



THE FORESTRY ENCOURAGEMENT GRANTS REGULATIONS
1981

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 16th day of February
1981

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING IN COUNCIL

PURSUANT to paragraphs (s) and (w) of section 72 (1) of the Forests Act 1949, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Forestry Encouragement Grants Regulations 1981.

(2) These regulations shall come into force on the 14th 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:

“Approved area” means any area of land in respect of which an approving authority has approved a forestry encouragement grant and issued an initial approval certificate under these regulations:

“Approving authority” means the person specified in the First Schedule to these regulations as the approving authority for the appropriate class of forestry encouragement grant specified in that Schedule:

“Authorising officer” means the person specified in the First Schedule to these regulations as the authorising officer for the appropriate class of forestry encouragement grant specified in that Schedule:

“Certified account” means a statement that—

(a) Contains such information relating to qualifying 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 (including the due payment of amounts purporting to have been disbursed) and issued in the prescribed form by a chartered accountant or 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:

“Forestry encouragement grant” or “grant” means a grant made under these regulations; and includes part of a grant:

“Initial approval certificate” means a certificate in the prescribed form issued to an applicant by the approving authority to the effect that the land specified in the certificate has been approved for a forestry encouragement grant:

“Inspection approval certificate” means a certificate in the prescribed form issued by a Forest Officer to the effect that the work for which payment of qualifying expenditure incurred on an approved area is claimed has been satisfactorily completed on that area in accordance with a certified account:

“Landholder” includes any person who is entitled by virtue of his interest in any landholding to plant, tend, and crop trees on that landholding; but does not include—

(a) Any person whose total annual qualifying expenditure, whether incurred on an approved area or not, exceeds \$300,000; or

(b) Any person whose total annual combined qualifying expenditure, together with that of any associated person as defined in section 8 of the Income Tax Act 1976, whether incurred on an approved area or not, exceeds \$300,000; or

(c) Any local authority within the meaning of Part VI of the Local Authorities Loans Act 1956:

“Landholding” includes every estate, right, title, or interest of any kind in or over any land in New Zealand, otherwise than by way of charge or security, under which the holder may plant trees for commercial purposes; but does not include—

(a) Any land in respect of which State financial assistance to encourage afforestation (other than a grant made under these regulations) has been accepted by the landholder; or

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

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

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

“Qualifying expenditure” means any expenditure of a type described in the Second Schedule to these regulations:

“State financial assistance” includes any money received by way of loan or otherwise from the Rural Banking and Finance Corporation, the Maori Land Board, or any Catchment Board; but does not include any money that has been received from the Rural Banking and Finance Corporation, the Maori Land Board, or any Catchment Board and has been or is to be used for capital expenditure:

“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, the date of the annual balance of the landholder’s accounts.

3. Forestry encouragement grants—(1) Every forestry encouragement grant shall be one of the following types:

- (a) Production; or
- (b) Protection and production.

(2) Forestry encouragement grants shall be made only in respect of landholdings in districts or localities that, in the opinion of the approving authority, are within 1 or more of the categories specified in the Third Schedule to these regulations.

(3) No forestry encouragement grant shall be made in respect of any area of land comprising less than 2 hectares.

4. Maximum amount of total grant—(1) Subject to subclause (2) of this regulation, the maximum amount of qualifying expenditure that may be recognised for the purposes of a forestry encouragement grant during the rotation of the crop shall be \$1,500 per hectare.

(2) In the case of a landholder who—

- (a) Is an owner (other than a local authority) within the meaning of the Forestry Encouragement Loans Regulations 1967*; and
- (b) Has had remitted the total principal sum and interest owing on any land made to him in respect of any secured area under the Forestry Encouragement Act 1962 and regulation 8A of those regulations,—

the maximum amount that may be recognised under subclause (1) of this regulation in respect of the landholding shall be reduced by an amount equal to the amount of the principal sum so remitted.

5. Amount of grant payable in any one year—(1) Except as provided in subclause (2) of this regulation, the amount of any forestry encouragement grant that may be paid in any one year shall not exceed one-half of the amount for the time being specified in regulation 4 of these regulations.

(2) In the case of a protection and production grant, the amount of any grant that may be paid in any one year in respect of land preparation and establishment costs that are qualifying expenditure shall not exceed two-thirds of the amount for the time being specified in regulation 4 of these regulations.

6. Eligibility for forestry encouragement grants—Any landholder may apply for a forestry encouragement grant of the appropriate class specified in the First Schedule to these regulations for any landholding held by him that is to be used by him for afforestation and in respect of which forestry encouragement grants are permitted by these regulations.

7. Application for initial approval certificate—Every application for a grant shall be commenced by an application for an initial approval certificate by or on behalf of a landholder to the Conservator in whose conservancy the proposed approved area or the greater part thereof is situated, and shall be accompanied by—

- (a) Sufficient particulars of the landholding and the area proposed for approval to enable the Conservator and the Commissioner to identify them:
- (b) A development plan in the prescribed form, including the following particulars:
 - (i) The total area to be established; and
 - (ii) The area to be planted each year; and
 - (iii) The species to be planted; and
 - (iv) The objects of management; and
 - (v) A management plan;—

and such further information as may be necessary to ensure that the approving authority is fully informed of the purposes for which qualifying expenditure will be incurred.

8. Time for application for initial approval certificate—Applications for initial approval certificates shall be lodged with the Conservator not later than the 31st day of August preceding the calendar year in which the initial work under the development plan supplied with the application is intended to be done.

9. Approval of forestry encouragement grant—(1) Forestry encouragement grants may be approved by the approving authority if he thinks fit, and, after approval, shall be paid in reimbursement of qualifying expenditure reasonably incurred by the landholder within the limits specified in regulations 4 and 5 of these regulations.

(2) Notwithstanding anything to the contrary in these regulations, increases on the initial approval of up to 10 percent on approved areas up to 100 hectares, and up to 5 percent on larger approved areas, may be permitted without additional approval having to be obtained, if it can be established to the satisfaction of the Conservator in whose conservancy the approved area or the greater part thereof is situated that the additional area was intended to be part of the original proposal.

10. Claim for payment—Every claim for payment under a forestry encouragement 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:
- (b) Accompanied by a certified account of the qualifying expenditure incurred:
- (c) Accompanied by evidence, defining with appropriate and reasonable accuracy, the area of established treecrop.

11. Time for claim for payment—All claims for payment shall be lodged with the Conservator within 3 months after the year for which payment is claimed.

12. Payment—(1) Every payment under a forestry encouragement grant shall be subject to the prior issue of an inspection approval certificate endorsed by the authorising officer.

(2) No authorising officer shall endorse any inspection approval certificate for the purpose of approving any payment under a grant unless he is satisfied that—

- (a) The qualifying expenditure was reasonably incurred; and
- (b) The amount claimed is reasonable.

(3) Payment in respect of planting costs may be withheld by the authorising officer until he is satisfied that the standard of establishment of the treecrop is satisfactory.

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

- (a) To obtain all such information and require all such inspections to be made as he 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 the application or the claim, particulars of any initial approval certificate, inspection approval certificate, or certified account relating to that application or claim for which application is made or under which payment is claimed, and particulars of all 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 forestry encouragement grant to the landholder or to an authorised agent of the landholder.

14. Forwarding of accounts to the Commissioner—The Conservator shall supply to the Commissioner particulars of all initial approval certificates, certified accounts, payments made or payable under any forestry encouragement grant, and, on request of the Commissioner, any inspection approval certificate that the Commissioner may require.

15. 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 (if otherwise eligible) apply through the Conservator

to the approving authority for the transfer into his name of the initial 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 approving authority may, if he thinks fit, approve that transfer.

16. Termination of grant—(1) Subject to regulation 15 of these regulations, every forestry encouragement grant shall be terminated if the landholder ceases to be a landholder for the approved area in respect of which the grant has been approved.

(2) Any forestry encouragement grant held by a company in respect of any approved area shall be terminated if the company, in calculating for the purposes of the Income Tax Act 1976 the assessable income derived by it, elects, under the second proviso to section 74 (2) (b) of that Act, to deduct any qualifying expenditure incurred in respect of that area.

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

- (a) Applies for an initial approval certificate knowing that he is not entitled to one under these regulations; or
- (b) Claims any payment under these regulations to which he knows he 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 \$500, and, if the offence is a continuing one, to a further fine not exceeding \$50 for every day during which the offence continues:
- (b) In the case of a body corporate, 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.

18. Revocations—The following regulations are hereby revoked:

- (a) The Forestry Encouragement Grants Regulations 1970*:
- (b) The Forestry Encouragement Grants Regulations 1970, Amendment No. 1†:
- (c) The Forestry Encouragement Grants Regulations 1970, Amendment No. 2‡.

*S.R. 1970/64
 †S.R. 1974/270
 ‡S.R. 1977/319

SCHEDULES

FIRST SCHEDULE

APPROVAL OF GRANTS AND PAYMENTS

Regs. 2 and 6

Class of forestry encouragement grant	"A"	"B"	"C"	"D"
Total area in hectares per initial approval certificate	up to 100	101-200	210-400	Over 400
Approving authority	Conservator or a Forest Officer to whom the power is delegated in writing by the Conservator	Director-General or a Forest Officer to whom the power is delegated in writing by the Director-General	Minister of Forests	Minister of Forests with the concurrence of the Minister of Finance
Authorising Officer	Conservator or a Forest Officer to whom the power is delegated in writing by the Conservator	Conservator or a Forest Officer to whom the power is delegated in writing by the Conservator	Conservator or a Forest Officer to whom the power is delegated in writing by the Conservator	Director-General or a Forest Officer to whom the power is delegated in writing by the Director-General

SECOND SCHEDULE

Regs. 2 and 9

QUALIFYING EXPENDITURE

Any expenditure by a landholder that, if it were incurred by a company to which the second proviso to section 74 (2) (b) of the Income Tax Act 1976 applies, the company could elect to deduct under that proviso in calculating for the purposes of that Act the assessable income derived by the company.

The value of the labour of the applicant, or the labour of the applicant's family, at no higher than the rates of payment for the class of workers in the New Zealand Forest Service known as Forest Hand 1.

All new fencing costs up to a maximum of \$70 per hectare.

THIRD SCHEDULE

Reg. 3 (2)

DISTRICTS OR LOCALITIES IN RESPECT OF WHICH GRANTS MAY BE MADE

Districts or localities where it is desirable to build up local supply forests.

Districts or localities where forests will support existing or proposed large integrated industries.

Districts or localities within an economic distance of a log export port.

Districts or localities suited to the growing of a special purpose timber.

Districts or localities where protection of resources and the production of timber render afforestation desirable.

P. G. MILLEN,
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 consolidate, amend, and replace the Forestry Encouragement Grants Regulations 1970 and their amendments.

The principal changes are:

- (a) The introduction of protection and production grants with a maximum payment of two thirds of the total grant in any one year for land preparation and establishment. The maximum annual payment in the case of a production grant or a protection and production grant for other than land preparation and establishment is 50 percent:
- (b) The maximum amount of qualifying expenditure per hectare is set at \$1,500:
- (c) The maximum qualifying expenditure per hectare for fencing costs is increased from \$40 to \$70:
- (d) The fines for offences specified in the regulations are increased.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 February 1981.

These regulations are administered in the New Zealand Forest Service.