



ANALYSIS

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1965, No. 118

An Act to amend the Farm Forestry Act 1962

[28 October 1965]

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

1. Short Title—This Act may be cited as the Forestry Encouragement Amendment Act 1965, and shall be read together with and deemed part of the Act heretofore cited as the Farm Forestry Act 1962 (hereinafter referred to as the principal Act).

2. Alteration of Short Title to principal Act—(1) The principal Act may hereafter be cited as the Forestry Encouragement Act 1962.

(2) The principal Act is hereby consequentially amended by omitting from section 1 and also from subsection (5) of section 5 the words “Farm Forestry Act 1962”, and substituting in each case the words “Forestry Encouragement Act 1962”.

(3) Every reference to the Farm Forestry Act 1962 in section 75A of the Estate and Gift Duties Act 1955 (as inserted by section 17 of the Estate and Gift Duties Amendment Act 1960, and amended by section 4 of the Estate and Gift Duties Amendment Act 1962), in the proviso to paragraph (b) of subsection (1) of section 91 of the Land and Income Tax Act 1954 (as inserted by section 15 (1) of the Land and Income Tax Amendment Act 1965), in section 120A of the Land and Income Tax Act 1954 (as inserted by section 10 of the Land and Income Tax Amendment Act (No. 2) 1962), in section 153c of the Land and Income Tax Act 1954 (as inserted by section 31 of the Land and Income Tax Amendment Act 1965), and in any other enactment or document, shall be read as a reference to the Forestry Encouragement Act 1962.

3. Purposes for which Minister may make advances—

(1) The Title to the principal Act is hereby amended by adding the words “and forest plantations”.

(2) Section 3 of the principal Act is hereby amended by adding the words “or to any local authority within the meaning of Part VI of the Local Authorities Loans Act 1956 for the purpose of establishing or managing a forest plantation”.

4. Advances to local authorities—Section 3 of the principal Act is hereby further amended by adding as subsection (2), the following subsection:

“(2) A local authority within the meaning of Part VI of the Local Authorities Loans Act 1956 may be an applicant for the purposes of this section, and, subject to the provisions of that Act, may enter into one or more forestry encouragement agreements.”

5. Notice of conditions—The principal Act is hereby amended by repealing section 4, and substituting the following section:

“4. (1) The terms and conditions upon which applications for advances under this Act will be considered, and the dates by which applications must be received, shall be in accordance with regulations made under this Act, or (in default of any such regulations and so far as any such regulations do not extend) in accordance with the directions of the Minister.

“(2) The Minister may from time to time publicly advertise such of the said terms, conditions, and dates as he thinks fit, by notice in the *Gazette* or otherwise.”

6. Forestry encouragement agreements—(1) The principal Act is hereby amended by omitting the words “farm forestry agreement” in each place where they appear in sections 5, 6, and 7, and substituting in each case the words “forestry encouragement agreement”.

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “Conservator”, the following definition:

“‘Forestry encouragement agreement’ includes a farm forestry agreement entered into in accordance with this Act before the passing of the Forestry Encouragement Amendment Act 1965:”

(3) Every reference in any enactment passed before the commencement of this Act to a farm forestry agreement shall, unless the context otherwise requires, include a reference to a forestry encouragement agreement.

(4) Section 5 of the principal Act is hereby amended by inserting, after subsection (7), the following subsection:

“(7A) For the purposes of section 137 of the Land Transfer Act 1952, every forestry encouragement agreement shall be deemed to create an interest in the land to which it relates.”

7. Service of notices—Section 5 of the principal Act is hereby amended by adding to subsection (6) the following paragraph:

“(d) By delivering or leaving it at or sending it by registered post to the registered office in the case of a company or the principal office or place of business in the case of a local authority or other body, whether corporate or unincorporate.”

8. Supplementary agreements—(1) Section 5 of the principal Act is hereby further amended by inserting in subsection (7), after the word “varies”, the word “supplements”.

(2) Section 5 of the principal Act is hereby further amended by inserting, after subsection (8), the following subsection:

“(8A) Where a Conservator deposits with the Registrar a certificate stating that a forestry encouragement agreement has been terminated, and at the same time deposits with the

Registrar for registration a further forestry encouragement agreement upon which is endorsed a certificate by the Conservator that it is in substitution for the terminated agreement, and that the agreement in substitution relates to the same advance and the same land as the terminated agreement and includes provision for a lower rate of interest, the agreement in substitution when registered shall, for the purposes of section 7 of this Act, be deemed to have been registered when the original agreement was registered; and the Registrar shall record a memorial to that effect against the title to the land affected.”

9. Priority of charges on land—(1) Section 7 of the principal Act (as amended by section 2 of the Farm Forestry Amendment Act 1964) is hereby further amended—

- (a) By omitting from subsection (2) the words “Unless the Conservator otherwise agrees in any case at the time when he signs the certificate or at any earlier or later time”:
- (b) By inserting in subsection (2), after the words “as if it had been registered”, the words “or is deemed (under subsection (8A) of section 5 of this Act, as inserted by section 8 (2) of the Forestry Encouragement Amendment Act 1965) to have been registered”.

(2) Section 7 of the principal Act is hereby further amended by adding to the said subsection (2) the words “Any priority of any such charge, or (where the charge has not yet arisen) the right to any such priority which will arise from the prior registration of the relevant forestry encouragement agreement and the subsequent registration of a certificate under subsection (1) of this section relative thereto, may be postponed in favour of any other charge or lien of any description by the registration without fee in the office of the appropriate Registrar,—

- “(a) Where the land affected is subject to the Land Transfer Act 1952, of a memorandum of priority under section 103 of that Act signed by the Minister or a Conservator; or
- “(b) Where the land affected is not subject to the Land Transfer Act 1952, of a memorandum of priority in like form signed by the Minister or a Conservator, which memorandum shall have the effect of a deed.”

(3) Section 7 of the principal Act is hereby amended by inserting, after subsection (2), the following subsections:

“(2A) For the purposes of paragraph (a) of subsection (2) of this section, a registered forestry encouragement agreement shall be deemed to be a charge within the meaning of section 103 of the Land Transfer Act 1952.

“(2B) Notwithstanding anything to the contrary in this Act or any other Act, the effect of the registration of a memorandum of priority as aforesaid postponing the priority of a forestry encouragement agreement shall, except as expressly provided in the memorandum, be to postpone the priority arising from the registration of any certificate relative to that agreement registered under subsection (1) of this section in the manner and to the extent that the priority of the agreement is postponed by the memorandum.”

(4) The Farm Forestry Amendment Act 1964 is hereby consequentially repealed.

This Act is administered in the New Zealand Forest Service.
