

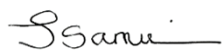
# Coversheet to Repealing the Regulation of Log Traders and Forestry Advisers Regime

## Supplementary Analysis Report

Purpose of Document	
Decision sought:	<i>Analysis produced for the purpose of informing final Cabinet decisions to repeal the Registration of Log Traders and Forestry Advisers Legislation and make consequential amendments to the Legal Harvest Assurance system.</i>
Advising agencies:	<i>Ministry for Primary Industries (MPI)</i>
Proposing Ministers:	<i>Hon Todd McClay (Minister of Forestry)</i>
Date finalised:	<i>23 April 2024</i>
Limitations and Constraints on Analysis	
<p>As part of the election campaign, a commitment was made to repeal the Registration of Log Traders and Forestry Advisers. This requires an amendment to the Forests Act 1949 to repeal those provisions implementing the log trader and forestry adviser regime, including Part 2A, the associated regulations, rules, and notices.</p> <p>The impacts of introducing a registration system were previously assessed in the 2020 Regulatory Impact Assessment (RIA). The limitations and constraints on analysis were covered in <b>section 1, pages 10 - 11</b> of the RIA.</p> <p>On 25 March 2024, Cabinet agreed to commence the drafting of legislation to repeal the registration system for log traders and forestry advisers (LTFA). It also agreed to include the repeal Bill within package of Budget 2024 legislation and pass it through all its stages as part of Budget 2024.</p> <p>As part of the proposed repeal, Cabinet also agreed to commence the drafting of consequential amendments to the Forests Act (1949) to:</p> <ul style="list-style-type: none"> <li>• refund any fees or levies that have been paid since commencement of the LTFA regime;</li> <li>• Waive any fees or levies that were due but not paid before revocation of the LTFA regime;</li> <li>• ensure the description of persons whose activities must be registered for Legal Harvest Assurance System (LHA) is retained; and</li> <li>• defer the commencement date of the LHA to August 2027.</li> </ul> <p>Due to contracted timeframes and Budget sensitivity no consultation on the repeal, or the consequential amendments to the LHA, has occurred with industry partners (e.g., New Zealand Institute of Forestry (NZIF), iwi/Māori representative groups, sector participants, the general public, or international trading partners).</p>	

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

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Manager  
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Ministry for Primary Industries



23 April 2024

Proactively Released

## Context for this coversheet

1. As part of the election campaign, the National Party's 'Forests for a Strong Economy' Manifesto document proposed to repeal the Forests (Regulation of Log Traders and Forest Advisors) Amendment Act 2020. As part of this proposed repeal, consequential amendments have also been proposed to the LHA to ensure the description of persons whose activities must be registered for LHA is retained and to extend the commencement date from May 2026 to August 2027.
2. Ordinarily this process would require a Regulatory Impact Statement (RIS) to be completed by the relevant agency.
3. The Treasury's Regulatory Analysis team has determined that the proposal to repeal the LTFA under Budget 2024 Legislation is exempt from the requirement to provide a complete RIS. This is due to the short timeframes available and because the RIA produced in 2020 for when the LTFA was introduced mostly duplicates the analysis needed to repeal the regime. This exemption is granted on the grounds that this Supplementary Analysis Report (SAR) is produced and submitted to either Cabinet Legislation Committee to inform final policy decisions on the repeal, or if this is not possible, then to the relevant Minister. The SAR will also need to be published as normal.
4. This exemption is conditional on MPI producing a coversheet that provides assurance that the analysis is still applicable and provides any additional or updated analysis where relevant.
5. This Coversheet has been quality assured by an internal MPI panel. It determined that:
 

*"The supplementary analysis report provides decision makers with sufficient information on the likely impacts of the policy proposals."*
6. A note on terminology:
 

The proposed repeal of the LTFA regime is effectively returning to the 'status quo' in the 2020 RIA, which is the absence of a mandatory registration system. To enable an easy comparison between this coversheet and the 2020 RIA, we sometimes refer to repealing the LTFA regime as a return to the status quo.
7. The proposed amendments to the LHA do not change the policy intent or scope of the system and so no further analysis is included here.
8. One consequential amendment will ensure that a description of persons whose activities must be registered for LHA is retained. The definition of a log trader is currently contained within the provisions that will be removed during the repeal of the log traders and forestry adviser's regime. This definition has been constructed to apply to a log trader in the context of both the regulation of log traders and forestry adviser's regime, as well as the LHA (through an amendment when it commences).
9. Under the LHA persons must be registered for legal harvest before carrying out certain activities, which includes log traders. A description of persons whose activities must be registered for legal harvest is needed within the Forests Act (1949) for the purposes of reducing the risk of dealing with timber that is illegally harvested.
10. Secondary legislation is required to implement the LHA by its commencement date. The delayed commencement date will ensure the time required to undertake full

engagement with trading partners and ensure that the secondary legislation to implement the system is developed and implemented in a way that appropriately manages risk and does not add unnecessary compliance costs.

11. Whilst the system is being implemented, we will ensure that the export of wood products to markets is supported through existing interim solutions. For example, to support the export of wood products to markets such as Indonesia and South Korea, MPI provides Exporter Information Statements (EIS) and Commodity Levy Statements (CLS) respectively. We anticipate that these solutions will remain acceptable to the markets they have been negotiated with through this time.
12. We will also continue to monitor the requirements to ensure market access in the interim, and if these were to change, setting an August 2027 commencement date does not prevent the system from being brought into effect sooner by Order in Council.

## Diagnosing the policy problem

13. The problem definition, including what stakeholders think of the problem, is described at **section 2, pages 12-19** of the 2020 RIA. There have been no significant changes to the regulatory settings or the sector that would lead us to consider that the status quo has changed. However, considerable increases in carbon prices and the associated returns from forestry may have increased the expected number of landowners seeking forestry advice.
14. In 2020, there was evidence that there would be an increasing number of small-scale forest owners entering the market in the 2020's (due to high afforestation rates in the 1990's), many of which will have a lack of knowledge in managing the harvesting and sale process, and who to engage for advice. It was concluded that this could leave forest owners vulnerable to exploitation by poorly qualified advisers or buyers. The purpose of the Bill was to legislate a mandatory registration for entities buying and selling logs or providing forestry advice, which was intended to bring more transparency into the log market and boost professional standards.
15. Prior to implementing the LTFA regime, there was only a voluntary registration system for forestry professionals who are involved in forest management and harvesting, the valuation of crops, or the sale and purchase of cutting rights. The voluntary system is administered by the industry's professional body, the New Zealand Institute of Forestry (NZIF) and had approximately 90 registered members prior to 2020. Compared to the 527 combined log traders and forestry advisers now registered under the system (as of 1 March 2024), this meant a large proportion of log buyers, traders and other forestry practitioners were not previously covered by a professional regulatory system.
16. NZIF has represented New Zealand's forestry professionals since 1927, so it is our assumption that this voluntary system will remain in place following the repeal of the LTFA regime.
17. MPI undertook some consultation when developing the initial policy in 2020. There was further industry body (NZIF) and iwi/Māori consultation undertaken prior to the drafting of the first Bill, and a truncated select committee was undertaken briefly from 15 May to 21 May 2020.
18. The majority (77% of a total of 641) of submitters opposed the Bill (predominantly private forest grower/investors/ individuals) and expressed doubt that the Bill will achieve its stated purpose. Reasons for opposition included concerns with the

legislation being progressed under urgency and the limited time available for consultation, the need for refining definitions (and exemptions) of 'Log Trader' and 'Forestry Adviser', as well as the breadth of powers available in the Bill for making regulations (particularly regarding establishing practice standards).

## Policy options and impacts

19. There was a total of six policy options considered in the 2020 RIA, which included a mix of non-regulatory and regulatory systems, all of which were assessed to have made improvements from the status quo. The impact analysis on policy options is set out at **section 4 of the RIA, page 26-27.**
20. While it may be possible to update some of the data in the RIA, this would require policy work to be undertaken, in which there is not sufficient time available. Given the qualitative nature of the previous assessment completed, MPI considers that any updates would be unlikely to be material.
21. The summary of the costs and benefits of introducing the licencing and registration system is set out at **section 6.2.1, pages 33-38.**
22. The overall conclusion of the 2020 RIA is that the preferred option for strengthening the professional standards and supporting a more transparent and informed log sales market was the introduction of mandatory licensing and registration of log buying companies, trading entities and forestry practitioners. It was concluded that the nature and scale of the costs and benefits of the mandatory registration system would provide significant benefits for forest growers through improved decision making on crop management and in the operational management of the harvest, which will minimise site costs, improve environmental performance and ensure that the grade outcome is maximised.
23. The main beneficiaries of repealing the LTFA regime would be forest practitioners, logging companies and trading entities (including wood processors and log exporters), given that the registration and reporting requirements (including fees and levy's) will no longer be required. This will particularly benefit log traders and forestry advisers who choose not to register in the voluntary system if the regime is repealed.
24. It was estimated in the 2020 RIA that the costs of fulfilling the licencing and registration requirements would have been mostly passed on to the client base of these practitioners and entities, which includes small forest owners. Given this, it is estimated that there will be a marginal reduction in costs for small forest owners seeking professional advice.
25. Repealing the regime will also remove potential ongoing fiscal costs to the Crown to run the regime. Whilst the registration and administration of the regime was designed to be fully cost recovered, a lower volume of registrations than anticipated and the need for continued resourcing and enhancement of the system has meant that MPI has not fully cost recovered the administration of the registration system to date. The memorandum account is currently in deficit and whilst the 2023/2024 levy has not yet been collected, this would not have offset the current deficit. Given the system has only been operating for a short period of time and has not been fully operationalised, it is not entirely clear whether the system would have been fully cost recovered in the medium to long term.
26. The main costs of repealing the LTFA regime would likely fall on small forest owners. MPI considers there may be greater risk in the in the quality (and consistency) of the

advice being provided by forestry practitioners and forest owners may be more vulnerable to exploitation or being provided with poor advice. In addition, revoking the regime will mean small forest owners entering the market may not benefit from any potential increase in transparency in the log market.

- 27. The capacity created by the Forestry Authority to provide a disputes resolution system was also intended to provide benefit to small forest owners in the future, but with absence of the system, there will be less ability to take legal redress (due to complexity and costs of the standard dispute resolution, arbitration or court system).
- 28. With less transparency in the log trading market, log buying companies/trading entities may not benefit from the integration of the forestry supply chain between growers, processors and exporters that was anticipated.
- 29. Based on the criteria in the RIA, MPI considers that, relative to the current system, the status quo would be:

Criteria used in 2020 RIA	Repealing the LTFA regime (equivalent to returning to the status quo in the 2020 RIA) relative to the current system
Effectiveness	Any improvement of professional standards across the sector will be voluntary, and growers may have less certainty in the technical advice they are given.
Proportionality	The costs will once again fall only on those who undertake voluntary registration and additional training.
Certainty	The obligations of all parties may not be clearly defined, and growers will have less certainty around insurance and the ability to seek redress.
Durability	The system will revert to voluntary industry lead schemes and will rely on this to respond to changing market and technical conditions. In the absence of a mandatory system, ongoing promotion may be required to build public and grower recognition of any voluntary scheme/s.
Practicability/Risk	Voluntary industry schemes will be relied on as the delivery mechanism. Recourse (in the event of a dispute) is through the courts – risk of being protracted and expensive.
<b>Overall Assessment</b>	Reverting to the status quo would mean not having mandatory registration and has limitations for improving professional standards, transparency and grower confidence.

- 30. The assessment above is based on the information from the 2020 RIA as the system has not had time to be fully implemented.
- 31. Given the Government’s commitment to repeal this legislation with urgency, there has not been sufficient time for MPI to undertake an analysis on the potential impacts of the proposed repeal, including the associated risks and benefits.

32. As has been discussed, the purpose of introducing a mandatory registration system was to provide transparency in the log trading market and to boost professional standards of forestry advisers. Given that the system has not had enough time to be fully implemented before being repealed, MPI cannot make conclusions as to whether the regime will achieve its purpose or not, nor could we estimate the costs and benefits for the sector from the regime.

## Implementation

33. **Section 7** of the RIA addresses the implementation and operation of the LTFA regime, at **pages 38-41**.
34. The Forests (Regulation of Log Traders and Forestry Advisers) Regulations 2022 came into force on the 6 August 2023, which required all entities/individuals acting as a log trader or forestry adviser to be registered with the Forestry Authority.

### *Privacy*

35. In relation to the personal information that was provided to the Forestry Authority (MPI) under the LTFA regime, the Privacy Act applies. The Privacy Act states that an agency that holds personal information must not keep that information for longer than is required for the purposes for which the information may lawfully be held. That information was provided for the lawful purposes under the LTFA regime, including for the publication of a public register containing personal information. Should the LTFA regime be repealed, all personal information collected to support the regime (and its dissolution) will be managed in accordance with the requirements of the Privacy Act 2020 and Public Records Act 2005, including removal of the public register from public access on the Ministry's website.
36. Since the scheme's introduction, MPI has only received two complaints regarding a log trader and/or a forestry adviser, however both were for instances that occurred before the person was registered, so were not covered under the regime. As part of the repeal Bill, a provision will be included which relates to extinguishing any unresolved complaints once the Bill is enacted. This will mean that all unresolved complaints made under the Act will be extinguished and Section 33 of the Legislation Act 2019 will not be relevant for this legislation.

### *Financial Implications*

37. As part of the proposed repeal, Cabinet has agreed to commence the drafting of consequential amendments to the Forests Act (1949) to:
- a) refund any fees or levies that have been paid since commencement of the LTFA regime; and
  - b) waive any fees or levies that were due but not paid before revocation of the LTFA regime.
38. The net position of cost recovered services is reported via memorandum accounts. As at 6 March 2024 there was a total operational deficit of \$377,445. When combined with the revenue from registration fees that MPI is proposing to refund, the total operational deficit will be approximately \$565,000. There is an additional estimated cost of approximately \$60,000 to administer the system until repeal, manage refunds and decommission remaining activity if the repeal is confirmed. This will become unrecoverable leading to a total write off of approximately \$0.6 million that will be funded from within MPI's existing baseline.

### *Communication*

39. It is intended that MPI will use its existing channels for disseminating LTFA information for the purposes of communicating about the repeal of the LTFA regime, including communicating directly with industry bodies, entities and individuals.
40. In addition, all refunds of levies and fees will be managed through using the registered participants information prior to its removal required under the Privacy Act.

### **Monitoring and review**

41. **Section 8** of the RIS covered the monitoring, evaluation, and review of the LTFA regime, **at page 42**.
42. The LTFA regime was due to be reviewed five years after the regulations came into effect. Given the system is now to be repealed, the evaluation will no longer be required.
43. Repealing the LTFA regime essentially reverts the system to the status quo. Officials will continue to monitor developments and work with industry on what role Government should have in ensuring that the quality of forestry advice, and the role of log traders, meet the Government's objectives for the sector.