



THE FORESTRY (EAST COAST) GRANTS REGULATIONS 1992

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CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 27th day of October 1992

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 72 of the Forests Act 1949, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Forestry (East Coast) Grants Regulations 1992.

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Act” means the Forests Act 1949:

“Application” means an application in the prescribed form in which a landholder applies for an approval certificate:

“Approval certificate” means a certificate in the prescribed form that forms part of an application approved by an approving authority and certifies that—

(a) The land specified in the certificate is an approved area; and

(b) Subject to the conditions stated in the certificate, the applicant is entitled to be paid the grant specified therein after carrying out the work specified therein:

“Approved area” means any area of land in respect of which an approving authority has issued an approval certificate under these regulations:

“Approving authority” means the Minister or a person to whom the Minister has, pursuant to section 4 of the Act, delegated authority to approve a grant under section 15 of the Act:

“Certified account” means a statement in the prescribed form that—

(a) Contains such information relating to expenditure incurred on an approved area as may be required by these regulations to support an application or claim for payment of a grant; and

(b) Has been certified correct (which certificate shall include the due payment of amounts purporting to have been disbursed) and issued in the prescribed form by—

(i) A company auditor or a chartered accountant; or

(ii) A person licensed to practise as an accountant under section 32A of the New Zealand Society of Accountants Act 1958:

“Commissioner” means the Commissioner of Inland Revenue:

“East Coast forestry grant” or “grant” means a grant made under section 15 of the Act and in accordance with these regulations; and includes any part of a grant:

“East Coast region” means the Gisborne region as defined in the *Gazette*, 1989, at page 2328:

“Landholder” includes any person who is entitled by virtue of that person’s interest in any landholding to plant, tend, and crop trees on that landholding:

“Landholding”—

(a) Includes every estate, right, title, or interest of any kind in or over any land within the boundaries of the East Coast region, otherwise than by way of charge or security, under which the holder may plant and tend trees for commercial purposes; but

(b) Does not include—

(i) Any woodlot planted or maintained primarily to provide shelter, or planted or maintained for agricultural or pastoral purposes; or

- (ii) Any land held in co-ownership of any kind, unless all the co-owners are applicants under these regulations in respect of that land:

“Payment approval certificate” means a certificate in the prescribed form issued by a Forestry Officer to the effect that the work on an approved area has been satisfactorily completed on that area:

“Prescribed form” means such form as may be provided, required, or approved by the Secretary:

“Year” means a period of 12 months ending with the 31st day of March or, where the consent of the Commissioner has been obtained pursuant to section 15 (1) of the Income Tax Act 1976, ending with the date of the annual balance of the landholder’s accounts.

3. East Coast forestry grants—Subject—

- (a) To compliance by a landholder with these regulations; and
- (b) To such money as may be fixed or allocated for the purpose; and
- (c) To such priorities as may be established pursuant to regulation 8 of these regulations,—

an approving authority may, in his or her discretion, approve an East Coast forestry grant and, after executing an approval certificate, pay the grant in such manner and on such conditions as may be specified in these regulations and in the approval certificate.

4. Applications for approval certificates—(1) Subject to these regulations, every landholder who holds—

- (a) A certificate from a land use consultant approved by the Secretary to the effect that the land specified in the certificate is class VII, subclass “e” (as defined in the Land Use Capability Survey Handbook issued by the Ministry of Works and Development in 1974); and
- (b) A certificate from a forest consultant, being a person who is either recognised by the New Zealand Institute of Forestry Incorporated or accepted by the Secretary as having equivalent competence, to the effect that the specified land is suitable for afforestation in accordance with these regulations—

may apply for an approval certificate.

(2) Every application for an approval certificate by or on behalf of a landholder shall be made to the Secretary, and shall be accompanied by—

- (a) Sufficient particulars of the landholding and the area proposed for approval to enable the Secretary to identify them:
- (b) A forest management plan in the prescribed form, including the following particulars:
 - (i) The total area to be planted in a one, two, or three-year period:
 - (ii) The size and location of the area to be planted each year:
 - (iii) The management regime to be carried out in respect of the planted area over a 10-year period:
- (c) The total grant which is required by the landholder to be paid in respect of the planting and the management regime, and the components of the grant that are required to be paid in specified years.

(3) Every application for an approval certificate shall be accompanied by a plan of the area for which a grant is sought, being in the form of a

photographic enlargement print (bromide) or a clear print from a half-tone transparency enlargement that complies with the following provisions:

- (a) The scale shall be 1:5000 for blocks less than 50 hectares, and 1:10000 for blocks of 50 hectares or more:
- (b) The print shall be certified by the applicant, by the land use consultant, and by the forest consultant who have given a certificate under subclause (1) of this regulation.

5. Applications by non-landholders—Any person who has entered into a contract to acquire a landholding, being a contract that is unconditional except for the execution of an approval certificate in respect of an area of land constituting or forming part of that landholding, may apply for an approval certificate.

6. Time for application for approval certificate—(1) In respect of the year 1993, applications for approval certificates shall be lodged with the Secretary before the close of the 30th day of November 1992.

(2) In respect of any subsequent year, applications for approval certificates shall be lodged with the Secretary before the close of the 30th day of April preceding the calendar year in which the initial work under the forest management plan supplied with the application is intended to be carried out.

7. Qualifying land—(1) An approval certificate shall not be granted in respect of any area of land less than 25 hectares.

(2) In the case of an area of land not less than 25 hectares but less than 50 hectares, an application for an approval certificate may be granted to the extent that the effect of the grant does not increase the total of such approved areas for the year for which the grant is sought to an area exceeding 500 hectares.

(3) In the case of an area of 50 hectares or more, an application for an approval certificate may be granted to the extent that the effect of the grant does not increase the total of such approved areas for the year for which the grant is sought to an area exceeding 6,500 hectares.

(4) Where, in any year, less than 500 hectares of land referred to in subclause (2) of this regulation is approved for the purposes of grants, the maximum area specified in subclause (3) of this regulation shall, at the close of that year, be deemed to be increased by the amount by which the first-mentioned total approved area is less than 500 hectares.

(5) No approval certificate shall be issued in respect of land covered in indigenous forest or scrub containing emerging indigenous tree species, unless—

- (a) The land has been inspected by a representative of the Secretary and of the Director-General of Conservation; and
- (b) Those persons have verified that indigenous tree species are not present to any significant extent and have jointly recommended that the certificate be issued.

8. Priorities—(1) The Minister may from time to time in respect of all applications for approval certificates, or for any class or kind of those applications, fix priorities among them.

(2) If any applications are accorded equal priority under subclause (1) of this regulation, the applications shall have precedence according to the order of their receipt.

9. Level of grant—The approving authority—

- (a) Shall, in his or her discretion, determine the amount of the grant, the manner of payment, and conditions of payment; and
- (b) Shall specify those matters in the approval certificate he or she issues in respect of the grant.

10. Entitlement to grants—(1) The execution of the approval certificate by the approving authority shall entitle the landholder to receive the grant to the amount, at the times, and subject to the conditions specified in these regulations and in the approval certificate.

(2) The areas in respect of which grants may be made are those specified in the Schedule to these regulations.

11. Approval certificate may include conditions—An approving authority may include in an approval certificate such conditions relating to the work specified in the certificate as the approving authority thinks fit, being conditions which are not inconsistent with these regulations.

12. Maximum amount of grant payable in any one year—The amount of any forestry grant that may be paid in any one year shall not exceed the amount approved for that year in the approval certificate.

13. Claims for payment—Every claim for payment under an East Coast forestry grant shall be—

- (a) Made in the prescribed form by or on behalf of the landholder of the approved area in respect of which the claim is made; and
- (b) Made after the work specified for any year in an approval certificate has been carried out by the landholder; and
- (c) Accompanied by a certified account as to the expenditure incurred, and as may otherwise be reasonably required by the Secretary; and
- (d) Accompanied by evidence, with appropriate and reasonable accuracy, as to the area of established treecrop.

14. Time for claim for payment—All claims for payment shall be lodged with an approving authority within 3 months after the end of the year for which payment is claimed.

15. Payment—(1) Every payment under a grant shall be subject to the prior issue of a payment approval certificate endorsed by an approving authority.

(2) The approving authority shall not endorse any payment approval certificate for the purpose of approving any payment under a grant unless the authority is satisfied that—

- (a) The required work for the relevant year has been carried out; and
- (b) Such work has been carried out to a satisfactory standard.

16. Effect of application and claim—The receipt by the Secretary of any application for an approval certificate or claim for payment shall, in respect of that application or claim, authorise the Secretary—

- (a) To obtain all such information and require all such inspections to be made as the Secretary certifies are necessary to verify that the application or claim is in order for the purposes of these regulations;
- (b) To supply to the Commissioner particulars of—

- (i) The application, the claim, any approval certificate, any payment approval certificate, or certified account relating to that application:
 - (ii) Any claim for which application is made or under which payment is claimed:
 - (iii) Any payments made or payable under the grant:
- (c) Upon compliance by the landholder with all requirements under these regulations, to arrange payment of money by way of a grant to the landholder or to an authorised agent of the landholder.

17. Transfer of grants—Upon the transfer (whether by sale, exchange, gift, transmission, or otherwise) of ownership of a landholding that is wholly or in part an approved area, the landholder by whom that area is acquired may apply through the Secretary for the transfer into the landholder's name of the approval certificate subject, with any necessary modifications, to the terms and conditions on which it was originally issued and to all the requirements of these regulations, and the Secretary may, if the Secretary thinks fit, approve the transfer.

18. Termination of grant—Subject to regulation 17 of these regulations, the right to receive an East Coast forestry grant shall be deemed to be terminated if the landholder ceases to be a landholder for the approved area in respect of which the grant has been approved.

19. Offences—(1) Every person commits an offence against these regulations who—

- (a) Applies for an initial approval certificate knowing that he or she or it is not entitled to one under these regulations; or
- (b) Claims any payment under these regulations to which he or she or it knows he or she or it is not entitled; or
- (c) Supplies any information in relation to an application or claim under these regulations knowing that the information is misleading or incorrect.

(2) Every person who commits an offence against these regulations is liable on summary conviction,—

- (a) In the case of an individual, to a fine not exceeding \$2,000, and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues:
 - (b) In the case of a body corporate, to a fine not exceeding \$12,000 and, if the offence is a continuing one, to a further fine not exceeding \$1,200 for every day during which the offence continues.
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SCHEDULE

Reg. 10 (2)

DISTRICTS OR LOCALITIES OF THE EAST COAST REGION IN RESPECT OF
WHICH GRANTS MAY BE MADE

1993:	All districts or localities except the Waipaoa, Waimata, and Uawa Catchments.
Subsequent years:	All districts

BOB MacFARLANE,
Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, make provisions with respect to forestry grants under the East Coast (Gisborne Region) Forestry Project.

Regulation 2 defines certain terms used in the regulations. The "approving authority" under the regulations is the Minister of Forestry or a person to whom the Minister has delegated power to approve grants. The Minister's power to make financial grants is conferred by section 15 (2) (a) of the Forests Act 1949.

Regulation 3 provides for the grants to be made by the approving authority. An approval certificate will be issued where an application is approved.

Regulation 4 specifies the information to be forwarded with an application for an approval certificate.

Regulation 5 enables persons who have entered into a contract to acquire a landholding to apply for a grant.

Regulation 6 specifies the closing dates for applications for approval certificates.

Regulation 7 specifies the minimum areas to be held before a landholder is eligible for a grant. These are as follows:

- (a) Areas of not less than 25 hectares but less than 50 hectares, so long as the total of such approved areas does not exceed 500 hectares in the year concerned;
- (b) Areas of 50 hectares or more, so long as the total of such approved areas does not exceed 6,500 hectares in the year concerned.

If the land is covered in indigenous forest or scrub containing emerging indigenous tree species, a certificate of approval cannot be issued unless a representative of the Secretary of Forestry and of the Director-General of Conservation have verified that indigenous tree species are not present to any significant extent and have jointly recommended that a certificate be issued.

Regulation 8 deals with the priority to be accorded to applications for grants.

Regulation 9 provides that the approving authority will determine the level of the grant in each case.

Regulation 10 provides that an approval certificate entitles the holder to receive a grant.

Regulation 11 provides for conditions to be specified in an approval certificate. Such conditions will relate to the work specified in the certificate.

Regulation 12 provides that the maximum amount of the grant in any one year is to be specified in the approval certificate.

Regulation 13 provides for the manner in which claims are to be made.

Regulation 14 requires claims for payment to be lodged within 3 months after the end of the year for which payment is claimed.

Regulation 15 deals with payment of claims for a grant.

Regulation 16 authorises the Secretary of Forestry to obtain information from applicants and to supply information in respect of grants to the Commissioner of Inland Revenue.

Regulation 17 enables grants to be transferred with the Secretary's approval.

Regulation 18 terminates a grant if the holder ceases to be a landholder, except where a transfer is approved under *regulation 17*.

Regulation 19 creates offences against the regulations. Individuals are liable to a fine not exceeding \$2,000 and bodies corporate are liable to a fine not exceeding \$12,000.

An offence is committed if a person—

- (a) Applies for a certificate of approval knowing he or she is not entitled to one; or
- (b) Claims any payment knowing that he or she is not entitled to it; or
- (c) Supplies information knowing it is misleading or incorrect.

Grants made in accordance with these regulations are grants to which section 169 of the Income Tax Act 1976 applies.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 29 October 1992.

These regulations are administered in the Ministry of Forestry.