

Reprint

as at 6 November 2008

Forestry Encouragement Grants Regulations 1983

(SR 1983/37)

Forestry Encouragement Grants Regulations 1983: revoked, on 6 November 2008, by clause 3 of the Regulations Revocation Order 2008 (SR 2008/367).

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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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These regulations are administered in the New Zealand Forest Service.

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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 main-

tained 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

Local authority means a local authority as defined in section 2 of the Local Government Act 1974

Maori authority means a Maori authority as defined in section YA 1 of the Income Tax Act 2007

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

Qualifying expenditure means any expenditure, value of labour, or depreciation of a type specified in the Schedule to these regulations, not being expenditure, value of labour, or depreciation to which regulation 6A of these regulations applies

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.

Local authority: this definition was inserted, as from 9 November 1984, by regulation 2 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

Maori authority: this definition was inserted, as from 9 November 1984, by regulation 2 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

Regulation 2 **Maori authority**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Maori authority: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “section OB 1 of the Income Tax Act 2004” for the words “section 234 of the Income Tax Act 1976”.

Qualifying expenditure: this definition was substituted, as from 23 November 1983, by regulation 2 Forestry Encouragement Grants Regulations 1983, Amendment No 1 (SR 1983/254).

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) For the purposes of these regulations the expression **protection and production grant** means a forestry encouragement grant payable in respect of qualifying expenditure incurred in relation to any forest or part of a forest where, before any preparation or development of the land on which the forest or part of the forest is to be planted is commenced,—
 - (a) An officer of a Catchment Board (within the meaning of the Soil Conservation and Rivers Control Act 1941) has certified that that land was, at the time of his certificate, in need of protection; and
 - (b) The Conservator has agreed that that land was then in need of protection.

Subclause (2) was substituted, as from 21 September 1984, by regulation 2 Forestry Encouragement Grants Regulations 1983, Amendment No 2 (SR 1984/232).

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.

6A Certain items not to be qualifying expenditure

Notwithstanding any thing in these regulations, where, but for this regulation, any form or arrangement, contract, agreement, plan, or scheme, in relation to any expenditure, value of labour, or depreciation of a type specified in the Schedule to these regulations, results or would result, directly or indirectly, in any forest owner receiving—

- (a) A greater total of grants; or
 - (b) Earlier payment of grants,—
- than would otherwise be the case if there were no such form of arrangement, contract, agreement, plan, or scheme, such expenditure, value of labour, or depreciation shall not be qualifying expenditure for the purposes of these regulations.

Regulation 6A was inserted, as from 23 November 1983, by regulation 3 Forestry Encouragement Grants Regulations 1983, Amendment No 1 (SR 1983/254).

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.

13A Closing dates for production grants to local authorities and Maori authorities

Notwithstanding any other provisions of these regulations, no production grant shall be paid under these regulations to any local authority or Maori authority on or after the 9th day of November 1984 unless—

- (a) The Conservator is satisfied that—
- (i) The qualifying expenditure in respect of which the claim is made was incurred before the 9th day of November 1984; or

- (ii) The qualifying expenditure in respect of which the claim is made was incurred on or before the 31st day of March 1986 pursuant to a binding contract entered into before the 9th day of November 1984; or
 - (iii) The qualifying expenditure in respect of which the claim is made was incurred on or before the 31st day of March 1986 pursuant to a resolution of the local authority or Maori authority passed before the 9th day of November 1984; and
- (b) The claim is received by the Conservator on or before the 30th day of June 1986.

Regulations 13A to 13D were inserted, as from 9 November 1984, by regulation 3 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

13B Closing dates for production grants for other claimants

Notwithstanding any other provisions of these regulations, no production grant shall be paid under these regulations to any claimant not being a local authority or a Maori authority, on or after the 9th day of November 1984 unless—

- (a) The qualifying expenditure in respect of which the claim is made was incurred before the 9th day of November 1984; and
- (b) The claim is received by the Conservator on or before the 19th day of December 1985.

Regulations 13A to 13D were inserted, as from 9 November 1984, by regulation 3 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

Regulation 13B(b) was amended, as from 31 May 1985, by regulation 2 Forestry Encouragement Grants Regulations 1983, Amendment No 4 (SR 1985/105) by substituting the words “19th day of December” for the words “31st day of January”.

13C Closing dates for protection and production grants

Notwithstanding any other provisions of these regulations, no protection and production grant in respect of any land shall be paid under these regulations on or after the 9th day of November 1984 unless—

- (a) An officer of a Catchment Board (within the meaning of the Soil Conservation and Rivers Control Act 1941)

has given his certificate in respect of that land pursuant to regulation 4 of these regulations before the 9th day of November 1984; and

- (b) The qualifying expenditure in respect of which the claim is made was incurred on or before the 31st day of March 1990; and
- (c) The claim is received by the Conservator on or before the 30th day of June 1990.

Regulations 13A to 13D were inserted, as from 9 November 1984, by regulation 3 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

13D Amounts of grants

Notwithstanding any other provision of these regulations, the amount of grant payable for any period under these regulations in respect of any claim received by the Conservator on or after the 9th day of November 1984 shall be an amount equal to the percentage of qualifying expenditure incurred in that period as specified in Schedule 2 to these regulations.

Regulations 13A to 13D were inserted, as from 9 November 1984, by regulation 3 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

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.

Schedule 1

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 in calculating the income derived by him in any tax year, whether from that business or otherwise, have deducted from that income, being any expenditure incurred by him in that forestry business in that tax 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.

Clause 1 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by omitting the words “(but for section 12 of the Income Tax Amendment Act (No 2) 1982)”.

Clause 1 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by omitting the word “assessable” in both places it appears.

Clause 1 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year” in both places they appear.

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, under the Income Tax Act 2007.

Schedule 1 clause 3: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Clause 3 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “under the Income Tax Act 2004” for the words “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”.

Schedule 2

Reg 13D

Amounts of grants

Schedule 2 was inserted, as from 9 November 1984, by regulation 4 Forestry Encouragement Grants Regulations 1983, Amendment No 3 (SR 1984/279).

Type of Claimant	Type of Grant	Date Qualifying Expenditure Incurred	Percentage of Qualifying expenditure
1. Local Authority	(a) Production	On or before 31 March 1986	45.00
	(b) Protection and production	(i) On or before 31 March 1986	66.66
		(ii) After 31 March 1986 but on or before 31 March 1990	39.40
2. Maori Authority	(a) Production	(i) On or before 8 November 1984	45.00
		(ii) After 8 November 1984 but on or before 31 March 1986	31.25
	(b) Protection and production	(i) On or before 8 November 1984	66.66
		(ii) After 8 November 1984 but on or before 31 March 1986	58.33

Type of Claimant	Type of Grant	Date Qualifying Expenditure Incurred	Percentage of Qualifying expenditure
		(iii) After 31 March 1986 but on or before 31 March 1990	39.40
3. Other Claimants	(a) Production	On or before 8 November 1984	45.00
	(b) Protection and production	(i) On or before 8 November 1984	66.66
		(ii) After 8 November 1984 but on or before 31 March 1990	39.40

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.

**Forestry Encouragement Grants
Regulations 1983**

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Notes

1 *General*

This is an eprint of the Forestry Encouragement Grants Regulations 1983. It incorporates all the amendments to the regulations as at 6 November 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Regulations Revocation Order 2008 (SR 2008/367): clause 3
Income Tax Act 2007 (2007 No 97): section ZA 2(1)
