

Legislative changes affecting forestry

Four pieces of legislation of interest to forestry professionals have recently been either introduced into, or passed by Parliament.

Supply Contracts: Cooperative Companies Bill

In June 1995, the Minister of Justice introduced a Cooperative Companies Bill. Amongst other things, this Bill proposes to repeal the Cooperative Forestry Com-

panies Act 1978 (as recommended by the 1991 working party on forestry joint ventures). However, the provisions of that Act relating to supply contracts will be preserved, broadened and transferred to the Forests Act. Any person (and not just a cooperative forestry company) will be able to enter into a supply contract with any other person and that contract may be registered against the title of the owner or occupier of the land subject to the contract. This means that forestry logging and marketing contracts may be registered and bind subsequent owners or occupiers of the land. This may be seen, in some respects, as an alternative mechanism to the forestry right and, in the case of registered marketing contracts, a completely new development in the law.

Forestry rights: Overseas Investment Act

Readers will be aware that in 1994 forestry rights were exempted from the Land Settlement Promotion and Land Acquisition Act 1983 (LSP Act). Under the Overseas Investment Amendment Act 1995, the LSP Act will be automatically repealed on the making of an Order in Council (expected to be early in 1996 – note that the LSP Act remains in force until then). The Amendment Act provides that the Governor-General may make regulations for a range of purposes including:

“(a) Prohibiting, controlling, or regulating overseas investment including:

- (iv) the ownership or acquisition of, or control over land or any estate or interest in land in New Zealand by any overseas person”.

This means that controls on the acquisition of forestry rights by overseas persons could be imposed by regulations. The new Overseas Investment Regulations have not yet been made and, at the

time of writing, it is not known what measures (if any) “prohibiting, controlling or regulating overseas investment” in forestry rights will be included in those regulations.

Forestry Rights and the Maori Land Court: Maori Purposes Bill

Under the existing law the answer to the question of whether the grant of a forestry right is an “alienation” of Maori land requiring confirmation by the Maori Land Court is uncertain. A Maori Purposes Bill introduced earlier this year is designed to clear up the doubt. If clauses 10 to 12, 14 and 15 of the Bill are passed as introduced, the following will be the legal position with regard to forestry rights.

Any alienation that is the granting, renewal, variation or transfer of a forestry right over or in respect of Maori freehold land owned by a Maori Incorporation or a trust constituted under Part XII of Te Ture Whenua Maori Act will not require the confirmation of the Maori Land Court. However, in the case of a Maori Incorporation, a copy of the instrument of alienation would have to be forwarded to a Registrar of the Court for noting.

Any alienation as above in respect of a forestry right over Maori freehold land not subject to a Maori Incorporation or a Maori trust will not require confirmation by the Court but will require a certificate of confirmation issued by a registrar (a much simpler process than a full court confirmation which requires a decision by a judge).

As a protection for shareholders in the absence of a confirmation requirement, a Maori incorporation may grant or vary a forestry right with a term of more than 21 years only by a special resolution authorising the grant or variation. This would involve the calling of a general meeting of shareholders.

Stamp duty on forestry rights: Taxation (Miscellaneous Issues) Bill

In 1994 forestry rights were exempted from the form of stamp duty called lease duty. The Taxation (Miscellaneous Issues) Bill will extend that exemption to conveyance duty. The exemption is so widely drafted that it will apply not only to forestry rights and other profits à prendre but also (arguably) to forestry leases.

John McSoriley

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Timber trade fair

(Continued)

event on March 8, 9 and 10 next year is by Upper Hutt-based firm FirePlans NZ Ltd, which specialises in controlled burning. Tonnes of combustible material will be ignited in simulated forest fire/burn off situations over the three days. Both helicopters and fixed-wing aircraft will then demonstrate their fire-fighting capabilities. The trade fair will culminate with a simulated major logging truck accident in the bush, demonstrating fire-fighting and rescue potential of aircraft.

Show ring events have also been organised with competitions in chainsaw carving, wood chopping, loggers' contests and the ancient art of caber tossing with the world champion from the Braemar Games – who happens to be a New Zealander. Members of the local Orongomai Marae will be demonstrating their carving skills and performing.

The event has received the blessing of the Minister of Forestry from its inception.

“Forestry provides numerous benefits, not the least being increased employment, to regional communities. It is important for communities to realise this, if they have not done so already, so that they may maximise the opportunities the industry provides,” Mr Falloon says.

CONSULTANT RECOGNITION

The following have applied for recognition as specialist forestry consultants in New Zealand and overseas.

Paul Douglas Carruthers
James Campbell Park

Te Kuiti
Rotorua

The following has applied for a review of recognition as a general forestry consultant.

Arnold Bruce Willis

Gisborne

The following has applied for a review of recognition as a specialist forestry consultant.

Alan Charles Bell

Wellington

Under the NZIF constitution any members of the Institute may send objections in writing within 40 days of Journal publication to the Registrar, NZIF Consultants Committee, PO Box 1340, Rotorua.