



Forestry (East Coast) Grants Regulations 2000

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 10th day of April 2000

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 72 of the Forests Act 1949, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Forestry (East Coast) Grants Regulations 2000.

2 Commencement

These regulations come into force on 14 April 2000.

3 Interpretation

In these regulations, unless the context otherwise requires,—
Act means the Forests Act 1949

application means an application in the prescribed form in which a landholder applies for an approval certificate

approval certificate means a certificate in the prescribed form that forms part of an application approved by an approving authority and certifies—

- (a) that the land specified in the certificate is an approved area; and
- (b) subject to the conditions stated in the certificate, that the applicant is entitled to be paid the grant specified by the certificate after carrying out the work specified by the certificate

approved area means any area of land in respect of which an approving authority has issued an approval certificate

approving authority means the Minister or a person to whom the Minister has, under section 4 of the Act, delegated authority to approve a grant under section 15 of the Act

certified account means a statement in the prescribed form—

- (a) that contains such information relating to expenditure incurred on an approved area as may be required by these regulations to support an application or claim for payment of a grant; and
- (b) that has been certified correct (which certificate includes the due payment of amounts purporting to have been disbursed) and issued in the prescribed form by a company auditor or a chartered accountant

Commissioner means the Commissioner of Inland Revenue

East Coast forestry grant or grant means a grant made under section 15 of the Act and in accordance with these regulations; and includes any part of a grant

East Coast region means the Gisborne region (as defined in the *Gazette*, 1989, at page 2328)

erosion control treatments include—

- (a) forestry, being the planting of trees approved for providing effective erosion control; and
- (b) reversion, being regeneration of indigenous vegetation either—
 - (i) by unassisted regeneration; or
 - (ii) by enhanced regeneration involving the planting of indigenous trees

landholder includes any person who is entitled by virtue of that person's interest in any landholding to carry out erosion control treatments on that landholding

landholding—

- (a) includes every estate, right, title, or interest of any kind in or over any land within the boundaries of the East Coast region, otherwise than by way of charge or security, under which the holder may carry out erosion control treatments; but
- (b) does not include any land held in co-ownership of any kind, unless all the co-owners are applicants under these regulations in respect of that land

payment approval certificate means a certificate in the prescribed form issued by a Forestry Officer to the effect that the work on an approved area has been satisfactorily completed on that area

prescribed form means a form provided, required, or approved by the Secretary

sustainable land management means the management of an area of qualifying land in a way that controls present and future erosion

year means—

- (a) a period of 12 months ending with the last day of March; or
- (b) where the consent of the Commissioner has been obtained under section 38 of the Tax Administration

Act 1994, ending with the date of the annual balance of the landholder's accounts.

4 East Coast forestry grants

- (1) The approving authority may, in the authority's discretion, approve an East Coast forestry grant and, after executing an approval certificate, pay the grant in such manner and on such conditions as may be specified in these regulations and in the approval certificate.
- (2) The approval and payment of a grant is subject to—
 - (a) compliance by a landholder with these regulations; and
 - (b) such money as may be fixed or allocated for the purpose; and
 - (c) such priorities as may be established under regulation 10.

5 Applications for approval certificates

Any person may apply for an approval certificate if—

- (a) the person is a landholder; or
- (b) the person provides written evidence acceptable to the Secretary of an intention to become a landholder.

6 Information to accompany applications for approval certificates

- (1) An application for an approval certificate by or on behalf of an applicant must be made to the Secretary, and be accompanied, in every case, by—
 - (a) sufficient particulars of the landholding, and the area proposed for approval, to enable the Secretary to identify them; and
 - (b) a recent aerial photograph or laser print copy of a recent aerial photograph of the area for which a grant is sought, on a scale between 1:4000 and 1:16000; and
 - (c) a land use certificate from a land use consultant approved by the Secretary to the effect that the consultant has accurately identified the land use capability classes for the land (as defined in the *New Zealand Land Resource Inventory*, Gisborne East Coast, 1st edition 1974 or 2nd edition 1999); and

- (d) a land use capability plan for the proposed grant area superimposed on the recent aerial photograph supplied in accordance with paragraph (b) that shows—
 - (i) the land use capability units of the proposed grant area; and
 - (ii) the boundaries of the proposed grant area; and
 - (iii) any internal planting boundaries where different planting years, species, or erosion control treatments are intended; and
 - (iv) any existing or proposed fencing; and
 - (v) any recommended areas for protection and sites of special wildlife interest, as identified by the Department of Conservation; and
 - (vi) any archaeological sites, if known; and
 - (vii) any excluded forest or indigenous scrub within the proposed grant area; and
 - (viii) any area of scattered or stunted scrub not providing effective erosion control which is intended to be cleared and replanted.
- (2) If forestry treatments are proposed, an application for an approval certificate must be accompanied also by—
 - (a) a forestry feasibility certificate in the prescribed form from a forest consultant, being a person who is either recognised by the New Zealand Institute of Forestry incorporated or accepted by the Secretary as having equivalent competence, to the effect the proposed treatment provides a means to achieve sustainable land management; and
 - (b) planting proposal or proposals in the prescribed form; and
 - (c) an ecological importance certificate in the prescribed form from the Department of Conservation identifying any sites of special wildlife interest and recommended areas for protection on the site; and
 - (d) if archaeological sites within the proposed area are identified by the Secretary, an archaeological survey conducted, before the issue of an approval certificate, by an archaeologist approved by the Secretary; and
 - (e) if treatments involving indigenous vegetation clearance are proposed,—

- (i) an ineffective scrub certificate in the prescribed form from a Gisborne District Council Soil Conservator to the effect that existing scrub is not providing effective erosion control; and
 - (ii) a copy of any resource consent required for such clearance provided to the Secretary before the issue of an approval certificate.
- (3) If reversion is proposed,—
 - (a) an application for an approval certificate must be accompanied by an indigenous reversion certificate in the prescribed form from a person approved by the Secretary to the effect that the proposed treatment will provide a means to achieve sustainable land management; and
 - (b) when an approval certificate has been issued, the applicant must register a permanent non-use covenant against the title to the land for the area of land to be treated by reversion.

7 Approval certificate to be issued to landholder only

- (1) An approval certificate in respect of any approved area must not be issued unless the applicant is the landholder for that area.
- (2) An approval certificate may be issued in respect of an application at any time before the close of 30 June in the year following the year in which the application is made.

8 Time for applications for approval certificate

- (1) Applications for approval certificates relating to areas of 50 hectares or more must be lodged with the Secretary before the close of 30 April in each calendar year.
- (2) Applications for approval certificates relating to areas of less than 50 hectares must be lodged with the Secretary before the close of 30 June in each calendar year.
- (3) The Minister may, by public notification, extend the time for lodging applications for approval certificates.

9 Qualifying land

- (1) An approval certificate must not be granted in respect of any area of land—
 - (a) that is less than 5 hectares; or
 - (b) that is an area of forest or indigenous scrub greater than 1 hectare already providing effective erosion control or capable of doing so; or
 - (c) that is greater than 1 hectare if, in the opinion of the Secretary, the area has recently been cleared of indigenous scrub, in order to support the application; or
 - (d) that is a site of special wildlife interest or a recommended area for protection, as certified by the Department of Conservation; or
 - (e) that is an archaeological site.
- (2) An approval certificate can only be granted in respect of land—
 - (a) that contains class VII, subclass ‘e’ units 18, 19, 21, 22, 23, 24, and 25 (as defined in the *New Zealand Land Resource Inventory*, 2nd edition 1999 or the equivalent units in the 1st edition 1974); or
 - (b) that contains class VIII, subclass ‘e’ units 3, 4, 5, 6, 7, 8, and 9 (as so defined).
- (3) Land that does not meet the class VII and class VIII, subclass ‘e’ units requirements, may be included in an approval certificate if,—
 - (a) in the opinion of a land use consultant referred to under regulation 6(1)(c) or a forest consultant referred to under regulations 6(2)(a) specified by the Secretary, it is within the same tributary watershed as land that does meet the requirements; and
 - (b) it is based on practical and workable catchment or sub-catchment boundaries.
- (4) In the case of an area of land that is not less than 5 hectares but less than 50 hectares, an application for an approval certificate may be granted to the extent that the effect of the grant does not increase the total of such approved areas for the year for which the grant is sought to an area exceeding 500 hectares.
- (5) In the case of an area of 50 hectares or more, an application for an approval certificate may be granted to the extent that the effect of the grant does not increase the total of such approved

areas for the year for which the grant is sought to an area exceeding 6,500 hectares.

- (6) If, in any year, less than 500 hectares of land specified in subclause (4) is approved for the purposes of grants, the maximum area specified in subclause (5) is deemed to be increased by the amount by which the other approved area is less than 500 hectares.
- (7) If, in any year, less than 6,500 hectares of land specified in subclause (5) is approved for the purposes of grants, the maximum area specified in subclause (4) is deemed to be increased by the amount by which the other approved area is less than 6,500 hectares.

10 Priorities

- (1) The Minister may, in respect of all applications for approval certificates, or for any class or kind of those applications, fix priorities among them.
- (2) If any applications are accorded equal priority under subclause (1), the applications have precedence according to the order of their receipt.

11 Level of grant

The approving authority—

- (a) must, in the approving authority's discretion, determine the amount of the grant, the manner of payment, and the conditions of payment; and
- (b) must specify those matters in the approval certificate the authority issues in respect of the grant.

12 Entitlement to grants

The execution of the approval certificate by the approving authority entitles the landholder to receive the grant up to the amount, at the times, and subject to the conditions, specified in these regulations and in the approval certificate.

13 Approval certificate may include conditions

An approving authority may include in an approval certificate such reasonable conditions relating to the work specified in the certificate as the approving authority thinks fit.

14 Variation of approval certificates

- (1) With the agreement of the holder of an approval certificate, the approving authority may, in writing, at any time while the certificate is in force, vary any term or condition of the certificate to reflect any change—
 - (a) in the boundaries of the area specified in the certificate; or
 - (b) in the operation to which the certificate relates.
- (2) With the agreement of the holder of an approval certificate, the approving authority may, in writing, at any time while the certificate is in force, vary the certificate to apply it to any specified additional area if—
 - (a) the additional area is contiguous to the approved area; and
 - (b) the holder of the certificate is the landholder for the additional area; and
 - (c) the additional area does not exceed 25 hectares; and
 - (d) the approving authority is satisfied that the addition of the area to the approved area will provide more effective land stabilisation boundaries for the approved area; and
 - (e) the landholder holds a certificate in respect of the additional area that complies with regulation 6(1)(c); and
 - (f) the landholder has furnished a plan in respect of the additional area that complies with regulation 6(1)(d).
- (3) Every additional area to which an approval certificate is applied under subclause (2) forms part of the approved area and is subject to all the terms and conditions applying in respect of the approved area under these regulations.
- (4) A variation made under subclause (1) or subclause (2) is effective on and from the date it is made or such later date as may be specified by the approving authority.

15 Maximum amount of grant payable in any 1 year

The amount of any forestry grant that may be paid in any 1 year must not exceed the amount approved for that year in the approval certificate.

16 Claims for payment

Every claim for payment under an East Coast forestry grant must—

- (a) be made in the prescribed form by or on behalf of the landholder of the approved area in respect of which the claim is made; and
- (b) be made after the work specified for any year in an approval certificate has been carried out by the landholder; and
- (c) be accompanied by a certified account as to the expenditure incurred, and as may otherwise be reasonably required by the Secretary; and
- (d) be accompanied by evidence, with appropriate and reasonable accuracy, as to the area of established trees or reversion, as the case may be.

17 Time for claim for payment

All claims for payment must be lodged with an approving authority within 3 months after the end of the year for which payment is claimed.

18 Payment

- (1) Every payment under a grant is subject to the prior issue of a payment approval certificate endorsed by an approving authority.
- (2) The approving authority must not endorse any payment approval certificate for the purpose of approving any payment under a grant unless the authority is satisfied that—
 - (a) the required work for the relevant year has been carried out; and
 - (b) such work has been carried out to a satisfactory standard.

19 Effect of application and claim

The receipt by the Secretary of any application for an approval certificate or claim for payment authorises the Secretary, in respect of that application or claim,—

- (a) to obtain all such information and require all such inspections to be made as the Secretary certifies are

- necessary to verify that the application or claim is in order for the purposes of these regulations; and
- (b) to supply the Commissioner particulars of—
 - (i) the application, the claim, any approval certificate, any payment approval certificate, or certified account relating to that application; and
 - (ii) any claim for which application is made or under which payment is claimed; and
 - (iii) any payments made or payable under the grant; and
 - (c) upon compliance by the landholder with all requirements under these regulations, to arrange payment of money by way of a grant to the landholder or to an authorised agent of the landholder.

20 Transfer of grants

- (1) Upon the transfer (whether by sale, exchange, gift, transmission, or otherwise) of ownership of a landholding that is wholly or in part an approved area, the landholder by whom that area is acquired may apply to the Secretary for the transfer into the landholder's name of the approval certificate.
- (2) The Secretary may, if the Secretary thinks fit, approve the transfer, subject, with any necessary modifications, to the terms and conditions on which it was originally issued and to all the requirements of these regulations.

21 Termination of grant

Subject to regulation 20, the right to receive an East Coast forestry grant is deemed to be terminated if the landholder ceases to be a landholder for the approved area in respect of which the grant has been approved.

22 Offences

- (1) Every person commits an offence against these regulations who—
 - (a) applies for an initial approval certificate knowing that the person is not entitled to one under these regulations; or
 - (b) claims any payment under these regulations to which the person knows the person is not entitled; or

- (c) supplies any information in relation to an application or claim under these regulations knowing that the information is misleading or incorrect.
- (2) Every person who commits an offence against these regulations is liable on summary conviction,—
- (a) in the case of an individual, to a fine not exceeding \$2,000, and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues:
 - (b) in the case of a body corporate, to a fine not exceeding \$12,000, and, if the offence is a continuing one, to a further fine not exceeding \$1,200 for every day during which the offence continues.

23 Revocation

The Forestry (East Coast) Grants Regulations 1992 (SR 1992/301) are revoked.

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 14 April 2000, provide for forestry grants under the East Coast (Gisborne Region) Forestry Project.

Regulation 3 defines certain terms used in the regulations. The **approving authority** is the Minister of Forestry or a person to whom the Minister has delegated power to approve grants. The Minister's power to make financial grants is conferred by section 15(2)(a) of the Forests Act 1949.

Regulation 4 provides for the grants to be made by the approving authority. An approval certificate will be issued where an application is approved.

Regulation 5 provides the categories of individuals that may make an application for an approval certificate.

Regulation 6 specifies the information to be forwarded with an application for an approval certificate.

Regulation 7 provides that an approval certificate can only be issued to a landholder.

Regulation 8 specifies the closing dates for applications for approval certificates.

Regulation 9 specifies the qualifying land that is eligible for a grant.

Regulation 10 deals with the priority to be accorded to applications for grants.

Regulation 11 provides that the approving authority determines the level of the grant in each case.

Regulation 12 provides that an approval certificate entitles the landholder to receive a grant.

Regulation 13 provides for conditions to be specified in an approval certificate. Such conditions relate to the work specified in the certificate.

Regulation 14 provides that the approving authority may, with the consent of the landholder, vary any term or condition of the approval certificate.

Regulation 15 provides that the maximum amount of the grant payable in any 1 year is to be specified in the approval certificate.

Regulation 16 provides for the manner in which claims for payment must be made.

Regulation 17 requires claims for payment to be lodged within 3 months after the end of the year for which payment is claimed.

Regulation 18 deals with payment of claims under a grant.

Regulation 19 authorises the Secretary of Forestry to obtain information from applicants and to supply information in respect of grants to the Commissioner of Inland Revenue.

Regulation 20 enables grants to be transferred with the Secretary's approval.

Regulation 21 terminates a grant if the holder ceases to be a landholder, except where a transfer is approved under *regulation 20*.

Regulation 22 creates offences against these regulations. Individuals are liable to a fine not exceeding \$2,000 and bodies corporate are liable to a fine not exceeding \$12,000.

An offence is committed if a person—

- applies for a certificate of approval knowing that the person is not entitled to one; or
- claims any payment knowing that the person is not entitled to it; or
- supplies information knowing it is misleading or incorrect.

Regulation 23 revokes the Forestry (East Coast) Grants Regulations 1992 (SR 1992/301).

Grants made in accordance with these regulations are grants to which section DC1 of the Income Tax Act 1994 applies.

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These regulations are administered in the Ministry of Agriculture and Forestry.
