harvested from an affected forest.
- 23. Transitional provisions to apply for fixed time or fixed harvest**—(1) Section 67D of the principal Act (as amended by **section 5** of this Act) does not apply to the milling of indigenous timber from affected forests until the earlier of—
- (a) 1 January 2001; or
  - (b) The date the Secretary publishes a notice in the *Gazette* in accordance with **subsection (2)**.
- (2) The Secretary must, when he or she is satisfied that a quantity of indigenous timber from affected forests, equal to or exceeding the total allowable harvest specified in **section 24**, has been milled at sawmills, publish a notice in the *Gazette* to that effect.
- 24. Establishment of total allowable harvest**—The total allowable harvest of indigenous timber from affected forests for the period beginning on 1 January 1999 and ending with 31 December 2000 is 45 596 cubic metres of logs.
- 25. Compensation**—(1) No person is entitled to compensation from the Crown in respect of any diminution, by reason of the enactment of this Act, in—
- (a) The rights, or value of the rights, of that person under a contract relating to indigenous timber on any specified Maori land or from a West Coast indigenous production forest (including an affected forest); or
  - (b) The value of indigenous timber on any specified Maori land or from a West Coast indigenous production forest (including an affected forest); or

- (c) The value of any specified Maori land.
- (2) This section is subject to **section 26**.

**26. Power to specify criteria and method of assessment in relation to payment of assistance**—(1) The Governor-General may, by Order in Council, specify the criteria and methods of assessment that must be applied by the Crown in determining any claim for financial losses suffered in relation to a specified contract as a direct result of the enactment of **section 4**.

5  
10 (2) In this section, “specified contract” means a written contract that—

- (a) Relates to the export of indigenous timber harvested from a West Coast indigenous production forest (including an affected forest) or from specified Maori land; and
- 15 (b) Was entered into before **13 July 1999**, being the date on which this Act was introduced as a Bill into the House of Representatives.

**27. Variation of Schedule**—The Governor-General may from time to time, by Order in Council, amend the description of land for any forest listed in the **Schedule**.

**28. Revocation of clause 4 of Customs Export Prohibition Order 1996**—(1) Clause 4 of the Customs Export Prohibition Order 1996 (S.R. 1996/233) is revoked.

25 (2) Any decision made by the Minister in reliance upon clause 4 of the Customs Export Prohibition Order 1996 is, and always has been, valid.

**29. Relationship of Part with Resource Management Act 1991**—Nothing in this Part derogates from any provision of the Resource Management Act 1991.

---

## Section 18

**SCHEDULE**  
**LIST OF AFFECTED FORESTS**

Forest	Description of Land
Charleston Forest	7874.5700 hectares being Sections 1 and 2 Survey Office Plan 15151 and Section 1 Survey Office Plan 15152
Mokihinui Forest (part)	2342.0580 hectares being Sections 1, 2, 3, and 4 Survey Office Plan 15021
Ohikanui Forest	1184 hectares being that area west of the protection covenant A within Section 3 Survey Office Plan 15024 excluding Lots 1 and 2 DP 16060 (Exotics)
Orikaka Forest	6440.000 hectares being Section 1 Survey Office Plan 15014