Forests (Regulation of Log Traders and Forestry Advisors) Amendment Bill

The Forests (Regulation of Log Traders and Forestry Advisors) Amendment Bill (the Bill) passed its third reading in Parliament on 22 July and is now awaiting Royal Assent.

[The Bill amends the Forests Act 1949 (the Act) by adding a new Part 2A and implementing regulations that are to be in line with the purpose of the Bill (Regulations). These new amendments will come into effect on the earlier of a date appointed by the Governor-General (by Order in Council), or the second anniversary of the day on which Royal Assent is received.

The stated purpose of the Bill is to strengthen New Zealand's domestic forestry supply chain and to ensure positive outcomes for climate change. According to the Bill's explanatory note, this is driven by forecasts that smaller forestry owners will provide 40% of New Zealand's annual harvest in the next ten years, which calls for the regulation of the forestry industry to protect those small operators. The Bill also notes that this purpose reflects the need to support New Zealand's economic recovery following the COVID-19 crisis.

As the Bill will result in material changes for New Zealand's forestry industry, we are aware that it has generated a lot of interest (and controversy), with many forestry operators being opposed to the proposed changes.

The Bill introduces the requirement for 'Log Traders' and 'Forestry Advisors' to be registered to operate in the New Zealand market. Log traders are entities who are involved in buying, selling, and processing logs in New Zealand (Log Traders). However, small scale log traders, being those who trade less than 2,000 cubic metres of logs a year, are not required to register. Forestry advisors include those who provide forestry adviser services listed in the Bill (or the Regulations), make reports or inspections relating to one of those forestry adviser services or act on behalf of someone selling or purchasing forest products (Forestry Advisors). There are various exemptions to the requirement to be registered as a Forestry Advisor.

Applications for registration will be assessed by the 'Forestry Authority', which will be administered by the Ministry of Primary Industries.

Log Traders and Forestry Advisors will be required to comply with any conditions of their registration, along with their obligations under the Act (as amended by the Bill) and the Regulations. These obligations include new rules in relation to both trade and forestry practice standards (which are required to be achieved by both Log Traders and Forestry Advisors) and a code of ethics (to Forestry Advisors only).

The specific details of the trade and forestry standards, application fees, registration conditions and general obligations are not currently known (and will be set out in the Regulations in due course)). However, the Bill is clear that any regulations made as to the conditions that can be imposed on Forestry Advisors' registration can only relate to different categories of registration, educational requirements, the advice that can be provided in relation to their registered category and other requirements necessary to ensure the rules are complied with.

Under the Bill, a failure to register, or failure to comply with obligations under the amended Act and/or Regulations, will be an offence for Log Traders and Forestry Advisors. The penalties for such offences will be up to $40,000 for individuals and up to $100,000 for corporates and other entities. The Bill also contains concepts of 'misconduct' and 'unsatisfactory conduct' relating to the behaviour of Forestry Advisors and Log Traders. Any person can make a complaint to the Forestry Authority regarding such behaviour and the Forestry Authority will make a decision on the matter. This can have various implications for entity's

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registration, such as the imposition of conditions, or suspension.

There was initially concern (after the Bill's first reading) that the rules relating to trade and forestry practice standards would dictate the price of logs being traded, and that this could be a breach of international trade obligations. In response to this concern, the Bill now provides that those rules "cannot impose any condition or requirements that is properly a matter for commercial agreement between the parties".

Want to know more**?**

If you have any questions about the Forests (Regulation of Log Traders and Forestry Advisors) Amendment Bill, please contact our specialist Forestry Team.

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