



## ANALYSIS

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|--|--|
| <p>Title</p> <ol style="list-style-type: none"> <li>1. Short Title and commencement</li> <li>2. Interpretation</li> <li>3. Act to bind the Crown</li> </ol> <p style="text-align: center;">PART I</p> <p style="text-align: center;">CROWN FOREST LAND</p> <ol style="list-style-type: none"> <li>4. Status of Crown forest land</li> <li>5. Crown forest land not subject to Land Act 1948 or section 6 of Coal Mines Act 1979</li> <li>6. Certificates of title for Crown forest land</li> <li>7. Certification of Crown forest land</li> <li>8. Easements, leases, exchanges, etc.</li> <li>9. Appointment of manager</li> <li>10. Delegation</li> </ol> <p style="text-align: center;">PART II</p> <p style="text-align: center;">CROWN FORESTRY ASSETS AND CROWN FORESTRY LICENCES</p> <p style="text-align: center;"><i>Transfer of Crown Forestry Assets</i></p> <ol style="list-style-type: none"> <li>11. Responsible Ministers may transfer Crown forestry assets</li> <li>12. Appointment of agents</li> <li>13. Transfer of fixed assets</li> </ol> <p style="text-align: center;"><i>Crown Forestry Licences</i></p> <ol style="list-style-type: none"> <li>14. Grant of Crown forestry licences</li> <li>15. Licences binding on Crown's successors</li> <li>16. Estate or interest in land not conferred under Crown forestry licence</li> <li>17. Provisions relating to period of Crown forestry licences</li> <li>18. Protective covenants</li> <li>19. Registration of protective covenants</li> <li>20. Enforcement of protective covenants</li> <li>21. Variation and cancellation of protective covenants</li> <li>22. Consultation before protective covenant varied or cancelled</li> <li>23. Review of protective covenants on return of land to Maori ownership</li> <li>24. Public access easements</li> <li>25. Registration of public access easements</li> </ol> | <ol style="list-style-type: none"> <li>26. Variation and cancellation of easements</li> <li>27. Consultation before public access easement varied or cancelled</li> <li>28. Review of public access easement on return of land to Maori ownership</li> <li>29. Other provisions of Crown forestry licences</li> </ol> <p style="text-align: center;"><i>Registration of Licences</i></p> <ol style="list-style-type: none"> <li>30. Registration of Crown forestry licences</li> <li>31. Registration of transfers and other dealings</li> <li>32. Regulations</li> <li>33. Application of other Acts</li> <li>34. Forestry rental trust</li> </ol> <p style="text-align: center;">PART III</p> <p style="text-align: center;">RETURN OF CROWN FOREST LAND TO MAORI OWNERSHIP AND COMPENSATION</p> <ol style="list-style-type: none"> <li>35. Restrictions on sale of Crown forest land</li> <li>36. Return of Crown forest land to Maori ownership and payment of compensation</li> <li>37. Recommendation by Waitangi Tribunal that Crown forest land not liable to return to Maori ownership</li> </ol> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">AMENDMENTS TO TREATY OF WAITANGI ACT 1975</p> <ol style="list-style-type: none"> <li>38. This Part to be read with Treaty of Waitangi Act 1975</li> <li>39. Functions of Tribunal</li> <li>40. New heading and sections inserted</li> </ol> <p style="text-align: center;"><i>Recommendations in Relation to Crown Forest Land</i></p> <ol style="list-style-type: none"> <li>8HA. Interpretation of certain terms</li> <li>8HB. Recommendations of Tribunal in respect of Crown forest land</li> <li>8HC. Interim recommendations in respect of Crown forest land</li> </ol> |
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8HD. Right to be heard on question in relation to Crown forest land

8HE. Special power of Tribunal to recommend that land not be liable to be returned to Maori ownership

8HF. Issue of certificate on recommendation of Tribunal

8HG. Directions as to service

8HH. Public notice

8HI. Service of decision

41. Power of Tribunal to commission research and receive report in evidence

#### PART V

##### AMENDMENTS TO OTHER ACTS

42. Amendments to Maori Affairs Act 1958

43. Amendment to Income Tax Act 1976

44. Amendments to Conservation Act 1987 Schedules

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### 1989, No. 99

#### An Act to provide for—

(a) The management of the Crown's forest assets:

(b) The transfer of those assets while at the same time protecting the claims of Maori under the Treaty of Waitangi Act 1975:

(c) In the case of successful claims by Maori under that Act, the transfer of Crown forest land to Maori ownership and for payment by the Crown to Maori of compensation:

(d) Other incidental matters

[25 October 1989]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement—**(1) This Act may be cited as the Crown Forest Assets Act 1989.

(2) This Act shall come into force on the day on which it receives the Royal assent.

**2. Interpretation—**(1) In this Act, unless the context otherwise requires,—

“Crown” means Her Majesty the Queen in right of New Zealand:

“Crown forest land” means all land that immediately before the commencement of section 32 (1) of the State-Owned Enterprises Act 1986, was State forest land under the Forests Act 1949, Crown land, and other lands of the Crown, being land or lands shown as being allocated to New Zealand Forestry Corporation Limited on record plans—

(a) Lodged, whether before or after the commencement of this Act, in the office of the Chief Surveyor for the land district in which the land is situated; and

(b) Certified as correct for the purposes of this Act by that Chief Surveyor; and

(c) As added to, varied or modified, from time to time, with the approval of the responsible Ministers—and includes land or any interest in land acquired pursuant to section 8 (d) of this Act; but does not include any land specified in the Second Schedule to this Act, being land leased or licensed to the Crown for forestry purposes:

“Crown forestry assets” means—

(a) Every forest that comprises principally exotic trees growing or standing on Crown forest land; and

(b) All improvements on, or associated with, Crown forest land and, without limiting the generality of the foregoing, includes:

(i) All buildings and other structures affixed to that land; and

(ii) All roads, tracks, accessways, firebreaks, bridges, culverts, irrigation works, erosion works, water-races, drainage works, water storage, and all works and services related to the prevention, detection, or fighting of fire; and

(c) All plant, equipment, vehicles, tools, logs, consumable supplies, raw materials, forest produce and stores used or associated with the management of other Crown forestry assets; and

(d) The forest stand records of the Crown; and

(e) All rights (whether vested or contingent) under leases, licences, agreements for sale and purchase, profits à prendre, easements (including easements in gross), rights to take standing timber and growing crops, and any other form of right to occupy or use land other than Crown forest land; and

(f) All patents, trademarks, copyright, and other intellectual property rights (whether protected by registration or other formal process, or not) and all planning and other statutory consents used in connection with the management of Crown forestry assets or Crown forest land; and

(g) Shares or other securities in companies holding Crown forestry assets and shares or other securities held by the Crown for forestry purposes; and

(h) All contracts entered into by the Crown in respect of Crown forestry assets referred to in the

preceding paragraphs of this definition or the use of Crown forest land—

but does not include contracts that are not capable of assignment by the Crown and the leases or licences specified in the Second Schedule to this Act:

“Crown forestry licence” means a licence granted under section 14 of this Act:

“Land”, whether or not used as part of any other defined term, includes any interest in land, but does not include a Crown forestry licence:

“Licensed land” means Crown forest land that is subject to a Crown forestry licence and includes land that was at any time Crown forest land and that is subject to a Crown forestry licence:

“Licensee” means the grantee of a Crown forestry licence; and includes the executors, administrators, successors, and assignees of the grantee:

“Protective covenant” means a covenant of the kind specified in section 18 of this Act:

“Responsible Ministers” means the Minister for State Owned Enterprises and the Minister of Finance:

“Termination period” has the meaning given to it in section 17 (1) of this Act:

“Transfer” includes sell, assign, grant a lease, licence, right, or interest, and dispose of in any other way; and “transfer”, used as a noun, has a corresponding meaning:

“Tribunal” means the Waitangi Tribunal established under the Treaty of Waitangi Act 1975.

(2) Without limiting the definition of the term “transfer” in subsection (1) of this section, a reference in this Act to the word “transfer” or “appoint” includes entering into an agreement to transfer or appoint, as the case may be.

(3) Nothing in this Act limits any powers or rights that the Crown or a Minister of the Crown has other than pursuant to this Act.

**3. Act to bind the Crown**—This Act binds the Crown.

## PART I

### CROWN FOREST LAND

**4. Status of Crown forest land**—All Crown forest land, irrespective of its status before the commencement of this Act, is subject to this Act.

**5. Crown forest land not subject to Land Act 1948 or section 6 of Coal Mines Act 1979**—(1) Except as provided in subsections (2) and (3) of this section, nothing in the Land Act 1948 applies to Crown forest land or Crown forestry assets.

(2) Sections 36 and 172 of the Land Act 1948 shall continue to apply to Crown forest land and Crown forestry assets.

(3) Section 176 of the Land Act 1948 shall apply to Crown forest land that is not subject to a Crown forestry licence.

(4) Nothing in section 6 of the Coal Mines Act 1979 applies in respect of Crown forest land.

**6. Certificates of title for Crown forest land**—

(1) Notwithstanding the provisions of any other Act, a District Land Registrar shall, on written application by any person authorised by a responsible Minister and without further authority than this section, in respect of any Crown forest land that is already incorporated in the register or otherwise registered in the land registry office of the land registration district concerned, make such entries in the register and on any outstanding documents of title and generally do all such things as may be necessary to record that the estate or interest of the Crown in the land is held under this Act.

(2) A District Land Registrar shall, subject to the deposit of any plans which may be required, on written application by any person authorised by a responsible Minister, issue a certificate of title for the fee simple estate in Crown forest land in form No. 2 in the First Schedule to the Land Transfer Act 1952, amended as appropriate. Every such certificate of title shall record that the estate or interest of the Crown is held under this Act.

**7. Certification of Crown forest land**—(1) Every application under section 6 of this Act shall be accompanied by a certificate from the Chief Surveyor for the district concerned that the land is Crown forest land and containing particulars of every Crown forestry licence relating to that land.

(2) A certificate obtained under subsection (1) of this section shall be conclusive evidence to the District Land Registrar that the land is Crown forest land and is subject to the Crown forestry licence referred to in the certificate.

**8. Easements, leases, exchanges, etc.**—The responsible Ministers may, on behalf of the Crown, for the purpose of managing Crown forest land, or Crown forestry assets, or

Crown forestry licences, and in accordance with good business practice, do any one or more of the following:

- (a) Acquire an easement over any land:
- (b) Grant an easement over any Crown forest land or any part or parts of it and vary, renew, or cancel any easement:
- (c) Grant to any person, exclusively or in common with others, licences, leases, permits, and other rights and authorities in respect of any Crown forest land:
- (d) Transfer the fee simple, or transfer or grant any other estate or interest, in any Crown forest land in exchange for the fee simple or any other estate or interest in any adjoining land—

for such consideration, and on such terms and conditions, as the responsible Ministers may approve.

**9. Appointment of manager**—(1) The responsible Ministers may, on behalf of the Crown, in writing, appoint New Zealand Forestry Corporation Limited or any other person to act on behalf of the Crown to manage any Crown forest land, Crown forestry assets, or Crown forestry licences, with or without consideration, and on such terms and conditions as the responsible Ministers may agree with the appointee.

(2) The responsible Ministers may, on behalf of the Crown, in writing, appoint New Zealand Forestry Corporation Limited or any other person to act on behalf of the Crown to manage any contract, not being a contract that is a Crown forestry asset within the meaning of that term in section 2 of this Act, for the supply of timber from Crown forest land whether entered into before or after the commencement of this Act. The appointment may be with or without consideration and may be on such terms and conditions as the responsible Ministers may agree with the appointee.

(3) A copy of any instrument under this section may be lodged with a District Land Registrar or Chief Surveyor and shall, for the purposes of the Land Transfer Act 1952, be conclusive evidence of the authority of the person named in the instrument to exercise the powers conferred by it.

(4) Where New Zealand Forestry Corporation Limited or any other person is appointed to manage any contract pursuant to subsection (1) or subsection (2) of this section, every reference in any such contract to the Minister of Forests, the New Zealand Forest Service, the Director-General of Forests, a conservator, or a forestry officer, shall be read as a reference to the manager appointed under this section.

**10. Delegation**—(1) The responsible Ministers may, from time to time, in writing, delegate, on such terms and conditions as they think fit, any of their powers under sections 8, 11, or 14 of this Act to New Zealand Forestry Corporation Limited or any other person.

(2) Any person to whom any powers are delegated under subsection (1) of this section may, for the purpose of exercising those powers, appoint any officer or employee to execute or sign any transfer, grant, agreement, or instrument on behalf of the Crown.

(3) Subject to any general or special directions given or conditions attached by the responsible Ministers, any person to whom any power has been so delegated, may exercise that power in the same manner and with the same effect as if it had been conferred directly by this section and not by delegation.

(4) Every person purporting to act under any delegation under this section shall, in the absence of evidence to the contrary, be presumed to be acting in accordance with the terms of that delegation.

(5) Any such delegation may at any time be revoked by the responsible Ministers in whole or in part, but that revocation shall not affect anything done before the revocation.

(6) No delegation shall prevent the exercise by the responsible Ministers of any of the functions, duties, and powers conferred by this Act.

(7) A copy of any instrument of delegation or instrument of appointment under this section may be lodged with a District Land Registrar or Chief Surveyor and shall, for the purposes of the Land Transfer Act 1952, be conclusive evidence of the authority of the person named in the instrument to exercise the powers delegated or conferred, as the case may be.

## PART II

### CROWN FORESTRY ASSETS AND CROWN FORESTRY LICENCES

#### *Transfer of Crown Forestry Assets*

**11. Responsible Ministers may transfer Crown forestry assets**—(1) The responsible Ministers may, on behalf of the Crown, transfer Crown forestry assets to any person for such consideration, and on such terms and conditions, as the responsible Ministers may agree with that person.

(2) Crown forestry assets that are described in paragraph (a) of the definition of that term in section 2 of this Act may only be transferred to a person to whom it is proposed to grant a

Crown forestry licence in respect of the land on which those assets are situated.

(3) Nothing in subsection (2) of this section prevents the transfer of any Crown forestry assets referred to in that subsection in compliance with—

- (a) The terms of any contract that existed immediately before the commencement of this Act; or
- (b) The terms of any contract that the responsible Ministers consider appropriate to enter into in accordance with current accepted business practice.

**12. Appointment of agents**—(1) The responsible Ministers may, on behalf of the Crown, appoint New Zealand Forestry Corporation Limited or any other person to do any one or more of the following:

- (a) Transfer, or arrange the transfer of, Crown forestry assets to any person; or
- (b) Grant, or arrange the grant of, a Crown forestry licence to any person.

(2) An appointment under subsection (1) of this section may be made with or without consideration, and on such terms and conditions, as the responsible Ministers may agree with the appointee.

**13. Transfer of fixed assets**—Notwithstanding any Act or rule of law, Crown forestry assets growing or standing on, or fixed to, or under or over, any land may be transferred under section 11 of this Act, notwithstanding that neither the land nor any interest in the land is being transferred. For the purposes of that transfer, the assets and the land shall be regarded as separate assets each capable of separate ownership.

#### *Crown Forestry Licences*

**14. Grant of Crown forestry licences**—The responsible Ministers may, on behalf of the Crown and in accordance with this Act, grant a Crown forestry licence in respect of any Crown forest land to any person to whom Crown forestry assets on, or that relate to, that land, have been transferred under section 11 of this Act.

**15. Licences binding on Crown's successors**—Every Crown forestry licence enures for the benefit of, and is binding on, the successors in title to the Crown, and is not affected by the transfer of the licensed land by the Crown under section 8

of this Act or by its return to Maori ownership under section 36 of this Act.

**16. Estate or interest in land not conferred under Crown forestry licence**—A Crown forestry licence does not transfer to, or confer on, the licensee an estate or interest in land.

**17. Provisions relating to period of Crown forestry licences**—(1) For the purposes of this section “termination period” means the period of 35 years at the end of which a Crown forestry licence terminates in relation to the licensed land or any part of it.

(2) Subject to this section, every Crown forestry licence that relates to Crown forest land that is situated in a district specified in the Third Schedule to this Act, or on which a forest specified in that Schedule is located, shall comprise, as an initial fixed term, the term set out opposite that district or forest, as the case may be, in that Schedule, and shall then run from year to year by way of automatic extension.

(3) Subject to this section, every other Crown forestry licence shall run from year to year by way of automatic extension.

(4) Every Crown forestry licence shall provide that if a recommendation is made under section 8HB (1) (a) of the Treaty of Waitangi Act 1975 that becomes a final recommendation under that Act for the return of the licensed land, or any part of it, to Maori—

(a) The responsible Ministers shall give notice to the licensee that the recommendation has become a final recommendation:

(b) Notice shall be given to the licensee terminating the licence, or terminating the licence in so far as it relates to part of the licensed land, as the case may be,—

(i) If the notice is given during the initial fixed term, at the expiration of a period of 35 years commencing on the 30th day of September next after the end of that term; or

(ii) If the notice is given after the initial fixed term, or if the licence does not comprise an initial fixed term, at the expiration of a period of 35 years commencing on the 30th day of September next after the date on which the notice is given:

(c) In relation to the licensed land, or that part of it to which a notice of termination applies, as the case may be,—

(i) During the termination period the rights of the licensee under the licence in respect of that land shall be restricted to protecting, managing, harvesting, and processing the tree crops standing on that land at the commencement of that period; and

(ii) The licensee shall exercise those rights in accordance with accepted forestry business practice; and

(iii) The licensee shall, during the termination period, from time to time in accordance with the licence, give notice to the licensor of those parts of that land, including buildings and other fixed structures, roads, tracks, and access ways, that are no longer required by the licensee for exercising the licensee's rights under the licence during that period; and

(iv) The licensor shall take possession of any land referred to in subparagraph (iii) of this paragraph notified as being no longer required, and the licence shall cease to apply to that land except for provisions that relate to the rights and obligations of the parties during the balance of the termination period.

(5) Every Crown forestry licence shall provide that if a recommendation is made under section 8<sub>HB</sub>(1)(b) or section 8<sub>HB</sub>(1)(c) or section 8<sub>HE</sub> of the Treaty of Waitangi Act 1975 that the licensed land, or part of it, not be liable to be returned to Maori ownership,—

(a) The licence shall, as regards the licensed land or any part of it to which the recommendation relates, be deemed to have been granted for an initial fixed term of 35 years whether or not the licence comprised an initial fixed term in accordance with subsection (2) of this section and whether or not the licence has been in force for the whole or part of that term:

(b) Notice may be given to the licensee terminating the licence—

(i) If the notice is given during the initial fixed term, at the expiration of a period of 35 years commencing on the 30th day of September next after the end of that term; or

(ii) If the notice is given after the expiration of the initial fixed term, at the expiration of a period of 35 years commencing on the 30th day of September next after the date on which the notice is given:

- (c) Subject to the terms and conditions of the licence and to any enactment or rule of law, the licensee shall have the right, while the licence remains in force, to use the licensed land for any purpose whether or not it relates to the harvesting, planting, management or processing of trees on the licensed land.

**18. Protective covenants**—(1) Every Crown forestry licence shall, where appropriate, include—

- (a) Covenants for conservation purposes under section 27 of the Conservation Act 1987:  
 (b) Covenants for the protection of archaeological sites:  
 (c) Covenants for the protection of sites having historical or spiritual or emotional or cultural significance:  
 (d) Water and soil covenants:  
 (e) Covenants relating to forest research areas and Wahi Tapu.

(2) The licence shall—

- (a) Specify the nature and terms of each protective covenant; and  
 (b) Define the boundaries of the area subject to each protective covenant.

(3) The terms of every protective covenant for conservation purposes shall be determined by the responsible Ministers in consultation with the Minister of Conservation.

(4) The terms of every protective covenant for the protection of archaeological sites, and sites having historical or spiritual or emotional or cultural significance and Wahi Tapu shall be determined by the responsible Ministers in consultation with such persons or Maori who, or organisations that, in the opinion of the responsible Ministers, have an interest, or, represent persons or Maori having an interest, in the proposed covenants.

(5) The terms and conditions of every water and soil covenant shall be determined by the responsible Ministers in consultation with the Minister for the Environment.

(6) The terms and conditions of every protective covenant for forest research areas shall be determined by the responsible Ministers in consultation with the Minister of Forestry.

**19. Registration of protective covenants**—(1) The terms of every protective covenant shall be incorporated in a certificate which shall be signed by a responsible Minister and shall be registered with the District Land Registrar of the district in which the licensed land is situated.

(2) On registration of the certificate,—

- (a) The Registrar shall enter particulars of that certificate and of every protective covenant on the register and on all relevant instruments of title; and
- (b) Where no certificate of title for the land has been issued, the Registrar shall constitute the certificate a separate folium of the register.

(3) No protective covenant shall be registered under this section unless the certificate incorporating the protective covenant is accompanied by a certificate from the Chief Surveyor of the land district in which the licensed land is situated that the covenant is correctly described and relates to the licensed land and containing such other matters as the District Land Registrar requires.

**20. Enforcement of protective covenants**—(1) The Minister of Conservation may, in relation to any protective covenant of the kind referred to in any of paragraphs (a) to (d) of subsection (1) of section 18 of this Act, take any necessary proceedings—

- (a) To enforce the terms of the covenant; or
- (b) To remedy or restrain any breach of the terms of the covenant.

(2) Before instituting any proceedings the Minister of Conservation shall consult with the responsible Ministers and any other Minister of the Crown having an interest in the matter.

**21. Variation and cancellation of protective covenants**—(1) Subject to section 22 of this Act, any term or condition of a protective covenant may be varied, or added to, or omitted, by a memorandum signed by a responsible Minister and registered with the District Land Registrar of the district in which the licensed land is situated.

(2) Subject to section 22 of this Act, a protective covenant may be cancelled by a memorandum signed by a responsible Minister and registered with the District Land Registrar of the district in which the land is situated.

(3) The memorandum shall be registered in the same manner as a certificate under section 19 of this Act.

(4) On the registration of the memorandum of variation or cancellation, as the case may be, the District Land Registrar shall,—

- (a) Notify particulars of the variation or the cancellation of the covenant, as the case may be, on the register and on any relevant instruments of title; and
- (b) If no certificate of title has been issued for the land, notify particulars of the variation of the covenant on the folium of the register constituted by the certificate incorporating the terms of the covenant under section 19 of this Act, or cancel that certificate as a folium of the register, as the case may be.

**22. Consultation before protective covenant varied or cancelled—**(1) A responsible Minister shall not deliver a memorandum under section 21 of this Act for registration unless—

- (a) In a case where the memorandum relates to a variation of, or an addition to, or the omission of, a term or condition of a protective covenant, the memorandum is accompanied by a certificate signed by the responsible Minister and, if the covenant is a covenant of the kind referred to in paragraphs (a), (b), or (c) of section 18 (1) of this Act, the Minister of Conservation, or if the covenant is a covenant of the kind referred to in paragraph (d) of section 18 (1) of this Act, the Minister for the Environment, or if the covenant relates to Wahi Tapu, the Minister of Maori Affairs, stating that the variation, addition or omission does not significantly affect the protective covenant and that public consultation in accordance with paragraph (b) of this subsection is not warranted; or
- (b) The Minister and, if the covenant is a covenant of the kind referred to in paragraphs (a), (b), or (c) of section 18 (1) of this Act, the Minister of Conservation, or if the covenant is a covenant of the kind referred to in paragraph (d) of section 18 (1) of this Act, the Minister for the Environment, or if the covenant relates to Wahi Tapu, the Minister of Maori Affairs,—
  - (i) Publish a notice in a principal metropolitan newspaper circulating predominantly in Auckland, Wellington, Christchurch, and Dunedin, respectively, and in a newspaper circulating predominantly in the locality in which the licensed land is situated that—
    - (A) Specifies the terms of the proposed variation, addition, omission or cancellation; and

(B) States that any person or organisation has the right to make submissions to those Ministers by a date specified in the notice, being a date not less than 40 working days after the date of publication of the notice and, if that person or organisation requests it, the right to appear in support of those submissions before any person appointed by those Ministers for the purpose; and

(ii) Those Ministers have regard to any submissions made and to a report and recommendations made by the person appointed.

(2) If a person or organisation requests the right to appear in support of any submissions before a person appointed by those Ministers, the Ministers shall appoint a suitably qualified person to receive those submissions and hear that person or organisation in support of them. The person appointed shall prepare a report and recommendations on those submissions and deliver the report and recommendations to those Ministers.

(3) Nothing in this section applies to the variation or cancellation of a forestry research covenant.

**23. Review of protective covenants on return of land to Maori ownership**—(1) Where licensed land is returned to Maori ownership in accordance with section 36 of this Act, the licensor may, by notice in writing to the responsible Ministers, require the continuing need for, or the terms and conditions of, any protective covenant to be reviewed.

(2) On receiving a notice under subsection (1) of this section the responsible Ministers, together with the Minister of Conservation and the Minister of Maori Affairs, shall jointly consider whether, having regard to the fact that the licensed land has been returned to Maori ownership, the covenant is, or the terms and conditions of the covenant are, still appropriate.

(3) If the responsible Ministers are satisfied that the covenant is not still appropriate, or that the terms and conditions of the covenant are not still appropriate, as the case may be, the responsible Ministers shall, subject to section 22 of this Act, vary or cancel the protective covenant in accordance with section 21 of this Act.

**24. Public access easements**—(1) Every Crown forestry licence shall, where appropriate, include provisions for the

creation and protection of public access rights in or over the licensed land or any part of it.

(2) The licence shall—

(a) Specify the nature of the access rights:

(b) Define the access rights by reference to a plan or map of the licensed land or part of it.

(3) Such public access rights shall be determined by the responsible Ministers in consultation with the Minister of Conservation, the Minister for the Environment, and any other persons or Maori who, or organisations that, in the opinion of the responsible Ministers, have an interest, or represent persons or Maori having an interest, in the proposed access rights.

**25. Registration of public access easements—**(1) The terms of every public access easement shall be incorporated in an easement certificate which shall be signed by a responsible Minister and registered with the District Land Registrar of the district in which the licensed land is situated.

(2) On registration of the easement certificate—

(a) The District Land Registrar shall enter particulars of that certificate and of the easements on the register and on all relevant instruments of title; and

(b) Where no certificate of title for the land has been issued, the District Land Registrar shall constitute the certificate a separate folium of the register.

(3) No easement certificate shall be registered under this section unless it is accompanied by a certificate from the Chief Surveyor of the district in which the licensed land is situated that the easement is correctly described and containing such other matters as the District Land Registrar requires.

(4) Nothing in section 90D of the Land Transfer Act 1952 applies to a public access easement.

**26. Variation and cancellation of easements—**(1) Subject to section 27 of this Act, any term, or covenant, or condition of any public access easement may be varied, or added to, or omitted, by a memorandum signed by a responsible Minister and registered with the District Land Registrar of the district in which the licensed land is situated.

(2) Subject to section 27 of this Act, a public access easement may be cancelled by a memorandum signed by a responsible Minister and registered with the District Land Registrar of the district in which the licensed land is situated.

(3) The memorandum shall be registered in the same manner as an easement certificate under section 25 of this Act.

- (4) On the registration of a memorandum of variation or cancellation, as the case may be, the Registrar shall—
- (a) Notify particulars of the variation or the cancellation of the easement, as the case may be, on the register and on any relevant instruments of title; and
  - (b) If no certificate of title for the land has been issued, shall notify particulars of the variation of the easement on the folium of the register constituted by the easement certificate or cancel that certificate as a folium of the register, as the case may be.
- (5) Nothing in section 90E of the Land Transfer Act 1952 applies to a public access easement.

**27. Consultation before public access easement varied or cancelled—**(1) A responsible Minister shall not deliver a memorandum under section 26 of this Act for registration unless—

- (a) In a case where the memorandum relates to a variation of, or addition to, or omission of, a term or a covenant or condition of a public access easement, the memorandum is accompanied by a certificate signed by the responsible Minister and the Minister of Conservation stating that the variation, addition or omission does not significantly affect the public access easement and that public consultation in accordance with paragraph (b) of this subsection is not warranted; or
- (b) The Minister and the Minister of Conservation—
  - (i) Publish a notice in a principal metropolitan newspaper circulating predominantly in Auckland, Wellington, Christchurch, and Dunedin, respectively, and in a newspaper circulating predominantly in the locality in which the licensed land is situated that—
    - (A) Specifies the terms of the proposed variation, addition, omission or cancellation; and
    - (B) States that any person or organisation has the right to make submissions to those Ministers by a date specified in the notice, being a date not less than 40 working days after the date of publication of the notice and, if that person or organisation requests it, the right to appear in support of those submissions before any person appointed by those Ministers for the purpose; and

(ii) Those Ministers have regard to any submissions made and to a report and recommendations made by the person appointed.

(2) If a person or organisation requests the right to appear in support of any submissions before a person appointed by those Ministers, the Ministers shall appoint a suitably qualified person to receive those submissions and hear that person or organisation in support of them. The person appointed shall prepare a report and recommendations on those submissions and deliver the report and recommendations to those Ministers.

**28. Review of public access easement on return of land to Maori ownership—**(1) Where licensed land is returned to Maori ownership in accordance with section 36 of this Act the licensor may, by notice in writing to the responsible Ministers, require the continuing need for, or the terms, covenants, or conditions of, a public access easement to be reviewed.

(2) On receiving a notice under subsection (1) of this section, the responsible Ministers, together with the Minister of Conservation and the Minister of Maori Affairs, shall jointly consider whether, having regard to the fact that the licensed land has been returned to Maori ownership, the public access easement is, or the terms, covenants or conditions of the public access easement are, still appropriate.

(3) If the responsible Ministers are satisfied that the public access easement is not still appropriate, or the terms, covenants, or conditions of the public access easement are not still appropriate, as the case may be, the responsible Ministers shall, subject to section 27 of this Act, vary or cancel the public access easement in accordance with section 26 of this Act.

**29. Other provisions of Crown forestry licences—**

(1) Every Crown forestry licence—

(a) Shall provide for the payment, and periodic review, of an annual fee for use of the licensed land based on market rates for that land in its unimproved state taking into account the terms and conditions of the licence:

(b) May, subject to the terms of the licence, be assigned by the licensee at any time.

(2) Subject to this Act, every Crown forestry licence shall confer or impose on the licensee such other rights and obligations and contain such other terms and conditions as the responsible Ministers and the licensee may agree.

*Registration of Licences***30. Registration of Crown forestry licences—**

(1) Notwithstanding anything in the Land Transfer Act 1952, a Crown forestry licence may be registered under that Act and the same registration fee shall be payable on any such licence as on a memorandum of lease.

(2) If the licensed land is not subject to the Land Transfer Act 1952 the Crown forestry licence shall, subject to this section, be registered under that Act by constituting it a folium of the register.

(3) Any such licence may describe the land comprised in it by reference to a diagram or an aerial photograph or in any other way; and, where a copy of that diagram or photograph is deposited in the Land Registry Office of the district where the land is situated or the diagram or photograph is endorsed on or attached to the licence, the District Land Registrar for that district shall, subject to subsection (4) of this section, on receipt of the licence in triplicate, register the licence even though a plan of the land has not been deposited in accordance with section 167 of the Land Transfer Act 1952.

(4) No Crown forestry licence shall be registered under this section unless the applicant for registration lodges with the District Land Registrar a certificate from the Chief Surveyor for the district in which the licensed land is situated that the licensed land is Crown forest land.

(5) Where a plan of the licensed land has not been deposited in accordance with section 167 of the Land Transfer Act 1952, the District Land Registrar shall—

(a) Where the licensed land is subject to the Land Transfer Act 1952, endorse on the instrument of title as part of the memorial relating to the registration of the licence the words “Limited as to parcels”, and endorse on the registered copy and on the outstanding copies of the licence the words “Limited as to parcels”; and

(b) Where the licensed land is not subject to the Land Transfer Act 1952, after constituting the licence a folium of the register, endorse on it the words “Limited as to parcels”,—

and every registered licence that is so endorsed shall have the same effect as if it were registered against a certificate of title limited as to parcels under Part XII of the Land Transfer Act 1952.

(6) Where a plan is deposited as required by the District Land Registrar under section 167 of the Land Transfer Act 1952 in respect of the land comprised in a licence which is limited as to parcels, the District Land Registrar shall, if necessary, without payment of any further fee,—

(a) Where the land is subject to the Land Transfer Act 1952, endorse the instrument of title and the registered copy and the outstanding copies of the licence to show that the land to which the licence relates is no longer limited as to parcels; and

(b) Where the licence has been constituted a folium of the register, correct the description of the land by making an appropriate endorsement on the folium of the register constituted by the licence and endorse that folium to show that the licence is no longer limited as to parcels.

(7) Where any Crown forest land that is subject to a Crown forestry licence that constitutes a folium of the register is registered under the Land Transfer Act 1952, the District Land Registrar, before issuing a certificate of title under that Act in respect of the land, shall make all entries necessary to record the registration of the licence and every existing registered encumbrance, lien, and interest registered against it in the order of their registered priority.

### **31. Registration of transfers and other dealings—**

(1) Where a Crown forestry licence has been registered under section 30 of this Act, every transfer, mortgage, transmission, and other disposition of the licence may be registered in the same manner, subject to any modifications prescribed by any regulations made under section 32 of this Act, as a similar transfer, mortgage, transmission, or disposition of a registered lease.

(2) The same fee shall be payable on the registration of any transfer, mortgage, transmission, or other disposition of the licence, as on the registration of a similar transfer, mortgage, transmission, or other disposition of a registered lease.

(3) The covenants, conditions, and restrictions contained or implied in a Crown forestry licence registered under section 30 of this Act may, to the extent permitted by the licence, from time to time, be varied by a memorandum of variation signed by the parties for the time being and registered in a form approved by the District Land Registrar. The same registration fee shall be payable on any such memorandum of variation as on a memorandum of extension of a lease. If the licence is at

the time of registration of the memorandum of variation subject to a mortgage, then the memorandum shall not be binding on the mortgagee unless the mortgagee has consented to it in writing on the memorandum.

(4) Where a Crown forestry licence which has been registered under section 30 of this Act is rescinded or surrendered, the owner of the land subject to the licence may send a notice of rescission or surrender to the District Land Registrar, who, without further notice or inquiry and without fee, shall enter a memorial of the rescission or surrender on the register.

**32. Regulations**—The Governor-General may, from time to time, by Order in Council, make regulations prescribing such matters as are necessary or expedient for regulating the registration of Crown forestry licences under the Land Transfer Act 1952.

**33. Application of other Acts**—(1) None of the following constitutes a subdivision or development of land for the purposes of Part XX of the Local Government Act 1974—

(a) The grant of a Crown forestry licence:

(b) The termination of a Crown forestry licence or the termination of a Crown forestry licence in respect of part of the licensed land:

(c) The surrender or rescission of a Crown forestry licence:

(d) The transfer of any Crown forestry asset.

(2) The taking of possession of any land pursuant to section 17 (4) (c) (iv) of this Act is not a development or subdivision of the land for the purposes of the Local Government Act 1974.

(3) A right of access granted or reserved by, or created as ancillary to, a Crown forestry licence shall be deemed not to be the grant of a right of way under section 348 of the Local Government Act 1974.

(4) Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the grant of any Crown forestry licence or the transfer of any Crown forestry asset under this Act.

**34. Forestry rental trust**—(1) The responsible Ministers shall, on behalf of the Crown, establish by deed a forestry rental trust.

(2) All licence fees payable under Crown forestry licences shall, until such time as the Waitangi Tribunal makes a recommendation in relation to the land under section 8<sub>HB</sub> or section 8<sub>HE</sub> of the Treaty of Waitangi Act 1975, be collected by

the Crown and shall be paid into an account held in the name of the forestry rental trust.

(3) All payments by the Crown to the forestry rental trust may be made without further appropriation than this section.

### PART III

#### RETURN OF CROWN FOREST LAND TO MAORI OWNERSHIP AND COMPENSATION

**35. Restrictions on sale of Crown forest land—**(1) The Crown shall not sell or otherwise dispose of any Crown forest land that is subject to a Crown forestry licence except in accordance with section 8 of this Act.

(2) The Crown shall not sell, assign, or otherwise dispose of, or deal with, any rights or interests in any Crown forestry licence unless the Waitangi Tribunal has made, in relation to the licensed land, a recommendation under section 8<sub>HB</sub> (1) (b) or section 8<sub>HB</sub> (1) (c) or section 8<sub>HE</sub> of the Treaty of Waitangi Act 1975.

**36. Return of Crown forest land to Maori ownership and payment of compensation—**(1) Where any interim recommendation of the Waitangi Tribunal under the Treaty of Waitangi Act 1975 becomes a final recommendation under that Act and is a recommendation for the return to Maori ownership of any licensed land, the Crown shall—

- (a) Return the land to Maori ownership in accordance with the recommendation subject to the relevant Crown forestry licence; and
- (b) Pay compensation in accordance with the First Schedule to this Act.

(2) Except as otherwise provided in this Act or any relevant Crown forestry licence, the return of any land to Maori ownership shall not affect any Crown forestry licence or the rights of the licensee or any other person under the licence.

(3) Any money required to be paid as compensation pursuant to this section may be paid without further appropriation than this section.

**37. Recommendation by Waitangi Tribunal that Crown forest land not liable to return to Maori ownership—**(1) Where the Waitangi Tribunal makes a recommendation in relation to Crown forest land under section 8<sub>HB</sub> (1) (b) or section 8<sub>HB</sub> (1) (c) or section 8<sub>HE</sub> of the Treaty of Waitangi Act 1975 no person shall be entitled to make any

claim under section 6 of that Act in respect of the return of that land.

(2) The responsible Ministers may, by notice in the *Gazette*, declare that Crown forest land to which subsection (1) of this section applies, and which is not licensed land, shall cease to be Crown forest land and on the publication of the notice the land shall be Crown land subject to the Land Act 1948.

#### PART IV

##### AMENDMENTS TO TREATY OF WAITANGI ACT 1975

**38. This Part to be read with Treaty of Waitangi Act 1975**—This Part of this Act shall be read together with and deemed part of the Treaty of Waitangi Act 1975 (in this Part of this Act referred to as the principal Act).

**39. Functions of Tribunal**—Section 5 (1) of the principal Act is hereby amended by inserting, after paragraph (aa) (as substituted by section 3 of the Treaty of Waitangi (State Enterprises) Act 1988), the following paragraphs:

“(ab) To make any recommendation or determination that the Tribunal is required or empowered to make under the First Schedule to the Crown Forest Assets Act 1989:

“(ac) To make recommendations in accordance with section 8HE of this Act that land, or any part of any land, that is subject to a Crown forestry licence under the Crown Forest Assets Act 1989, be no longer liable to be returned to Maori ownership under section 36 of that Act.”

**40. New heading and sections inserted**—The principal Act is hereby amended by inserting, after section 8H (as inserted by section 4 of the Treaty of Waitangi (State Enterprises) Act 1988), the following heading and sections:

##### *“Recommendations in Relation to Crown Forest Land*

“**8HA. Interpretation of certain terms**—For the purposes of sections 8HB to 8HI of this Act, the expressions ‘Crown forestry assets’, ‘Crown forest land’, ‘Crown forestry licence’, and ‘licensed land’ shall have the same meanings as they have in section 2 of the Crown Forest Assets Act 1989.

“**8HB. Recommendations of Tribunal in respect of Crown forest land**—(1) Subject to section 8HC of this Act,

where a claim submitted to the Tribunal under section 6 of this Act relates to licensed land the Tribunal may,—

“(a) If it finds—

“(i) That the claim is well-founded; and

“(ii) That the action to be taken under section 6 (3) of this Act to compensate for or remove the prejudice caused by the ordinance or Act, or the regulations, order, proclamation, notice, or other statutory instrument, or the policy or practice, or the act or omission that was inconsistent with the principles of the Treaty of Waitangi, should include the return to Maori ownership of the whole or part of that land,—

include in its recommendation under section 6 (3) of this Act a recommendation that the land or that part of that land be returned to Maori ownership (which recommendation shall be on such terms and conditions as the Tribunal considers appropriate and shall identify the Maori or group of Maori to whom that land or that part of that land is to be returned); or

“(b) If it finds—

“(i) That the claim is well-founded; but

“(ii) That a recommendation for return to Maori ownership is not required, in respect of that land or any part of that land by paragraph (a) (ii) of this subsection,—

recommend to the Minister of Survey and Land Information that that land or that part of that land not be liable to return to Maori ownership; or

“(c) If it finds that the claim is not well-founded, recommend to the Minister of Survey and Land Information that that land or that part of that land not be liable to return to Maori ownership.

“(2) In deciding whether to recommend the return to Maori ownership of any licensed land, the Tribunal shall not have regard to any changes that have taken place in—

“(a) The condition of the land and any improvements to it; or

“(b) Its ownership or possession or any other interests in it— that have occurred after or by virtue of the granting of any Crown forestry licence in respect of that land.

“(3) Nothing in subsection (1) of this section prevents the Tribunal making in respect of any claim that relates in whole or in part to licensed land any other recommendation under subsection (3) or subsection (4) of section 6 of this Act; except

that in making any other recommendation the Tribunal may take into account payments made, or to be made, by the Crown by way of compensation in relation to the land pursuant to section 36 of and the First Schedule to the Crown Forest Assets Act 1989.

“(4) On the making of a recommendation for the return of any land to Maori ownership under subsection (1) of this section, sections 40 to 42 of the Public Works Act 1981 shall cease to apply in relation to that land.

“**8HC. Interim recommendations in respect of Crown forest land**—(1) Where the recommendations made by the Tribunal include a recommendation made under section 8HB (1) (a) or section 8HB (1) (b) of this Act, all of those recommendations shall be in the first instance interim recommendations.

“(2) The Tribunal shall cause copies of its interim findings and interim recommendations to be served on the parties to the inquiry.

“(3) Subject to subsection (5) of this section, the Tribunal shall not, without the written consent of the parties, confirm any interim recommendations that include a recommendation made under section 8HB (1) (a) or section 8HB (1) (b) of this Act, until at least 90 days after the date of the making of the interim recommendations.

“(4) Where any party to the inquiry is served with a copy of any interim recommendations that include a recommendation made under section 8HB (1) (a) or section 8HB (1) (b) of this Act, that party—

“(a) May, within 90 days after the date of the making of the interim recommendations, offer to enter into negotiations with the other party for the settlement of the claim; and

“(b) Shall, within 90 days after the date of the making of the interim recommendations, inform the Tribunal—

“(i) Whether the party accepts or has implemented the interim recommendations; and

“(ii) If the party has made an offer under paragraph (a) of this subsection, the result of that offer.

“(5) If, before the confirmation of any interim recommendations that include a recommendation made under section 8HB (1) (a) or section 8HB (1) (b) of this Act, the claimant and the Minister of Maori Affairs settle the claim, the Tribunal shall, as the case may require, cancel or modify the interim

recommendations and may make, if necessary, a final recommendation under section 8HB (1) (a) or section 8HB (1) (b) of this Act.

“(6) If subsection (5) of this section does not apply in relation to any interim recommendations that include a recommendation made under section 8HB (1) (a) or section 8HB (1) (b) of this Act, upon the expiration of the 90th day after the date of the making of the interim recommendations, the interim recommendations shall become final recommendations.

“(7) Notwithstanding anything in subsections (1) to (6) of this section, if any interim recommendations contain a clerical mistake or an error arising from any accidental slip or omission, whether the mistake, error, slip, or omission was made by an officer of the Tribunal or not, or if any interim recommendations are so drawn up as not to express what was actually decided and intended, the interim recommendations may be corrected by the Tribunal, either of its own motion or on the application of any party.

“(8) Where the interim recommendations are corrected under subsection (7) of this section,—

“(a) The Tribunal shall cause copies of the corrected interim recommendations to be served on the parties to the inquiry as soon as practicable; and

“(b) The period that applies for the purposes of subsections (3), (4), and (6) of this section shall expire on the 90th day after the date of the making of the corrected interim recommendations.

“8HD. **Right to be heard on question in relation to Crown forest land**—(1) Where, in the course of any inquiry into a claim submitted to the Tribunal under section 6 of this Act any question arises in relation to licensed land, the only persons entitled to appear and be heard on that question shall be—

“(a) The claimant:

“(b) The Minister of Maori Affairs:

“(c) Any other Minister of the Crown who notifies the Tribunal in writing that he or she wishes to appear and be heard:

“(d) Any Maori who satisfies the Tribunal that he or she, or any group of Maori of which he or she is a member, has an interest in the inquiry apart from any interest in common with the public.

“(2) Notwithstanding anything in clause 7 of the Second Schedule to this Act or in section 4A of the Commissions of Inquiry Act 1908 (as applied by clause 8 of the Second Schedule to this Act), no person other than a person designated in any of paragraphs (a) to (d) of subsection (1) of this section shall be entitled to appear and be heard on a question to which subsection (1) of this section applies.

“(3) Nothing in subsection (2) of this section affects the right of any person designated in any of paragraphs (a) to (d) of subsection (1) of this section to appear, with the leave of the Tribunal, by—

“(a) A barrister or solicitor of the High Court; or

“(b) Any other agent or representative authorised in writing.

“**8HE. Special power of Tribunal to recommend that land not be liable to be returned to Maori ownership—**

(1) The Tribunal may, in its discretion, on the application of any Minister of the Crown or any licensee of Crown forest land, recommend to the Minister of Survey and Land Information that the whole or part of any licensed land not be liable to be returned to Maori ownership if—

“(a) Public notice has been given, in accordance with section 8HH of this Act, of the making of an application under this section in respect of that land; and

“(b) Either—

“(i) No claim in relation to that land has been submitted to the Tribunal under section 6 of this Act before the date specified in the notice; or

“(ii) All the parties to any claim submitted to the Tribunal under section 6 of this Act in relation to that land have informed the Tribunal in writing that they consent to the making of the recommendation.

“(2) The Tribunal may make a recommendation pursuant to subsection (1) (b) (ii) of this section without being obliged to determine first whether or not the claim is well-founded.

“(3) The Tribunal may, where it considers it appropriate, consult with a Judge of the Maori Land Court about—

“(a) The directions to be given under section 8HG of this Act;  
or

“(b) The public notice to be given under section 8HH of this Act,—

in relation to any application under this section.

“**8HF. Issue of certificate on recommendation of Tribunal—**(1) The Minister of Survey and Land Information shall, on receiving in respect of any licensed land a

recommendation under section 8HB or section 8HE of this Act, issue a certificate to the effect that the land is not liable to be returned to Maori ownership.

“(2) Where the licensed land is subject to the Land Transfer Act 1952 or where the Crown forestry licence is registered pursuant to section 30 of the Crown Forest Assets Act 1989, the Minister of Survey and Land Information shall cause a copy of the certificate to be lodged with the District Land Registrar of the land registration district within which the land is situated.

“(3) The District Land Registrar shall, without fee, register the certificate against the certificate of title to the land or endorse a memorial on the copy of the Crown forestry licence, as the case may be.

“(4) Where—

“(a) The land is not subject to the Land Transfer Act 1952; and

“(b) A copy of the Crown forestry licence has not been registered pursuant to section 30 of the Crown Forest Assets Act 1989; and

“(c) Instruments relating to the land are not registrable under the Deeds Registration Act 1908,—

the Minister of Survey and Land Information shall cause a copy of the certificate to be lodged in the office of the Chief Surveyor for the district in which the land is situated, and the Chief Surveyor shall note the certificate on the plans and records relating to the land.

“8HG. **Directions as to service**—(1) Where an application is made under section 8HE of this Act, the applicant shall apply to the Tribunal *ex parte* for directions as to service.

“(2) The applicant shall furnish with the application under this section a description of the land to which the application under section 8HE of this Act relates, which description—

“(a) Shall include a full legal description of the land; and

“(b) Shall be sufficient to enable the Tribunal to decide which persons may be adversely affected by the making, under section 8HE of this Act, of the recommendation sought.

“(3) The application under this section—

“(a) Shall specify the directions considered appropriate; and

“(b) Shall be accompanied by a memorandum by or on behalf of the applicant giving the reasons for the directions considered appropriate.

“(4) On an application being made under this section the Tribunal shall give such directions for service as it deems proper.

“8HH. **Public notice**—(1) Where an application is made under section 8HE of this Act, the applicant shall, in addition to complying with the directions given under section 8HG of this Act, give, in accordance with the directions of the Tribunal, public notice of the application.

“(2) The public notice shall be published both—

“(a) In the *Gazette*; and

“(b) In such newspapers circulating in the district in which the land is situated as the Tribunal directs.

“(3) The public notice shall—

“(a) Describe the land and its location; and

“(b) State that an application has been made under section 8HE of this Act in respect of the land; and

“(c) Indicate the land is Crown forest land that is subject to a Crown forestry licence; and

“(d) Invite any Maori who considers that he or she, or any group of Maori of which he or she is a member, has grounds for a claim under section 6 of this Act in relation to the land, to submit that claim to the Tribunal before a date specified in the notice (which date shall be not less than 90 days after the first or only publication of the notice in the *Gazette*); and

“(e) Describe briefly any claims already submitted under section 6 of this Act in respect of the land; and

“(f) Where no claim has been submitted under section 6 of this Act in respect of the land, state that if no claim in relation to the land is submitted to the Tribunal under that section before the date specified in the notice, the Tribunal may recommend that the land not be liable to be returned to Maori ownership and the effect of any such recommendation; and

“(g) Contain such other information as the Tribunal directs.

“8HI. **Service of decision**—The Tribunal shall cause a sealed copy of its decision and recommendations (if any) with regard to any application under section 8HE of this Act to be served on—

“(a) The applicant; and

“(b) The Minister of Survey and Land Information; and

“(c) The Minister of Maori Affairs; and

“(d) The Minister for State Owned Enterprises and the Minister of Finance; and

“(e) Such other persons as the Tribunal thinks fit.”

**41. Power of Tribunal to commission research and receive report in evidence**—Clause 5A (1) (a) (ii) of the Second Schedule to the principal Act (as substituted by section 5 of the Treaty of Waitangi (State Enterprises) Act 1988) is hereby amended by inserting, after the words “section 8D”, the words “or section 8HE”.

## PART V

### AMENDMENTS TO OTHER ACTS

**42. Amendments to Maori Affairs Act 1953**—(1) Section 30 (1) of the Maori Affairs Act 1953 is hereby amended by repealing paragraph (m) (as added by section 12 (1) of the Treaty of Waitangi (State Enterprises) Act 1988), and substituting the following paragraph:

“(m) To determine whether any land or interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies should, under section 439A of this Act, be set aside as a reservation.”

(2) Section 439A of the Maori Affairs Act 1953 is hereby amended by repealing subsection (1) (as amended by section 8 of the Maori Purposes Act 1982 and section 12 (2) of the Treaty of Waitangi (State Enterprises) Act 1988), and substituting the following subsection:

“(1) On the application of the Minister the Court may consider a proposal that any piece of land (whether Crown land, land or an interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies, Maori land, or General land) should, by reason of its historical significance or spiritual or emotional association with the Maori people or any group or section thereof, be set aside as a Maori reservation under section 439 of this Act, and make a recommendation to the Secretary or, in the case of land or an interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies, the Minister.”

(3) The following enactments are hereby consequentially repealed:

(a) Section 8 of the Maori Purposes Act 1982:

(b) Section 12 of the Treaty of Waitangi (State Enterprises) Act 1988.

**43. Amendment to Income Tax Act 1976**—Section 61 of the Income Tax Act 1976 is hereby amended by adding the following paragraph:

“(57) Payments made to any person as compensation pursuant to the First Schedule (except clause 3 (b)) to the Crown Forest Assets Act 1989.”

**44. Amendments to Conservation Act 1987**—(1) Section 7 of the Conservation Act 1987 is hereby amended by repealing subsection (3), and substituting the following subsections:

“(3) Nothing in subsections (1) and (2) of this section applies in respect of land that is Crown forest land within the meaning of section 2 of the Crown Forest Assets Act 1989.

“(4) For the purposes of subsection (1) of this section, the Minister of Forestry shall be deemed to be the Minister responsible for a department of State that has control of State forest land that is not Crown forest land within the meaning of section 2 of the Crown Forest Assets Act 1989.”

(2) Section 61 of the Conservation Act 1987 is hereby amended by inserting, after subsection (2), the following subsections:

“(2A) Nothing in subsection (2) of this section applies to any land that, immediately before the commencement of the Crown Forest Assets Act 1989, was shown as being allocated to New Zealand Forestry Corporation Limited on record plans lodged in the office of the Chief Surveyor for the land district in which the land is situated.

“(2B) Land of the kind referred to in subsection (2A) of this section that has, before the commencement of the Crown Forest Assets Act 1989, been declared to be held for conservation purposes under section 7 (1) of this Act, shall, with effect from the commencement of that Act, be deemed not to have been declared to be held for those purposes.”

(3) Section 61 of the Conservation Act 1987 is hereby further amended by inserting, after subsection (6), the following subsections:

“(6A) Nothing in subsection (6) of this section applies to any land that, immediately before the commencement of the Crown Forest Assets Act 1989, was shown as being allocated to New Zealand Forestry Corporation Limited on record plans lodged in the office of the Chief Surveyor for the land district in which the land is situated.

“(6B) Land of the kind referred to in subsection (6A) of this section that has, before the commencement of the Crown Forest Assets Act 1989, been declared to be held for conservation purposes under section 7 (1) of this Act, shall, with effect from the commencement of that Act, be deemed not to have been declared to be held for those purposes.”

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## SCHEDULES

### Section 36

### FIRST SCHEDULE

#### COMPENSATION PAYABLE TO MAORI

1. Compensation payable under section 36 of this Act shall be payable to the Maori to whom ownership of the land concerned is transferred.

2. That compensation shall comprise—

(a) Five percent of the specified amount calculated in accordance with clause 3 of this Schedule as compensation for the fact that the land is being returned subject to encumbrances; and

(b) As further compensation, the remaining portion of the specified amount calculated in accordance with clause 3 of this Schedule or such lesser amount as the Tribunal may recommend.

3. For the purposes of clause 2 of this Schedule, the specified amount shall be whichever of the following is nominated by the person to whom the compensation is payable—

(a) The market value of the trees, being trees which the licensee is entitled to harvest under the Crown forestry licence, on the land to be returned assessed as at the time that the recommendation made by the Tribunal for the return of the land to Maori ownership becomes final under the Treaty of Waitangi Act 1975. The value is to be determined on the basis of a willing buyer and willing seller and on the projected harvesting pattern that a prudent forest owner would be expected to follow; or

(b) The market stumpage, determined in accordance with accepted forestry business practice, of wood harvested under the Crown forestry licence on the land to be returned to Maori ownership from the date that the recommendation of the Tribunal for the return of the land to Maori ownership becomes final under the Treaty of Waitangi Act 1975. If notice of termination of the Crown forestry licence as provided for under section 17 (4) of this Act is not given at, or prior to, the date that the recommendation becomes final, the specified amount shall be limited to the value of wood harvested as if notice of termination had been given on that date; or

(c) The net proceeds received by the Crown from the transfer of the Crown forestry assets to which the land to be returned relates, plus a return on those proceeds for the period between transfer and the return of the land to Maori ownership.

4. For the purposes of clause 3 (c) of this Schedule, if the land to be returned is included within an area that was offered for sale as a single lot, the transfer proceeds in relation to each hectare of land returned to Maori ownership shall be not less than an amount equal to the average price per hectare of the forest lot specified in the selling process; except that—

(a) Where a bid is accepted for a number of lots as one parcel, the average price shall be based on the price for the total parcel; and

(b) Where the lot concerned had an average age of less than 5 years, the average price applied shall be the average price of all lots transferred within the same New Zealand Forestry Corporation Limited administrative district existing at the time of transfer.

5. For the purposes of clause 3 (c) of this Schedule, the return on the proceeds received by the Crown shall be—

FIRST SCHEDULE—*continued*COMPENSATION PAYABLE TO MAORI—*continued*

- (a) Such amount as is necessary to maintain the real value of those proceeds during either—
- (i) In the case where the claim was filed before the transfer occurred, a period of not more than 4 years from the date of transfer of the Crown forestry assets; or
  - (ii) In the case where the claim was filed after the date of transfer of the Crown forestry assets, the period from the date of transfer of the Crown forestry assets to the date of expiration of 4 years after the claim was filed; and
- (b) In respect of any period after the period described in subparagraph (i) or subparagraph (ii) of paragraph (a) of this clause (as extended under clause 6 of this Schedule), equivalent to the return on one year New Zealand Government stock measured on a rolling annual basis, plus an additional margin of 4 percent per annum.

For the purposes of this clause, a claim shall be deemed to be filed on such date as is certified by the Registrar of the Tribunal.

6. The period of 4 years referred to in clause 5 of this Schedule may be extended by the Tribunal where the Tribunal is satisfied—

- (a) That a claimant with adequate resources has wilfully delayed proceedings in respect of a claim; or
- (b) The Crown is prevented, by reasons beyond its control, from carrying out any relevant obligation under the agreement made on the 20th day of July 1989 between the Crown, the New Zealand Maori Council, and the Federation of Maori Authorities Incorporated.

7. All payments under this Schedule, other than payments for the purposes of clause 3 (b) of this Schedule, shall be made within 2 months after the date of the Tribunal's recommendation, or such later date as the Tribunal may direct, or the parties may agree.

8. All payments for the purposes of clause 3 (b) of this Schedule shall be calculated at 3 monthly intervals and shall be paid within one month of the relevant 3 monthly period.

9. Payments under this Schedule, other than payments made for the purposes of clause 3 (c) of this Schedule on which interest is payable in accordance with clause 5 (b) of this Schedule, shall not bear interest.

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SECOND SCHEDULE

Section 2 (1)

2004

MAORI OWNED LAND THAT IS NOT CROWN FOREST LAND

Crown Forest Assets

1989, No. 99

Lessor	Description	Area (hectares)	Date of lease
The Maori Trustee .. .. .	Parengarenga 3G .. .. .	511	16 January 1975
The Proprietors of Parengarenga A .. .. .	Parengarenga A and B2B .. .. .	6248	18 September 1981
Ross Wright and others .. .. .	Pouto Topu 2F .. .. .	1392	10 December 1977
The Proprietors of Otakanini—Topu .. .. .	Otakanini—Topu .. .. .	680	8 August 1969
The Proprietors of Tainui-Kawhia .. .. .	Tainui-Kawhia .. .. .	1138	22 January 1977
Tuhoe-Waikaremoana Maori Trust Board .. .. .	Te Manawa-o-Tuhoe .. .. .	2117	9 February 1979
Autiti Wikiriwhi .. .. .	Rotomahana Parekarangi 6N2B .. .. .	113	19 April 1985
Les Gibson and others .. .. .	Rotomahana Parekarangi 602B .. .. .	253	19 April 1985
The Maori Trustee .. .. .	Te Whaiti nui-a-Toi .. .. .	2008	28 July 1976
Hepi Hoani Te Heu Heu and others .. .. .	Lake Taupo Forest .. .. .	30237	5 June 1969
Hepi Hoani Te Heu Heu and others .. .. .	Rotoaira Forest .. .. .	16447	5 March 1980
The Maori Trustee .. .. .	Kahotea Y .. .. .	56	16 October 1978
The Proprietors of Mangaoporo Section 9 .. .. .			
Block VIII .. .. .	Mangaoporo .. .. .	283	1 September 1979
Hatara Francis Awarau and others .. .. .	Waipiro A4B .. .. .	338	20 December 1982
The Proprietors of Mangahauini 7 and Adjoining blocks .. .. .	Mangahauini 7 .. .. .	151	14 February 1983
The Proprietors of Waipiro A5 Block .. .. .	Waipiro A5 .. .. .	131	13 October 1983
Robert Mokopuna Toki Cottrell and others .. .. .	Te Awahohonu .. .. .	8428	17 March 1977
The Maori Trustee .. .. .	Tokararangi Blocks .. .. .	2066	2 February 1980
The Maori Trustee .. .. .	Pikaungahe .. .. .	40	2 August 1965
The Maori Trustee .. .. .	Te Kao 71C .. .. .	8	4 May 1967
The Maori Land Board .. .. .	Lot 1 Deposited Plan 84535 .. .. .	4	4 December 1978.

SUB-LICENCE OF DEFERRED PAYMENT LICENCE

Sub-licensor	Description	Area (hectares)	Date of Sub-licence
Aupouri Maori Trust Board .. .. .	Onepu .. .. .	436	17 November 1982

## Section 17

## THIRD SCHEDULE

## INITIAL TERM OF CROWN FORESTRY LICENCES

District or Forest	Initial Fixed Term
Northland	10
Auckland	5
Bay of Plenty	5
East Coast	10
Hawkes Bay	5
Lismore forest	5
Nelson	5
Westland	
—North	5
—South	20
Aorangi	10
Otago	10
Southland	10

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This Act is administered in the Treasury.

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