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# Forestry regulation relating to logs and harvesting

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# Background to regulation of traders and advisers

- Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 introduced by Shane Jones (former MP) of New Zealand First
- Intended to protect the domestic forestry industry by:
  - reducing the number of raw logs sent overseas for processing
  - boosting employment at mills
  - increasing value of exported New Zealand timber
- This followed alleged undercutting of domestic producers by foreign buyers of New Zealand logs
- Manifested in changes to the Forestry Act 1949 and Forests (Regulation of Log Traders and Forestry Advisers) Regulations 2022

# Log traders

- A **log trader** is any person who, in trade:
  - Buys New Zealand logs, whether after harvest or trees to be harvested at an agreed time, and whether the person intends to on-sell the logs
  - Exports New Zealand logs
  - Processes logs that the person has grown themselves
    - >2,000 cubic meters per annum or as set by regulations.
  - Agents for those doing the above
- For log traders, an **entity** or **individual** can register.

## Registration involves:

- Criminal record check (on individual or decision makers)
- Declaration of no relevant civil liabilities

## Duties include:

- Records of log transactions and disputes
- Duty to report to make annual report to the forestry authority covering the financial year ending 30 June (by 1 December)

# Forestry advisers

- Prohibition on providing a **forestry adviser service** for reward unless:
  - Authorised to provide the service
  - Exempt
- Forestry adviser services include giving advice in the ordinary course of business that relates to:
  - The establishment, management or protection of a forest
  - The management or protection of land used in connection with a forest
  - Appraisal, harvest, sale or utilization of timber or other forest produce
  - Appraisal of forest
  - Application of ETS to forest activities
  - Beneficial effects of forests (e.g. environmental and economic outcomes)

# Forestry advisers

- **Individuals** need to register
- Based on fit and proper person assessment
- Criteria set by regulations:
  - (Diploma and 2 years experience providing forestry advice in NZ); **or**
  - At least 5 years of experience providing forestry advice in New Zealand; **or**
  - Possible discretion to register where the person has five years experience in the sector, diploma and supervised for 2 years
- Exemptions for those acting in a professional capacity in a regulated occupation:
  - Real estate agents
  - Accountants
  - Lawyers
  - Financial advisers



## Other matters

Record keeping of advice

Complaints process

Disputes regulation regime for disputes between registered parties or forest owners – mediation or arbitration

Penalties for non-compliance

- Fine for non-compliance for individuals

# Implications!

Consider whether the legislation achieves its purpose and overreach?

## Log traders – jurisdictional reach

Those buying large volumes of logs (even as principal for own use) fall within the regime.

Consider jurisdictional reach – not clarified in the legislation so requires common law overlay – nexus to New Zealand should be required

## Advisers

Requirement for experience and supervision

- consider implications for succession, diversity, client choice and economies of scale
- position of TIMOs providing advice from offshore

## Comparable regimes

Comparable regimes allow sophisticated parties to opt out of the regime – generally focused on consumer protection, rather than corporates.

## Status

From 6 August 2022, log traders and forestry advisors must register to be able to operate

From 6 August **2023** it will be an offence to operate without being registered

Generally, no other transition.

However, the log traders' regime is subject to review

# Forests (Legal Harvest Assurance) Amendment Bill

- Aims to establish a new regulatory system for providing legal harvest assurance for the forestry and wood processing sector:
  - assist in the prevention of international trade in illegally harvested timber
  - strengthen the international reputation of the New Zealand forestry and wood processing sector
  - safeguard and enhance market access for New Zealand forestry exports
  - reduce the risk that timber imported into New Zealand is sourced from illegally harvested timber.
- Implications:
  - Forest owners and others with the right to harvest “regulated timber” will need to comply with the legal harvest information requirements when supplying that timber to another person in trade
  - Log traders, primary processors of timber, and importers and exporters of timber products will need to register with MPI and maintain a due diligence system to demonstrate that the timber they have obtained has been legally harvested.
- Log traders’ provisions are moved to fit within that regime, but substantially reproduced
- Submissions to the Select Committee have closed and their report is due in December
- Most provisions of the Bill will come into force 3 years after it receives the Royal assent

# Thank you

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