

1983/37



**THE FORESTRY ENCOURAGEMENT GRANTS REGULATIONS  
1983**

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DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 14th day of  
March 1983

Present:

THE RIGHT HON. D. MACINTYRE PRESIDING IN COUNCIL

PURSUANT to 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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ANALYSIS

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Forestry Encouragement Grants Regulations 1983.

(2) These regulations shall come into force on the 1st day of April 1983.

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

“Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1974:

“Conservator” means the Conservator of Forests in whose conservancy the forest, or the greater part thereof, in respect of which the grant is claimed is situated:

“Director-General” means the Director-General of Forests:

“Forest” means a contiguous area of commercial forest or such other commercial management units that the Conservator may approve; but does not include any woodlot planted or maintained primarily to provide shelter, or for soil protection, or for agricultural or pastoral purposes:

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

“Forest owner” includes any person, local authority within the meaning of the Local Government Act 1974, or company, who, or which, is entitled to plant, tend, and crop trees on any land:

“Prescribed form” means such form as may be prescribed by the Director-General under regulation 9 of these regulations:

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

“Year” means any period of 12 months ending on the annual balance date of the forest owner, or, if there is no such date, on the 31st day of March.

**3. Option for holders of forestry encouragement loan**—(1) Where a forest owner has received a forestry encouragement loan under the Forestry Encouragement Loans Regulations 1967 that forest owner may—

(a) Continue to receive loan payments under the forestry encouragement loan until the maximum amount available under the loan has been paid, and thereafter receive grants; or

(b) Elect to receive grants instead of continuing to receive loan payments.

(2) Any election under subclause (1) (b) of this regulation shall be irrevocable.

(3) Notwithstanding that the forest owner receives grants pursuant to subclause (1) (a) or subclause (1) (b) of this regulation, the forestry encouragement loan agreement shall continue in full force and effect in respect of such loan payments as have been made.

**4. Forestry encouragement grants**—(1) Every forestry encouragement grant shall be—

(a) A production grant; or

(b) A protection and production grant.

(2) A grant shall only be a protection and production grant if an officer of a catchment board (as defined in the Soil Conservation and Rivers Control Act 1941) certifies that the land on which the forest or part of a forest is, or is to be, planted is in need of protection and the Conservator agrees that that land is in need of protection.

**5. Amount of annual grant**—(1) The amount of any production grant for any year shall be an amount equal to 45 percent of the qualifying expenditure incurred in that year.

(2) The amount of any protection and production grant for any year shall be an amount equal to two-thirds of the qualifying expenditure incurred in that year.

(3) A protection and production grant in respect of any forest or part of a forest shall be payable in respect of the period commencing on the date on which the first qualifying expenditure is incurred in respect of that forest or that part of the forest and ending on—

(a) The end of the period of 3 years from that date; or

(b) The completion of the release clearing of the crop,—

whichever period is the shorter, and thereafter any grant in respect of qualifying expenditure in respect of that forest or that part of the forest shall be a production grant only.

**6. Eligibility for forestry encouragement grants**—Any forest owner may receive a forestry encouragement grant for any forest in respect of which he has incurred qualifying expenditure in any year in respect of which forestry encouragement grants are permitted by these regulations.

**7. Payment of grants**—Forestry encouragement grants shall be paid in reimbursement of qualifying expenditure incurred in any year by the forest owner at the rate specified in regulation 5 of these regulations.

**8. Claim for payment**—Every claim for payment under a forestry encouragement grant shall—

(a) Relate to qualifying expenditure incurred in the year to which the claim relates; and

(b) Be made as soon as practicable after the end of that year and be made in the prescribed form by or on behalf of the forest owner of the forest in respect of which the claim is made.

**9. Prescribed form**—The Director-General shall prescribe the form for claiming payment of a grant and such form shall contain—

(a) A statement of expenditure signed by—

(i) In the case of a company or a local authority, the auditors of that company or local authority; or

(ii) In any case, a person licensed to practice as an accountant under section 32A of the New Zealand Society of Accountants Act 1958 or a chartered accountant,—

being persons who are independent of the forest owner; and

(b) An authority to be completed by the claimant authorising the Conservator or officer authorised by him to have free access to all land and buildings of the claimant to inspect the work carried out in respect of the expenditure on which the grant is claimed and to inspect all books and records in relation to that work and that expenditure; and

(c) An undertaking by the forest owner to inform the Conservator when he ceases to carry on his forestry business and to give details of the sale or disposal of motor vehicles, plant, and machinery in respect of the depreciation on which a grant has been paid.

**10. Effect of claim**—The receipt by the Conservator of any claim for payment shall, in respect of that claim, authorise the Conservator, or any person acting on behalf of the Conservator,—

(a) To supply to the Commissioner particulars of the claim and all grant payments made or payable:

- (b) Upon compliance by the forest owner with all requirements under these regulations, to arrange payment of money by way of a forestry encouragement grant to the forest owner or to any authorised agent of the forest owner.

**11. Authorising officer**—The authorising officer for the payment of claims shall be the Conservator or such officer to whom the Conservator has in writing delegated the power to authorise the payment of claims.

**12. Adjustment for profit or loss of depreciated motor vehicles, plant, or machinery**—(1) Where any motor vehicle, plant, or machinery in respect of the depreciation on which a grant has been paid or is otherwise payable has, in any year, been sold or otherwise disposed of for a consideration in excess of the depreciated value,—

- (a) The amount of that excess shall be deducted from the amount of the qualifying expenditure incurred in that year, so far as that expenditure extends; and
- (b) So far as it cannot then be deducted, shall be deducted from the amount of the qualifying expenditure incurred in the next succeeding year, and so on; and
- (c) Where the forest owner has ceased to carry on the forestry business, the grant paid in respect of the amount of any excess, to the extent that the excess has not been deducted under paragraph (a) or paragraph (b) of this subclause, may be recoverable as a debt due to the Crown.

(2) Where any motor vehicle, plant, or machinery in respect of the depreciation on which a grant has been paid or is otherwise payable is sold or otherwise disposed of at arms length for a consideration which is less than the depreciated value, the amount of the qualifying expenditure in the year of sale or other disposition shall be increased by the amount of the difference between the depreciated value and the value of the consideration.

**13. Adjustment of grants**—Notwithstanding anything contained in these regulations where adjustments are required due to incorrect claims having been made or claims having been incorrectly paid,—

- (a) Claims for adjustments may be made in respect of qualifying expenditure incurred up to 10 years before such claims for adjustments are made; or
- (b) Payment of any grant, in whole or in part, may be set off against any overpayment of any other grant that has been made within the previous 10 years:

Provided that, in any case where, in the opinion of the Director-General, the payment of an incorrect grant resulted from a claim which was fraudulent or wilfully misleading, it shall be lawful for the amount of the incorrect grant to be adjusted at any time and the amount overpaid recovered as a debt due to the Crown.

**14. Appeal**—(1) In the event of any expenditure claimed by a forest owner as qualifying expenditure being rejected by the Conservator, a forest owner may appeal to the Director-General to determine whether the expenditure rejected is, or is not, qualifying expenditure.

(2) The Director-General, after consulting the Commissioner if he considers it appropriate, shall thereon make such determination as he considers to be fair and reasonable.

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

- (a) Claims any payment under these regulations to which he knows he is not entitled; or
- (b) Supplies any information in relation to a 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
- (b) In the case of a body corporate, to a fine not exceeding \$3,000.

**16. Consequential amendment**—The Forestry Encouragement Loans Regulations 1967 are hereby amended by inserting, after regulation 11, the following regulation:

“11A. **Closing date for loan approvals**—Notwithstanding any other provision of these regulations, no loan may be approved on or after the 1st day of April 1983.”

**17. Revocations**—The Forestry Encouragement Grants Regulations 1981 and the Forestry Encouragement Grants Regulations 1981, Amendment No. 1 are hereby revoked.

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## SCHEDULE

Regs. 2 and 8

## QUALIFYING EXPENDITURE

1. Any expenditure that a forest owner who carries on a forestry business in New Zealand could, if he were a company (but for section 12 of the Income Tax Amendment Act (No. 2) 1982) in calculating the assessable income derived by him in any income year, whether from that business or otherwise, have deducted from that assessable income, being any expenditure incurred by him in that forestry business in that income year, and being expenditure that is incurred on or after the 1st day of April 1983—

- (a) In planting or maintaining trees on the land or in preparing or otherwise developing the land for its forestry operations; or
- (b) By way of rent, rates, land tax, insurance premiums, or other like expenses; or
- (c) By way of interest on money borrowed and employed as capital for the purposes of that business,—

not being expenditure incurred in relation to the harvesting, removal, processing, utilisation, or sale of the tree crop.

2. The value of the labour of the forest owner, being an individual, or the labour of his family in respect of the work specified in paragraph (a) of clause 1 of this Schedule (not being work the expenditure on which is qualifying expenditure pursuant to that clause), on or after the 1st day of April 1983, at no higher than the rates of payment for the class of workers in the New Zealand Forest Service known as Forest Hand 1.

3. Depreciation on any motor vehicle, plant, or machinery acquired or constructed, on or after the 1st day of April 1983, that is used primarily and principally in preparing or developing forestry land or in planting, tending, or maintaining the tree crop, not exceeding the rate of depreciation allowance in respect of such asset as determined from time to time for income tax purposes by the Commissioner of Inland Revenue.

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 provide for a new forestry encouragement grants scheme and partially give effect to the 1982 Budget announcement that the tax deductibility of forestry establishment and maintenance expenditure currently available to companies and the forestry encouragement loan scheme available to local authorities are to be removed and companies and local authorities are to be eligible for forestry encouragement grants available to individuals, with the rate of grant reduced from 50 percent to 45 percent.

These regulations are to come into force on 1 April 1983 and apply to qualifying expenditure incurred on or after that date.

*Regulation 2* provides for the interpretation.

*Regulation 3* gives the holder of forestry encouragement loans the option of immediately changing to the grants under these regulations, or to continue to receive loan payments until the amount available has been paid.

*Regulation 4* provides for 2 classes of grants, namely, production grants or protection and production grants.

*Regulation 5* provides that the amount of the production grant for a year is to be 45 percent of the qualifying expenditure incurred in that year, and the amount of the protection and production grant is to be two-thirds of such expenditure. A protection and production grant is to be payable for a maximum of 3 years and therefore is to be treated as a production grant.

*Regulation 6* sets out the eligibility for the grant.

*Regulation 7* provides for payment of the grant.

*Regulations 8 to 11* set out the procedure and consequences of the claim for the grant.

*Regulation 12* provides for adjustments to be made to the amount of the grant otherwise payable where any motor vehicle, plant, or machinery, the depreciation on which has been claimed as qualifying expenditure, is sold for a consideration other than its depreciated value.

*Regulation 13* provides for adjustment of incorrect claims.

*Regulation 14* enables an appeal to be made to the Director-General where expenditure claimed as qualifying expenditure has been rejected.

*Regulation 15* deals with offences.

*Regulation 16* amends the Forestry Encouragement Loans Regulations 1967 so that no new loans can be made.

*Regulation 17* deals with revocations.

The Schedule sets out the types of qualifying expenditure.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 17 March 1983.

These regulations are administered in the New Zealand Forest Service.