

# **Registration for log traders and Forestry Advisers under the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020**

**Regulatory Impact Statement**

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**March 2022**

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# Regulatory Impact Statement: Registration for log traders and Forestry Advisers under the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020

## Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions.
Advising agencies:	Te Uru Rākau – New Zealand Forest Service, Ministry for Primary Industries
Proposing Ministers:	Hon Stuart Nash (Forestry)
Date finalised:	1 March 2022
Problem Definition	
<p>The Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 (the Amendment Act) inserts a new Part 2A into the Forests Act. It establishes the Forestry Authority and mandatory registration for log traders and forestry advisers.<sup>1</sup></p> <p>Regulations are necessary to implement the system of registration for log traders and forestry advisers which will enable the Amendment Act to achieve its overall aim of strengthening the integrity and resilience of New Zealand’s forestry supply chain. In some instances, powers and functions cannot be exercised or registration operationalised without regulations being in place.</p> <p>The absence of regulations would frustrate the purposes of the Amendment Act, and contribute to the risk of poor quality and inconsistent advice provided to small growers, leading to lower returns and supply chain problems.</p>	
Executive Summary	
<p>The Amendment Act establishes a mandatory registration system for log traders and forestry advisers. The Amendment Act<sup>2</sup> intends to:</p> <ul style="list-style-type: none"><li>• Raise professional standards across the forestry supply chain;</li><li>• Address concerns that there are no industry safeguards on the quality of the advice being given to owners of small woodlots, leaving them potentially vulnerable to not being appropriately informed when making forestry decisions;</li><li>• Support a more open marketplace for the large number of “first-time” forest owners who will be bringing their timber to the market in the 2020s; and</li></ul>	

<sup>1</sup> References to sections of the Amendment Act through this document refer to the section of the Forests Act 1949, as inserted by the Amendment Act when it commences.

<sup>2</sup> The Regulatory Impact Assessment prepared by MPI describes the context and policy problems that led to the enactment of the Amendment Act: Strengthening the Integrity of the Forestry Supply Chain: Regulatory Impact Assessment (RIA) (2020).

- Increase investor confidence in commercial forestry, to support long term investment, and meet the Government's broader objectives for land management and climate change.

In May 2020, Cabinet agreed<sup>3</sup> that MPI should progress the development of regulations to enable the implementation and operation of the registration system for log traders and forestry advisers. Regulations are required to provide direction for the law to be transparent, so that registered people can understand their obligations, and the Forestry Authority is assisted to exercise its functions. In some instances, regulations are required before an aspect of the system can function; for example, without regulations the registration of log traders and forestry advisers will not expire, contrary to what is envisaged by the Amendment Act.

The proposals in this paper cover only those regulations needed to bring into effect the basic registration system when the Amendment Act commences (no later than 6 August 2022). The regulations cover matters such as who should register; the information needed to support the application to be registered; the length of registration; reports that must be provided to the Forestry Authority; the information that will appear on the public register, and the complaints process.

In developing the proposed regulations for the basic registration system, MPI:

- Took into account the factors limiting the scope of feasible options, including:
  - stakeholder engagement for the earlier Regulatory Impact Assessment
  - the provisions of the Amendment Act, and the short-term need to bring registration into effect
  - a consideration of why, and in what way, non-regulatory options would not meet the purpose of the Amendment Act;
- Developed a range of options for the regulations that are needed to implement a basic registration system;
- Analysed the potential impacts of each option, and how it performed against the status quo.

Formal public consultation on preferred options for registration for log traders and forestry advisers was conducted from 26 November 2021 to 17 January 2022. Forty-six submissions were received on the consultation. The majority of submissions supported the proposals for regulations. Many submitters suggested changes to the details of proposals which would provide more specific detail to meet the purposes of the Amendment Act.

The multicriteria analysis contained in this regulatory impact statement (RIS) incorporates stakeholder feedback received through pre-consultation engagement and formal public consultation.

A summarised assessment of monetarised costs and benefits is included in this RIS. The assessment, which identifies a net benefit for the New Zealand economy of up to \$179 million over ten years,<sup>4</sup> relates to the full regulatory system envisaged by the Amendment Act, of which the basic registration system (described in this RIS) is a part. A separate assessment of costs and benefits has not been developed for the basic registration system.

Te Uru Rākau – New Zealand Forest Service, a branded business unit of the Ministry for Primary Industries (MPI), will implement the proposals covered by this RIS. MPI retains the regulatory stewardship role for the registration systems, and, acting as the Forestry Authority, will be responsible for the operation and enforcement of the registration systems.

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<sup>3</sup> CAB-20-MIN-0214 refers.

<sup>4</sup> These costs and benefits were assessed for the Regulatory Impact Assessment for the Amendment Act, <https://www.treasury.govt.nz/sites/default/files/2020-05/ria-mpi-stio-may20.pdf>

The primary risks relating to this proposal are implementation risks. Between August 2022 (when log traders and forestry advisers begin to register) and August 2023 (when operating without registration becomes an offence), there is a risk of poor advice continuing to be provided into the market. Mitigations for this risk will include promotion of registration and using registered advisers and log traders. Longer term, reviews of implementation will be conducted, where decision makers will consider how well the regulations are supporting the registration process; whether the regulations are fit for purpose; that there are no unintended consequences; and whether additional inputs (such as further information for applicants about the regulations) are needed.

The regulations covered by this RIS must be in place when the Amendment Act commences on 6 August 2022. Operation of the Amendment Act, Forestry Authority, and registration systems will be monitored, evaluated, and reviewed as part of the wider forestry system. Assessments of the regime will be conducted by MPI as part of its responsibility for the Forests Act 1949.

The proposed regulations, that are covered by this RIS, are attached at **Appendix 1**.

### Limitations and Constraints on Analysis

#### *Consultation constraint*

The limited period between enactment of the Amendment Act and the time when registration for log traders and forestry advisers will begin, has reduced the time available for seeking feedback and additional information from stakeholders. The public consultation period took place over Christmas and New Year 2021/22 and, although the consultation period was extended to account for this, it is possible that the number of submissions received was affected by people not being available to develop and submit them.

In addition, both government and stakeholder capacity has been under pressure due to COVID-19.

To mitigate these constraints, pre-consultation workshops were held online with stakeholders, in which MPI was able to discuss some of the previous findings and conclusions. The information received during the workshops helped MPI to reconsider some assumptions and refine the options that would be proposed for public consultation.

#### *Review of previous RIA*

The proposals covered by the RIS give effect to policy decisions made when enacting the Amendment Act. The limited period between enactment and implementation of the registration system has meant that MPI has had reduced opportunity to undertake additional analysis to that included in the Regulatory Impact Assessment (RIA) supporting the Amendment Act. As a result, some sections of this Regulatory Impact Statement use material that was previously presented in that RIA, without further analysis.

### Responsible Manager(s) (completed by relevant manager)

*Susan Secker*

*Manager*

*Operational Policy – Forestry and Resource Management*

*Te Uru Rākau – New Zealand Forest Service, Ministry for Primary Industries*

*Susan Secker*

*1 March 2022*

### Quality Assurance (completed by QA panel)

Reviewing Agency: Ministry for Primary Industries

Panel Assessment & Comment:

The MPI Regulatory Impact Analysis Panel (RIAP) has reviewed the Regulatory Impact Statement “*Registration for log traders and Forestry Advisers under the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020*” produced by the Ministry for Primary Industries. The review team considers that the RIA meets the QA criteria.

## Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

### Context behind the policy problem

#### Operationalising new legislation for the forestry and wood processing sector

The Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 (the Amendment Act) commences no later than 6 August 2022. The Amendment Act establishes a Forestry Authority and a regulatory system for log traders and forestry advisers, with mandatory registration and obligations on registered log traders and forestry advisers to ensure that logs grown in New Zealand are bought and sold in a way that is transparent and professional. The Amendment Act provides for regulations to be made that support the implementation and operation of the registration system for log traders and forestry advisers.

Whilst the Amendment Act provides the high-level framework for registration and the Forestry Authority, the purpose of the regulations is to provide the detail to operationalise the registration scheme and enable the purpose of the Amendment Act to be achieved. The Amendment Act's purpose is to:<sup>5</sup>

- a) support the continuous, predictable, and long-term supply of timber, and equity of access to timber, for domestic processing and export; and
- b) support a more transparent and open market for log sales through the provision of professional advice; and
- c) improve the confidence and informed participation of businesses and investors in the forestry and wood-processing sector; and
- d) contribute to improved economic, employment, and environmental outcomes from the forestry and wood-processing sector, nationally and for local communities; and
- e) contribute to improved climate change outcomes from the forestry and wood-processing sector; and
- f) contribute to the development, and improve the long-term sustainability, of the forestry and wood-processing sector.

The following paragraphs summarise the context which led to the enactment of the Amendment Act. The full analysis can be found in MPI's Regulatory Impact Assessment<sup>6</sup> in support of the Amendment Act.

#### A sector in transition

New Zealand's log supply market is in transition, with new and small forest owners providing an increased proportion of the annual harvest. Owners gain experience through repeated sales, but this is unlikely to occur when an owner has a single stand with a multi-decade growth cycle. First time owners can be at a disadvantage when they come to plan and negotiate the sale of their forest - from valuation and marketing through to the steps involved in managing the harvest.

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<sup>5</sup> Amendment Act, s 63A.

<sup>6</sup> Strengthening the Integrity of the Forestry Supply Chain: Regulatory Impact Assessment (RIA) prepared by MPI (2020). The MPI website contains both this RIA and the RIA relating to Legal Harvest Assurance (also referred to in this paper): <https://www.mpi.govt.nz/dmsdocument/49051-Further-policy-decisions-for-the-Forests-Legal-Harvest-Assurance-Amendment-Bill-Cabinet-paper>

## Quality advice underpins an efficient market

In New Zealand, forest owners depend heavily on advice from consultants and other intermediaries in the sales process. These can include the consultants that are contracted by growers to provide valuation, harvest and marketing advice; forest managers who advise on the sales process; council staff that advise on resource consenting requirements; log buyers who work on behalf of processors, and log traders and agents who arrange third party sales.

The quality of the advice that owners receive from these sources is critical to their final return and to the operation of the broader log market. A poor financial or environmental outcome for owners has flow-on effects on market confidence for current and new investors, and for the reputation and public image of the industry (with implications for the social licence to operate), as well as for New Zealand's ability to achieve its long-term land management and climate change objectives. If owners do not receive full value for their harvest, there could be reduced confidence in the sector and lower investment.

### **What is the current status quo, and how is it expected to develop if no action is taken?**

The current status quo is that no regulations are made under the Amendment Act. This means that the Forestry Authority, which is established by the Amendment Act, must achieve its functions without the support of regulations.

The Forestry Authority is the regulator for the purposes of registration. The Forestry Authority is the Secretary, meaning the chief executive of the Ministry for Primary Industries (MPI) or any person to whom a function of the Forestry Authority is delegated.<sup>7</sup>

The functions of the Forestry Authority are to:

- Establish and maintain a registration system for log traders and forestry advisers
- Promote to persons in the forestry supply chain awareness of the registration system for log traders and forestry advisers
- Promote to persons in the forestry supply chain:
  - awareness of the registration system for log traders and forestry advisers, and
  - the benefits of using registered log traders and registered forestry advisers
- Develop, maintain, and promote to registered persons the forestry practice standards
- Develop, maintain, and promote to registered forestry advisers a code of ethics for registered forestry advisers
- Facilitate the education and professional development of registered persons
- Monitor the compliance of registered persons with their obligations including compliance with applicable forestry industry agreements
- Establish a process for resolving complaints and disputes relating to registered persons
- Establish and maintain public registers of registered persons.

The Amendment Act enables some of the functions of the Forestry Authority, but these will be cumbersome to operationalise without regulations. For example, the Amendment Act says that the Forestry Authority must be satisfied a person is fit and proper to be registered, taking into account the matters set out in regulations and any other matters that the Authority considers relevant. Under the status quo (that is, without a regulation that identifies and clarifies the matters to be taken into account), this assessment would be particular (bespoke) for each application, which could bring inconsistencies in the assessment of each applicant's suitability for registration.

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<sup>7</sup> Amendment Act, s 63B.



Regulations are also needed for certain functions of the registration system to be given effect. These include a period of registration (without regulations, registration would be indefinite, and there would be no checks to see whether the criteria for registration continue to be met); to establish entitlement criteria for the qualifications a forestry adviser might need; to set requirements for record keeping by registered persons, and to establish and operate complaints and disputes processes.

The proposals in this paper cover only those regulations needed to bring into effect the basic registration system when the Amendment Act commences (no later than 6 August 2022).

The regulations (listed in **Appendix 1**) cover matters such as who should register; the information needed to support the application to be registered; the length of registration; reports that must be provided to the Forestry Authority; the information that will appear on the public register, and the complaints process.

The status quo, which is to have no regulations, would frustrate the purpose of the Amendment Act and undermine the value of the registration system. This would fail to establish the obligations on registered log traders and forestry advisers, as envisaged by the Amendment Act, and would limit the recourse of registered people to complaints and disputes processes that provide additional protection for new and small forest owners.

### What may happen if the status quo continues

Without regulations to operationalise the registration system, the Forestry Authority could not fulfil its functions. This would reduce industry support for the new regulatory regime and undermine achievement of the aims and purpose of the Amendment Act. If the Forestry Authority is unable to perform its functions effectively or efficiently without regulations, industry and public may lose confidence in the regulatory system.

The multicriteria analysis carried out as part of this RIS (**Appendix 3**<sup>8</sup>) assesses where specific regulations would be preferable to the status quo, for example because they would better support the purpose of the Amendment Act, or because they would ease the financial, administrative and/or legal burden on registered persons and the Forestry Authority.

Clear and understandable obligations support compliance. If regulations are not made to provide clarity on matters such as who must register, how to register, and the obligations of registered persons, some log traders and forestry advisers may become inadvertently in breach of the Amendment Act. A lack of clarity could lead to frustration and breaches in the requirements of the Amendment Act. This could have negative consequences, for example:

- The purpose of the public register, as intended by the Amendment Act, is to enable members of the public to know whether a person is a registered log trader or forestry adviser and, if so, how to contact the person. If log traders and forestry advisers do not engage with the Forestry Authority, the purpose would be undermined, as they would not appear on the public register or their entries on the register would be inaccurate.
- There would be a lack of transparency, as the Forestry Authority would not have a clear picture of log traders and forestry advisers who are operating in the market, and the quality of services they provide. This would have a particular impact on new and small forest owners who often lack the experience, networks and resources to source log traders and forestry advisers who are appropriate for their needs.

Ultimately, without regulations, the purpose of the Amendment Act would not be achieved. The forestry and wood processing sector could be vulnerable to market inefficiencies, and individual operators would carry a higher risk of acting on poor advice. These negative impacts would be especially damaging in the current situation, where the sector is in transition and trading conditions are subject to considerable fluctuation. The uncertainty and

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<sup>8</sup> Note that the multicriteria analysis, Appendix 3, was finalised after the analysis of submissions (the response to submissions is described in Appendix 2).

confusion caused by the absence of regulations risks log traders and forestry advisers exiting the sector; this would reduce market competition and lead to growers having reduced access to the services and advice that they need.

### Key features of the regulatory system(s) already in place in this area

The activities of log traders and forestry advisers are currently governed by the general law, for example the law applying to contracts, negligence, and real estate.

Log buyers, traders and other forestry practitioners have not been covered by a professional regulatory system (apart from those operating under the Real Estate Agents (Exemptions) Regulations 2017). However, their conduct in managing forestry operations, and their charging for services, has come under a series of legislation, ranging from the Resource Management Act 1991 through to consumer protection legislation. Growers also have the ability to seek legal redress, in the event of a breach in contract provisions, through dispute resolution, arbitration or the court system.

The Amendment Act will be the first regulatory system in New Zealand that is designed specifically for the regulation of log traders and forestry advisers (as defined by the Amendment Act). The Amendment Act supplements these general laws to provide forestry specific controls that respond to changes in the forestry and wood processing sector.

When the Amendment Act comes into effect, some of the activities of log traders and forestry advisers will continue to be governed by forestry specific rules, in particular the National Environmental Standards for Plantation Forestry,<sup>9</sup> the Forests Act 1949 for indigenous timber, and the Climate Change Response Act 2002 for the Emissions Trading Scheme. The regulation of log traders and forestry advisers, under the Amendment Act, will support these regulatory systems.

### Non-regulatory systems in place

Forestry practitioners can be members of, or engage with, a variety of voluntary, non-regulatory schemes and participatory bodies. Involvement in these schemes does not remove the obligation for forestry advisers or log traders to register under the Amendment Act.

The New Zealand Institute of Forestry (NZIF), an industry body, administers a voluntary registration system for forestry professionals. NZIF has approximately 90 registered members who are involved in forest management and harvesting, the valuation of crops, or the sale and purchase of cutting rights. Members may seek to become registered and carry the title “Registered Forester” or “Registered Forestry Consultant”.<sup>10</sup> The purpose of becoming a registered member is to provide a means for individual members to be recognised by their peers and others for attaining and maintaining:<sup>11</sup>

- Appropriate qualifications and understanding of the principles of forestry processes
- continuing development of professional skills, abilities and knowledge
- high standards of professional conduct.

To become registered, applicants are required to have passed a formal course in some branch of forestry or allied discipline and have completed at least five years’ experience in forestry since graduation or certification, of which at least two must have been in New Zealand. Applicants must display an understanding of the basic principles underlying the forestry process relevant to the applicant’s area of qualification and expertise, have

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<sup>9</sup> Formally the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, these regulations are an instrument of national direction under the Resource Management Act 1991.

<sup>10</sup> “NZIF Registered Forester” and “Registered Forestry Consultant” are registered trademarks of the NZIF.

<sup>11</sup> Rules of New Zealand Institute of Forestry (NZIF) Te Pūtahi Ngāherehere o Aotearoa Incorporated, 2019, Rule 128.

undertaken continuing professional development (CPD) to a particular standard, and must affirm an intention to abide by the NZIF Code of Ethics.

Forestry and wood processing industry bodies administer private membership schemes. These include the Forest Owners Association, Farm Forestry New Zealand, and the Forest Industry Contractors Association. Membership of these organisations is voluntary, and the behaviour of members is governed by the organisations themselves.

Forestry professionals can also access health and safety information and certification through the partnerships operated by the Forestry Industry Safety Council, the New Zealand Safety Council, and Safetree.

## **Previous government decisions, Legislation, Regulatory Impact Statements relevant to the problem**

On 25 September 2019, Cabinet directed the Ministry for Primary Industries (MPI) to confirm the case and requirements for introducing compulsory professional registration for log buyers (and options to consider wider forestry advisers) and develop a national definition for wood legality [ENV-19-MIN-0052]. A regulatory impact analysis (RIA) accompanied the Cabinet Paper seeking policy approval to draft the Bill to introduce compulsory professional registration<sup>12</sup>.

In May 2020, Cabinet agreed that regulations were required to enable the establishment and operation of the regulatory system, including the registration system. Cabinet also agreed to direct MPI to develop the enabling regulations and associated rules in consultation with industry stakeholders [CAB-20-MIN-0214].

A proposed Legal Harvest Assurance Bill, developed as a complimentary workstream too registration, proposes additional amendments to the Forests Act 1949. The Bill anticipates a legislative framework (the legal harvest assurance system) that provides for a national definition of wood legality and measures to eliminate or mitigate the risk of unregulated parties dealing with timber, or timber products sourced from illegally harvested timber.

## **Other ongoing government work programmes with interdependencies and linkages to this area**

Registration for log traders and forestry advisers is part of the wider forestry regulatory system. The forestry regulatory system includes forest specific rules and regulations, as well as wider climate, resource management, and land use controls.

Resource management reform, climate initiatives like the Emissions Reduction Plan<sup>13</sup>, and the *Fit for a Better World* roadmap<sup>14</sup> for primary industries, all contribute to the context in which log traders and forestry advisers will be regulated. People currently operating as log traders and forestry advisers (prior to registration commencing) are required to abide by the obligations of these systems. These obligations will continue for registered log traders and forestry advisers following commencement.

MPI is also developing proposals for a legal harvest assurance system that will affect log traders and forestry advisers. International trading partners are increasingly asking New Zealand to mitigate the risk of dealing with timber or timber products sourced from illegally

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<sup>12</sup> The Disclosure Statement and the RIA are published on the MPI webpage on the proposed registration system at [www.mpi.govt.nz/forestryregistration](http://www.mpi.govt.nz/forestryregistration). The Cabinet Minute (11 May 2020) agreeing to introduce the Bill that became the Amendment Act is also publicly available at [direct\(mpi.govt.nz\)](https://direct.mpi.govt.nz).

<sup>13</sup> [Emissions Reduction Plan | NZ Government\(mpi.govt.nz\)](https://www.mpi.govt.nz/emissions-reduction-plan)

<sup>14</sup> [Primary sector roadmap to boost export earnings | NZ Government\(mpi.govt.nz\)](https://www.mpi.govt.nz/primary-sector-roadmap)

harvested timber. The proposed legal harvest assurance system<sup>15</sup> seeks to address this and maintain New Zealand's competitive market access. It will also reduce the risk of illegally sourced timber being imported into New Zealand.

### Why the status quo outcomes are problematic

Regulations are required to give clarity to the registration systems for log traders and forestry advisers, and to implement the powers and functions of the Forestry Authority, established in the Amendment Act. Without this clarity, the Forestry Authority would find it difficult to establish an effective and efficient registration system for log traders and forestry advisers, and the purpose of the Amendment Act might not be achieved. In some instances, powers and functions cannot be exercised or registration operationalised without regulations being in place.

Some examples of the main implications of the status quo are:

- Registered people would not have to keep records or report to the Forestry Authority, making it difficult for the Forestry Authority to know whether they are complying with their obligations
- public registers would contain few details about registered people, undermining the purpose of the registers which is to provide transparency about registered log traders and forestry advisers for people who are seeking their services or advice
- the scope and definition of obligations would be unclear and may make it impossible for people to comply with their obligations. For example, the Amendment Act states that registration shall expire unless renewed (s 63R), but the period of registration and renewal process must be set in regulations
- access to justice could be limited as a process could not be established for resolving complaints relating to registered people, or for resolving disputes about commercial matters.

Overall, without regulations, the purpose of the Amendment Act would not be achieved. The forestry and wood processing sector could be vulnerable to market inefficiencies and individual operators would carry a higher risk of acting on poor advice. These negative impacts would be especially damaging in the current situation, where the sector is in transition and trading conditions are subject to considerable fluctuation.<sup>16</sup>

### The policy problem / opportunity

The Amendment Act inserts a new Part 2A into the Forests Act. It establishes the Forestry Authority and mandatory registration for log traders and forestry advisers.<sup>17</sup>

Regulations are necessary to implement a system of registration for log traders and forestry advisers which will enable the Amendment Act to achieve its overall aim of strengthening the integrity and resilience of New Zealand's forestry supply chain. In some instances, powers and functions cannot be exercised or registration operationalised without regulations being in place.

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<sup>15</sup> [Proposed legislation for a legal harvest assurance system for forestry | NZ Government \(mpi.govt.nz\)](#)

<sup>16</sup> The following sources provided material for this section:  
[Strengthening the Integrity of the Forestry Supply Chain - Regulatory Impact Assessment - 2020.docx \(cohesion.net.nz\)](#)  
[Professional Registration Operating Model.docx \(cohesion.net.nz\)](#)

<sup>17</sup> References to sections of the Amendment Act through this document refer to the section of the Forests Act 1949, as inserted by the Amendment Act when it commences.

The absence of regulations would frustrate the purposes of the Amendment Act, and contribute to the risk of poor quality and inconsistent advice provided to small growers, leading to lower returns and supply chain problems.

### **Nature, scope and scale of the problem: principal stakeholders, the nature of their interest, and how they are affected by the status quo**

The stakeholders are people operating in the forestry and wood processing sector. They include new and small forest owners, log sellers, buyers, exporters, and their agents, recipients of forestry advice, and people providing forestry advice. Other stakeholders include timber processors and local communities.

This section is informed by the regulatory impact assessment prepared to support the Amendment Act<sup>18</sup> and feedback from pre-consultation workshops and public consultation.

#### **New and small forest owners**

New and small forest owners need to be assured of consistent, high quality advice on forest management, harvest, bringing timber to market, and how to ensure environmental and operational performance improvement over time. They also need protection from exploitation. The registration of forestry advisers and log traders should provide an increased level of professional certainty, as owners will know who is operating in the market and whether they have met the obligations for registered people.

However, without the clarity provided by regulations, the Forestry Authority would find it difficult to implement and enforce the provisions of the Amendment Act. This would cause issues of equity, as the lack of assurance of consistent, high quality advice would be most likely to affect new and small forest owners who tend to lack the resources of larger owners.

Two examples are given below:

- Under the status quo, there would be no limit to the period of registration. This means that, if a person has been registered for some time, new and small forest owners will have no certainty that log traders or forestry advisers are still entitled to be registered or are complying with the conditions of registration, or that the public register contains up to date information about registered people. New and small forest owners will need to use their own resources to check that registered people can provide advice that is appropriate for them.
- Under the status quo, registered people do not have to provide information to the Forestry Authority unless individually requested to do so, by notice. Issuing and distributing notices to each registered person would be cumbersome and resource intensive, making it unlikely that the Forestry Authority will discover practices that fall below the expected standard, including non-compliant behaviour, and that these practices will be identified and corrected. This will undermine the integrity of the system and not provide the protections to forest owners, and specifically to small and new forest owners, as envisaged by the Amendment Act.

#### **Log traders and forestry advisers**

Under the status quo, the public registers for log traders and forestry advisers may show only a limited amount of information - name and contact details; the date on which they became

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<sup>18</sup> This section draws in particular on the Regulatory Impact Assessment prepared by MPI to support progression of the development of new legislation to strengthen the integrity of the forestry supply chain through licensing and registration: *Strengthening the Integrity of the Forestry Supply Chain*, MPI, 2020

registered; when registration will expire,<sup>19</sup> and (for forestry advisers) the services they are authorised to provide. Any further information shown in the public registers – such as the geographic area of operation, or the qualifications and experience of the registered person - must be specified in regulations. Some possible impacts are described below.

- The public register would not provide transparency and (if it shows inconsistent information for registered people) may cause confusion about who is operating as a log trader or forestry adviser.
- Having limited information in the public register would not strengthen the public and professional reputation of forestry practitioners, as information about (for example) their experience, skills, or geographic area of operation would be lacking.
- Although log traders and forestry advisers could voluntarily provide some additional information, such as links to their web sites as part of their contact details, this would not ensure consistency of information in the public registers, and would not ensure that potential clients could find the log trader or forestry adviser who is most suitable for their needs. If potential clients need to search beyond the register to find an appropriate log trader or forestry adviser, this could cause equity issues:
  - Small and new forest owners may lack the resources to undertake the search and may instead use word of mouth recommendations. As a result, they may engage people who are unsuitable/unqualified for their needs, and they may receive advice that is not beneficial for their business. This could affect the professional reputation of log traders and forestry advisers
  - Word of mouth recommendations could narrow the range of practitioners that these stakeholders consider, making it difficult for new log traders and forestry advisers to enter the market.

### **Forest owners, timber processors, and exporters**

Under the status quo, registered people would not be required to report regularly to the Forestry Authority, and instead the Forestry Authority would need to issue individual registered people with a notice that requests them to provide the relevant information. This onerous method of receiving information means that the Forestry Authority could find it difficult and resource-intensive to know whether registered log traders and forestry advisers are complying with their obligations. Without this information, transparency about the activities of log traders and forestry advisers would not increase. Owners, processors and exporters would not have the information they need (such as whether registered people are complying with their obligations, and the pipeline of supply) to plan better for the future, engage constructively, and build longer term relationships across the sector.

### **What are stakeholders' views of the problem? How have we consulted with them, and have their views changed MPI's understanding of the problem?**

#### *Reports and workshops*

MPI's Regulatory Impact Statement *Strengthening the Integrity of the Forestry Supply Chain* (2020) describes findings about the level and extent of support for the registration of log traders and forestry advisers. These were informed by:

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<sup>19</sup> Note, sections 63ZN and 63ZO require the register of log traders and forestry advisers respectively to include the date on which the registration expires, however, there will be no expiration date without regulations to set the registration period.

- Reports commissioned from Forme Consulting Group and Scion in early 2019 which observed the problems experienced by small forest owners and the support, by all parties, for the idea of registration as a way of bringing 'greater transparency to the sales process and introduce fairer trading' (Scion, 2019: 38)
- Regional workshops and targeted industry discussions (during 2019/2020), which provided qualitative evidence of situations where poor advice had been given by under-qualified practitioners, or the returns from harvesting did not reflect the nature of the property.

#### *Select Committee submissions and recommendations*

At its meeting on 4 June 2020, the Environment Committee considered the revised draft Bill and a range of additional issues raised by the Committee<sup>20</sup>, and made a number of recommendations. These included that MPI should consider clarification of the volume threshold for log traders; clarification of the scope of practice for those with parallel registration; raising the threshold for suspension; having explicit mention in the Amendment Act of the application of rules of natural justice by the Forestry Authority when making decisions about registered parties; and the level of information that might be contained in public registers.

#### *Pre-consultation workshops*

In late 2021, before the public consultation opened on the proposed regulations, pre-consultation workshops were held with log traders, forestry advisers, and Māori with an interest in forestry. The workshops aimed to assist Te Uru Rākau – New Zealand Forest Service to prepare for public consultation on the regulations and to test the assumptions that were made when developing the options for the proposals. Attendees gave feedback on:

- The *implications* of the regulations, including what might happen to a business if it was removed from the public register for any reason; whether allowing the Forestry Authority to receive reports from registered persons could result in reports being shared with other government agencies; and whether the 2000m<sup>3</sup> threshold would mean that smaller log traders could not be regulated.
- the *detail* of the proposals for regulations, including the scope of registration entitlement (for example, whether offshore forest owners who export logs should be registered), and whether the 'fit and proper' test should allow other registered persons or forest owners to give an opinion on whether someone is suitable to be registered.

Following the workshops, MPI considered the feedback and made several changes to the options for regulations.

#### *Hui with Māori with an interest in forestry during the consultation period*

The aim of the hui was to provide any further information that might be required before these making a submission on the proposals. Comments made during the hui included:

- Some operators (log traders and forestry advisers) have conflicts of interest and may provide a poor service
- incompetent or dishonest advisers would be likely to affect Māori more than other groups as they represent an increasing proportion of first-time harvesters with limited experience of the industry
- currently there is no clear way for forest owners to have recourse to justice if they find themselves disadvantaged
- a disincentive such as de-registration should be available to stop incompetent or dishonest people from providing log trading or forestry advice services to Māori forest owners

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<sup>20</sup> Forests (Regulation of Log Traders & Forestry Advisers) Amendment Bill: Second Supplementary Report to the Environment Committee

- Māori forest owners need to know where they can find relevant, trustworthy advice that is appropriate to their needs and aspirations.

### *Public consultation*

MPI received 46 submissions during the public consultation (26 November 2021 to 17 January 2022) on the proposals for regulations for registration of log traders and forestry advisers.

Nineteen submitters commented on proposals for log traders. Where a preferred option was proposed, all except one proposal received majority support. With the exception of proposed reporting requirements which received 33 percent support, preferred options for log traders received between 61 and 100 percent support. For questions where a preferred option was not proposed, submitters provided feedback on options.

Twenty-six submitters commented on proposals for forestry advisers. The majority of submitters agreed with the preferred options for exemptions from registration, information requirements for applications to register or renew registration, obligations once registered, information on the public register, and complaints and dispute processes. Support for these proposals ranged from 55 to 91 percent of respondents to these questions.

Submitters on the entitlement criteria for registration as a forestry adviser were more evenly balanced. Submitters favoured a mix of experience and education being required to register as a forestry adviser. Half of submitters who commented on the entitlement to register as a forestry adviser did not support registration of individuals.

### *Comments from Māori stakeholders on the public consultation*

Comments from submitters who identified themselves as representing Māori interests are summarised below:

- There is a need for transparency about who is trading in logs or providing forestry advice
- registration should create a disincentive for poor practice
- people who process logs they have grown themselves should not have to register, as the cost of compliance creates an additional barrier to domestic processing opportunities, especially in the processing of more speciality timbers
- The 2000m<sup>3</sup> volume threshold for registration as a log trader represents the current market, but is unlikely to represent a commercial volume for trade in the future
- The proposed information to be reported to the Forestry Authority strikes a balance between providing detail and commercial sensitivity
- For registration to be effective, Māori landowners must be empowered with knowledge to select the right adviser for their needs. One way to achieve this would be to add an optional information requirement to the register, for log traders and forestry advisers to list their iwi and/or hapū affiliations
- Rongoa should not be regulated as forestry advice, and some mātauranga should also not be considered.

**Appendix 2** summarises comments made by submitters. It also describes the changes made by MPI to the proposed regulations, following the multicriteria analysis.

### **What objectives are sought in relation to the policy problem?**

*The objectives sought in relation to the policy problem, the establishment of regulations for registration for log traders and forestry advisers, are identical to those for the Amendment Act. The objectives are to:*



- i. Raise professional standards across the supply chain
- ii. Address concerns that there are no industry safeguards on the quality of the advice being given to smaller owners - leaving them vulnerable to exploitation
- iii. Support a more open marketplace for the large number of 'first-time' forest owners who will be bringing their timber to the market in the 2020s, and
- iv. Increase investor confidence in commercial forestry, to support long term investment, and meet the Government's broader objectives for land management and climate change.

These initiatives are intended to future proof the log supply chain (particularly for first time entrants to the market), provide greater transparency in the system, and improve line of sight between forest owners, wood processors and exporters.

#### *The outcomes sought*

Ensuring that log buying companies and trading entities meet established industry standards, and that forestry practitioners are operating in their specialist areas, with on-going training, will result in the following outcomes:

- Greater transparency in the market, encouraging greater communication between owners, processors and exporters
- Improved grower confidence in the integrity of the log supply market, and the quality of the advice from forestry advisers and intermediaries in the market
- Greater investor certainty in current and future investment, and increased confidence to undertake new forestry planting and replanting
- Improved environmental performance including attention to sustainable land use, biodiversity protection and ecosystem practices
- Strengthening the sector's social licence to operate (with practitioners working to best practice standards, and being able to demonstrate how practices are responding to societal expectations), and
- Supporting less experienced and new growers (including iwi), to ensure that owners have a greater appreciation of the value, composition and opportunities for their crop.

#### *The targets sought*

- From 6 August 2022, a basic registration system will be available for log traders and forestry advisers, supported by regulations that enable the Forestry Authority to operate the registration system effectively
- From August 2022, development of forestry practice standards and ongoing professional and technical training (for forestry advisers) to continue to improve the practice of the sector.

## **Section 2: Deciding upon an option to address the policy problem**

### **Factors that limited the scope of options**

In developing options, the scope of feasible options was limited by the following factors.

Note that options that did not include regulations were not considered feasible because of the reasons set out in the sections above.

#### **(i) Earlier stakeholder engagement**

The earlier 2020 Regulatory Impact Assessment (RIA)<sup>21</sup> considered the establishment of the legislative framework for the registration systems, which included that regulations would be required. Targeted engagement was undertaken on the proposal to introduce compulsory professional registration. This engagement was supported by proposals for a wide range of regulatory and non-regulatory options, along with their risks, benefits, and costs. During engagement, both the regulatory and non-regulatory options were discussed in workshops. The Amendment Act then offered an opportunity for public comment through the Select Committee process.

**(ii) The scope of feasible options is limited by the Amendment Act and the short-term need to bring registration into effect**

The Amendment Act not only requires log traders and forestry advisers to register if they meet certain criteria, but also to meet obligations set out in the Amendment Act, regulations, and rules. The full range of regulations will cover matters such as the entitlement to register, general conditions of registration, fees and charges, and processes for complaints and disputes.

Developing a full and comprehensive registration system, complete with rules and practice standards, will take several years. These initial proposals are the regulations needed in the short term to bring registration into effect.

The relevant regulations are mentioned in Subpart 3 of the Amendment Act. They include who must register; the criteria for entitlement to be registered (such as the qualifications required); the details that will appear on the public register, the obligations of registered persons, and processes for complaints and disputes.

*Pricing and commercial arrangements* are out of scope. The Amendment Act and the regulations are not intended to interfere with any pricing or any commercial arrangements that may be relevant to log trading. The Amendment Act specifically prohibits rules from imposing any condition or requirement that is properly a matter for commercial agreement between parties.

*Registration fees, charges, and levies* are also out of scope. These will be consulted on after the basic design requirements have been finalised.

**(iii) Non-regulatory options will not meet the purpose of the Amendment Act**

While non-regulatory options could assist in clarifying some aspects of the Forestry Authority's functions, establishing functioning registration systems under the Amendment Act requires regulations. Aspects of the registration systems can only be brought into effect through regulations – such as the length of registration and the information required for renewing a registration.

**(iv) Relevant experience from New Zealand and other countries**

To understand better what the 'fit and proper person' test might look like, including the evidence that applicants could provide in support of their application for registration, MPI looked at similar tests in New Zealand and considered relevant research on the experience of using such tests in the United Kingdom and Australia<sup>22</sup>. The findings, which influenced the options that were chosen, included the importance of establishing a tight relationship between the types of prior misconduct that the test examines, and the behaviour required of professional log traders or forestry advisers, and the limited value of personal references

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<sup>21</sup> [Strengthening the Integrity of the Forestry Supply Chain - Regulatory Impact Assessment - 2020.docx \(cohesion.net.nz\)](#)

<sup>22</sup> Some of the research was undertaken by the Australian and UK governments, for example '[Fit and Proper Person' Test \(psc.gov.au\)](#)'; [A review of the fit and proper person test \(publishing.service.gov.uk\)](#)

(which can be difficult to substantiate, or provide little detail, especially if full disclosure is inhibited by confidentiality and settlement agreements).

## Criteria used to compare options to the status quo

The process followed by MPI, to compare options to the status quo, is described below.

### *Options and impacts: how the options performed against the status quo*

Each option was analysed for how well it might support delivery of the objectives sought in relation to the policy problem, as compared with the status quo, and considered the potential distributional impacts. This analysis supported the further refinement of options.

### *Determining the MPI preferred options and final proposals*

MPI performed a multicriteria analysis to determine which options would be 'preferred' by MPI. The criteria were:

- **Contributes to the purpose of the Amendment Act.** This indicates how well the option performed against the objectives of the Amendment Act.
- **Transparency.** Options were assessed for how well they would support greater transparency for log traders and forestry advisers, their clients, consumers, and other people operating across and with an interest in the forestry supply chain.
- **Minimal complexity and administrative cost.** Implementation of an option should be as straightforward as possible, so that administration and transaction costs for registered parties, the regulator, and the Forestry Authority are minimised.

In the multicriteria analysis, the extent to which options met each of the criteria is indicated as follows:

Symbol	Meaning
✓ ✓	exceeds the criterion
✓	meets the criterion
—	status quo/neutral impact
✗	does not meet the criterion by a narrow margin
✗ ✗	does not meet the criterion by a significant margin
Preferred option	this option is preferred by Te Uru Rākau – New Zealand Forest Service (note, not all matters have a preferred option)

## Weighting

Initially, all criteria were weighted equally. If two or more options received the same score, the following weightings were applied:

Contributes to the purpose of the Amendment Act is considered the most important of the three criteria, as the overall objective of the regulations is to support achievement of the purpose of the primary legislation.

Transparency is considered the second most important. It is critical to achieving the objectives of the Amendment Act. Without transparency, the Forestry Authority will not know the status of professional standards across the supply chain, and what is needed to raise them, nor will it be aware of what is happening in the marketplace for timber and how to support 'first time' forest owners. Transparency also supports the law being easy to access and understand a person's obligations.

Minimal complexity and administrative cost is considered to be the third most important of the criteria. It enables regulations to operate sustainably and without burdensome requirements or expenditure of resources, whether for the Forestry Authority or for the person who is registered.

Options that performed best against the criteria were presented as MPI 'preferred' options for public consultation. Further refinements were made to the analysis after consideration of the submissions received during public consultation. In some cases, the MPI 'preferred' option was refined or changed.

The table attached at **Appendix 3** shows:

- the multicriteria analysis of options for regulations
- the final proposals for regulations.

### What are the marginal costs and benefits of the proposed options?

Proposals covered by this Regulatory Impact Statement give effect to the registration systems established in the Amendment Act. Additional cost benefit analysis for these proposals, beyond those carried out for establishing the system, have not been carried out.

The costs and benefits stated below replicate the information included in the Regulatory Impact Assessment for the Amendment Act.<sup>23</sup> Note that the proposals do not include cost recovery for registration. A cost recovery impact statement will be completed for future cost recovery proposals.

The nature, and scale, of the costs and benefits of this proposal have been assessed by Dr Robert Radics, forest economist with MPI. The analysis indicates that registration and licensing have significant benefits for forest owners through improved decision making on crop management (during the rotation) and in the operational management of the harvest, which will minimise site costs, improve environmental performance, and ensure that the grade outcome is maximised. The annual benefit to forest growers was calculated to be \$20 million (all of which represents increased returns to New Zealand), and the Net Present Value (NPV) over five years for forest growers is \$73 million.

Other stakeholder groups, despite registration and licensing costs, all have a net benefit. The annual net benefit to New Zealand was calculated at \$23 million. This figure is an average over time, and it does not incorporate the upfront costs of investment in the new system, nor the expected increase in benefits over time.

The total NPV for the New Zealand economy is \$103 million in five years and \$179 million in ten years. The assessment is based on the Treasury Cost Benefit Analysis guidelines and applied a 6% real discount rate.

The following table shows the costs and benefits of the preferred option for affected groups. Note that the 'preferred option' is the set of proposed regulations (**Appendix 1**), which was determined following the public consultation (the response to submissions is described in **Appendix 2**) and the multicriteria analysis (**Appendix 3**).

Additional information on risks has been included in this table in [blue text](#). This is to clearly differentiate information provided in the initial impact statement, and further information specific to the regulations this impact statement applies to.

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<sup>23</sup> <https://www.treasury.govt.nz/sites/default/files/2020-05/ria-mpi-stio-may20.pdf>

## Costs and Benefits of the Preferred Option for Affected Groups

<b>Affected groups</b> <i>(identify)</i>	<b>Comment</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Small Forest Owners	<p>Forest practitioner (and company) charging rates will incorporate licensing, registration, bond and training costs. The costs for those already using registered practitioners should only increase marginally. The, existing registered members will keep price pressure on rates.</p> <p><i>This assumes full compliance with registration requirements, and that small forest owners will only engage registered forest advisers and log traders. There is a risk that small forest owners will not receive the benefits of registration if they have pre-existing contracts for service, or are unaware of the benefits of using registered persons.</i></p>	<p>Initial estimates show a marginal increase in costs, as forest practitioners, logging companies and trading entities interact with a large client base. The charging by practitioners will also be spread across all the services they provide. The national cost is estimated at \$3.66 million p.a. The calculation assumes a 100% cost-shifting of fees, bond holding charges and training costs.</p>	Medium
<p>Log buying companies and trading entities, including wood processors and log exporters</p> <p>(Note: these costs include individual practitioner costs, as the companies</p>	<p>Forest practitioners (directly, or through their employer) will have the cost of registration (other than those who are already registered). Practitioners will also have the upfront, and opportunity cost, of attending 20 hours of professional development training each year (although a sizeable number of</p>	<p>The cost of practitioner registration and training, plus the bond and annual licensing fee for log buying companies and trading entities is put at \$3.66 million p.a. This cost will be passed to forest growers through consultancy fees, commission rates, or the pricing of logs.</p>	Medium

<p>employ registered practitioners – directly or indirectly)</p>	<p>non-registered members attend CPD training).</p> <p>Log buying companies and trading entities will have an annual licensing fee (estimated at \$1 000 per entity), plus the payment of a bond, based upon log purchasing levels. For an estimated 300 mills, wood processors, log buying and trading companies, the bond is expected to average \$20 000, and total \$6 million. The holding cost of the \$6 million for the companies has been calculated using a 6% cost of capital.</p> <p>There is a risk that fees for registration may result in low registration or log traders exiting the market.</p> <p>This assumes that ongoing obligations for registered log traders can be absorbed into their business as usual (e.g. administrative time and cost). It also assumes that adherence to future forestry practice standards will not create an additional costs, and any business practice changes will be cost neutral or provide a benefit.</p>		
<p>Regulators</p>	<p>The registration board will incur baseline annual costs, covering the administration of the scheme, professional training, auditing, license renewals, promotion and fixed costs associated with the compliance system. The board will also incur transitional costs with moving to a permanent registration scheme, (covering 600 to</p>	<p>The annual cost of operating the registration system is estimated at \$500 000 per annum. The final costs will be dependent upon the operating model that is decided on.</p>	<p>Low – Medium</p>

	<p>900 forestry practitioners and 300 mills and other log buying entities). The Registrar will need to undertake promotion of the scheme.</p> <p>Assumptions about the rate of registration may effect the effectiveness and efficiency of the scheme.</p> <p>There is a risk with future potential delegation of functions of the Forestry Authority that functions and powers will be established, and then require further development to be transferred to a delegate.</p>		
	<p>Performance monitoring and auditing of the system, along with five yearly reviews. There will also be transitional costs associated with introducing the regulatory framework for compulsory registration.</p> <p>This assumes that the system will be reviewed as part of MPI's regulatory stewardship role.</p> <p>There is a risk that changes to registration will be made by future legislative change, e.g. the proposed legal harvest assurance system.</p>	\$50 000 annually	Medium
<b>Total monetised costs</b>		\$4.1 million	Medium
<b>Non-monetised costs</b>		Low	
<b>Additional benefits of the preferred option compared to taking no action</b>			

<p>Small Forest Owners</p>	<p>Growers will benefit through improved certainty in the quality (and consistency) of the advice being provided by forest practitioners.</p> <ul style="list-style-type: none"> <li>• Practitioner advice will reflect industry best standards and developments within the profession.</li> <li>• Improved decision making on crop management (during the rotation) and in the operational management of the harvest, will minimise site costs, improve environmental performance, and ensure that the grade outcome is maximised.</li> </ul> <p>Growers will have a better appreciation of their costs and market opportunities. A sensitivity analysis was undertaken, based on the proportion of growers who are most likely to benefit from the change (40% of growers by volume are expected to benefit in a monetary sense).</p>	<p>The monetarised benefit was based on 40% of small growers (by volume), benefiting from improved management and sales advice (\$5/m<sup>3</sup> of additional value on 40% of an estimated 10 million m<sup>3</sup> harvest) is calculated to generate \$20 million per annum.</p> <p>Additional benefits were not monetarised (improved environmental performance and investment certainty), but they could improve the value of forest assets by 5 to 10%.</p>	<p>Medium</p>
<p>Log buying companies and trading entities, including wood processors and log exporters</p> <p>(Note: these benefits include individual practitioner costs, as the companies employ registered practitioners –directly or indirectly)</p>	<p><i>Practitioners</i> –</p> <p>The benefit is primarily from practitioners having an improved reputation (with being registered), and increased demand for their services. Unfair competition from unregistered and potentially unprofessional providers would be eliminated. Provides clients with an assurance that their advice is</p>	<p>A forest practitioner benefit of \$10,000 annually, per person was calculated. The benefit of greater integration within the forestry supply chain, and mills being able to access increased supply and higher grade logs is conservatively estimated at \$3 million per annum.</p> <p>The total annual benefit is calculated to be \$9.66 million.</p>	<p>Medium</p>



	<p>audited by a professional body. Builds the profession's social licence to operate.</p> <p>Companies/Trading Entities - Greater integration of the forestry supply chain between growers, processors and exporters. Increased opportunities for processors to engage with growers, and build longer term relationships.</p> <ul style="list-style-type: none"> <li>• With greater integration between growers and processors, it is anticipated that mills will have more access to the log grades they are seeking, and are able to more fully utilise their capacity, through additional supply.</li> </ul>		
Regulators	<p>The registration board will play a more central role in the promotion of the industry, and in supporting the social licence to operate of the forestry supply chain. The board will receive a direct benefit through the annual fees and the management of the disputes and compliance system.</p>	<p>The benefit has been calculated at \$760 000 annually.</p>	<p>Medium</p>
	<p>Support a more transparent market for forestry transactions. Strengthens the forestry supply chain. Promote confidence in forestry planting, which supports the government's priorities to reduce the effects of climate change.</p>	<p>Medium The benefits are still to be finalised.</p>	<p>Low</p>
Wider government	<p>Additional taxation collected on the improved returns from smaller growers.</p>	<p>\$3.0 million p.a.</p>	<p>Medium</p>

Investment Certainty	Improvements in the quality of professional advice and in market certainty feed directly into investment confidence and certainty. This supports new investment and the realisation of the full market value for mature and in-mature crops.	Medium The value of increased investment certainty has not been quantified but drawing on overseas examples it would add to the liquidity of the market for forest sales (particularly immature stands).	Medium (drawing on international experience)
Improved Environmental Management	Improving the quality of professional advice during critical periods of the crop rotation (e.g. infrastructure development, harvesting, and crop re-establishment), will have a tangible environmental benefit, through reduced sedimentation and the risk of slash movement in extreme events.	The value of improved environmental performance has not been quantified but drawing on overseas experience, improved environmental performance (coupled with greater investment certainty) could improve the value of forest assets by 5 to 10%.	High (drawing on domestic and international experience)
<b>Total monetised benefits</b>		\$33.42 million	
<b>Non-monetised benefits</b>		<i>Medium</i>	

## Section 3: Delivering an option

### How will the new arrangements be implemented?

The Ministry for Primary Industries retains the regulatory stewardship role for the registration systems as the agency that administers the Forests Act 1949.

The Forestry Authority will be responsible for the operation and enforcement of the registration systems. Some or all of the functions of the Forestry Authority may be delegated to a third party, including a third party outside of the Public Service. This is empowered by s 63D of the Amendment Act.

During the establishment phase, where a basic registration system is introduced, the functions of the Forestry Authority will be:

- performed by the Ministry for Primary Industries for log traders, and
- some or all functions of the Forestry Authority may be delegated to a forestry industry body for forestry advisers.

The Ministry for Primary Industries is working with third party forestry industry bodies that have expressed an interest in receiving the delegation. This process includes ensuring the organisation is qualified to be delegated (as set out in s 63D of the Amendment Act) and that conflicts of interest will be managed. The details of any delegation will be agreed through instrument/s of delegation. These will include the details of implementing the delegated functions and/or powers.

The regulations covered by this impact statement will come into effect when the Amendment Act commences on 6 August 2022. This ensures that a basic registration system is in place when obligations under the Amendment Act come into force.

### How will the new arrangements be monitored, evaluated, and reviewed?

#### *Monitoring and evaluation*

The Ministry for Primary Industries has a responsibility in its regulatory stewardship role to monitor, review, and report on regulatory systems.

Operation of the Amendment Act, Forestry Authority, and registration systems will be monitored, evaluated, and reviewed (these processes are still to be developed) as part of the wider forestry system. This includes monitoring the ongoing performance of the regulatory system and supporting computer system and reviewing it at appropriate intervals to determine whether it is still fit for purpose.

Consideration of additional obligations for log traders and forestry advisers following basic registration will provide opportunities for evaluating the effectiveness of the basic system. For log traders, this may be conducted as part of work on legal harvest assurance. For forestry advisers, this may be considered as part of ongoing professional or technical development requirements.

#### *Review*

Assessments of the regime will be conducted by the Ministry for Primary Industries as part of its responsibility for the Forests Act 1949. Information gathered in the first years of operation of the system will form a base line to measure future performance. Compliance rates, and the number and nature of complaints and disputes will be used to measure the effectiveness of the system in meeting the objectives and purpose of the Amendment Act.

Future review of the system may include assessment of:

- the cost effectiveness of the registration system
- compliance, complaint, and dispute numbers over time
- areas of improvement, in terms of a future need for an escalation pathway of compliance tools.



## Appendices

**Appendix 1: List of proposed regulations for log traders and forestry advisers**

**Appendix 2: How MPI responded to comments made in submissions**

**Appendix 3: Multicriteria Analysis**

## Appendix 1: List of proposed regulations for log traders and forestry advisers

### *Registration for Log Traders*

- 1 The volume threshold for the definition of log trader for the purposes of registration is 2,000 cubic metres. Regulations are not proposed to set a different volume threshold.
- 2 The following matters must be taken into account by the Forestry Authority when determining if it is satisfied that a person is fit and proper to be registered as a log trader:
  - 2.1 The applicant's legal structure or status (e.g. whether it is a registered company, trust, sole trader, or other structure).
  - 2.2 For the applicant:
    - 2.2.1 Whether the applicant is in receivership or liquidation;
    - 2.2.2 Any previous criminal convictions or civil offences of the applicant, including corporate liability where relevant; and
    - 2.2.3 Previous compliance with the obligations of a registered log trader by the applicant.
  - 2.3 For the 'directing mind and will' of the log trader, i.e. directors, managers, trustees, controlling shareholders, or similar as relevant to the structure of the legal entity:
    - 2.3.1 Any previous criminal convictions or civil offences by the relevant person or persons;
    - 2.3.2 Previous compliance of individuals identified as the "directing mind and will" with the obligations of a forestry adviser (if they have been registered as an individual) or log trader, including as a director / executive of a log trader business; and
    - 2.3.3 Whether the person or persons have been disqualified from being appointed or holding office as a director of a company under section 151 of the Companies Act 1993.
    - 2.3.4 Whether the relevant person or persons have been prohibited from being a director, promoter or being concerned with or taking part in the management of an incorporated body under the Companies Act; and
    - 2.3.5 Whether the relevant person or persons are an undischarged bankrupt or subject to subpart 4 of Part 5 of the Insolvency Act 2006.
- 3 The following information must be provided to the Forestry Authority with an application for registration as a log trader:
  - 3.1 Name and contact details for the applicant;

- 3.2 Evidence of business status / legal identifier for the applicant (e.g. New Zealand Business Number, Company number for company, proof of identity for sole trader);
  - 3.3 Previous trading names by which the applicant has been known;
  - 3.4 Name and contact details for the person making the application on behalf of the applicant;
  - 3.5 Criminal conviction and civil liability check for the applicant;
  - 3.6 Names of business owner, directors, partners, trustees, or other executives as relevant to the log trader's structure;
  - 3.7 Criminal conviction and civil liability check for people identified as the directing mind and will' of the log trader, including sole trader;
  - 3.8 Previous suspension or revocation of registration as log trader or forestry adviser for people identified as the directing mind and will of the log trader, including sole trader;
  - 3.9 Confirmation that the applicant will meet the volume threshold for registration; and
  - 3.10 Detail of the log trader services the applicant provides or intends to provide as identified in s 63I of the Amendment Act.
- 4 The following information must be provided to the Forestry Authority with an application for renewal of registration as a log trader:
- 4.1 Details of current registration;
  - 4.2 Confirmation details are the same as those used to register or as updated by notifying to the Forestry Authority, including the applicant's business entity status and who the relevant directors (or similar) are;
  - 4.3 Declaration the log trader has met the obligations of a log trader during the registration period;
  - 4.4 Confirmation that the log trader continues to meet the entitlement criteria; and
  - 4.5 If the log trader has not met the obligations of a log trader during the registration period, an explanation of how they have not met the obligations and how any issues have been remedied.
- 5 Registered log traders must keep records relating to log trading transactions and complaints and disputes for a seven-year time period.
- 6 In this context, log trading transactions means:
- 6.1 Total annual volume of logs traded and / or transferred and / or processed from logs the person has grown themselves;

- 6.2 Grade of logs traded and / or transferred and / or processed from logs the person has grown themselves;
  - 6.3 Price of logs traded and / or transferred and / or processed from logs the person has grown themselves;
  - 6.4 Species of logs traded and / or transferred and / or processed from logs the person has grown themselves;
  - 6.5 Geographic origin at a regional level of logs traded and / or transferred and / or processed themselves; and Geographic origin at a regional level of logs traded and / or transferred and / or processed from logs the person has grown themselves; and
  - 6.6 Immediate next destination of logs traded and / or transferred and / or processed from logs the person has grown themselves (domestic processing, on-sale as logs, export).
- 7 Registered log traders must submit an annual report to the Forestry Authority.
  - 8 The Forestry Authority may approve a form that must be used for annual reports made by registered log traders.
  - 9 An annual report by a registered log trader must include the following information:
    - 9.1 Total annual volume of logs traded and / or transferred and / or processed themselves;
    - 9.2 Confirmation that the log trader has met their obligations as a registered log trader;
    - 9.3 If the log trader has not previously met the obligations of a log trader during the registration period, an explanation of how they have not met the obligations and how any issues have been remedied. For example, if the log trader was the subject of a complaint resulting in a finding of unsatisfactory conduct during the previous registration period, how that conduct has been addressed; and
    - 9.4 Confirmation there have been no changes to the information provided to satisfy the Forestry Authority that the person is fit and proper to be registered as a log trader.

### *Registration for Forestry Advisers*

- 10 No additional forestry adviser services are proposed to be identified by regulations at this time;
- 11 The following matters shall be set as entitlement criteria for a person to register as a forestry adviser:
  - 11.1 Any NZQA Level five or above, or overseas equivalent, qualification in forestry or course relevant to the category of registration plus two years' experience in New Zealand; or



- 11.2 Five years of experience providing forestry advice in New Zealand relevant to the category of registration.
- 12 There must be a process for new advisers to gain experience, but they must be registered to gain this experience subject to supervision requirements outlined below.
- 13 A person who does not have experience may register as a forestry adviser, but they must receive a conditional registration, which must include the following obligations as relevant to the circumstances:
- 1.1 If the person has a qualification of the type identified in recommendation 11.1, two years of providing advice that is supervised by a person with a category of registration the Forestry Authority approves to provide supervision; or
- 13.1 If the person does not have a qualification of the type identified in recommendation 11.1 above, the person must have five years of experience, in New Zealand or overseas, relevant to the category of registration and have their activities two years of providing forestry adviser services supervised advice that is supervised by a person with a category of registration the Forestry Authority approves to provide supervision for a further two years.
- 14 The following matters must be taken into account by the Forestry Authority when determining if it is satisfied that a person is fit and proper to provide a forestry adviser service:
- 14.1 Any previous criminal convictions or civil offences;
- 14.2 Previous compliance with the obligations of a forestry adviser (if they have previously been registered as an individual);
- 14.3 Previous compliance with the obligations of a log trader if the individual is or has been the “controlling mind and will” of a registered log trader business; and
- 14.4 Whether the person has been disqualified from being appointed or holding office as a director of a company under section 151 of the Companies Act 1993.
- 15 The following information must be provided to the Forestry Authority with an application for registration as a forestry adviser:
- 15.1 Name and contact details for applicant;
- 15.2 Proof of identity for the applicant;
- 15.3 Previous names by which the applicant has been known;
- 15.4 Name and contact details for the person making the application on behalf of the applicant (if using an agent);
- 15.5 Criminal conviction and civil liability check for applicant;

- 15.6 Any previous suspension or revocation of registration as log trader or forestry adviser of applicant;
  - 15.7 The category or categories of registration being applied for;
  - 15.8 Evidence of qualifications relied on for application;
  - 15.9 Evidence of experience relied on for application;
  - 15.10 Evidence of professional memberships relied on for application; and
  - 15.11 Declaration that the person undertakes, or intends to undertake, some or all of the forestry adviser services (as described in section 63M of the Amendment Act or regulations made under the Amendment Act).
- 16 The following information must be provided to the Forestry Authority with an application for renewal of registration as a forestry adviser:
- 16.1 Details of current registration;
  - 16.2 Confirmation details are the same as those used to register or as updated by notifying to the Forestry Authority;
  - 16.3 Declaration the forestry adviser has met the obligations of a forestry adviser during the registration period;
  - 16.4 Declaration the forestry adviser meets the entitlement criteria; and
  - 16.5 If the forestry adviser has not met the obligations of a forestry adviser during the registration period, an explanation of how they have not met the obligations and how any issues have been remedied.
- 17 The information requirements are not intended to duplicate provision of information where the application process may be automated.
- 18 Registered forestry advisers must keep contemporaneous records relating to advice provided to a client and complaints and disputes.
- 19 In this context, a record of advice to a client must include:
- 19.1 Who provided the advice;
  - 19.2 Who the advice was provided to;
  - 19.3 When the advice was provided;
  - 19.4 Assumptions or conditions on the advice;
  - 19.5 Recommendations provided as part of the advice.
- 20 Note that record keeping requirements are not intended to displace the ownership of the forestry advice.

### *Shared registration components*

- 21 The registration period for registered persons shall expire five years from the date on which the person became registered.
- 22 Registered persons must notify the Forestry Authority of any changes that would affect their entitlement to be a registered person within a reasonable time of the change occurring.
- 23 Registered persons must retain records in a retrievable form for at least seven years.
- 24 The register of log traders must include, for each registered person:
  - 24.1 the services offered by the registered log trader as described in section 63I of the Amendment Act;
  - 24.2 the geographic area of operation of the registered log trader at a regional level; and
  - 24.3 the status and category of the registration.
- 25 The register of forestry advisers must include, for each registered person:
  - 25.1 the geographic area of operation of the person at a regional level; and
  - 25.2 the status and category of the registration.
- 26 The following information may be displayed on a forestry register, at the request of the registered person:
  - 26.1 a link to the registered person's website; and
  - 26.2 identification of the registered person as Māori, which may include iwi affiliations.
- 27 A complaints process for registered persons will be established with the following components:
  - 27.1 the Forestry Authority may refer a complaint about unsatisfactory conduct or misconduct of a person in their capacity as a registered person to a complaints panel.
  - 27.2 the Forestry Authority must maintain a list of appropriate people to be on complaints panels.
  - 27.3 the Forestry Authority shall work with complainants to ensure complaints contain sufficient information for a complaints panel to begin to consider whether the person has engaged in unsatisfactory conduct or misconduct.
  - 27.4 if the Forestry Authority decides to refer a complaint to a complaints panel, the Forestry Authority must establish a panel of at least 3 panellists to hear and make findings in relation to the complaint.
  - 27.5 panel members must have skills and experience relevant to matters included in the complaint. Skills and experience are not limited to skills

and experience related to the forestry and wood processing sector. They may also include other skills such as legal, arbitration, and mediation expertise.

- 27.6 the Forestry Authority must appoint a chairperson when forming the panel.
- 27.7 the Forestry Authority and Panel must take all reasonable care to ensure any real or perceived conflicts of interest are managed.
- 27.8 the Forestry Authority shall provide secretarial support to the panel.
- 27.9 the Forestry Authority shall develop procedures for how complaints panels must operate.
- 27.10 the complaints panel may determine a complaint relates to a matter that is minor, frivolous, vexatious, or anti-competitive and make a finding it will not consider the complaint.
- 27.11 a complaints panel may require registered persons to provide information relating to a complaint. If so, required information must be requested in writing and include a reasonable timeframe for response.
- 27.12 a complaints panel may conduct interviews or request a person to appear in person (including virtually or online) in relation to a complaint.
- 27.13 the panel must notify the Forestry Authority of its findings. The panel may make recommendations on guidance or practice standards beneficial to person or the sector as a result of the findings of the complaints panel.
- 27.14 if the panel finds that a registered person has, or may have, engaged in unsatisfactory conduct or misconduct. The panel must —
  - 27.14.1 notify the Forestry Authority of that finding; and
  - 27.14.2 recommend that the Forestry Authority consider whether to take one or more of the actions specified in section 63V of the Amendment Act. The recommendation should include which action/s the panel thinks should be taken and the reason/s why.
- 28 The Forestry Authority may publish the findings of a complaints panel where the complaint results in a finding of unsatisfactory conduct or misconduct.
- 29 The Forestry Authority may only publish the findings of a complaints panel after all review rights have been exhausted.
- 30 The Forestry Authority may withhold confidential and private information, or anonymise identifying details, when publishing the findings of a complaints panel.
- 31 The following disputes resolution process will be established for if a person described in 63ZJ of the Amendment Act refers a commercial dispute to dispute resolution:

- 31.1 A person described in section 63ZJ of the Amendment Act may refer a matter to dispute resolution (Party A) by providing notice to the other party or parties to the dispute that they believe a dispute has arisen.
  - 31.2 Notice of a dispute must be in writing and contain the material details of the dispute (for example, when it occurred, what happened, and why the dispute arose).
  - 31.3 The person or persons receiving the notice (Party B) shall respond to the notice within 20 working days.
  - 31.4 The response shall be in writing and include the material information from their perspective. It should also identify any matters from the notice that are agreed, and which are not agreed with.
  - 31.5 Party A shall prepare a summary of the matters in dispute in light of Party B's response and provide this to Party B within 10 working days.
  - 31.6 Parties A and B shall attempt to resolve the matters in dispute by agreement on the basis of the summary of matters.
- 32 If the parties to the dispute have not resolved the dispute by agreement after following the process set out in r31 above, the parties may agree to refer the dispute to mediation or arbitration

## Appendix 2: Summary of changes to proposals following public consultation

What was supported/not supported in submissions	Changes to the proposals as a result of submissions
<i>Comments relating to regulations for log traders</i>	
84 percent of submitters were supportive of the registration of log traders being at a business level (rather than individuals having to register)	No change to legislation, only businesses should be entitled to register as log traders
<p>Submitters suggested a range of different volume thresholds from the status quo for registration as a log trader. Suggestions ranged from no threshold, to 10,000 cubic metres.</p> <p>The submissions received did not provide strong evidence to support a specific alternative volume threshold.</p>	No regulations required, retain the threshold volume of logs in the Amendment Act, for the purposes of registration as a log trader.
<p>Five submitters raised a concern that tax compliance should not be considered as part of the fit and proper person test as it is more appropriately dealt with through the tax system.</p> <p>Three submitters raised a concern that civil offences should not be considered as part of the test.</p> <p>The majority of submitters agreed with the remainder of the matters to be taken into account in the fit and proper person test.</p> <p>Submitters suggested specific wording changes to more specifically describe the intended matters.</p>	<p>Remove tax compliance as a matter to take into account, Note any significant tax non-compliance resulting in court action would be captured by considering civil and criminal offences (below).</p> <p>Retain civil offences as a matter to take into account because of the relevance of civil offences to conduct in the forestry sector, such as civil offences and penalties in the Climate Change Response Act for the Emissions Trading Scheme and tax administration system.</p> <p>Specific wording changes do not change the policy intent, specific wording will be considered during drafting of the regulations.</p>
Ten submitters raised concerns that a tax declaration would be required when applying to be a log trader, and eight submitters questioned the rationale for requiring certified ID for the person making the application	<p>Remove a tax declaration as part of the application for registration because significant tax non-compliance will be identified through a civil offences and criminal conviction check.</p> <p>Remove the proposal to require a certified ID because the person is already identifying themselves by providing their name and contact details as part of the application.</p>
Six submitters proposed to include information on the previous names by which the business has been known, and any previous suspension or revocation of the person's registration as a log trader or forestry adviser. This would enable effective background searches on applications, and identify whether a business was previously suspended or had their registration revoked.	<p>Include the following information in an application for registration as a log trader:</p> <ul style="list-style-type: none"> <li>• Previous trading names by which the applicant has been known, and</li> <li>• Where an individual is identified as the "directing mind and will" of a log trader, the person's previous compliance with the obligations of a forestry adviser, if they have been registered as an individual, and their previous compliance with the obligations of a log trader, including as a director / executive of a log trader business.</li> </ul>

<p>Fifteen of 19 submitters agreed with the information that MPI proposed should be submitted for renewal of registration.</p> <p>Submitters who disagreed suggested renewal should be the same as an initial application for registration.</p>	<p>No change required.</p>
<p>Seven submitters suggested that the age of logs should not be kept by log traders as part of the record keeping requirements, as this was often not known and would be irrelevant without additional information on the site, gradient, access, and market conditions.</p> <p>The majority of submitters supported the remainder of the matters for record keeping, and that records should be kept for seven years.</p>	<p>Remove the age of logs from the proposed record keeping requirements.</p> <p>No changes to the rest of the proposals for records to be kept, and how long they should be kept for.</p>
<p>Twelve submitters disagreed with the preferred option for regulations for reporting. Common reasons were that the proposed reporting was too extensive and may be commercially sensitive.</p>	<p>Amend the range of matters to be included in an annual report by a log trader to focus more closely on monitoring the log trader's compliance with obligations under the Amendment Act (<i>note that information received through reporting required by regulations may not be used for statistical purposes. Collection of information for statistical purposes must be sought by notice of the Forestry Authority under section 63G of the Amendment Act</i>).</p>
<p>Five submitters supported completion of an annual declaration that the person had met their obligations as a registered log trader, with the Forestry Authority able to audit a sample of these.</p> <p>There was some support for a more limited range of matters to be reported on, including the volume and destination of logs.</p>	<p>No change to the proposal for making an annual report to the Forestry Authority, and the information that the report must contain:</p> <ul style="list-style-type: none"> <li>• Total annual volume of logs traded and / or transferred and / or processed themselves;</li> <li>• Declaration the log trader has met their obligations as a registered log trader; and</li> <li>• Declaration there have been no changes to the information provided to satisfy the Forestry Authority that the person is fit and proper to be registered as a log trader.</li> </ul>
<p><i>Comments relating to regulations for forestry advisers</i></p>	
<p>Submitters suggested a range of different services that could be identified by regulation, or where guidance could clarify the meaning of forestry adviser services contained in the Amendment Act.</p> <p>The submissions received did not provide strong evidence to support identification of further forestry adviser services in regulations.</p>	<p>No change, i.e. no regulations to identify additional forestry adviser services at this time.</p>
<p>Of the 23 responses received on the entitlement to register, 11 agreed with the preferred option that only individuals should be registered as forestry advisers and 12 did not agree.</p> <p>Nine submitters who disagreed said that businesses should be responsible for the administrative burden, cost of registration, and reputational risk associated with giving forestry advice.</p>	<p>No change to legislation, only individuals should be entitled to register as forestry advisers.</p> <p>Feedback was sought on this question to gather evidence of issues with this requirement that might justify legislative change. Submissions raised administrative issues with the requirement, but did not displace the presumption that registration of individuals better aligns with the obligations of forestry advisers envisaged by the Amendment Act. These obligations include the personal responsibility in the obligation to comply with a code of ethics and possible future obligations to undertake ongoing professional and technical development.</p>

<p>Submitters favoured a mix of experience and education being required to register as a forestry adviser.</p> <p>Some expressed concern that a need for formal education may prevent people from the industry transitioning into providing advice.</p> <p>Over half of submitters did not think that professional memberships were relevant to becoming an adviser as there is a reasonably low level of entry to becoming a member of an industry organisation.</p>	<p>Public consultation did not include a preferred option, proposal as a result of consultation.</p> <p>Proposals reflect feedback that pathways to registration should include education and experience.</p>
<p>Seventy percent of submitters supported the proposed options to be taken into account for a fit and proper person test.</p>	<p>Clarified some of the wording in the proposal for what the Forestry Authority should take into account when determining if it is satisfied that a person is fit and proper to provide a forestry adviser service.</p>
<p>Five submitters raised concern that a tax declaration and IRD number would be required to support an application to register.</p> <p>The majority of submitters agreed with the remainder of the information proposed to be included in an application for registration as a forestry adviser.</p>	<p>Removed tax declaration and IRD number from the information required, because significant tax non-compliance will be identified through a civil offences and criminal conviction check.</p> <p>Note providing an IRD number should not be required as individual identification of the registered forestry adviser will be achieved by the requirement to provide proof of identity.</p>
<p>Seventy-seven percent of submitters agreed with the information requirements for renewal of registration.</p>	<p>No changes to other the information that must be provided in an application for renewal of registration as a forestry adviser (i.e. other than tax declaration and IRD number).</p>
<p>Sixty-three percent of submitters agreed with the preferred option for the records a forestry adviser should keep. Most agreed that records should be kept for the proposed seven years.</p> <p>Some submitters raised concerns about the practical ability to comply with keeping records, as individuals may move between companies, and the ownership of the records may be held by the companies.</p>	<p>Provide more clarity on records relating to advice provided to a client, namely</p> <ul style="list-style-type: none"> <li>• Who provided the advice;</li> <li>• Who the advice was provided to;</li> <li>• When the advice was provided;</li> <li>• Any assumptions or conditions on the advice;</li> <li>• Any recommendations provided as part of the advice.</li> </ul> <p>Note that record keeping requirements are not intended to displace the ownership of the forestry advice.</p>
<p>Twelve submitters agreed with the proposed reporting requirements and ten disagreed.</p> <p>For the ten submitters who disagreed with the preferred option for forestry advisers to provide an annual report on how they had met their obligations, common reasons were that the reporting suggested was potentially too extensive, commercially sensitive, and administratively burdensome.</p>	<p>Remove the requirement for forestry advisers to report to the Forestry Authority, noting that reporting requirements should be re-assessed as further obligations are developed, such as ongoing professional and technical training requirements.</p>



<i>Comments relating to regulations for log traders and forestry advisers</i>	
The majority of submitters agreed that registration should last for five years. For log traders, 100 percent of submitters agreed, and for forestry advisers, 86 percent of submitters agreed.	No change, set the registration period for log traders and forestry advisers will be five years.
Submissions suggested that log traders and forestry advisers should be required to notify the Forestry Authority of any changes to their details.	Create a regulation making it an obligation for registered persons to notify the Forestry Authority of any changes that would affect their entitlement to be a registered person within a reasonable time of the change occurring.
The majority of submitters agreed that it is reasonable to expect records to be kept in digital form.  Concerns were raised both by submitters who agreed and those who disagreed that while it is reasonable, it should not be a requirement. Requiring digital records would be difficult and impossible in some circumstances.	Update the requirement for a registered person to keep records in a retrievable form.
Sixteen submitters suggested that displaying additional information on the register should be optional. Suggestions ranged from including complete profiles on each registered person through to a belief that the register should contain minimal details of those who are registered.	Include on the forestry registers: <ul style="list-style-type: none"> <li>the geographic area of operation at a regional level and status of a registered person must be displayed on a forestry register. This will enhance the ability of members of the public to identify and contact log traders and forestry advisers who are operating in their area</li> <li>the services provided by the registered log traders, as self-identified by the log trader, must be displayed on the register of log traders. This mirrors the requirement in the Amendment Act for the register of forestry advisers to display this information and will help members of the public to identify log traders providing the services they are seeking.</li> <li>the forestry registers may display a link to the registered person's website and/or identification of the registered person as Māori, which may include iwi affiliations, at the request of the registered person.</li> </ul>
Across both log traders and forestry adviser responses, submitters were strongly in favour of establishing a complaints panel. Sixteen out of 18 submitters for log traders agreed that a panel should be established, and 20 out of 22 submitters for forestry advisers also agreed.  Thirty-six submissions were made, which generally favoured the establishment of a complaints panel. Submissions tended to focus on potential misuse of the complaints	Establish a complaints process for registered persons. Components include: <ul style="list-style-type: none"> <li>Panel members must have skills and experience relevant to matters included in the complaint. Skills and experience are not limited to skills and experience related to the forestry and wood processing sector. They may also include legal, arbitration, and mediation expertise.</li> <li>The Forestry Authority and Panel must take all reasonable care to ensure any real or perceived conflicts of interest are managed.</li> </ul>

<p>process; there was concern that complaints could be used for anti-competitive, commercial, or malicious reasons.</p> <p>Arbitration and legal skills were suggested as necessary for complaints panel members.</p>	<ul style="list-style-type: none"> <li>The complaints panel may determine a complaint is frivolous, vexatious, or anti-competitive and make a finding it will not consider the complaint.</li> </ul>
<p>Of the 40 responses to these questions, for log traders and forestry advisers, 30 agreed with the preferred option for the complaints panel to publish its findings. Nine submitters did not agree with the preferred option that a complaints panel should publish its findings.</p> <p>Submitters were concerned that the findings of a complaints panel should only be published when unsatisfactory conduct or misconduct were found.</p> <p>Some submitters thought that publication was unnecessary as the person would be removed from the relevant register.</p> <p>Submitters also suggested publishing the findings should not occur until after all review and appeal rights have been exhausted and that the Forestry Authority should be able to withhold confidential and private information when publishing the findings.</p>	<p>Establish as part of the complaints process:</p> <ul style="list-style-type: none"> <li>the Forestry Authority may publish the findings of a complaints panel where the complaint results in a finding of unsatisfactory conduct or misconduct.</li> <li>the Forestry Authority may only publish the findings of a complaints panel after all review and appeal rights have been exhausted.</li> <li>the Forestry Authority may withhold confidential and private information when publishing the findings of a complaints panel.</li> </ul>
<p>From a total of 39 submissions across both log traders and forestry advisers, 24 submitters agreed with the preferred option for a dispute resolution process.</p> <p>Some submitters said they would like to see an option of referring the dispute to mediation or arbitration.</p> <p>A small number of submitters believed that existing dispute resolution clauses in contracts are effective and should be used</p>	<p>No change, establish the disputes resolution process in accordance with the proposed process.</p>

### Appendix 3: Multicriteria Analysis of Options

This provides

- A multicriteria analysis of each option that was proposed for the public consultation on the registration and obligations for log traders and forestry advisers. The multicriteria analyses (below), which include MPI’s ‘preferred options’, were presented in the public consultation document

#### Criteria used for the analysis of each option

Criteria	Meaning
Contributes to the purpose of the Amendment Act	The option should contribute to the overall purpose of the Amendment Act, in particular to <ul style="list-style-type: none"> <li>• support the continuous, long-term supply of timber, and</li> <li>• contribute to improved economic, employment, and environmental outcomes from the sector.</li> </ul>
Minimal complexity and administrative cost	Implementation of registration should be as straightforward as possible, so administration and transaction costs for registered parties, the regulator, and the Forestry Authority are minimised.
Transparency	The option should support greater transparency for log traders and forestry advisers, their clients, consumers, and other people operating across and with an interest in the forestry supply chain.

#### Key to options assessment

Options were assessed by how well they performed against each of the criteria, compared to the status quo. The results of the assessment are indicated by the following symbols:

Symbol	Meaning
✓ ✓	performs much better against the criteria than the status quo
✓	performs better against the criteria than the status quo
--	status quo/neutral impact
✗	performs worse against the criteria than the status quo
✗ ✗	Performs much worse against the criteria than the status quo
Preferred option (where relevant)	MPI’s preferred option (note, not all matters have a preferred option)

## Regulating Log Traders

### Should employees of log trader businesses also be entitled to register as log traders?

Option	Criteria		
	Purpose of the Act	Minimal complexity and administrative cost	Transparency
<p>Only businesses should have to register as log traders</p> <p><i>Preferred option</i></p> <p><b>Note this is the status quo</b></p>	<p>--</p> <p>It is what the Act currently contains.</p> <p>A log trader includes the qualifier that the person is 'in trade'. Submissions <i>did not provide evidence of a problem which would justify legislative amendment.</i></p>	<p>--</p> <p>Administrative burden/cost is on businesses rather than individual employees</p>	<p>--</p> <p>Activities of the registered party are transparent, as the party is the one who operates in the supply chain. Market data e.g. on workforce may be less precise</p>
<p>Businesses and their employees should have to register as log traders</p> <p><b>Note this would require legislative change</b></p>	<p>✓</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>✗ ✗</p> <p>If the employee works for a business, both the employee and the business would need to register, raising costs overall</p>	<p>--</p> <p>Large numbers of businesses and employees may make the activities of businesses less transparent, and market analysis difficult</p>
<p>Only individuals should have to register as log traders</p> <p><b>Note this would require legislative change</b></p>	<p>--</p> <p>Is neutral in not supporting or undermining the purpose of the Act</p>	<p>✗ ✗</p> <p>Administrative burden/cost would be on individuals</p>	<p>✓</p> <p>Transparency would be supported by having all individuals register who are involved in log trading</p>

## Proposal

The proposal is to maintain the status quo: no change is required to the registration occurring at an business entity level.

## Threshold volume of logs for registration as a log trader

Option	Criteria		
	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Threshold for registration should remain at 2000m <sup>3</sup> <b>Status quo</b>	-- It is what the Act currently contains	-- This option does not place a burden of registration, and compliance with obligations, on small scale operators	-- Having a clear threshold provides transparency
Threshold for registration should be lower than 2000m <sup>3</sup>	✗ Supports transparent and professional log sales. <i>Submissions through public consultation indicated that trading below 2000 cubic metres in a calendar year would not represent a viable business.</i>	✗ This option includes small scale operators for whom registration and compliance with obligations could bring disproportionate costs	✓ ✓ A lower threshold will include a greater number of log traders in registration, increasing transparency of log traders operating in the supply chain
Threshold for registration should be higher than 2000m <sup>3</sup>	-- Is neutral in not supporting or undermining the purpose of the Act. <i>In submissions, higher volume options performed equally or worse than the status quo.</i>	-- This option excludes some medium scale operators who have impact on the forestry supply chain.	- Having a clear threshold will provide transparency, but would include registration of fewer log traders operating in the forestry and wood processing sector

## Proposal

The proposal is to maintain the status quo: The volume threshold for the definition of log trader for the purposes of registration is 2,000 cubic metres. Regulations are not proposed to set a different volume threshold.

## Fit and proper person test

	Criteria		
Elements of the 'fit and proper' test	Purpose of the Act	Minimal complexity and administrative cost	Transparency
No matters to take into account identified in regulations <b>Status quo</b>	-- Is neutral as the status quo, but does not support confidence and informed participation in the forestry and wood-processing sector	-- Could be complex and costly as the matters to take into account are not identified or defined.  These costs would be to applicants for registration and the Forestry Authority processing applications.	-- It would not be transparent to log traders what matters the Forestry Authority may consider in determining if they are fit and proper.  It would not provide transparency to users of the public register that log traders have met minimum standards to operate.
Legal entity status (e.g. partnership, sole trader, trust)  <i>Corporate entity identification e.g. company number</i>  (included in preferred option)	✓ Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector	✓ Unambiguous, easy to provide	✓ Information indicates who is operating in the market, volumes traded
Not in receivership or liquidation  <i>Self- declaration</i>  (included in preferred option)	✓ Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector	✓ A declaration would be required, verification may be undertaken	✓ Assures sellers that they are selling to someone who is legally able to trade
Tax compliant	✓	✗	--

<p><i>During consultation, many submitters raised a concern that tax compliance should not be considered as part of the fit and proper person test as it is more appropriately dealt with through the tax system. As a result, we reassessed its performance against the criteria and removed this as a matter to take into account.</i></p>	<p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>A declaration would be required, verification may be undertaken, but it could create additional complexity.</p>	<p>Assures sellers that they are selling to someone who will pay taxes as required by law, but may reduce transparency if it is unclear how the Forestry Authority is taking tax compliance into account</p>
<p>Any previous criminal or civil offences of the business (being the legal entity)</p> <p><i>Conviction and civil liability check</i> (included in preferred option)</p>	<p>✔</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>✔</p> <p>Declaration required, verification may be undertaken</p> <p><i>Some submitters raised a concern that civil offences should not be considered. We have retained this matter to take into account because of the relevance of civil offences to conduct in the forestry sector. We have also clarified that criminal offences must have reached the level of conviction, to avoid including infringement offences in the consideration.</i></p>	<p>✔</p> <p>Transparency over conduct of corporate entities, ensuring that corporate actions and liabilities are also recorded</p>
<p>Any previous criminal or civil offences of directors, partners, trust board members, or sole trader</p> <p><i>Conviction and civil liability check</i> (included in preferred option)</p>	<p>✔</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>✔</p> <p>Relevant people would need to be conviction checked</p>	<p>✔</p> <p>Assures sellers that they are selling to someone who will act honestly and within the law</p>
<p>Previous compliance with the obligations of a registered log trader, if they have been previously registered</p> <p><i>Previous registration information</i> (included in preferred option)</p>	<p>✔</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector and supports ensuring logs grown in New Zealand are bought and sold in a way that is transparent and professional</p>	<p>✔</p> <p>The Forestry Authority will hold these records, checking this information should be relatively straight forward.</p> <p><i>Some submitters raised a concern that civil offences should not be considered. We have retained this matter to take into account because of the relevance</i></p>	<p>✔</p> <p>Ensures that people that are not meeting their obligations are prevented from operating.</p> <p>The threshold for serious non-compliance will need to be clear.</p>

		<p><i>of civil offences to conduct in the forestry sector.</i></p> <p><i>We have also clarified that criminal offences must have reached the level of conviction, to avoid including infringement offences in the consideration.</i></p>	
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## Proposal

The following matters must be taken into account by the Forestry Authority when determining if it is satisfied that a person is fit and proper to be registered as a log trader:

- a. The applicants legal structure or status (e.g. is it a registered company, trust, sole trader, or other structure
- b. For the applicant:
  - i. Whether the applicant is in receivership or liquidation
  - ii. Any previous criminal convictions or civil offences of the applicant, including corporate liability where relevant; and
  - iii. Previous compliance with the obligations of a registered log trader by the applicant.
- c. For the ‘directing mind and will’ of the log trader, meaning directors, managers, trustees, controlling shareholders, or similar as relevant to the structure of the legal entity:
  - i. Any previous criminal convictions or civil offences by the relevant person or persons;
  - ii. Previous compliance of individuals identified as the “directing mind and will” with the obligations of a forestry adviser (if they have been registered as an individual) or log trader, including as a director / executive of a log trader business;
  - iii. Whether the person or persons are an undischarged bankrupt or subject to subpart 4 of Part 5 of the Insolvency Act 2006.

## Information requirements



An options analysis was not conducted because this information below reflects what would be needed to support the elements of the fit and proper test for a corporate entity, and which should be included with an application for registration as a log trader.

## Proposal

The following information must be provided to the Forestry Authority with an application for registration as a log trader

- I. Name and contact details for the applicant
- II. Evidence of business status / legal identifier for applicant (e.g. New Zealand Business Number, Company number for company, proof of IRD number for sole trader)
- III. Previous trading names by which the applicant has been known
- IV. Name and contact details for the person making the application on behalf of the applicant
- V. Criminal conviction and civil liability check for the applicant
- VI. Names of directors, partners, trustees, or other executives as relevant to the log trader's structure
- VII. Criminal conviction and civil liability check for people identified in VI above or sole trader
- VIII. Previous suspension or revocation of registration as log trader or forestry adviser for people identified in VI above or sole trader
- IX. Declaration the applicant will meet the volume threshold for registration, and
- X. Declaration of log trader services the applicant provides or intends to provide as identified in s 63I of the Amendment Act.

Note that, for public consultation, we included two other information requirements which we subsequently removed:

- (i) Certified copy of photo ID of the person making the application. Many submitters questioned the rationale for this information. We removed the requirement as we agreed that this would not be necessary if the person has already provided their name and contact details.
- (ii) Tax declaration. This was removed as a consequence of removing tax compliance as a matter to be taken into account for the fit and proper person test.

The proposal contains two information requirements that were proposed in submissions for the public consultation. Submitters suggested that *information on the previous names by which the business has been known, and any previous suspension or revocation of a person's registration as a Log Trader or Forestry Adviser for directors of companies (or similar)*, would enable the Forestry Authority to conduct more effective background searches on any businesses applying for registration. These have been added to the proposed information requirements

## How long should registration last?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
No renewal required <b>Status quo</b>	-- The Act refers to renewal, which suggests that registration will not last indefinitely	-- Costs would be incurred for updating registration details if necessary	-- Renewal is an opportunity to update details in the public register. Unless people choose to update their details as necessary, this option could mean that the public register becomes out of date
Registration will expire one year from the date of registration	✓ Allows for regular updates of registered persons' information	✗ ✗ Log traders will incur annual costs for renewal of registration  The Forestry Authority will be involved with renewals throughout the year, as individual registrations expire and new applications received	✗ Relies on people renewing their registration before it expires. If people drop off the register before renewal of registration, they could be 'invisible' to the market
Five years <i>Preferred option</i>	✓ Allows information about registered persons to be updated on a regular basis, enabling the 'fit and proper' to be checked	✓ Requires log traders to update their details in the public register, but this is part of the renewal process and should not represent a significant administrative burden for log traders. It also reduces the need for log traders to check the register and provide ad-hoc updates to ensure their details are current.  Administrative cost to the Forestry Authority will be lower as there will be less ad hoc auditing to ensure details are kept current.  <i>Submitters favoured a five-year registration period but noted that details must be kept up to date. We agree that regulations should make it an obligation of registered persons to notify the Forestry Authority of changes to their entitlement to be registered within a reasonable time of the change occurring.</i>	✓ Relies on regular updates from log traders and the Forestry Authority, otherwise the register will become unusable  Log traders will be confident for longer about their registration status

Between five and 10 years	-- As the Act anticipates details of registered persons will be kept up to date to enable regular checks on 'fit and proper' status, this length of time would be too long for this to be achieved (unless there is some mechanism for updating outside the registration process)	✓ Some administration for log traders in checking the public register and providing details to the Forestry Authority to update their entries but less complexity than the status quo as there will be regular triggers for review.  Administrative cost to the Forestry Authority will be lower as there will be less ad hoc auditing to ensure details are kept current.	-- Relies on regular update, outside the registration process, otherwise the register will become unusable.  Log traders may be confident for longer about their registration status, but users of the register may have reduced confidence in its accuracy.

## Proposal

**Registration for registered persons shall expire five years from the date on which the persons became registered.**

## What should be the process for renewing registration?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Registered log traders will make a full application for renewal of registration  <b>Status quo</b>	-- Provides information that demonstrates entitlement to re-register	-- Low administrative cost as log traders will be familiar with the registration process, however registration needs to be done promptly (apply three months before expiry), or registration will lapse.	-- Repeat of tests such as the 'fit and proper' test will assure the market that information about registered log traders is current  There could be market disruption if registration is not done promptly and log traders fall off the register

<p>Log traders will make a shorter application for renewal of registration, with a declaration that they have met the required obligations and will continue to meet the entitlement to be registered criteria during the renewed registration period.</p> <p>If they have not met the requirements, an explanation of how any issues have been remedied is to be included.</p> <p><i>Preferred option</i></p>	<p>✓</p> <p>Provides information that demonstrates entitlement to re-register</p> <p><i>Submitters agreed that a shorter application for renewal was preferable.</i></p>	<p>✓ ✓</p> <p>Lower administrative cost than for a full application, however registration needs to be done promptly (before it expires), or log traders will fall off the register</p>	<p>--</p> <p>There could be market disruption if registration is not done promptly and log traders fall off the register</p>
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## Proposal

The following information will be provided by to the Forestry Authority with an application for renewal of registration as a log trader:

- (i) **Details of current registration**
- (ii) **Confirmation details are the same as those used to register, including the applicants business entity status and who the relevant directors are;**
- (iii) **Declaration the log trader has met the obligations of a log trader during the registration period;**
- (iv) **Declaration the log trader will continue to meet the entitlement criteria for the duration of the registration once renewed;**
- (v) **If the log trader has not met the obligations of a log trader during the registration period, an explanation of how they have not met the obligations and how any issues have been remedied.**

## What records should log traders have to keep?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Registration as a log trader would not include the requirement to keep records	--	--	-- Would not support transparency of log trading, and absence of

<b>Status quo</b>	May lower confidence in log traders by other businesses and investors (thus not supporting purpose of Act)	No immediate cost, but costs may be incurred at a later date if records cannot be located	information could erode log trader accountability
Registered log traders would be required to keep records of all transactions and agreements relating to log trading (all transactions would include, for example, sale and purchase agreements, receipts, important terms of any agreement)	✓ ✓ Supports good business practice therefore likely to improve confidence, informed participation (section 63A(c))	✗ ✗ Would require extensive and detailed records to be kept which would increase the administrative costs.	✓ Records of transactions can enable better and faster responses to client queries and possible disputes
Registered log traders would be required to keep records relating to: <ul style="list-style-type: none"> <li>○ total annual volume of logs traded</li> <li>○ grade of logs traded</li> <li>○ price of logs traded</li> <li>○ species</li> <li>○ geographic origin</li> <li>○ age of the logs (if known)</li> <li>● complaints, disputes (see box below*).</li> </ul> <i>Preferred option</i>	✓ ✓ Supports good business practice therefore likely to improve confidence, informed participation (section 63A(c))  <i>Submitters made suggestions that we have considered are better left to commercial arrangements or disputes processes rather than record keeping. These included whether the log trader is paying their suppliers the correct amount on time, and that log traders should inform the forest owner each day of the Truck ID, number of logs, grades, prices received, and costs incurred.</i>	✗ Will require log traders to maintain detailed records on specified matters  <i>Many submitters suggested that age of logs was often not known and would be irrelevant without additional information on the site, gradient, access, and market conditions. We have removed age from the record requirements as a result.</i>	✓ ✓ Records of log purchases and complaints would enable better and faster compliance and dispute resolution

## Proposal

**Registered log traders must keep records relating to log trading transactions and complaints and disputes for a seven-year time period.**

**Log trading transactions means:**

- (i) Total annual volume of logs traded and / or transferred and / or processed themselves
- (ii) Grade of logs traded and / or transferred and / or processed themselves
- (iii) Age of logs traded and / or transferred and / or processed themselves
- (iv) Price of logs traded and / or transferred and / or processed themselves
- (v) Species of logs traded and / or transferred and / or processed themselves
- (vi) Geographic origin at a regional level of logs traded and / or transferred and / or processed themselves
- (vii) Immediate next destination of logs traded and / or transferred and / or processed themselves (domestic processing, on-sale as logs, export)

## In what form should log traders keep records?

We did not provide an options analysis for public consultation. During public consultation, submitters were concerned that a digital only requirement would be difficult for some log traders to comply with, particularly where access to digital technology and internet is limited. Some submitters noted that in remote locations, hard copy would be the only option. Submitters also preferred flexibility to keep records in various forms, including hand-drawn sketches and photographs. As a result, we have amended the requirement to focus on the contemporaneous record being *retrievable*. A retrievable record is one that can be provided to a client of the log trader, Forestry Authority, or complaints panel (if requested/required). A record may be provided in hard copy or digital, hand-written, or an audio recording.

### Proposal

**Registered persons must retain records in a retrievable form for at least seven years.**

## How long should log traders keep records for?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Log traders should not have to keep records for a minimum amount of time <b>Status quo</b>	-- The Amendment Act assumes that records will be available, as they may be requested by the Forestry Authority	-- Potential for administrative costs for log traders if they have to re-create records that were not kept (or deleted) and which are requested by the Forestry Authority	-- Absence of records would not support transparency

<p>Log traders should keep records for 7 years</p> <p><i>Preferred option</i></p>	<p>✓</p> <p>Supports good business practice and enables an informed response to complaints or disputes</p>	<p>✓</p> <p>As 7 years aligns with other statutory requirements (e.g. tax records), this could mean that little separate record keeping is needed</p> <p><i>Submitters supported the proposal for keeping records for 7 years. Seven years was considered a reasonable period that does not impose undue compliance costs and is normal for retention of business records for tax issues etc.</i></p>	<p>✓</p> <p>Supports transparency for people who do business with registered log traders</p> <p><i>Submitters suggested that records relating to a complaint or dispute should be kept until the complaint or dispute is resolved. We therefore amended the preferred option so as to require records to be kept for a <u>minimum</u> period of 7 years.</i></p>
<p>Log traders should keep records for as long as they are relevant to their business</p>	<p>--</p> <p>As businesses are of different sizes and have different trading profiles, there would be little consistency across businesses in the length of time records are kept for</p>	<p>✗</p> <p>Some businesses may delete records before they are required by the Forestry Authority. This could mean that administrative time and cost is spent keeping a record, with the same outcome as if the record were never kept.</p>	<p>--</p> <p>Supports transparency for people who do business with registered log traders, but does not support full transparency (because log traders may delete records before they are required by the Forestry Authority)</p>

## Proposal

**Registered log traders must keep records for a minimum of 7 years.**

## Reporting to the Forestry Authority

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
No regular reporting should be required <b>Status quo</b>	-- The Amendment Act, section 63ZZE(i), mentions reporting as a potential obligation for log traders	-- No cost to log traders  Difficult for Forestry Authority to know who is not meeting obligations	-- Does not support transparency of how well log traders are adhering to obligations
Registered log traders should fill in an annual return stating whether they have met their obligations during the past year	✓ Indicates continuing entitlement to be registered	✓ Not administratively burdensome for the log trader  Costs would be incurred by the Forestry Authority if it follows up when log traders indicate they did not meet obligations	-- Self-reporting on the previous year may not support full transparency if it is not augmented or clarified by additional, more up to date information
Registered log traders should fill in the annual return (above) and regularly report on: <ul style="list-style-type: none"> <li>total annual volume of logs traded</li> <li>grade of the logs traded</li> <li>price of the logs traded</li> <li>age of the logs (if known)</li> <li>species</li> </ul>	✓ Indicates continuing entitlement to be registered	-- Administration costs for log traders of obtaining and keeping the required information  <i>Many submissions disagreed with the preferred option. Common reasons were that the reporting suggested was too extensive and commercially sensitive. Submitters supported completion of an annual declaration that the person had met their obligations as a registered log trader, with the Forestry Authority able to audit a sample of these. We amended our preferred option in line with these comments.</i>	✓ ✓ Provides assurance that log traders are keeping adequate records



<ul style="list-style-type: none"> <li>geographic origin at the regional level.</li> </ul> <p><i>Preferred option</i></p>			
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## Proposal

- (i) An annual report by a registered log trader must include the following information: Total annual volume of logs traded and / or transferred and / or processed themselves
- (ii) Declaration that the log trader has met their obligations as a registered log trader; and
- (iii) Declaration there have been no changes to the information provided to satisfy the Forestry Authority that the person is fit and proper to be registered as a log trader.

## Information to be contained in the public register for log traders

Note that MPI did not have a <i>single</i> preferred option for public consultation, as we believe that options can work together.	<b>Criteria</b>		
<b>Option</b>	<b>Purpose of the Act</b>	<b>Minimal complexity and administrative cost</b>	<b>Transparency</b>
Only the basic information required by the Amendment Act should appear on the public register <b>Status quo</b>	-- It is what the Act currently contains	-- Forestry Authority would supply this information from the registration/renewal process	-- Supports transparency
The public register should also contain the basic information of people who have notified the Forestry Authority that they are exempt from registration	-- Is neutral because it does not provide further information on registered log	✓ Minimal complexity as the Forestry Authority would have this information from the exemption application process, if such a	✗ It would need to be made clear that those who are exempt do not have to meet obligations of registered people, nor fulfil registration requirements such as the 'fit and proper' test.

	traders but does support market transparency	process exists, or people who are exempt would supply the information	<i>MPI proposes not to include persons on the register that are not registered because they qualify for an exemption, as this could give a false impression that they are meeting the obligations of a registered log trader.</i>
The public register should indicate whether someone acts on behalf of, or as an agent for, other log traders, or is employed by them, and the name of who they act/work for	✓ Enables members of the public to know who to contact e.g. in case of a complaint	✗ ✗ Possible ambiguity over what the register should show e.g. if a person acts as an agent and, at other times, on own behalf	✓ Provides more information to the market about the role of each registered log trader.
The public register should show the range of services offered by the log trader  <i>Preferred option</i>	✓ Enables members of the public to contact the log trader who is appropriate to their needs	-- Minimal complexity as the Forestry Authority would seek this information during registration/renewal.  Some administration involved in keeping the information up to date	✓ Provides more information to the market about what each registered log trader does.  <i>Public consultation raised the suggestion that a log trader should be able to self-identify as Māori, so that Māori forest owners can identify log traders that may more closely share their views and adopt tikanga or mātauranga approaches. We propose to include this as optional information that could be shown on the register.</i>  <i>Submissions ranged from suggestions that the register should include a complete profile of the log trader to concerns that the register would become a marketing tool. We tested whether use of the register as a marketing tool was appropriate through pre-consultation and concluded that this could create inequities between log traders. We therefore propose that links to log traders' websites may be included as optional information</i>
The public register should show compliance information, including whether penalties have been issued for non-compliance with the obligations for registered log traders	✓ Indicates the registration status	✗ There may be indirect costs and reputation damage associated with this information being publicly available. Public submissions disagreed with this option for this reason.	--Supports transparency and integrity in the supply chain by identifying log traders falling below the expected standard.  However, publication of compliance is more appropriate in a mature regime where people understand their obligations and how to meet them. It is less appropriate where a scheme is new.  Could affect the individual log trader's business, causing disruption in the supply chain (e.g. if people don't want to work with them)

		If non-compliance merits suspension, the log trader may not appear on the register. Some additional cost to the Forestry Authority to maintain up to date compliance information on the public register.	
Retired or inactive log traders should appear on the public register	-- Is neutral because it does not provide further information on registered log traders but does support market transparency	✗ To avoid confusion, would require information for the public e.g. retired log traders are not bound by the obligations of registered log traders	✗ Would enable people to contact those who are retired or inactive and no longer registered, but may be confusing for people who are searching for a registered log trader  <i>MPI proposes not to include persons on the register that are retired or inactive, as this would likely add confusion to the register and not support the purpose of the register focusing on registered persons.</i>
Geographic area of operation at a regional level  <i>Preferred option</i>	✓ Enables members of the public to contact the log trader who is appropriate to their needs	✓ To make it simpler to find people operating near a person seeking a log trader.  Regional level provides an indication without requiring very specific detail.	✓ Would assist people to find log traders operating near them.

## Proposal

The following information must be displayed on the register of log traders:

- (i) The services offered by the registered log trader as described in section 63I(1) of the Amendment Act;
- (ii) The geographic area of operation of the registered log trader at a regional level; and
- (iii) The status or category of the registration.

- The following information may be displayed on a forestry register, at the request of the registered person: Identification of the registered person as Māori, which may include iwi affiliations; and
- A link to the registered person’s website.

## Appearing on the register when suspended

Submitters supported either noting the suspension on the register or removing the person from the register while suspended. Submitters said that although listing a suspension on the public register may give rise to some reputational and financial damage to the suspended trader, this is justifiable on the basis that there is often a high threshold for suspension following a prior investigation. Notifying suspension on the public register would also address the underlying purpose of the Act to ensure consumers obtain the best possible advice.

### Proposal

If a log trader is suspended under section 63X of the Amendment Act, the register of log traders will display the log trader on the register as suspended during the period of suspension.

## Should a complaints panel be set up?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
A complaints panel should not be set up.  <b>Status quo</b>	--  It is what the Act currently contains	--  The Forestry Authority would have to process and respond to complaints, as well as performing its other operations.  If many or complex complaints are received, the Forestry Authority might have difficulty processing and responding to the complaints as well as performing its other duties. This could add to the administrative costs and may cause backlogs.	--  If the Forestry Authority cannot handle complaints fast enough there may be backlogs, causing delays in responding to complainants. This would reduce transparency as complainants would not know the result of their complaints or whether actions will be taken to resolve them.  Complainants may not regard the Forestry Authority as the right body to be objective, fair and consistent in handling complaints about their members.  <i>Submissions during the public consultation focused on potential misuse of the complaints process. There was concern that complaints could be used for anti-competitive or malicious reasons. As a protection against this, we have introduced further checks into the system: the complaint must be specified with due particularity and the</i>

			<p>panel may decline to consider a complaint that is frivolous, vexatious, or anti-competitive.</p> <p>Promotion of the system will reiterate that a complaints panel will only be used for complaints about unsatisfactory conduct and misconduct (as set out in the Act).</p>
A complaints panel is set up for each complaint, with members appointed only to hear the specific complaint.	-- Is neutral because it does not promote or undermine the purpose of the Act	XX Would require identifying, appointing, and training new panel members for each complaint	-- It would be transparent that the panel would hear complaints, but not transparent about the particular decision maker (panellists)
A permanent complaints panel should be set up with a pool of members appointed for a specified time.  <i>Preferred option</i>	-- Is neutral because it does not promote or undermine the purpose of the Act (under the status quo, the Forestry Authority would handle all complaints)	X Would reduce the administrative load for the Forestry Authority but would require its own members, administration, processes etc.	✓ Would ensure independent handling of complaints, increasing transparency for complainants. A pool of members would allow for choosing panellists to avoid conflicts of interest.

## Proposal

- (i) **The Forestry Authority may refer a complaint about unsatisfactory conduct or misconduct of a person in their capacity as a registered person to a complaints panel.**
- (ii) **The Forestry Authority must maintain a list of appropriate people to be on complaints panels.**
- (iii) **The Forestry Authority shall work with complainants to ensure complaints contain sufficient information for a complaints panel to begin to consider whether the person has engaged in unsatisfactory conduct or misconduct.**
- (iv) **The Forestry Authority must establish a panel of at least 3 panellists to hear and make findings in relation to the complaint.**
- (v) **Panel members must have skills and experience relevant to matters included in the complaint. Skills and experience are not limited to skills and experience related to the forestry and wood processing sector. They may also include legal, arbitration, and mediation expertise. The Forestry Authority must appoint a chairperson when forming the panel.**
- (vi) **The Forestry Authority and panel must take all reasonable care to ensure any real or perceived conflicts of interest are managed.**
- (vii) **The Forestry Authority shall provide secretarial support to the panel.**
- (viii) **The Forestry Authority shall develop procedures for how complaints panels must operate.**

- (ix) The complaints panel may determine a complaint is frivolous, vexatious, or anti-competitive and make a finding it will not consider the complaint.
- (x) A complaints panel may require registered persons to provide information relating to a complaint. Information must be requested in writing and include a reasonable timeframe for response.
- (xi) A complaints panel may conduct interviews or request a person to appear in person in relation to a complaint.
- (xii) The panel must notify the Forestry Authority of its findings.
- (xiii) The panel may make recommendations to the Forestry Authority on guidance or practice standards as a result of its findings.
- (xiv) If the panel finds that a registered person has, or may have, engaged in unsatisfactory conduct or misconduct, the panel must
  - notify the Forestry Authority of that finding
  - recommend that the Forestry Authority consider whether to take 1 or more of the actions specified in section 63V of the Amendment Act.

## If a complaints panel is set up, should it publish its findings?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
A complaints panel should not be able to publish its findings about a complaint <b>Status quo</b>	-- It is what the Act currently contains	-- Minimal complexity because of no publication, no publications costs.	-- Does not support transparency as the public, including potential clients, would not know whether or how historical or future complaints will be responded to.
A complaints panel should be able to publish its findings about a complaint <i>Preferred option</i>	-- Is neutral because it does not promote or undermine the purpose of the Act	-- Is neutral because the anticipated cost and complexity is anticipated to be similar to the status quo	✓✓ Supports accountability as well as transparency. Enables people to know what complaints have been made, the findings of the complaints panel, and recommendations.  <i>Submitters on this matter generally supported publication for transparency. Some noted that complaints should only be published where they are upheld, or only when a complaint results in revocation of registration. Others suggested that removal from the register would be enough without publication.</i>
A complaints panel should only be able to publish its findings about a complaint if they are anonymised (the public is not told	-- Is neutral because it does not promote or	✗ Additional administrative burden for the Forestry Authority or panel to	✓

who made the complaint or who the complaint was about)	undermine the purpose of the Act	anonymise information to a point the parties cannot be identified.	Supports accountability in relation to receiving, handling, and responding to issues raised by complainants. Does not enable the public to identify log traders who are the subject of the complaints.
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## Proposal

- (i) **The Forestry Authority\* may publish the findings of a complaints panel where the complaint results in a finding of unsatisfactory conduct or misconduct**
- (ii) **The Forestry Authority may only publish the findings of a complaint after all review and appeal rights have been exhausted**
- (iii) **The Forestry Authority may withhold confidential and private information when publishing the findings of a complaints panel.**

\*The intent of enabling the Forestry Authority to publish the findings, rather than the complaints panel, is to account for:

- The timelapse between the panel's findings and any review or appeal rights being exercised
- The timelapse for the Forestry Authority to make a decision on how to respond to the recommendations of the complaints panel
- The Forestry Authority to consider publishing the resulting actions it decides to take in response to the recommendations alongside the panel's findings.

## Process for dispute resolution

Step	Action
1	A person (party A) that believes there is a dispute provides notice to the other party or parties involved in the matter. Notice shall be in writing and contain the material details of the dispute (for example, when it occurred, what happened, and why the dispute arises).
2	The person receiving the notice (party B) shall respond to the notice within 20 working days. The response shall be in writing and include the material information from their perspective. It should also identify any matters from the notice that are agreed, and which are not agreed with.

3	Party A shall prepare a summary of the matters in dispute in light of Party B's response and provide this to Party B within 10 working days.
4	Party A and B shall attempt to resolve the matters in dispute by agreement on the basis of the summary of matters.

An options analysis has not been included as a dispute process is required to be set in regulations, the process is required to occur prior to mediation or arbitration. Options for different processes were not consulted on, though an opportunity to suggest changes or different processes was provided.

## Proposal

**A commercial dispute referred to dispute resolution must follow the below process:**

- (iv) A person with the standing to refer a matter to dispute resolution (person A) must provide notice to the other party or parties to the dispute that they believe a dispute has arisen.**
- (v) Notice of a dispute must be in writing and contain the material details of the dispute (for example when it occurred, what happened, and why the dispute arose).**
- (vi) The person or persons receiving the notice (party B) shall respond to the notice within 20 working days.**
- (vii) The response shall be in writing and include the material information from their perspective. It should also identify any matters from the notice that are agreed, and that are not agreed with.**
- (viii) Party A shall prepare a summary of the matters in dispute in light of Party B's response and provide this to Party B within 10 working days.**
- (ix) Parties A and B shall attempt to resolve the matters in dispute by agreement on the basis of the summary of matters.**

Many submitters noted that the process should be as simple as possible and voluntary. Many contracts and commercial agreements already include resolution processes. This regulation is not intended to replace or displace those agreements.

## Regulating Forestry Advisers



## Should any other services be identified as forestry advice services, apart from those identified in the Amendment Act?

Some submitters felt that the Amendment Act is not specific enough to ensure that people who provide advice on environmental matters will register as forestry advisers. However, the Amendment Act, section 63M(1)(vi) provides an example as explanation of what advice ‘the beneficial effects of forests’ might include, namely ‘how they contribute to environmental and economic outcomes’. This example prompts people who provide environmental services to apply for registration.

### Proposal

**No other services should be identified as forestry advice services.**

## Who must register as a Forestry Adviser?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
<p>Only individuals ('natural persons') should have to register as forestry advisers (<i>preferred option</i>)</p> <p><b>Status quo</b></p>	<p>--</p> <p>It is what the Act currently contains</p> <p><i>Many submitters favoured this option.</i></p>	<p>--</p> <p>Administrative burden/cost would be on individuals but it would be clearer about who holds the obligations as a forestry adviser.</p> <p>Costs associated with maintaining entitlement to be registered, and possible personal liability if advice is challenged.</p>	<p>--</p> <p>Easy to collate market data on numbers, locations of forestry advisers and to hold individuals to standards of practice.</p>
Only businesses should have to register	--	✓	✗✗

<p><b>This would require legislative change</b></p>	<p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector by putting obligations on the party a person seeking advice from is contracting with rather than employees of a business</p> <p>Registration of businesses would make it more difficult to enforce obligations on forestry advisers to comply with a code of ethics or future ongoing professional development requirements, which suggests an individual responsibility.</p>	<p>Administrative burden/cost is on businesses rather than individual employees.</p> <p>Businesses can exercise communities of practice to build internal expertise, sharing liability for the quality of advice.</p> <p><i>People who favoured only businesses being registered as forestry advisers said that the costs of registration would be too much for individuals, and that individual registrations would be bureaucratically burdensome. They also said that, if businesses are not registered, they could avoid responsibility for the advice provided by their employees.</i></p> <p><i>Submissions did not provide evidence of a problem which would justify legislative amendment.</i></p>	<p>Market data e.g. on workforce numbers may be less precise as there is less visibility of individual advisers.</p> <p><i>Submitters said that, if businesses were to register, poor individual practice may be shielded by company registration, and this could disproportionately affect Māori, small, and new forest owners.</i></p>
<p>Businesses and individuals should have to register if they are providing forestry advice</p> <p><b>This would require legislative change</b></p>	<p>✓</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>✗</p> <p>Potential for double registration if individuals operate independently (e.g. as sole traders) as well as providing advice on behalf of businesses. This would add administrative cost and could make it unclear what obligations each party must meet.</p>	<p>✗</p> <p>Could make adviser numbers, locations and activities less transparent. Poor individual practice may be shielded by business registration.</p>

## Proposal

**No additional forestry adviser services are proposed to be identified by regulations;**

## The Mix of experience, qualifications, and professional memberships required for registration

Option (MPI did not present a preferred option during public consultation)	Purpose of the Act	Minimal complexity and administrative cost	Transparency
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<p>No requirements for experience, qualifications, professional memberships</p> <p><b>Status quo</b></p>	<p>--</p> <p>It is what the Act currently contains</p>	<p>--</p> <p>Forestry advisers may have increased administrative costs advertising their qualifications and marketing their expertise to provide advice in the absence of a regulatory requirement.</p>	<p>--</p> <p>Individual forestry advisers and companies could provide this information on their website or elsewhere, but the forestry adviser register itself would not help clients to know whether (and what) knowledge or experience someone has.</p> <p>This option does not encourage industry upskilling or new people to come into the industry via tertiary qualifications</p>
<p>Relevant experience only (no qualifications or professional memberships required)</p>	<p>--</p> <p>Is neutral in not supporting or undermining the purpose of the Act</p>	<p>--</p> <p>Complexity and cost will be reduced if there is an agreed definition of relevant experience, both in New Zealand and overseas.</p> <p>May be more complex where the quality of advice previously given is challenged.</p>	<p>✓</p> <p>Clients are particularly likely to value experience; registration would enable clients to find advisers with relevant experience easily.</p> <p>Does not support industry upskilling, or new people to come into the industry via tertiary qualifications</p>
<p>Relevant qualifications only (no professional memberships or experience required)</p>	<p>--</p> <p>Is neutral in not supporting or undermining the purpose of the Act</p>	<p>--</p> <p>Easy to administer and understand if there is a regularly updated schedule of relevant NZ and overseas qualifications.</p> <p>Some administrative burden for the Forestry Authority to maintain a schedule of relevant qualifications, and for people to request new qualifications are added over time.</p>	<p>✗</p> <p>Registration would not provide assurance of advisers' depth or range of experience; some potentially good advisers would not be entitled to register.</p> <p>Would support appropriate industry upskilling through industry/tertiary education dialogue on qualifications development</p>
<p>Professional membership(s) only (no qualifications or experience required)</p>	<p>--</p> <p>Is neutral in not supporting or undermining the purpose of the Act</p>	<p>✗</p> <p>Assumes that other memberships are relevant, and that they maintain relevance, to forestry advice. This requires regular checking/liason between Forestry Authority and other registration bodies.</p> <p>It may make it unclear who is the regulator in any particular circumstance.</p>	<p>✗</p> <p>Registration would provide assurance that forestry advisers have fulfilled the requirements of other relevant professional memberships, including other requirements for qualifications and/or experience, however they also need to be appropriate to the needs of forestry clients</p>

			Does not support forestry-specific industry qualifications
Relevant experience AND qualifications AND professional memberships	<p>✓</p> <p>Supports confidence and informed participation, as well as contributing to improved economic and environmental outcomes</p>	<p>✗ ✗</p> <p>An appropriate mix of experience, qualifications, memberships may be difficult to establish or demonstrate.</p> <p>A requirement for professional memberships could be a breach of the freedom of association if a person does not want to join an organisation.</p>	<p>✗ ✗</p> <p>Sets the bar high. For example, may deter people who have qualifications but who need to gain experience before they can register.</p> <p>Would stop people from registering who have professional memberships but no qualifications or experience in forestry: they may have useful knowledge that is relevant to forestry</p>
Relevant experience AND/OR qualifications AND/OR relevant professional memberships	<p>✓</p> <p>Supports confidence and informed participation, as well as contributing to improved economic and environmental outcomes</p>	<p>--</p> <p>Forestry advisers would have the flexibility to decide what to provide evidence of (experience/qualifications/memberships).</p> <p>May cost more for forestry advisers and the Forestry Authority as each registration would require individual consideration of the relevant material.</p>	<p>✓</p> <p>Would allow a wide range of people to be registered.</p> <p>From the register, potential clients would have a comprehensive insight into forestry advisers' knowledge and skills.</p>

The following proposal takes multiple submissions into account. Submissions indicated that experience and education were both considered valuable, but neither alone would qualify a person to provide forestry advice. Submissions on education requirements tended towards diploma and degree level qualifications (Level five and above). Submissions also tended to suggest five to ten years of experience were appropriate if no other qualifications were held. Both the education and experience should be relevant to the types of advice the person proposes to provide. The following proposal responds to submissions, while maintaining flexibility for the pathways people might take to enter the industry.

## Proposal

1. Any NZQA Level five or above, or overseas equivalent, qualification in forestry or course relevant to the category of registration plus two years' experience in New Zealand, or
2. Five years of experience providing forestry advice in New Zealand relevant to the category of registration.

## Registering new forestry advisers who do not meet the experience criteria for registration

Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
<p>There should be no structured support or additional requirements for new entrants</p> <p><b>Status quo</b></p>	<p>--</p> <p>A purpose of the Act is that registration of forestry advisers and log traders will 'improve the long-term sustainability of the forestry and wood-processing sector' (section 63A(f)). This implies that the registration system should contribute to developing the forestry adviser workforce.</p>	<p>--</p> <p>Minimal complexity</p>	<p>--</p> <p>If new entrants are not entitled to register, they will not be able to provide forestry advice for reward. This would make it impossible for new entrants to enter the market, preventing supply of new advisers.</p>
<p>New entrants should be entitled to register as a forestry adviser with the condition that their final advice is peer reviewed by a forestry adviser with no conditions on their registration</p>	<p>✓</p> <p>Improves long-term sustainability of the workforce</p>	<p>✗</p> <p>Finding suitable peer reviewers for each piece of advice may be difficult if there is not an existing relationship.</p> <p>Forest advisers may charge for peer review, increasing the costs for all parties in the supply chain.</p>	<p>✓</p> <p>Provides a pathway for new entrants to enter the market but may make it difficult to understand who is responsible for advice.</p>
<p>New entrants should be entitled to register as forestry advisers with the condition that the new entrant is actively mentored, and advice is supervised at every stage by a forestry adviser with no conditions on their registration</p> <p><i>Preferred option</i></p>	<p>✓</p> <p>Improves long-term sustainability of the workforce</p>	<p>✓</p> <p>Clarifies how new entrants can become forestry advisers</p> <p>New entrants will need to find supervisors, this may be difficult in some circumstances</p> <p>Costs of supervision for those who supervise (less time to provide advice themselves) but may create a market for supervisors.</p>	<p>✓</p> <p>Provides a pathway for new entrants to enter the market.</p> <p>Enables projections about the future supply of forestry advisers, and identification of skills gaps and shortages.</p>

New entrants should be entitled to register if they are supervised by a registered forestry adviser AND they pass an exam	<input checked="" type="checkbox"/> Improves long-term sustainability of the workforce	<input checked="" type="checkbox"/> Exam would need preparation, administration, kept up to date. However, it could provide an objective minimum standard.	<input checked="" type="checkbox"/> Supports transparency because exams can be an objective and verifiable way of assessing knowledge
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The following proposal takes multiple submissions into account:

### Proposal

**A person that does not have experience may register as a forestry adviser, but their registration must include the following obligations as relevant to the circumstances: If the person has a qualification of the type identified above, two years of supervision providing forestry advice by a person with a category of registration the Forestry Authority approves to provide supervision; or**

**If the person does not have a qualification of the type identified above, the person must have five years of experience relevant to the category of registration and two years supervision providing forestry advice by a person with a category of registration the Forestry Authority approves to provide supervision.**

## Fit and proper person test

	Criteria		
Elements of the 'fit and proper' test	Purpose of the Act	Minimal complexity and administrative cost	Transparency
No matters to take into account identified in regulations  <b>Status quo</b>	-- Is neutral as the status quo, but does not support confidence and informed participation in the forestry and wood-processing sector	-- Could be complex and costly as the matters to take into account are not identified or defined.  These costs would be to applicants for registration and the Forestry Authority processing applications.	-- It would not be transparent to forestry advisers what matters the Forestry Authority may consider in determining if they are fit and proper.  It would not provide transparency to users of the public register that forestry advisers have met minimum standards to operate.
Not bankrupt	<input checked="" type="checkbox"/>	-- A declaration would be required, verification may be undertaken	<input checked="" type="checkbox"/>

<p><i>Self-declaration</i></p> <p><i>Preferred option</i></p>	<p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>		<p>Assures clients of forestry advisers that they are being advised by someone who is legally able to trade</p>
<p>Tax compliant</p> <p><i>Self-declaration</i></p>	<p>✓</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>--</p> <p>A declaration would be required, verification may be undertaken</p>	<p>--</p> <p>Assures forest owners that they are being advised by someone who will pay taxes as required by law, but may reduce transparency if it is unclear how the Forestry Authority is taking tax compliance into account</p> <p><i>Many submitters raised a concern that tax compliance should not be considered as part of the test as it is more appropriately dealt with through the tax system. As a result, we have removed this as a matter to take into account.</i></p>
<p>Any previous criminal or civil offences</p> <p><i>Conviction and civil liability check</i></p> <p><i>Preferred option</i></p>	<p>✓</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>✓</p> <p>Would require applicant to submit Ministry of Justice form</p> <p><i>Some submitters raised a concern that civil offences should not be considered. We have retained this matter to take into account because of the relevance of civil offences to conduct in the forestry sector. For example, civil offences and penalties in the Climate Change Response Act for the Emissions Trading Scheme.</i></p>	<p>✓</p> <p>Assures clients that they are being advised by someone who will act honestly and within the law</p>
<p>Previous compliance with the obligations as a forestry adviser or log trader if they have been previously registered</p> <p><i>Previous registration information</i></p> <p><i>Preferred option</i></p>	<p>✓</p> <p>Supports improved confidence and informed participation of businesses and investors in the forestry and wood-processing sector</p>	<p>✓</p> <p>The Forestry Authority will hold these records, checking this information should be relatively straight forward.</p>	<p>✓</p> <p>Assures clients that the forestry adviser has met past obligations</p>

## Proposal

The following matters must be taken into account by the Forestry Authority when determining if it is satisfied that a person is fit and proper to provide a forestry adviser service:

- (i) Any previous criminal convictions or civil offences
- (ii) Previous compliance with the obligations of a forestry adviser (if they have previously been registered as an individual);
- (iii) Previous compliance with the obligations of a log trader if the individual is or has been the “controlling mind and will” of a registered log trader business;
- (iv) Whether the person is an undischarged bankrupt or subject to subpart 4 of Part 5 of the Insolvency Act 2006.

## Information requirements

### Proposal

The following information must be provided to the Forestry Authority with an application for registration as a forestry adviser:

- I. Name and contact details for applicant
- II. Proof of identity for the applicant
- III. Previous names by which the applicant has been known
- IV. Name and contact details for the person making the application on behalf of the applicant (if using an agent)
- V. Criminal conviction and civil liability check for applicant
- VI. Any previous suspension or revocation of registration as log trader or forestry adviser of applicant
- VII. The category or categories of registration being applied
- VIII. Evidence of qualifications relied on for application
- IX. Evidence of experience relied on for application
- X. Evidence of professional memberships relied on for application
- XI. Declaration that the person undertakes, or intends to undertake, some or all of the forestry adviser services (as described in s 63M or regulations under the Amendment Act)

During consultation, many submitters raised concern that a tax declaration would be required. As a consequence of removing this matter from the fit and proper person test, we have also removed it from the information requirements.



Submitters suggested that information on the previous names by which the person has been known, and any previous suspension or revocation of the person’s registration as a Log Trader or Forestry Adviser would enable the Forestry Authority to conduct more effective background searches on anyone applying for registration. It would also quickly identify a person that has previously been suspended or had their registration revoked, so that the Authority can assure itself that the person is now eligible to be registered. We have included this information in the information requirements.

## Length of registration

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
No renewal required <b>Status quo</b>	-- The Act refers to renewal, which suggests that registration will not last indefinitely	-- Costs would be incurred for updating registration details if necessary	-- Renewal is an opportunity to update details in the public register. Unless people choose to update their details as necessary, this option could mean that the public register becomes out of date
Registration will expire one year from the date of registration	✓ Allows for regular updates of registered persons’ information	✗ Forestry advisers will incur annual administrative time and costs for renewal of registration.  The application must occur three months before expiry, increasing the time spent preparing for and having registrations processed.	✗ Relies on people renewing their registration before it expires. If people drop off the register before renewal of registration, they could be ‘invisible’ to the market
Five years <i>Preferred option</i>	✓ Meets the expectation of the Act that there will be a regular check of ‘fit and proper’ status	✓✓ A lower administrative burden for forestry advisers than the status quo and the one year option. Updates to the register can occur during the renewal process, thus relieving forestry advisers from checking the register and providing information ad-hoc to the Forestry Authority to update their details  Forestry advisers would be required to update e.g. contact details and other details replied upon for registration.	✓ Industry ‘churn’ (people leaving the workforce) would not be reflected in the register.  Relies on regular updates from forestry advisers and the Forestry Authority, otherwise the register will become unusable  Forestry Advisers will be confident for longer about their registration status

			<i>Submitters favoured a five year registration period but noted that details must be kept up to date. We agree that it should be an obligation to notify the Forestry Authority of any changes. This approach will keep details up to date and reduce the administration and cost that the possible volume of 'no change' reporting could generate.</i>
Between five and 10 year registration	-- As the Act anticipates details of registered persons will be kept up to date to enable regular checks on 'fit and proper' status, this length of time would be too long for this to be achieved (unless there is some mechanism for updating outside the registration process)	✓ Less administrative burden for forestry advisers in seeking renewal and for the Forestry Authority processing renewal applications.	-- Relies on regular updates from forestry advisers to the Forestry Authority, otherwise the register will become out of date, and the public may not be confident about 'fit and proper' status

### Proposal

**The registration period for registered persons shall expire five years from the date on which the person became registered. Registered persons must notify the Forestry Authority of any changes that would affect their entitlement to be a registered person within a reasonable time of the change occurring.**

## What should be required for a forestry adviser to renew their registration?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Registered forestry advisers will make another full application for registration <b>Status quo</b>	-- Provides information that demonstrates entitlement to re-register	-- Low administrative cost as forestry advisers will be familiar with the registration process, however registration needs to be done	-- Repeat of tests such as the 'fit and proper' test will assure the market that information on the register is current

		promptly (before it expires), or they will fall off the register Encourages advisors to periodically think about their registration requirements and commitments	There could be market disruption if registration is not done promptly and forestry advisers fall off the register
Forestry advisers will make a shorter application for renewal of registration, with a declaration that they have met the required obligations and will continue to meet the entitlement to be registered criteria during the renewed registration period. If they have not met the requirements, an explanation of how any issues have been remedied. (Preferred option)	✓ Provides information that demonstrates entitlement to re-register	✓✓ Lower administrative cost than for a full application, however registration needs to be done promptly (before it expires), or the forestry adviser will fall off the register Encourages advisors to periodically think about their registration requirements and commitments	✓ Ensures that details are kept up to date, which will flow through to an accurate public register and any ensures that a person will continue to be entitled to register.  <i>Submissions were mixed about whether a shorter application or full application should be required for renewal. One suggested a full application every 10 years. We considered these suggestions and concluded that an obligation on the forestry adviser to notify the Forestry Authority of changes when they occur would serve the same purpose with a lower administrative burden.</i>
Registered forestry advisers will make a shorter application for renewal of registration, just that no details have changed and that they have complied with their obligations during the previous registration period	✓ Provides information that demonstrates entitlement to re-register	✓ Low cost as forestry advisers will be familiar with the registration process	✓ Ensures that details are kept up to date, which will flow through to an accurate public register.  Advisors may not think about their registration requirements and commitments after initial registration.

## Proposal

- I. **The following information must be provided to the Forestry Authority with an application for renewal of registration as a forestry adviser:**
  - Details of current registration
  - Confirmation that details are the same as those used to register
  - Declaration they have met the obligations of a forestry adviser during the registration period
  - Declaration they will continue to meet the entitlement criteria for the duration of the renewal period (the next 5 years)

V. If they have not met the obligations of a forestry adviser during the registration period, an explanation of how any issues have been remedied.

## What records should a forestry adviser have to keep?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Registration as a forestry adviser would not include the requirement to keep records <b>Status quo</b>	-- Record keeping is good business practice therefore this option could lower or not improve the confidence of businesses and investors in the sector (section 63A(c))	-- No immediate cost, but costs may be incurred at a later date e.g. if records cannot be located in order to respond to a complaint or dispute	-- Would not support transparency of forestry adviser services, and absence of information could erode accountability
Registered forestry advisers would keep records of all transactions and agreements relating to the provision of forestry advice	✓ Supports good business practice	-- Should not add significant additional burden to the Inland Revenue requirement to keep records	✓ Supports an informed response to clients if they make complaints, queries.
Registered forestry advisers would keep records of all advice provided to a client (this may be by way of summary) AND information relevant to complaints and disputes <i>Preferred option</i>	✓ Supports good business practice therefore likely to improve confidence in the provision of forestry advice	-- Should not be significant additional administrative burden on forestry advisers	✓✓ Records of complaints and how they are handled would enable better and faster dispute resolution across the industry

## Proposal

Registered forestry advisers must keep contemporaneous records relating to advice provided to a client and complaints and disputes.

The records would include:

- VI. the document (e.g. email) that raised or initiated the complaint or dispute;
- VII. the notes made by the log trader about the background to the complaint or dispute, and how it was handled;
- VIII. any relevant correspondence (e.g. with a mediator or the Forestry Authority);
- IX. record of the outcomes (e.g. resolution by agreement, referral to arbitration); and
- X. records of further actions, including what will be done by the log trader to avoid similar issues from occurring again.

## In what form should forestry advisers keep records?

We did not provide an options analysis for public consultation. During public consultation, submitters preferred flexibility to keep records in various forms, including hand-drawn sketches and photographs. As a result, we have amended the requirement to focus on the record being *retrievable*. A retrievable record is one that can be provided to a client, Forestry Authority, or complaints panel (if requested/required). A record may be provided in hard copy or digital, hand-written, or an audio recording.

## Proposal

Registered persons must retain records in a retrievable form for at least seven years.

## How long should forestry advisers keep records?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
Forestry advisers should not have to keep records for a minimum amount of time <b>Status quo</b>	-- The Amendment Act assumes that records will be available if requested by the Forestry Authority	-- Potential for administrative costs for forestry advisers if they have to re-create records that were not kept (or deleted) and which are requested by the Forestry Authority	-- Absence of records would not support transparency

Forestry advisers should keep records for 7 years  <i>Preferred option</i>	✓ Ensures availability of records if requested	✓ As 7 years aligns with other statutory requirements (e.g. tax records), this could mean that little separate record keeping is needed  <i>Submitters supported the proposal for keeping records for 7 years. Seven years was considered a reasonable period that does not impose undue compliance costs and is normal for retention of business records for tax issues etc.</i>	✓ Records are available and able to be provided e.g. to clients in case of a dispute or complaint  <i>Submitters suggested that records relating to a complaint or dispute should be kept until the complaint or dispute is resolved. We therefore amended the preferred option so as to require records to be kept for a <u>minimum</u> period of 7 years.</i>  <i>Submitters also raised concerned about who 'owns' the advice and how a forestry adviser could keep records if they move employment.</i>
Forestry advisers should keep records for as long as the advice is relevant, i.e. the period the advice covers, for example, until harvest is completed.	-- As advice can vary greatly, there would be little consistency in the length of time records are kept for	✗ Some businesses may delete records before they are required by the Forestry Authority	-- Difficult to determine what the relevant length of time will be for each piece of advice.

## Proposal

**Forestry advisers must keep records for a minimum of seven years.**

## Reporting to the Forestry Authority

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
No regular reporting	--	--	--
<b>Status quo</b>		No cost to forestry advisers	

	It is what the Act currently contains	Difficult for Forestry Authority to know who is not meeting obligations	Does not indicate how well forestry advisers are adhering to obligations. Only limited insight would come from complaints received by the Forestry Authority.
Registered forestry advisers fill in an annual return stating how they have met their obligations during the past year	✓ Indicates continuing entitlement to be registered	✗ Costs to Forestry Authority if it follows up when there is an indication, in the return, of not meeting obligations.  It could result in a large volume of 'no change' annual reports, increasing the administrative burden for all parties.	-- Self-reporting on the previous year may not support full transparency if it is not augmented or clarified by additional, also more up to date information
No regular reporting, but an obligation for forestry advisers to keep their information up to date.  <i>Preferred option</i>	✓ Indicates continuing entitlement to be registered	✓ Reduces administrative burden for the Forestry Authority to audit and ensure that information for forestry advisers is up to date.	✓ Ensures that any changes to a forestry adviser's entitlement to be registered are reflected in the public register.

Note, the preferred option was added following suggestions made through public consultation.

## Proposal

**There should be no regular reporting by Forestry Advisers to the Forestry Authority.**

**Forestry advisers will have an obligation to notify the Forestry Authority of any changes that would affect their entitlement to be a registered person within a reasonable time of the change occurring.**

## Information to be kept on the public register

	Criteria
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Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
<p>The information required in the Amendment Act</p> <p><b>Status quo</b></p>	<p>--</p> <p>It is what the Act currently contains</p>	<p>--</p> <p>Forestry Authority would supply this information from the registration/renewal process</p>	<p>--</p> <p>Supports transparency</p>
<p>Information as required in the Amendment Act, plus details of qualifications, or experience, or other professional memberships</p> <p><i>Preferred option</i></p>	<p>✓</p> <p>Supports improved confidence and informed participation in the forestry and wood processing sectors</p>	<p>✓</p> <p>Forestry Authority would supply this information from the registration/renewal process.</p> <p>Would require the register to be updated frequently, particularly for experience to be reflected accurately.</p>	<p>✓</p> <p>Gives useful information about the forestry adviser, including support for the forestry advice services that they provide.</p> <p>May become out of date if further training is undertaken.</p> <p><i>Public consultation raised the suggestion that a forestry adviser should be able to self-identify as Māori. This is so that Māori forest owners can identify forestry advisers that may more closely share their views and adopt tikanga or mātauranga approaches to their work. We are proposing to include this as optional, and to continue to work with Māori representatives on how this proposal can be operationalised.</i></p> <p><i>Public consultation also raised the suggestion that forest owners should be able to find forestry advisers by region</i></p>
<p>Details of people who have applied for, and been granted, an exemption from registration</p>	<p>--</p> <p>Is neutral because it does not provide further information on registered forestry advisers but does support market transparency</p>	<p>✓</p> <p>Minimal complexity as the Forestry Authority would have this information from the exemption application process, if such a process exists, or people who are exempt would supply the information</p>	<p>--</p> <p>The public register would contain more information about who is operating in the market. Would allay some concerns about probity etc. of people who would otherwise not appear on the register. It would need to be made clear that those who are exempt do not have to meet obligations of registered people, nor fulfil registration requirements such as the 'fit and proper' test.</p> <p><i>There was some support for exempt forestry advisers appearing on the register. Details relating to exemptions will be determined by the Forestry Authority and may include a list of exempt people. However, we have determined these people should not appear on the register as this could give a false impression that they are meeting the obligations of a registered forestry adviser.</i></p>



Whether the registered person acts on behalf of, or as an agent for, other forestry advisers, or is employed by them, and the name of who they act/work for	✓ Enables the public to know who to contact e.g. in case of a dispute or complaint	XX Possible ambiguity over what the register should show e.g. if a person acts as an agent and, at other times, on own behalf	✓ Provides more information to the market about the role of each registered forestry adviser, and expands the data available for market analysis
Should indicate whether penalties have been issued for non-compliance with the obligations	✓ Enables the public to know the registration status of an adviser	X No direct administrative implications for the forestry adviser but may need to field questions from potential clients	-- Supports transparency but could raise privacy issues.  Could affect the individual forestry adviser's business, causing disruption in the supply chain (e.g. if people don't want to work with them)
Geographic area of operation at the regional level  <i>Preferred option</i>	✓ Enables the public to know whether a person is operating in their area	✓ Will be a detail provided with application, will not add complexity or cost. Setting the information at the regional level will reduce complexity over more specific geographic identification.	✓ Provides transparency over where a person is operating, as this may not be apparent from the person's contact details being on the register.

## Proposal

As well as the information required by section 63ZO (3) (details of services provided, name and contact details, date when the person became registered, date when registration expires), the following information must be displayed on the register of forestry advisers:

- i. Geographic area of operation at a regional level
- ii. The status or category of the registration (see below)

The following information may be displayed on a forestry register, at the request of the registered person:

- iii. Identification of the registered person as Māori, which may include iwi affiliations
- iv. A link to the forestry adviser's website.

## Appearing on the register when suspended

Public submissions commented on whether a person should appear on the register when suspended. Suspension is considered a 'status' of registration. The status or category of the registration will be determined by the Forestry Authority. This information will assist people using the forestry registers to identify registered persons who are authorised to carry out the services they are seeking.

The status of the registration would include whether the registered person is suspended under s 63X of the Amendment Act. Suspension is a transitional step prior to revocation or suspension being lifted. Retaining a suspended person on the register reduces the administrative burden of removal if the suspension is lifted. It also warns people that the registration could be revoked. If a suspension is lifted, any information relating to the suspension would no longer be displayed on the forestry register

### Proposal

**If a forestry adviser is suspended under section 63X of the Amendment Act, the register of forestry advisers will display the forestry adviser on the register as suspended during the period of suspension.**

## Should a complaints panel be set up?

	Criteria		
Option	Purpose of the Act	Minimal complexity and administrative cost	Transparency
A complaints panel should not be set up  <b>Status quo</b>	--  It is what the Act currently contains	--  If many or complex complaints are received, the Forestry Authority might have difficulty processing and responding to the complaints as well as performing its other duties. This could add to the administrative costs and may cause backlogs.	--  If the Forestry Authority cannot handle complaints fast enough there may be backlogs, causing delays in responding to complainants. This would reduce transparency as complainants would not know the result of their complaints or whether actions will be taken to resolve them.  Complainants may not regard the Forestry Authority as the right body to be objective, fair and consistent in handling complaints about their members.  <i>Submissions during the public consultation focused on potential misuse of the complaints process. There was concern that complaints could be used for anti-competitive or malicious reasons. As a protection against this, we have introduced further checks into the system: the complaint must be specified with due particularity and the panel may decline to consider a complaint that is frivolous, vexatious, or anti-competitive.</i>

			<i>Promotion of the system will reiterate that a complaints panel will only be used for complaints about unsatisfactory conduct and misconduct (as set out in the Act).</i>
A complaints panel is set up for each complaint, with members appointed only to hear the specific complaint.	-- Is neutral because it does not promote or undermine the purpose of the Act	✘ Would require identifying, appointing, and training new panel members for each complaint	-- It would be transparent that the panel would hear complaints, but not transparent about the particular decision maker (panelists)
A permanent complaints panel should be set up with a pool of members appointed for a specified time. <i>Preferred option</i>	-- Is neutral because it does not promote or undermine the purpose of the Act (under the status quo, the Forestry Authority would handle all complaints)	✘ Would reduce the administrative load for the Forestry Authority but would require its own members, administration, processes etc.	✔ Would ensure independent handling of complaints, increasing transparency for complainants. A pool of members would allow for choosing panelists to avoid conflicts of interest.

## Proposal

- (i) **The Forestry Authority may refer a complaint about unsatisfactory conduct or misconduct of a person in their capacity as a registered person to a complaints panel.**
- (ii) **The Forestry Authority must maintain a list of appropriate people to be on complaints panels.**
- (iii) **The Forestry Authority shall work with complainants to ensure complaints contain sufficient information for a complaints panel to begin to consider whether the person has engaged in unsatisfactory conduct or misconduct.**
- (iv) **The Forestry Authority must establish a panel of at least 3 panellists to hear and make findings in relation to the complaint.**
- (v) **Panel members must have skills and experience relevant to matters included in the complaint. Skills and experience are not limited to skills and experience related to the forestry and wood processing sector. They may also include legal, arbitration, and mediation expertise. The Forestry Authority must appoint a chairperson when forming the panel.**
- (vi) **The Forestry Authority and panel must take all reasonable care to ensure any real or perceived conflicts of interest are managed.**
- (vii) **The Forestry Authority shall provide secretarial support to the panel.**
- (viii) **The Forestry Authority shall develop procedures for how complaints panels must operate.**
- (ix) **The complaints panel may determine a complaint is frivolous, vexatious, or anti-competitive and make a finding it will not consider the complaint.**

- (x) A complaints panel may require registered persons to provide information relating to a complaint. Information must be requested in writing and include a reasonable timeframe for response.
- (xi) A complaints panel may conduct interviews or request a person to appear in person in relation to a complaint.
- (xii) The panel must notify the Forestry Authority of its findings.
- (xiii) The panel may make recommendations to the Forestry Authority on guidance or practice standards as a result of its findings.
- (xiv) If the panel finds that a registered person has, or may have, engaged in unsatisfactory conduct or misconduct, the panel must
  - notify the Forestry Authority of that finding
  - recommend that the Forestry Authority consider whether to take 1 or more of the actions specified in section 63V of the Amendment Act.

## If a complaints panel is set up, should it publish its findings?

Option	Criteria		
	Purpose of the Act	Minimal complexity and administrative cost	Transparency
A complaints panel should not be able to publish its findings about a complaint <b>Status quo</b>	-- It is what the Act currently contains	-- Minimal complexity because of no publication, no publications costs.	-- Does not support transparency as the public, including potential clients, would not know whether or how historical or future complaints will be responded to.
A complaints panel should be able to publish its findings about a complaint <i>Preferred option</i>	-- Is neutral because it does not promote or undermine the purpose of the Act	-- Is neutral because the anticipated cost and complexity is anticipated to be similar to the status quo	✓✓ Supports accountability as well as transparency. Enables people to know what complaints have been made, the findings of the complaints panel, and recommendations.  <i>Submitters on this matter generally supported publication for transparency. Some noted that complaints should only be published where they are upheld, or only when a complaint results in revocation of registration. Others suggested that removal from the register would be enough without publication.</i>
A complaints panel should only be able to publish its findings about a complaint if they are anonymised (the public is not told who made the complaint or who the complaint was about)	-- Is neutral because it does not promote or undermine the purpose of the Act	✗ Additional administrative burden for the Forestry Authority or panel to anonymise information to a point the parties cannot be identified.	✓ Supports accountability in relation to receiving, handling, and responding to issues raised by complainants. Does not enable the public to identify forestry advisers who are the subject of the complaints.



## Proposal

- (i) **The Forestry Authority\* may publish the findings of a complaints panel where the complaint results in a finding of unsatisfactory conduct or misconduct**
- (ii) **The Forestry Authority may only publish the findings of a complaint after all review and appeal rights have been exhausted**
- (iii) **The Forestry Authority may withhold confidential and private information.**

\*The intent of enabling the Forestry Authority to publish the findings, rather than the complaints panel, is to account for:

- The timelapse between the panel’s findings and any review or appeal rights being exercised
- The timelapse for the Forestry Authority to make a decision on how to respond to the recommendations of the complaints panel
- The Forestry Authority to consider publishing the resulting actions it decides to take in response to the recommendations alongside the panel’s findings.

## Disputes process

Submitters generally supported the following steps:

Step	Action
1	A person (party A) that believes there is a dispute provides notice to the other party or parties involved in the matter.  Notice shall be in writing and contain the material details of the dispute (for example, when it occurred, what happened, and why the dispute arose).
2	The person receiving the notice (party B) shall respond to the notice within 20 working days.  The response shall be in writing and include the material information from their perspective. It should also identify any matters from the notice that are agreed, and which are not agreed with.
3	Party A shall prepare a summary of the matters in dispute in light of Party B’s response and provide this to Party B within 10 working days.
4	Party A and B shall attempt to resolve the matters in dispute by agreement on the basis of the summary of matters.

An options analysis has not been included as a dispute process is required to be set in regulations, the process is required to occur prior to mediation or arbitration. Options for different processes were not consulted on, though an opportunity to suggest changes or different processes was provided.

## Proposal

**A commercial dispute referred to dispute resolution must follow the process described below:**

- I. A person with standing to refer a matter to dispute resolution (person A) must provide notice to the other party or parties to the dispute that they believe a dispute has arisen.**
- II. Notice of a dispute must be in writing and contain the material details of the dispute (for example when it occurred, what happened, and why the dispute arose).**
- III. The person or persons receiving the notice (party B) shall respond to the notice within 20 working days.**
- IV. The response shall be in writing and include the material information from their perspective. It should also identify any matters from the notice that are agreed, and that are not agreed with.**
- V. Party A shall prepare a summary of the matters in dispute in light of Party B's response and provide this to Party B within 10 working days.**
- VI. Parties A and B shall attempt to resolve the matters in dispute by agreement on the basis of the summary of matters.**

Many submitters noted that the process should be as simple as possible and voluntary. Many contracts and commercial agreements already include resolution processes. This regulation is not intended to replace or displace those agreements.

