

FORESTRY RIGHTS REGISTRATION BILL

EXPLANATORY NOTE

THIS Bill provides for the creation and registration of forestry rights.

Clause 1 relates to the Short Title.

Clause 2 is the interpretation provision.

Clause 3 provides that every forestry right (as defined in *clause 2*) is to be deemed to be a *profit à prendre*, and may be registered under the Land Transfer Act 1952.

Clause 4 provides that every forestry covenant (as defined in *clause 2*) relating to any land of the covenantor is to be binding on the heirs, executors, administrators, and assignees of the covenantor.

Clause 5 modifies the strict provisions of the Land Transfer Act 1952 regarding the defining of the boundaries of land subject to a forestry right (as so defined).

Clause 6 provides that the grant of a forestry right is not a subdivision for the purposes of the Local Government Act 1974, and that a right of access granted under a forestry right is not a right of way for the purposes of section 348 of that Act.

Clause 7 provides for the making of regulations.

Hon. Mr Elworthy

FORESTRY RIGHTS REGISTRATION

ANALYSIS

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| 1. Short Title | 5. Plan requirements |
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A BILL INTITULED

An Act to provide for the creation and registration of forestry rights

BE IT ENACTED by the General Assembly of New Zealand
5 in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Forestry Rights Registration Act 1983.

2. Interpretation—In this Act, unless the context otherwise
10 requires,—

“Forestry covenant” means any covenant, whether positive or restrictive in effect, contained in a forestry right registered under the Land Transfer Act 1952, or in any variation thereof registered under that Act:

15 “Forestry right” means a right granted by the grantor of any land to any other person to—

(a) Establish, maintain, and harvest; or

(b) Maintain and harvest,—

a crop of trees on that land, together with—

20 (c) Any ancillary rights of access and of constructing and using such tracks, culverts, bridges, buildings, and other works and facilities as may be necessary to establish, maintain, and harvest or, as the case may be, to maintain and harvest that crop; and

(d) Any provisions for charges, payments, royalties, or division of the crop or the proceeds of the crop,—whether or not such rights or provisions are coupled with an obligation; but no such right shall be capable of conferring a right of exclusive possession of that land: 5

“Grantor”, in relation to the grant of a forestry right over any land, means the owner or the lessee of the land or the holder of a deferred payment licence for the land under the Land Act 1948: 10

“Land” has the same meaning as in the Land Transfer Act 1952.

3. Forestry rights to be *profits à prendre*—

(1) Notwithstanding any rule of law or equity to the contrary, every forestry right shall be deemed to be a *profit à prendre*. 15

(2) Every forestry right over any land may be registered under the Land Transfer Act 1952 against the title of the estate of the grantor of the land in the same manner, but subject to any modifications prescribed by regulations made under section 7 of this Act, as that applicable to a *profit à prendre* (not being a forestry right). 20

(3) Every forestry right when executed by the parties signing the same shall have the force and effect of a deed.

4. Forestry covenants—Notwithstanding any rule of law or equity to the contrary, every forestry covenant relating to any land of a covenantor or to any land capable of being bound by him by covenant shall, unless a contrary intention is expressed in the forestry right to which it relates or in any variation thereof, be binding on the heirs, executors, administrators, and assignees of the covenantor. 25 30

5. Plan requirements—For the purposes of the Land Transfer Act 1952, on any application for registration of a forestry right under this Act it shall be sufficient if the applicant defines the boundaries of the land that is intended to be subject to the registered forestry right by means of a Class C Survey (as defined in the Survey Regulations 1972) which complies with those regulations. 35

6. Subdivisions and rights of way—For the purposes of the Local Government Act 1974, the grant of a forestry right shall be deemed not to be a subdivision of the land of the 40

grantor, and any right of access granted by or created as ancillary to a forestry right over the land of the grantor shall be deemed not to be the grant of a right of way under section 348 of that Act.

5 **7. Regulations**—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as are necessary or expedient for giving effect to the provisions of this Act and the due administration thereof.

10 (2) Without limiting the general power to make regulations conferred by **subsection (1)** of this section, regulations may be made under this section prescribing such matters as are necessary or expedient for regulating the mode of registration and the form of forestry rights under the Land Transfer Act 1952.