

Version  
as at 28 October 2021



## Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020

Public Act    2020 No 43  
Date of assent    6 August 2020  
Commencement    see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry for Primary Industries.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020.

**2 Commencement**

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (2) Any provisions of this Act that have not earlier been brought into force come into force on the second anniversary of the day on which this Act receives the Royal assent.

### 3 Principal Act

This Act amends the Forests Act 1949 (the **principal Act**).

## Part 1 Amendments to principal Act

### 4 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

**code of ethics** means the code of ethics set under section 63ZZM

**financial year** means a period of 12 months commencing on 1 July and ending with 30 June

**forestry adviser service** has the meaning given in section 63M

**Forestry Authority** or **Authority** has the meaning given in section 63B

**forestry practice standards** means the practice standards set under section 63ZZL

**forestry register** has the meaning given in section 63ZM

**log trader** has the meaning given in section 63I

(2) In section 2(1), definition of **registered**, after paragraph (b), insert:

(c) in Part 2A, registered as a log trader or forestry adviser under Part 2A

### 5 New sections 2A and 2B inserted

After section 2, insert:

#### 2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

#### 2B Parts of this Act that bind the Crown

The following parts of this Act bind the Crown:

(a) Part 2A:

(b) Part 3A.

### 6 Section 13 amended (Protection of forestry officers, etc)

(1) In section 13, delete “or to an Authority under section 71A”.

(2) In section 13, insert as subsection (2):

(2) Subsection (1) also applies to a person outside the Public Service to the extent that the person is acting under a delegation referred to in section 63D (that is, acting as the Forestry Authority under Part 2A).

**7 New Part 2A inserted**

After Part 2, insert:

**Part 2A**  
**Regulation of log traders and forestry advisers**

**63A Purpose of this Part**

- (1) The purpose of this Part is to—
- (a) support the continuous, predictable, and long-term supply of timber, and equity of access to timber, for domestic processing and export; and
  - (b) support a more transparent and open market for log sales through the provision of professional advice; and
  - (c) improve the confidence and informed participation of businesses and investors in the forestry and wood-processing sector; and
  - (d) contribute to improved economic, employment, and environmental outcomes from the forestry and wood-processing sector, nationally and for local communities; and
  - (e) contribute to improved climate change outcomes from the forestry and wood-processing sector; and
  - (f) contribute to the development, and improve the long-term sustainability, of the forestry and wood-processing sector.
- (2) To that end, this Part—
- (a) establishes a regulatory system for log traders and forestry advisers; and
  - (b) imposes obligations on registered log traders and forestry advisers to ensure that logs grown in New Zealand are bought and sold in a way that is transparent and professional; and
  - (c) requires those who provide advice about forestry matters, including the application of the emissions trading scheme to forestry activities (within the meaning of the Climate Change Response Act 2002), to register as forestry advisers and meet regulatory standards.

Subpart 1—Registration and related matters

*Forestry Authority*

**63B Forestry Authority**

For the purposes of this Part, the Forestry Authority is the Secretary or any person to whom a function of the Forestry Authority is delegated (*see* section 63D).

### 63C Functions

The functions of the Forestry Authority are as follows:

- (a) to establish and maintain a registration system for log traders and forestry advisers:
- (b) to promote to persons in the forestry supply chain—
  - (i) awareness of the registration system for log traders and forestry advisers; and
  - (ii) the benefits of using registered log traders and registered forestry advisers:
- (c) to develop, maintain, and promote to registered persons the forestry practice standards:
- (d) to develop, maintain, and promote to registered forestry advisers a code of ethics for registered forestry advisers:
- (e) to facilitate the education and professional development of registered persons:
- (f) to monitor the compliance of registered persons with their obligations under this Part, including compliance with applicable forestry industry agreements (*see* section 63ZZE(g)):
- (g) to establish a process for resolving complaints and disputes relating to registered persons:
- (h) to establish and maintain public registers of registered persons.

### 63D Functions or powers may be delegated outside Public Service

- (1) The Secretary may, under clause 2(5) of Schedule 6 of the Public Service Act 2020, delegate any or all of the Forestry Authority's functions or powers under this Part, in whole or in part, to a forestry industry body or other person outside the Public Service.
- (2) However, the Minister must not approve the delegation (as required by clause 2(5)(a) of Schedule 6 of the Public Service Act 2020) unless the Minister is satisfied that the person qualifies to be delegated the function or power.
- (3) A body or person **qualifies to be delegated** a function or power if—
  - (a) they have the capability to perform the function or exercise the power (including having robust systems, accountability measures, and administrative expertise); and
  - (b) they have experience and expertise in the forestry and wood-processing sector; and
  - (c) there is broad industry support for them to perform the function or exercise the power; and
  - (d) they will allow for a range of different parties who work in the forestry and wood-processing sector to have input into their governance; and

- (e) the performance of the function, or exercise of the power, by them is likely to be more timely, cost-effective, and efficient than it would have been otherwise.
- (4) This section does not limit the delegation of functions or powers to other persons under clause 2 of Schedule 6 of the Public Service Act 2020.

### **63E Oversight of functions and powers delegated outside Public Service**

- (1) This section applies if a function or power is delegated to a person outside the Public Service in accordance with section 63D.
- (2) The Secretary may audit the person's performance of the function or exercise of the power at intervals determined by the Secretary and notified to the person at least 3 months in advance of the first audit to occur after the intervals are determined or changed.
- (3) An audit may include physical inspection of the person's place of business.
- (4) The Secretary may also require the person, by notice, to provide the Secretary with the information or class of information specified in the notice.
- (5) The person must provide the requested information—
  - (a) in writing; and
  - (b) within 10 working days after the date of the notice.
- (6) The person must comply with audit requirements and information requests to the extent that they relate to the person's performance of delegated functions or exercise of delegated powers, and must continue to do so after the delegation is revoked (*see* clause 4 of Schedule 6 of the Public Service Act 2020).
- (7) *See* clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, which provide additional oversight mechanisms for a delegation outside the Public Service.

### **63F Decision making must comply with natural justice**

The Forestry Authority, including any person outside the Public Service who carries out a delegated function or power, must comply with the principles of natural justice when considering and making a decision under, or in relation to, any of sections 63H to 63ZB, 63ZI, 63ZJ, and 63ZM to 63ZR.

### **63G Power to obtain information from registered persons**

- (1) The Forestry Authority may, by notice to a registered log trader or forestry adviser, require the registered person to provide the Authority with the information or class of information specified in the notice.
- (2) Before it issues a notice, the Authority must be satisfied that the information is required to—
  - (a) verify that a registered log trader or registered forestry adviser is complying with their obligations under this Part; or



- (b) gather statistical information for understanding the forestry supply chain.
- (3) The registered person must comply with the notice—
  - (a) in writing; and
  - (b) within a reasonable time.
- (4) The Authority may use the information only for purposes related to those specified in subsection (2).
- (5) *See* section 9 of the Official Information Act 1982 for reasons for the Forestry Authority to withhold any official information it holds (including where making the information available would disclose a trade secret or be likely unreasonably to prejudice a person's commercial position).

#### *Log trader registration*

### **63H Log traders must be registered**

- (1) A person must not act as a log trader unless the person—
  - (a) is a registered log trader; or
  - (b) is within a class of persons who are exempt from the requirement to be registered (*see* section 63ZZN(1)(a)(i)).
- (2) A person must not falsely hold out that that person, or any other person,—
  - (a) is a registered log trader; or
  - (b) is exempt from the requirement to be registered.
- (3) To avoid doubt, a new trader under section 63I(2)(b) must register as soon as that paragraph applies (when, at any time in the current financial year, their activity in that financial year is either reasonably expected to, or does in fact, involve at least the threshold volume of logs).

### **63I Meaning of log trader**

- (1) A **log trader** is any of the following:
  - (a) a person who, in trade,—
    - (i) buys New Zealand logs, whether after harvest or in the form of trees to be harvested at an agreed time, and whether or not the person intends to on-sell the logs; or
    - (ii) exports New Zealand logs; or
    - (iii) processes New Zealand logs that the person has grown themselves;
  - (b) a person who does any of the things specified in paragraph (a) as the agent for another person;
  - (c) a company that, in trade, transfers the ownership of New Zealand logs to or from a related company, whether the transfer relates to logs after harvest or in the form of trees to be harvested at an agreed time.

- (2) However, a **log trader** does not include a person (including a company) whose only activity covered by subsection (1) meets any of the following criteria:
- (a) if the person carried out the activity in the previous full financial year,—
    - (i) the person's activity in that year involved less than the threshold volume of logs; and
    - (ii) the person's activity in the current financial year does not in fact involve more than the threshold volume of logs:
  - (b) if the person did not carry out the activity in the previous full financial year, the person's activity in the current financial year (as a **new trader**) is reasonably expected by that person not to, and does not in fact, involve more than the threshold volume of logs:
  - (c) the activity is activity described in subsection (1)(c) that is within a class of transactions or transfers for which there is an exemption (*see* section 63ZZN(1)(b)):
  - (d) the activity is the shipping or transporting of logs, or associated logistical activities.

- (3) In this section,—

**New Zealand log** means a log grown in New Zealand on forest land

**related company** has the meaning given in section 2(3) of the Companies Act 1993

**threshold volume** means—

- (a) 2,000 cubic metres per year, unless paragraph (b) applies; or
- (b) any volume specified by regulations made under section 63ZZE(a).

### **63J Entitlement to be registered log trader**

- (1) A person is entitled to be registered as a log trader if the Forestry Authority is satisfied that the person—
- (a) is a fit and proper person to be a registered log trader; and
  - (b) meets the entitlement criteria set by regulations made under section 63ZZE(c).
- (2) In determining whether a person is a fit and proper person, the Authority must take into account—
- (a) the matters set out in regulations made under section 63ZZE(e); and
  - (b) any other matters that the Authority considers relevant.

### **63K Obligations of registered log trader**

A registered log trader must—

- (a) adhere to the forestry practice standards (*see* section 63ZZL); and
- (b) adhere to any agreement—

- (i) that is entered into by the registered log trader or an organisation to which they belong; and
- (ii) that is identified as an applicable forestry industry agreement by regulations made under section 63ZZE(g); and
- (c) continue to meet the criteria for entitlement to be a registered log trader; and
- (d) keep records as required by regulations made under section 63ZZE(h); and
- (e) report to the Forestry Authority as required by regulations made under section 63ZZE(i) and (j); and
- (f) comply with any other obligations that apply to registered log traders under this Part, including obligations set by regulations made under section 63ZZE(l).

*Forestry adviser registration*

**63L Forestry advisers must be registered**

- (1) A person must not, for reward, provide a forestry adviser service unless the person—
  - (a) is a registered forestry adviser who is authorised to provide that service; or
  - (b) is within a class of persons who are exempt from the requirement to be registered (*see* section 63ZZN(1)(a)(ii)); or
  - (c) is within a class of persons who are exempt from the requirement to be authorised to provide that service (*see* section 63ZZN(1)(a)(iii)).
- (2) A person must not falsely hold out that that person, or any other person,—
  - (a) is a registered forestry adviser; or
  - (b) is authorised to provide a forestry adviser service; or
  - (c) is exempt from the requirement to be registered or authorised.

**63M Meaning of forestry adviser service**

- (1) A person provides a **forestry adviser service** if, in the ordinary course of business, they provide any of the following services to a client:
  - (a) giving advice that relates to—
    - (i) the establishment, management, or protection of a forest:
    - (ii) the management or protection of land used, or intended to be used, for any purpose in connection with a forest or proposed forest:
    - (iii) the appraisal, harvest, sale, or utilisation of timber or other forest produce:

- (iv) the appraisal of a forest, forest land, or other forestry sector assets:
  - (v) the application of the emissions trading scheme to forestry activities (within the meaning of the Climate Change Response Act 2002):
  - (vi) the beneficial effects of forests (including, for example, how they contribute to environmental and economic outcomes):
  - (b) acting on behalf of another person in relation to their sale or purchase of timber or other forest produce:
  - (c) making inspections or preparing reports in connection with another forestry adviser service:
  - (d) any other service identified as a forestry adviser service by regulations made under section 63ZZE(b).
- (2) However, a person does not provide a **forestry adviser service** if their only activity covered by subsection (1) is—
- (a) incidental to, and not the principal part of, their business; or
  - (b) the provision of advice on space plantings, riparian strips, or farm shelter belts; or
  - (c) the provision of advice only in their professional capacity as a member of an occupation that is subject to a licensing or registration regime under another Act (for example, the Real Estate Agents Act 2008, the Financial Service Providers (Registration and Dispute Resolution) Act 2008, the Lawyers and Conveyancers Act 2006, or the New Zealand Institute of Chartered Accountants Act 1996); or
  - (d) any activity in their capacity as a Minister of the Crown or a member of Parliament; or
  - (e) the provision of a service that is within a class of services for which there is an exemption (*see* section 63ZZN(1)(c)).

### **63N Entitlement to be registered forestry adviser**

- (1) A person is entitled to be registered as a forestry adviser if the Forestry Authority is satisfied that the person—
- (a) is an individual; and
  - (b) is a fit and proper person to provide a forestry adviser service; and
  - (c) meets the entitlement criteria set by regulations made under section 63ZZE(c).
- (2) In determining whether a person is a fit and proper person, the Authority must take into account—
- (a) the matters set out in regulations made under section 63ZZE(e); and
  - (b) any other matters that the Authority considers relevant.

### **63O Obligations of registered forestry adviser**

A registered forestry adviser must—

- (a) adhere to the forestry practice standards (*see* section 63ZZL); and
- (b) adhere to the code of ethics for registered forestry advisers (*see* section 63ZZM); and
- (c) adhere to any agreement—
  - (i) that is entered into by the registered forestry adviser or an organisation to which they belong; and
  - (ii) that is identified as an applicable forestry industry agreement by regulations made under section 63ZZE(g); and
- (d) continue to meet the criteria for entitlement to be a registered forestry adviser; and
- (e) comply with any conditions of the registration, whether imposed by the Forestry Authority under section 63U or by regulations made under section 63ZZE(k); and
- (f) keep records as required by regulations made under section 63ZZE(h); and
- (g) report to the Forestry Authority as required by regulations made under section 63ZZE(i) and (j); and
- (h) comply with any other obligations that apply to registered forestry advisers under this Part, including obligations set by regulations made under section 63ZZE(l).

#### *Applications for registration*

### **63P Application for registration**

- (1) An application for registration as a log trader or forestry adviser must—
  - (a) be made to the Forestry Authority in the form approved by the Authority for that purpose; and
  - (b) include the information specified by regulations made under section 63ZZE(m); and
  - (c) be accompanied by payment of the application fee that is set by regulations made under section 63ZZH.
- (2) A person must not provide false or misleading information in an application for registration.

### **63Q Decision on application for registration**

- (1) This section applies when the Forestry Authority receives an application made in accordance with section 63P for registration as a log trader or forestry adviser.

- (2) If the Authority is satisfied that the applicant is entitled to be registered, the Authority must—
- (a) register the applicant; and
  - (b) notify the applicant of the following:
    - (i) the date on which the registration has effect;
    - (ii) the date on which the registration will expire if it is not renewed (*see* section 63R);
    - (iii) for a forestry adviser, any conditions of the registration (*see* section 63U);
    - (iv) for a forestry adviser, which forestry adviser services the person is authorised to provide.
- (3) If the Authority declines the application, it must notify the applicant of—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) the right of review under section 63Z.

#### *Renewal of registration*

#### **63R Registrations expire unless renewed**

The registration of a log trader or forestry adviser expires at the end of the last day of the registration period set by regulations made under section 63ZZE(n), unless the registration is renewed in accordance with sections 63S and 63T.

#### **63S Application for renewal of registration**

- (1) An application for renewal of the registration of a log trader or forestry adviser must—
- (a) be made to the Forestry Authority in the form approved by the Authority for the purpose; and
  - (b) be made at least 3 months before the date on which the registration is due to expire; and
  - (c) include the information specified by regulations made under section 63ZZE(m); and
  - (d) be accompanied by payment of the application fee that is set by regulations under section 63ZZH.
- (2) A person must not provide false or misleading information in an application for renewal.

**63T Decision on application for renewal of registration**

- (1) This section applies when the Forestry Authority receives an application made in accordance with section 63S from a registered log trader or forestry adviser for renewal of their registration.
- (2) If the Authority is satisfied that the applicant is still entitled to be registered and has not engaged in misconduct (as defined by section 63ZI), the Authority must—
  - (a) renew the registration, with effect on the day after the date on which the previous registration expires; and
  - (b) notify the applicant of the following:
    - (i) the date on which the renewal has effect;
    - (ii) the date on which the registration will expire (at the end of that day) if it is not renewed;
    - (iii) any change in the conditions of the registration (*see* section 63U);
    - (iv) for a forestry adviser, any change to the forestry adviser services that the person is authorised to provide.
- (3) If the Authority declines the application,—
  - (a) it must notify the applicant of—
    - (i) the decision; and
    - (ii) the reasons for the decision; and
    - (iii) the right of review under section 63Z; and
  - (b) the person must be treated as if they were still registered until they have exhausted that right of review.

*Registration conditions*

**63U Conditions of registration**

- (1) The Forestry Authority may, subject to subsection (2) and any restrictions set out in regulations made under section 63ZZE(k),—
  - (a) impose conditions on the registration of a log trader or forestry adviser; and
  - (b) at any time, modify the conditions of registration.
- (2) The Authority may only impose conditions that the Authority considers necessary or desirable for the purpose of this Part, and that are reasonable.
- (3) Conditions on the registration of a log trader—
  - (a) may only be imposed if the Forestry Authority is satisfied that the log trader has engaged in unsatisfactory conduct (as defined in section 63ZI); and

- (b) may only set requirements needed to enable the Forestry Authority to monitor the person's compliance with their obligations under this Part.
- (4) Conditions on the registration of a forestry adviser may only relate to 1 or more of the following:
  - (a) requirements relating to different categories of registration established by the Authority:
  - (b) requirements for education, relevant workplace experience, or professional development that must be met to achieve or maintain registration:
  - (c) the advice that a forestry adviser may provide under different categories of forestry adviser service established by the Forestry Authority:
  - (d) any other requirements needed to ensure that the forestry adviser will comply with their obligations under this Part and provide services, in their capacity as a registered person, in accordance with the practice standards, code of ethics, and generally accepted professional standards.
- (5) Whenever the Authority decides to impose or modify a condition of registration, the Authority must give the registered person notice of—
  - (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) the right of review under section 63Z.
- (6) A new or modified condition has effect on and from the effective date specified by the Forestry Authority in the notice or, if no effective date is specified, the date of the notice.
- (7) Conditions imposed on a registered forestry adviser under this section apply in addition to any general conditions of registration for forestry advisers that are imposed by regulations made under section 63ZZE(k).

*Measures to address unsatisfactory conduct or misconduct*

**63V Measures to address unsatisfactory conduct or misconduct**

- (1) If the Forestry Authority is satisfied that a person has, in their capacity as a registered person, engaged in unsatisfactory conduct (as defined in section 63ZI), the Forestry Authority may—
  - (a) impose or modify a condition of the person's registration under section 63U to enable the Forestry Authority to monitor the person's compliance with their obligations under this Part:
  - (b) issue a notice to warn the person that the Forestry Authority may consider a failure to address the unsatisfactory conduct as satisfying the test in section 63ZI for misconduct:
  - (c) if the person is a log trader, issue a notice under section 63W to require the person to rectify any error or omission.



- (2) If the Forestry Authority is satisfied that a person has, in their capacity as a registered person, engaged in misconduct (as defined in section 63ZI), the Forestry Authority may—
- (a) decline an application for renewal of the person’s registration under section 63T;
  - (b) suspend the person’s registration under section 63X;
  - (c) consider whether there are grounds to prosecute the person for an offence under section 63ZK.

**63W Notice requiring log trader to address unsatisfactory conduct**

- (1) This section applies if the Forestry Authority is satisfied that—
- (a) a person has, in their capacity as a registered log trader, engaged in unsatisfactory conduct (as defined in section 63ZI); and
  - (b) the unsatisfactory conduct involves an error or omission on the part of the person.
- (2) The Authority may issue the person with a notice that requires the person—
- (a) to rectify, at their own expense, the error or omission; or
  - (b) where it is not practicable to rectify the error or omission, to take steps to provide, at the person’s own expense, relief, in whole or in part, from the consequences of the error or omission.
- (3) A notice under this section must include notice of the person’s right of review, under section 63Z, of the decision to issue the notice.
- (4) A notice under this section may be enforced in all respects as if it were an order of the District Court on the filing of a sealed copy in that court.

*Suspension and revocation of registration*

**63X Suspension of registration for misconduct**

- (1) If the Forestry Authority is satisfied that a registered log trader or forestry adviser has engaged in misconduct (as defined by section 63ZI) in their capacity as a registered person, the Forestry Authority may suspend the person’s registration.
- (2) However, the Authority must first—
- (a) give the registered person 15 working days’ notice of its intention to suspend their registration, including reasons for the decision to suspend; and
  - (b) in its notice of intention, invite the person to provide information to satisfy the Forestry Authority that the decision to suspend is inappropriate.
- (3) If the Authority decides to suspend the person’s registration, it must notify the person of—

- (a) the decision; and
  - (b) the right of review under section 63Z.
- (4) A suspension has effect from when it is notified to the registered person (the **suspension date**).
- (5) The suspension continues until the start of—
- (a) the date on which the person has exhausted their right of review under section 63Z in respect of the decision to suspend (after which the registration is revoked under section 63Y); or
  - (b) any earlier date on which the Authority notifies the person that the suspension is lifted.
- (6) The Authority may lift the suspension if it is satisfied that the reasons for the suspension no longer apply.
- (7) While a person's registration is suspended, the person must be treated as not being registered under this Part.

#### **63Y Revocation of registration**

- (1) The Forestry Authority must revoke the registration of a log trader or forestry adviser—
- (a) if the registration is suspended under section 63X and the person has exhausted their right of review under section 63Z in respect of the decision to suspend; or
  - (b) at the request of the registered person.
- (2) The revocation has effect on the date on which it is notified to the registered person.

#### *Review of decisions*

#### **63Z Right of review of certain decisions of Forestry Authority**

- (1) A person who is dissatisfied with any of the following decisions made by the Forestry Authority may apply for a review of the decision:
- (a) a decision to decline an application for registration as a log trader or forestry adviser (*see* section 63Q);
  - (b) a decision to decline an application for renewal of the registration of a log trader or forestry adviser (*see* section 63T);
  - (c) a decision to impose or modify a condition of registration (*see* section 63U);
  - (d) a decision to issue a notice requiring a registered log trader to rectify an error or omission (*see* section 63W);
  - (e) a decision to suspend the registration of a log trader or forestry adviser (*see* section 63X).

- (2) An application for review of the decision must—
  - (a) be made to the Secretary, in writing, within 30 days after the decision was notified to the applicant; and
  - (b) state the grounds on which it is believed that the decision was inappropriate.
- (3) The decision sought to be reviewed remains valid unless and until altered by the Forestry Authority, subject to section 63T(3)(b).

**63ZA Who reviews decision**

- (1) The reviewer of the decision referred to in section 63Z(1) must be,—
  - (a) for a decision made by the Secretary, a person appointed by the Minister under subsection (2); and
  - (b) for a decision made by a person who is acting under the delegated authority of the Secretary,—
    - (i) a person who was not involved in making the decision and who is designated by the Secretary; or
    - (ii) the Secretary.
- (2) The Minister may appoint a person for the purpose of subsection (1)(a) on any terms and conditions that the Minister considers appropriate (including conditions as to the payment of fees).

**63ZB How review is conducted**

- (1) If the Secretary receives an application for review under section 63Z, the Secretary must ensure that the application is forwarded to the appropriate reviewer (*see* section 63ZA).
- (2) The reviewer must review the matter—
  - (a) within 60 days after receiving the application; or
  - (b) within an extended period not exceeding a further 30 days that the reviewer notifies to the applicant in writing before the 60 days end.
- (3) For the purposes of a review,—
  - (a) the reviewer may require the applicant to supply, within the time specified by the reviewer, information additional to that contained in the application for review; and
  - (b) the time taken to supply the additional information (or allowed for its supply, if the information is not in fact supplied) is not to be counted for the purposes of the time limits specified in subsection (2).
- (4) The reviewer must, as soon as practicable after completing the review, notify the applicant in writing of—
  - (a) the decision on the review; and
  - (b) the reasons for the decision; and

- (c) the right of appeal under section 63ZC.
- (5) A decision by the reviewer under this section is final, unless determined otherwise by a court of law of competent jurisdiction.

*Appeal to court*

**63ZC Appeal to High Court**

A person who is dissatisfied with a decision made by a reviewer under section 63ZB, in respect of a decision made by the Forestry Authority that is referred to in section 63Z(1), may appeal to the High Court against the reviewer's decision.

**63ZD Time for appeal to High Court**

- (1) An appeal to the High Court must be made in the prescribed manner within 20 working days after the day on which notice of the relevant decision is given to the appellant.
- (2) However, the court may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if the court is satisfied that exceptional circumstances prevented the appeal from being made in time.

**63ZE High Court may make interim order**

- (1) At any time before the final determination of an appeal, the High Court may make an interim order that an appellant is to be treated as if they were a registered person until the end of the day on which the High Court finally determines the appeal.
- (2) An interim order may be subject to any conditions that the High Court thinks fit.

**63ZF Determination of appeal**

The High Court's decision in the determination of an appeal is final, subject to section 63ZG.

**63ZG Appeal to Court of Appeal on question of law**

- (1) A party to an appeal to the High Court, if dissatisfied with a decision of the court on the ground that it is erroneous in law, may appeal to the Court of Appeal on a question of law only.
- (2) The appeal must be heard and determined in accordance with the rules of court.
- (3) The decision of the Court of Appeal on any appeal under this section is final.

**63ZH Time for appeal to Court of Appeal**

- (1) An appeal to the Court of Appeal must be made in the prescribed manner within 20 working days after the day on which notice of the relevant decision is given to the appellant.

- (2) However, the court may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if the court is satisfied that exceptional circumstances prevented the appeal from being made in time.
- (3) In deciding whether to accept a late appeal, the court must have regard to whether the appellant made a late appeal against the original decision, and the appellant's reasons for that late appeal.

### *Complaints and dispute resolution*

#### **63ZI Complaints about unsatisfactory conduct or misconduct**

- (1) Any person may complain to the Forestry Authority, or the Forestry Authority may itself initiate a complaint, that a person has engaged in unsatisfactory conduct or misconduct in their capacity as a registered person.
- (2) The complaint must be made and dealt with in accordance with regulations made under section 63ZZF.
- (3) A person engages in **unsatisfactory conduct** if their conduct—
  - (a) falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent registered person; or
  - (b) contravenes the person's obligations under this Part in a way that is more than minor or inconsequential; or
  - (c) is incompetent or negligent; or
  - (d) would reasonably be regarded by registered persons of good standing as being unacceptable.
- (4) A person engages in **misconduct** if—
  - (a) they engage in conduct that would reasonably be regarded by registered persons of good standing, or reasonable members of the public, as disgraceful; or
  - (b) they wilfully or recklessly fail (whether by act or omission) to meet an obligation under this Part that is more than minor or inconsequential; or
  - (c) they commit a serious offence, or are involved in a serious matter, that is specified by regulations made under section 63ZZE(f).

#### **63ZJ Disputes about commercial matters**

- (1) If there is a dispute between any of the following persons about a commercial matter, 1 or more of the parties to the dispute may refer it to dispute resolution:
  - (a) owners of forests or proposed forests:
  - (b) registered, or previously registered, log traders:
  - (c) registered, or previously registered, forestry advisers.
- (2) The dispute must be referred and dealt with in accordance with regulations made under section 63ZZG.

- (3) If the parties to the dispute have not resolved the dispute by agreement after following that process, the parties may agree to refer the dispute to mediation or arbitration.
- (4) If a dispute is referred to arbitration, the provisions of the Arbitration Act 1996 apply to the dispute.

### *Offences and penalties*

#### **63ZK Offences**

- (1) A person commits an offence if the person fails to comply with—
  - (a) section 63H(1) (requirement for log traders to be registered); or
  - (b) section 63H(2) (requirement not to falsely hold out that a person is a registered log trader); or
  - (c) section 63K (obligations of registered log trader); or
  - (d) section 63L(1) (requirement for forestry advisers to be registered); or
  - (e) section 63L(2) (requirement not to falsely hold out that a person is a registered forestry adviser or authorised to provide a forestry adviser service); or
  - (f) section 63O (obligations of registered forestry adviser); or
  - (g) section 63P(2) (requirement not to provide false or misleading information in application for registration); or
  - (h) section 63S(2) (requirement not to provide false or misleading information in application for renewal of registration).
- (2) It is a defence to a charge under subsection (1)(g) or (h) that the person to whom the charge relates—
  - (a) did not know that the information they provided was false or misleading; and
  - (b) exercised all reasonable care and due diligence to ensure that the information provided was not false or misleading.

#### **63ZL Penalties**

A person who commits an offence under section 63ZK is liable on conviction,—

- (a) if the person is an individual, to a fine not exceeding \$40,000; and
- (b) in any other case, to a fine not exceeding \$100,000.

### *Forestry registers*

#### **63ZM Meaning of forestry register**

In this Act, **forestry register** means—

- (a) the register of log traders maintained under section 63ZN; or
- (b) the register of forestry advisers maintained under section 63ZO.

**63ZN Register of log traders**

- (1) The Forestry Authority must keep and maintain, or arrange to be kept and maintained, a public register of registered log traders.
- (2) The purpose of the register is—
  - (a) to enable members of the public to know whether a person is a registered log trader and, if so, how to contact the person; and
  - (b) to assist with the enforcement of the provisions of this Part.
- (3) The register must include, in relation to each registered person,—
  - (a) the person’s trading name and contact details; and
  - (b) the date on which the person became registered; and
  - (c) the date on which the registration expires; and
  - (d) any other information required by regulations made under section 63ZZE(o).

**63ZO Register of forestry advisers**

- (1) The Forestry Authority must keep and maintain, or arrange to be kept and maintained, a public register of registered forestry advisers.
- (2) The purpose of the register is—
  - (a) to enable members of the public to know—
    - (i) whether a person is a registered forestry adviser and, if so, how to contact the person; and
    - (ii) whether a person is authorised to provide a forestry adviser service; and
  - (b) to assist with the enforcement of the provisions of this Part.
- (3) The register must include, in relation to each registered person,—
  - (a) details of which forestry adviser services the person is authorised to provide; and
  - (b) the person’s name and contact details; and
  - (c) the date on which the person became registered; and
  - (d) the date on which the registration expires; and
  - (e) any other information required by regulations made under section 63ZZE(o).

**63ZP Form of forestry registers**

The Forestry Authority—

- (a) must determine the form in which the forestry registers will be kept; and
- (b) may amend the form from time to time as it considers necessary, as long as the content of the registers is as set out in sections 63ZN and 63ZO.

### **63ZQ Access to forestry registers**

- (1) The Forestry Authority must—
  - (a) make the forestry registers available for public inspection at all reasonable times, free of charge, by publishing them on an Internet site maintained by, or on behalf of, the Forestry Authority; and
  - (b) supply a copy of information contained in a forestry register to anyone who requests it, at no more than a reasonable cost.
- (2) However,—
  - (a) a person whose physical address is entered on a forestry register may apply to the Secretary to have the address withheld from inspection or other disclosure—
    - (i) on the grounds that its disclosure would be prejudicial to the personal safety of the person or the person's family; or
    - (ii) on the grounds of preserving the person's privacy; and
  - (b) the Secretary must ensure that the address is not available for inspection or disclosure, if satisfied that—
    - (i) the grounds relating to personal safety apply; or
    - (ii) the grounds relating to privacy apply and the chief executive can provide the person's electronic contact details to any person who requests them.
- (3) Despite subsection (2)(b), the Secretary may provide the person's physical address to another person if—
  - (a) the Secretary is satisfied that the other person needs the address to exercise a legal right, or satisfy a legal obligation, in relation to the first person (for example, to serve notice on them); and
  - (b) before providing the address, the Secretary gives notice to the first person specifying—
    - (i) the name of the person to whom it will be provided; and
    - (ii) the date on which it will be provided.

### **63ZR Obligation to notify Forestry Authority of changes**

- (1) A person whose details are included in a forestry register must notify the Forestry Authority of any change in the information.
- (2) The notification must be made, in writing, within 10 working days after the change.



## Subpart 2—Cost recovery

### 63ZS Obligation to recover costs

- (1) The Minister must take all reasonable steps to ensure that the direct and indirect costs of administering this Part are recovered under this Part, whether by way of fees, levies, or otherwise.
- (2) The obligation to recover costs does not apply to costs that are provided for by money appropriated by Parliament for the purpose.

Compare: 1949 No 19 s 67ZH(1)

### 63ZT Principles of cost recovery

- (1) In determining the most appropriate method of cost recovery to use, the Minister must have regard, as far as is reasonably practicable, to the following criteria:
  - (a) equity, in that funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service:
  - (b) efficiency, in that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost:
  - (c) justifiability, in that costs should be collected only to meet the actual and reasonable costs (including indirect costs) of the provision or exercise of the relevant function, power, or service:
  - (d) transparency, in that costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.
- (2) However,—
  - (a) there need not be a strict apportionment of the costs to be recovered for a particular function or service based on usage; and
  - (b) without limiting the way in which fees or charges may be set, a fee or charge may be set at a level or in a way that—
    - (i) is determined by calculations that involve an averaging of costs or potential costs:
    - (ii) takes into account costs or potential costs of services that are not directly to be provided to the person who pays the fee or charge, but that are an indirect or potential cost arising from the delivery of the service in question to a class of persons or all persons who use the service.

Compare: 1949 No 19 s 67ZH(2), (5)

**63ZU Requirement for consultation**

- (1) Costs must not be recovered under this Part unless there has been consultation with affected persons or representatives of persons substantially affected, including representatives of tangata whenua, forestry industry bodies, and unions (as defined in section 5 of the Employment Relations Act 2000).
- (2) Consultation is not required in relation to specific fees or charges, or the specific levels of fees or charges, so long as the fees or charges set are reasonably within the scope of any general consultation.

Compare: 1949 No 19 s 67ZH(3), (4)

**63ZV Methods of cost recovery**

The methods by which costs may be recovered under this Part are as follows:

- (a) fixed fees or charges:
- (b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:
- (c) use of a formula or other method of calculation for fixing fees and charges:
- (d) the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function:
- (e) estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appropriate further payment or refund after provision of the service or function:
- (f) levies:
- (g) any combination of the above.

Compare: 1949 No 19 s 67ZI

**63ZW Cost recovery to relate generally to financial year**

- (1) Regulations under subpart 3 that set a fee, charge, or levy that applies in any financial year—
  - (a) must have been made before the start of that financial year, unless subsection (2) applies; and
  - (b) apply in that financial year and all subsequent financial years until revoked or replaced, unless the regulations provide otherwise.
- (2) Regulations may be made during a financial year that alter or set a fee, charge, or levy payable in that financial year only if—
  - (a) the fee, charge, or levy is reduced, removed, or restated without substantive alteration; or
  - (b) in the case of an increased or a new fee, charge, or levy,—

- (i) appropriate consultation has been carried out with persons or representatives of persons substantially affected by the alteration or setting, including representatives of tangata whenua, forestry industry bodies, and unions (as defined in section 5 of the Employment Relations Act 2000); and
  - (ii) the Minister is satisfied that those persons or representatives agree or do not substantially disagree with the alteration or setting.
- (3) Subsection (1) does not prevent the amendment of any regulation setting a fee, charge, or levy if any substantive alteration effected by the amendment is for the purpose of correcting an error.
- (4) Recovery may be made in any financial year of any shortfall in cost recovery for any of the preceding 4 financial years, and allowance may be made for any over-recovery of costs in those financial years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

Compare: 1949 No 19 s 67ZJ

#### **63ZX Minister may review levels and methods of cost recovery**

- (1) The Minister may, from time to time, review the levels and methods of cost recovery in relation to the regulation of log traders and forestry advisers.
- (2) A review may—
  - (a) make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years; or
  - (b) make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).
- (3) To avoid doubt, all areas of cost recovery need not be reviewed at the same time, nor is there any time limit on the making of regulations to implement the results of a review.

Compare: 1949 No 19 s 67ZK

#### **63ZY Trust accounts required to be kept by persons collecting levies**

- (1) This section applies if regulations made under section 63ZZI require the operation of a trust account for any levy money by the person responsible for collecting the levy.
- (2) Any amount held on trust that is due to be paid to the Secretary by the levy collector—
  - (a) is to be treated as levy money held on trust for the Secretary; and
  - (b) is not available for the payment of any creditor (other than the Secretary) of the levy collector, and is not liable to be attached or taken in execution at the instance of the creditor.

- (3) A person who ceases to be responsible for collecting a levy must continue to maintain the trust account until all the levy money payable to the Secretary for the period during which the person was responsible for collecting the levy has been paid.
- (4) Subsection (3) does not affect any obligation or liability under this Part of any other person who has become responsible for collecting the levy.

Compare: 1949 No 19 s 67ZO

### **63ZZ Fees, levies, and charges payable are debt due to the Crown**

A fee, levy, or charge that has become payable under this Part is a debt due to the Crown that is recoverable by the Secretary in any court of competent jurisdiction.

Compare: 1949 No 19 s 67ZQ

### **63ZZA Services may be withdrawn until debt paid**

- (1) If a person fails to pay by the due date any fee, levy, or charge payable under this Part, the Forestry Authority may—
- (a) withdraw, or refuse to provide the person with, a service of the kind to which the debt relates; or
  - (b) refuse to perform a function under this Part leading to the registration of the person in default.
- (2) The Authority—
- (a) must give the person written notice of its intention to act under subsection (1) at least 10 working days before it acts; and
  - (b) must not act if the person satisfies the Authority during that period that the debt is not payable.
- (3) The Authority is not required to reinstate or supply the service, or perform the function, until a court holds that—
- (a) the debt or part concerned is paid; or
  - (b) the debt or part concerned is not payable; or
  - (c) some lesser amount is payable, and the amount is paid.

Compare: 1949 No 19 s 67ZR; 1997 No 100 s 16

### **63ZZB Obligation to pay fee, levy, charge, or penalty not suspended by dispute**

The obligation of a person to pay any fee, levy, charge, or penalty under this Part (any **amount owing**), as well as the right of the Secretary to receive and recover the amount owing, is not suspended by any dispute between the person and the Secretary regarding the person's liability to pay the amount owing or the amount that is owed.

Compare: 1949 No 19 s 67ZS

### Subpart 3—Regulations

#### **63ZZC Requirements before making regulations**

- (1) The Minister must not recommend that regulations be made under this subpart unless the Minister is satisfied—
  - (a) that the regulations are necessary or desirable for the purpose of this Part (*see* section 63A); and
  - (b) for regulations relating to cost recovery, that the requirements of the following sections have been met (to the extent appropriate in the circumstances):
    - (i) section 63ZT (principles of cost recovery):
    - (ii) section 63ZU (requirement for consultation):
    - (iii) section 63ZW (cost recovery to relate generally to financial year); and
  - (c) for other regulations, that there has been appropriate consultation with affected persons or representatives of persons substantially affected, including representatives of tangata whenua, forestry industry bodies, and unions (as defined in section 5 of the Employment Relations Act 2000).
- (2) Consultation need not be undertaken on matters involving minor corrections or updating, or otherwise of a minor or technical nature.
- (3) A failure to consult does not affect the validity of any regulations made for the purposes of this Part.

#### **63ZZD Regulations may subdelegate power to make rules**

- (1) Regulations made under this subpart, other than under section 63ZZI (levies), may—
  - (a) authorise the person to make rules, on the recommendation of the Minister, for any of the purposes for which the regulations may be made, to the extent that the rules relate to the delegated function or power; and
  - (b) set limits for the authorisation (for example, the maximum amount for a fee or charge).
- (2) If regulations authorise a person to make rules,—
  - (a) the regulations must require that the Minister be satisfied of the matters set out in section 63ZZC before recommending that rules be made; and
  - (b) for the purpose of paragraph (a), section 63ZZC must be read as if the references in that section to regulations were references to the rules; and
  - (c) if the rules relate to cost recovery, sections 63ZT to 63ZW apply with all necessary modifications.
  - (d) *[Repealed]*

(e) *[Repealed]*

(3) If the regulations authorise a person to make rules,—

- (a) the rules are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the regulations must contain a statement to that effect.

**Legislation Act 2019 requirements for secondary legislation referred to in subsection (3)(a)**

<b>Publication</b>	See the relevant publication, presentation, and disallowance table in the regulations under which it is made	LA19 ss 73, 74, Sch 1 cl 14
<b>Presentation</b>	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZD(2)(d): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 63ZZD(2)(e): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 63ZZD(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**63ZZE Regulations: registration**

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that do any of the following:

*Who must be registered*

- (a) specify a volume of logs for the purpose of the definition of threshold volume in section 63I(3) (to determine who has to register as a log trader under section 63H);
- (b) identify a service as a forestry adviser service (*see* section 63M(1)(d)):

*Entitlement to be registered*

- (c) set criteria for entitlement to be registered as a log trader or a forestry adviser (*see* sections 63J(1)(b) and 63N(1)(c));
- (d) in relation to the entitlement criteria for a registered forestry adviser, provide for qualifications gained, or professional memberships held, in a country outside New Zealand to be treated as meeting criteria set under paragraph (c);
- (e) set matters the Forestry Authority must take into account in determining whether a person is a fit and proper person to be registered as a log trader or forestry adviser (*see* sections 63J(2)(a) and 63N(2)(a));
- (f) specify offences or matters that are serious for the purposes of section 63ZI(4)(c) (relating to misconduct):

*Obligations of registered persons*

- (g) identify an agreement entered into by participants in the forestry and wood-processing sector as an applicable forestry industry agreement for the purpose of sections 63K(b)(ii) and 63O(c)(ii):
- (h) set requirements in relation to the records that registered persons must keep, how they are to be kept, and for how long (*see* sections 63K(d) and 63O(f)):
- (i) require registered persons to report to the Forestry Authority on a regular basis (*see* sections 63K(e) and 63O(g)), to enable the Forestry Authority to monitor the compliance of registered persons with their obligations under this Part:
- (j) specify when reports referred to in paragraph (i) must be made and what information they must contain:
- (k) set conditions of registration for forestry advisers that will apply generally (*see* section 63O(e)) or restrict the conditions of registration that may be imposed by the Forestry Authority under section 63U:
- (l) set additional obligations that will apply to registered persons (*see* sections 63K(f) and 63O(h)), which may include, for registered forestry advisers, a requirement to undertake ongoing professional and technical training:

*Miscellaneous*

- (m) specify the information that must be included in an application for registration as a log trader or forestry adviser, or an application for renewal of the registration (*see* sections 63P(1)(b) and 63S(1)(c)):
  - (n) set the registration period that will apply to log traders, forestry advisers, or both (*see* section 63R):
  - (o) specify information that must be kept on a forestry register (*see* sections 63ZN(3)(d) and 63ZO(3)(e)).
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZE(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**63ZZF Regulations: complaints**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that establish a resolution process for complaints that a registered person (including one whose registration is suspended or revoked) has engaged in unsatisfactory conduct or misconduct (as defined by section 63ZI).
- (2) Without limiting subsection (1), regulations under this section may do any of the following:
- (a) establish a complaints panel and its procedures:
  - (b) require the Forestry Authority to forward any complaint to the panel:
  - (c) authorise the panel to require registered persons to provide information relating to a complaint:
  - (d) require the panel to publish its findings:
  - (e) if the panel finds that a registered person has, or may have, engaged in unsatisfactory conduct or misconduct, require the panel to—
    - (i) notify the Forestry Authority of that finding; and
    - (ii) recommend that the Forestry Authority consider whether to take 1 or more of the actions specified in section 63V.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZF(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**63ZZG Regulations: disputes**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that establish a process for disputes about a commercial matter between any persons described by section 63ZJ(1) to be resolved by agreement.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)



**Disallowance** It may be disallowed by the House of Representatives LA19 ss 115, 116  
*This note is not part of the Act.*

Section 63ZZG(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 63ZZH Regulations: fees and charges

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that do any of the following:
  - (a) set the amounts of fees and charges for the purposes of this Part:
  - (b) set the method by which the amount of any fee or charge is to be calculated:
  - (c) provide for exemptions from, or waivers or refunds of, a fee or charge, in whole or in part, in any class of case:
  - (d) authorise the Secretary or another person to grant an exemption, waiver, or refund in any particular case or class of case.
- (2) The regulations may set fees and charges that—
  - (a) differ depending on whether a special or urgent service is provided:
  - (b) include more than 1 level of fee or charge for the same service provided in different ways, or provided in, or in respect of, different places:
  - (c) differ for otherwise similar services provided in different ways:
  - (d) differ depending on the amount of service required or the components of the service required for the particular person.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (4) If regulations under subsection (1)(d) authorise the Secretary or another person to grant an exemption, waiver, or refund,—
  - (a) an instrument granting an exemption, waiver, or refund is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only in a particular case; and
  - (b) the regulations must contain a statement to that effect.

#### Legislation Act 2019 requirements for secondary legislation referred to in subsection (3)

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

#### Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)(a)

<b>Publication</b>	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (3)	LA19 ss 73, 74, Sch 1 cl 14
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<b>Presentation</b>	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
<b>Disallowance</b>	It may be disallowed by the House of Representatives <i>This note is not part of the Act.</i>	LA19 ss 115, 116

Section 63ZZH(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 63ZZH(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 63ZZH(4): amended, on 28 October 2021, by regulation 28 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

### 63ZZI Regulations: levies

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that do any of the following:
  - (a) impose a levy payable to the Secretary for the purpose of wholly or partially funding the services provided and functions performed by the Forestry Authority;
  - (b) provide for exemptions from, or waivers or refunds of, a levy, in whole or in part, in any class of case;
  - (c) authorise the Secretary to grant an exemption, waiver, or refund in any particular case or class of case.
- (2) The regulations must specify—
  - (a) the persons primarily responsible for paying the levy; and
  - (b) the basis on which the amount of levy is to be calculated or ascertained; and
  - (c) the persons (if any) to be exempt from paying the levy; and
  - (d) the persons responsible for collecting the levy from those primarily responsible for paying it; and
  - (e) the maximum rate of levy; and
  - (f) how the actual rate of the levy is to be set; and
  - (g) how the rates of the levy and variation of rates are to be notified; and
  - (h) whether the persons collecting the levy are entitled to recover the cost of levy collection and the estimated amount.
- (3) The regulations may provide for any of the following:
  - (a) the making of returns to the Forestry Authority for the purpose of enabling or assisting the determination of amounts of levy payable;
  - (b) the circumstances in which, and conditions subject to which, persons may be allowed extensions of time for the payment of any levy;
  - (c) the payment of additional or increased levy when amounts of levy otherwise payable have been paid late, paid in part, or not paid at all:

- (d) the holding of funds from which payments of levy are to be made, on trust in separate accounts.
- (4) Regulations under this section—
- (a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).
- (5) If regulations under subsection (1)(c) authorise the Secretary to grant an exemption, waiver, or refund,—
- (a) an instrument granting an exemption, waiver, or refund is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only in a particular case; and
- (b) the regulations must contain a statement to that effect.

**Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

**Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)(a)**

<b>Publication</b>	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (4)	LA19 ss 73, 74, Sch 1 cl 14
<b>Presentation</b>	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZI(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 63ZZI(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**63ZZJ Levies regulations are confirmable instruments**

*[Repealed]*

Section 63ZZJ: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**Subpart 4—Rules and exemptions**

**63ZZK Requirements before making rules and exemptions**

- (1) The Minister must not recommend that rules or exemption notices be made under this subpart unless the Minister is satisfied—

- (a) that the rules or notices are necessary or desirable for the purposes of this Part (*see* section 63A); and
  - (b) that there has been appropriate consultation with affected persons or representatives of persons substantially affected, including representatives of tangata whenua, forestry industry bodies, and unions (as defined in section 5 of the Employment Relations Act 2000).
- (2) Consultation need not be undertaken on matters involving minor corrections or updating, or otherwise of a minor or technical nature.
- (3) A failure to consult does not affect the validity of any rules or notices made for the purposes of this Part.

### **63ZZL Rules: forestry practice standards**

- (1) The Forestry Authority may, on the recommendation of the Minister, make rules that set, for registered log traders and registered forestry advisers, practice standards for forestry operations and the delivery of forestry services.
- (2) The rules—
- (a) may set standards for any matter relating to forestry operations and the delivery of forestry adviser services, including but not limited to—
    - (i) land preparation, planting, forest management, harvest planning and site preparation, and valuation; and
    - (ii) biosecurity, sustainable land use, biodiversity, and emissions trading; and
    - (iii) sale and purchase agreements for domestic transactions or exports; and
    - (iv) other sale and purchase requirements; and
  - (b) must identify which standards apply to registered log traders, registered forestry advisers, or both.
- (3) However, the rules must not impose any condition or requirement that is properly a matter for commercial agreement between parties.
- (4) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### **Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZL(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 63ZZM Rules: code of ethics

- (1) The Forestry Authority may, on the recommendation of the Minister, make rules that set a code of ethics for registered forestry advisers.
- (2) The rules may include, without limitation, matters relating to—
  - (a) professional responsibility (maintaining the highest standards of integrity and technical accuracy); and
  - (b) responsibility to clients (including issues of confidence and conflicts of interest); and
  - (c) professional work standards by registered forestry advisers in employment; and
  - (d) maintaining professional competency.
- (3) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZM(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 63ZZN Exemptions from registration requirements

- (1) The Forestry Authority may, by notice made on the recommendation of the Minister,—
  - (a) exempt any class of persons from the requirement—
    - (i) to be a registered log trader (*see* section 63H(1)(b)); or
    - (ii) to be a registered forestry adviser (*see* section 63L(1)(b)); or
    - (iii) to be authorised to provide a forestry adviser service, whether a particular service or a class of service specified by the exemption (*see* section 63L(1)(c));
  - (b) exempt any class of transactions or transfers for the purpose of section 63I(2)(c) (meaning of log trader):
  - (c) exempt any class of services for the purpose of section 63M(2) (meaning of forestry adviser service):
  - (d) set terms and conditions for any exemption granted under this section.
- (2) Before recommending that an exemption be granted, the Minister must obtain and consider advice from the Forestry Authority as to whether the exemption should—

- (a) be granted for a specified period of no more than 5 years; or
- (b) be granted for an indefinite period but kept under review.
- (3) The breach of a term or condition of an exemption granted under this section is a breach of the provision to which the exemption relates (unless the terms of the exemption otherwise provide).
- (4) A notice under this section must include a statement of the Authority's reasons for granting the exemption.
- (5) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 63ZZN(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**8 Section 67A repealed (Part binds the Crown)**

Repeal section 67A.

**9 Section 72A amended (Remuneration and expenses)**

In section 72A,—

- (a) delete “to the members of any Authority constituted under section 71A or”; and
- (b) delete “authority or”.

**Part 2**

**Transitional schedule inserted in principal Act**

**10 New Schedule 1AA inserted**

Insert the Schedule 1AA set out in the Schedule of this Act as the first schedule to appear after the last section of the principal Act.

**11 Consequential amendments to Climate Change Response (Emissions Trading Reform) Amendment Act 2020**

- (1) This section amends the Climate Change Response (Emissions Trading Reform) Amendment Act 2020.
- (2) In Schedule 6 (which amends the Forests Act 1949), repeal the item that inserts new section 2A.
- (3) In Schedule 6, replace the item that inserts new Schedule 1AA with:

In Schedule 1AA, after clause 3, insert the Part 2 set out in Schedule 7 of this Act.

- (4) In Schedule 7 (which amends the Forests Act 1949), in the schedule heading, replace “**New Schedule 1AA inserted in**” with “**New Part inserted into Schedule 1AA of**”.
- (5) In Schedule 7, new Schedule 1AA, replace the Schedule 1AA heading and Part 1 heading with:

**Part 2**  
**Provisions relating to Climate Change Response (Emissions  
Trading Reform) Amendment Act 2020**

- (6) In Schedule 7, new Schedule 1AA, renumber clauses 1 and 2 as clauses 4 and 5.

## Schedule

### New Schedule 1AA inserted

s 10

### Schedule 1AA

#### Transitional, savings, and related provisions

s 2A

#### Part 1

### Provisions relating to Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020

#### 1 Interpretation

In this Part,—

**amendment Act** means the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020

**commencement date**, in relation to a provision of this Act, means the date on which the provision is amended, replaced, repealed, or inserted by the amendment Act

**new**, in relation to a provision of this Act, means the provision as in force on and after its amendment, replacement, or insertion by the amendment Act

**old**, in relation to a provision of this Act, means the provision as in force immediately before its amendment or repeal by the amendment Act.

#### 2 Application of new provisions to existing agreements

- (1) The new provisions do not apply (and the old provisions continue to apply) in relation to the following:
  - (a) a transaction or transfer described in section 63I(1) that is agreed to before the commencement date of that section:
  - (b) an agreement to provide a forestry adviser service, in a particular case, that is made before that commencement date.
- (2) It does not matter whether the transaction or transfer occurs, or the advice is provided, before, on, or after that commencement date.
- (3) To avoid doubt, the reference in subclause (1)(b) to an agreement does not include a contract of employment to provide forestry adviser services generally.

#### 3 New registration requirements and offences do not apply until 12 months after commencement date

The following new provisions do not apply in respect of an act or omission that occurs earlier than 12 months after that section's commencement date:



- (a) section 63H(1) (which prohibits a person from acting as a log trader unless registered or exempt):
- (b) section 63L(1) (which prohibits a person from providing a forestry adviser service unless registered or exempt):
- (c) section 63ZK(1)(a) to (f) (which creates offences under Part 2A).

## Notes

### **1** *General*

This is a consolidation of the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247): regulation 28  
Secondary Legislation Act 2021 (2021 No 7): section 3