

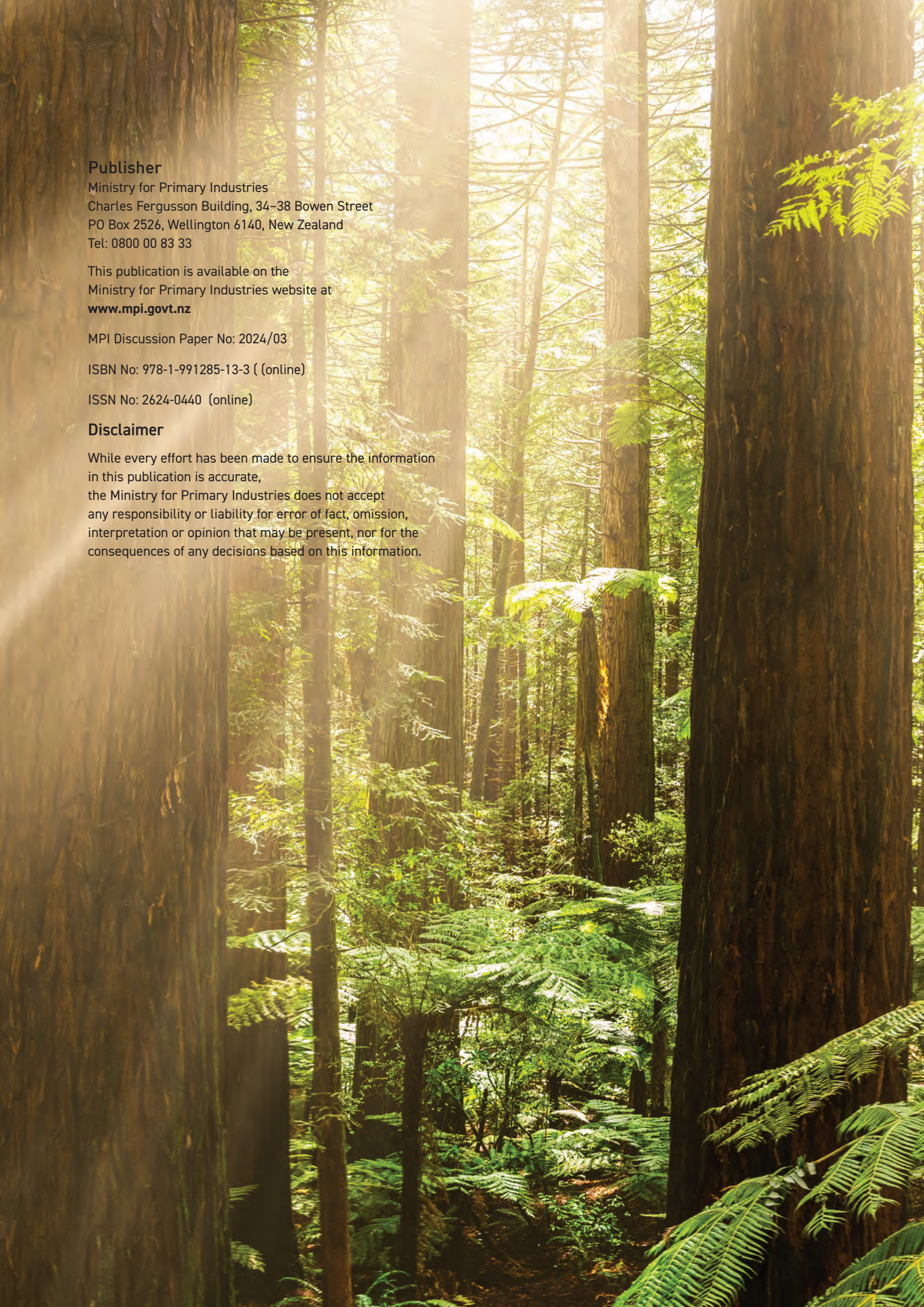


# New Zealand's Legal Harvest Assurance System

Issues paper one: the legal harvest assurance framework

April 2024





## Publisher

Ministry for Primary Industries  
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PO Box 2526, Wellington 6140, New Zealand  
Tel: 0800 00 83 33

This publication is available on the  
Ministry for Primary Industries website at  
**[www.mpi.govt.nz](http://www.mpi.govt.nz)**

MPI Discussion Paper No: 2024/03

ISBN No: 978-1-991285-13-3 (online)

ISSN No: 2624-0440 (online)

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# 1 What we are seeking to achieve

The Forests (Legal Harvest Assurance) Amendment Act 2023 will introduce a legal harvest assurance system into law through the Forests Act 1949.

Through this issues paper, we are seeking to start a conversation about the operational details required to implement New Zealand's statutory legal harvest assurance system.

We are seeking to gather a broad base of views on the ideas we have, and assumptions we can make, in designing the details of how our legal harvest assurance system will work in practice. The information we gather will be used to inform options for consultation on regulations to implement the legal harvest assurance system.

We would like your views on the ideas presented in this paper, and if there are other ideas that we have not included.

## 1.1 Scope

This paper is intended as the first of two issues papers. The information we gather through issues papers will inform options for regulations to implement the legal harvest assurance system. We will formally consult on regulations once we have considered your feedback on all of the issues papers.

The purpose of this first issues paper is to seek your feedback on the core concepts of legal harvest assurance under the Forests Act 1949. These include:

- identifying the laws that are relevant to deciding if timber or timber products have been legally harvested;
- which timber<sup>1</sup> products people should need to register to trade for legal harvest assurance;
- thresholds for people needing to register for legal harvest assurance;
- the requirements of due diligence systems; and
- exporter requirements.

The second issues paper will then build on this information and consider the operational details to put these concepts into practice. For example, feedback on questions what laws are relevant to whether something has been legally harvested in this paper will inform the information needed in a legal harvest statement.

We have also included our assumptions in this issues paper. Assumptions are things we know or think will happen. We are also inviting you to provide feedback on these assumptions.

We are not actively considering changes to the Forests Act 1949. This means that our assumptions and options are limited to what we can do under the law as it exists now, and once the Forests (Legal Harvest Assurance) Amendment Act 2023 comes into force.

## 1.2 Our process

Between **4 April and 16 May 2024** the Ministry for Primary Industries (MPI) is seeking your feedback on the ideas in this issues paper.

After that time, we will compile your feedback and use it to help refine the ideas we include in future papers on the legal harvest assurance system. We will also use the feedback received to provide advice to Ministers on next steps.

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<sup>1</sup> In this issues paper we refer to timber and timber products to describe wood and products made from or containing wood. Timber includes branches, roots, and stumps of trees and other woody plants able to be milled, logs, woodchips, wood products, veneer, tree ferns, and tree fern fibre.

We will adopt the following engagement principles for this programme of work:

- Our processes will be as transparent as possible, while respecting Parliament's and Ministers' roles and requirements as decision-makers.
- Engagement will be open for all to participate – including beyond this issues paper.
- All input is valuable and will be considered, the outcomes of this process will be informed by your input.

### What will happen to your feedback

All feedback will be read by MPI officials and considered carefully. A summary of feedback will be provided to inform Ministers and Cabinet about options for consultation, including on regulations. All feedback is valuable and will be considered. This does not mean that decisions will necessarily follow the majority of feedback; decisions will also be informed by the evidence presented, analysis, and judgement. It is important to this process that we receive a broad range of your ideas, preferences, and experiences. They will all be considered.

Please note that your feedback is public information. Submissions may be the subject of requests for information under the Official Information Act 1982 (the OIA) or proactively released. Under the OIA, information is to be made available unless there are sufficient grounds for withholding it. The grounds for withholding information are outlined in the OIA.

If you do not want some or all of your feedback to be made public, please let us know this and the reasons why when you give your feedback. Reasons for withholding information could include commercial sensitivity or privacy. MPI will consider your reasons when deciding whether to release your feedback under the OIA.

Any decision to withhold information, or not withhold information, under the OIA may be reviewed by the Ombudsman. For more information please visit: [www.ombudsman.parliament.nz/resources-and-publications/guides/official-information-legislation-guides](http://www.ombudsman.parliament.nz/resources-and-publications/guides/official-information-legislation-guides).

### How to provide feedback

MPI welcomes written feedback on the idea presented in this paper, and any other ideas that have not been included. Feedback must be received by MPI no later than **5:00pm on 16 May 2024**.

An optional feedback form is included alongside this issues paper to help you provide your feedback. We will consider all relevant material, so you are welcome to provide information supporting your comments.

Please make sure you include the following information in your feedback:

- the sub-title of this issues paper: *Issues paper one: the legal harvest assurance framework*;
- your name and title (if applicable);
- your organisation's name if you are providing feedback on behalf of an organisation, and whether your feedback represents the whole organisation or a section of it;
- your contact details (such as your email address).

There are three ways to provide your feedback.

We encourage you to make your submission electronically, either by:

- emailing your feedback directly to [mpi.forestry@mpi.govt.nz](mailto:mpi.forestry@mpi.govt.nz); or
- using the survey links available on the MPI website.

If you prefer to make your submission in hard copy, please send it to:

Issues paper one: the legal harvest assurance framework  
Forest Market Assurance Programme  
PO Box 2526  
Wellington 6140.

# 2 A legal harvest assurance system for New Zealand

## 2.1 Background

New Zealand is committed to preventing the global trade in illegally harvested timber. Illegal harvesting of timber is a significant problem globally, with wide-reaching environmental, economic, social, and cultural impacts.

New Zealand's imports of timber products have increased significantly over the last decade. The growing volume of import activity increases the risk of New Zealand becoming a conduit for illegal timber due to the lack of a national assurance system. Also, illegally harvested timber reduces the value of legally produced timber, both domestically and in international markets.

Our trading partners are increasingly seeking government assurance of legality. New Zealand is a significant exporter of timber products, and our markets are increasingly looking for assurances that their timber products are sourced from legal supply chains. While New Zealand is recognised as having integrity in our supply chains, there will be an increasing need to provide official assurances to confirm this status and to maintain access to our higher value markets.

Third party certification schemes are being used to support timber legality in regulated markets. These certification schemes tend to be used by larger timber producers in New Zealand but they are not generally cost-effective for owners of smaller forests. Smaller forests are an important part of New Zealand's forestry and wood-processing sector and will supply approximately 40 percent of the annual harvest through the 2020s.

New Zealand has the opportunity to step up its contribution to preventing the global trade in illegally harvested timber by reducing the risk of illegal timber imports while also ensuring New Zealand's own timber products meet appropriate standards. The establishment of a regulatory system in New Zealand will help reduce the adverse global impact of the trade in illegally harvested timber, help level the playing field in New Zealand's domestic market, and also provide greater confidence that our timber products will be accepted by export markets.

## 2.2 The Forests (Legal Harvest Assurance) Amendment Act 2023

In May 2023, the Forests (Legal Harvest Assurance) Amendment Act 2023 (Legal Harvest Amendment) was passed. The Legal Harvest Amendment introduces a regulatory system for legal harvest assurance into law through the Forests Act 1949 (legal harvest system).

The purpose of the Legal Harvest Amendment is to:

- Strengthen the international reputation of the forestry sector.<sup>2</sup>
- Safeguard and enhance market access for the forestry sector.
- Reduce the risk of importing timber that is not legally harvested.
- Help reduce international trade in timber that is not legally harvested.

It does this by:

- requiring people responsible for harvesting regulated timber to provide legal harvest information when supplying timber in trade;
- requiring people to register for legal harvest before:
  - acting as a log trader for certain activities; or
  - carrying out the first processing of regulated timber (in trade); or
  - importing or exporting any specified timber product (in trade);
- requiring people registered for legal harvest to have an assessed due diligence system<sup>3</sup> to eliminate or mitigate the risk of them dealing in timber, or specified timber products, that is not legally harvested;
- establishing a recognition system for individuals (assessors) and agencies to assess due diligence systems; and
- enabling the Secretary<sup>4</sup> to issue exporter statements and impose export requirements.

The system set up by the Legal Harvest Amendment focuses on the conduct of people trading in specified timber and timber products, this ensures there is a person accountable for due diligence to minimise the risk of illegally harvested timber entering the supply chain. It does not provide assurance that any specific timber item, or consignment, has been legally harvested.

<sup>2</sup> Under the Forests Act 1949, the forestry sector means all matters and activities concerned with or affecting the production and use of goods from or on all forest land that is devoted primarily to commercial production; and shall include protection from disease and fire of all forests, the protective effects of forests, the harvesting and processing of trees and other forest plants, and other matters associated with commercial forestry production.

<sup>3</sup> People registered for legal harvest are required to have a due diligence system, these are written systems for ensuring timber is legally harvested. Due diligence requirements are discussed in section 6.

<sup>4</sup> The Secretary is the chief executive of the Ministry for Primary Industries (MPI). In this issues paper, we will refer to MPI as exercising the Secretary's powers.



**Table One**, on the next page, sets out how different types of businesses operating in the sector may be covered by the Legal Harvest Amendment.

## 2.3 Designing the details of the legal harvest system

The Legal Harvest Amendment provides the power to make secondary legislation – regulations and notices – to set out the details for how the legal harvest system will be implemented and what people will need to do to comply with their legal obligations.

In this issues paper we are seeking feedback on how we implement the core concepts included in the legal harvest system. Your feedback will be used to help design options for consultation for regulations and notices, as well as informing further operational details.

We are not actively considering changes to the Forests Act 1949. This means that our options are limited to what we can do under the law as it exists now, and once the Forests (Legal Harvest Assurance) Amendment Act 2023 comes into force.





**Table One: Summary of how the sector may be covered by the Legal Harvest Amendment**

Note: who specifically is regulated will depend on the details in the regulations that this paper is seeking feedback on. This table is indicative only.

	Forest growers and people responsible for harvest	Log traders and first processors	Secondary processors	Exporters/importers of specified timber products
<b>Examples of businesses operating in the sector</b>	<ul style="list-style-type: none"> <li>• Production forestry companies (of exotic and planted indigenous trees)</li> <li>• Small scale forest owners</li> <li>• Māori forestry trusts and incorporations</li> <li>• Forest partnerships and syndicates</li> <li>• Forestry right holders/lessees</li> <li>• Forestry consultant/management companies</li> </ul>	<ul style="list-style-type: none"> <li>• Log traders (buying logs)</li> <li>• Sawmills</li> <li>• MDF plants</li> <li>• Pulp mills</li> <li>• Wood chipping plants</li> <li>• Veneer plants</li> <li>• Firewood merchants</li> <li>• Post and pole manufacturers</li> </ul>	<ul style="list-style-type: none"> <li>• Panel manufacturers</li> <li>• Engineered wood product manufacturers</li> <li>• Producers of industrial products</li> <li>• Paper producers</li> <li>• Manufacturers of mouldings (e.g. weatherboards, architraves)</li> <li>• Furniture and toy manufacturers</li> <li>• Biofuel producers (e.g. wood pellets)</li> </ul>	<ul style="list-style-type: none"> <li>• Exporters of timber and specified timber products, including:               <ul style="list-style-type: none"> <li>– Log traders (exporting logs)</li> <li>– Timber exporters</li> </ul> </li> <li>• Importers of timber and timber products, examples could include:               <ul style="list-style-type: none"> <li>– Timber, joinery, paper and pulp importers</li> <li>– Wood tableware: chopsticks, cutlery, dishes</li> <li>– Furniture importers</li> <li>– Prefabricated wood building importers</li> </ul> </li> </ul>
<b>Obligations under the Legal Harvest Amendment</b>	<p>Person responsible for harvest must provide legal harvest information for the timber to the recipient of the timber before or when the timber is supplied.</p> <p>Must act in accordance with regulations and keep records of legal harvest information they have provided.</p>	<p>Log traders and first processors must register for legal harvest assurance.</p> <p>Registration obligations include passing a fit and proper person test and having a due diligence system which has been assessed by a recognised assessor.<sup>5</sup></p> <p>Note, we are considering thresholds (this issues paper) and exemptions (next issues paper) from registration as part of this engagement process.</p>	<p>Secondary processors may choose to voluntarily register for legal harvest assurance.</p> <p>If a secondary processor registers, obligations will become mandatory.</p> <p>Note, if a secondary processor is exporting their goods, they will need to comply with exporter obligations.</p>	<p>Exporters and importers will need to register for legal harvest assurance.</p> <p>Registration obligations include passing a fit and proper person test and having a due diligence system which has been assessed by a recognised assessor.</p>

<sup>5</sup> A recognised assessor is a person (either an individual or an agency) recognised to assess due diligence systems. We will seek your feedback about recognised assessors in issues paper two.



# 3 When is timber legally harvested?

## 3.1 Introduction

The Legal Harvest Amendment sets out that timber is legally harvested when the person who harvests the trees or woody plants from which the timber derives:

- has the right to harvest them;
- has all necessary legal authority to exercise that right; and
- does not contravene the harvest laws of the place or country of harvest when carrying out the harvest.

### **The right to harvest and all necessary legal authority to exercise that right**

A person has the right and all necessary legal authority to exercise that right to harvest when they have:

- the legal rights to access and harvest the forest;
- legal ownership of the trees;
- complied with all relevant laws.

The person with the right to harvest should keep records to demonstrate they have the legal authority and right to harvest. For example, copies of land titles, leases, licenses, contracts, deeds, agreements, documents from associations, trusts, or syndicates.

### **Does not contravene the harvest laws of the place or country of harvest when carrying out the harvest**

The harvest laws of a place or country are the laws that:

- affect how or whether a harvest is to be carried out; and
- set requirements, conditions, or restrictions relating to:
  - land and resource use;
  - property rights or interests in what is harvested;
  - property rights or interests in the land where the harvest occurs;
  - access to the land where the harvest occurs;
  - any other matter specified in a notice as relevant.

Harvest laws include the use of land and access to land for harvesting. It includes any work on the land that is necessary to prepare for the harvest, or required post harvest.

MPI may make notices that specify the harvest laws of a place or country that are relevant for legal harvest assurance. This will make it easier for people to understand which laws they need to collect information about and pass on through the supply chain to ensure their timber and timber products have been legally harvested.

The relevant harvest laws of countries we export to need to be identified and accommodated within the legal harvest assurance system to enable exporters to have continued access to those markets. If export market laws change, the legal harvest system should still function without any amendments to primary legislation.

## 3.2 What are we trying to achieve by identifying relevant harvest laws?

By identifying relevant harvest laws, we are trying to:

- recognise the harvest laws in place in trading partner jurisdictions;
- recognise existing domestic laws to determine legality, not create new ones;
- constrain the relevant laws to those relating to the harvesting operation (for example, resource management, health and safety, Forests Act, tax, and their equivalents in the place the harvest happened, such as concession fees and conditions);
- ensure due diligence and information requirements, particularly on imported goods, are not disproportionate to the risk.

## 3.3 Assumptions

We have made the following assumptions about identifying relevant harvest laws:

- Only conduct directly related to the harvesting operation should be regulated by the legal harvest system. Conduct not directly related to the harvest is not relevant to the legality of harvest as is managed by other laws.
- Current international forums are supportive of reducing the risk of trading in illegally harvested timber and therefore will have, or are developing, appropriate harvest laws or systems.
- If a legal harvest system is in place in the trading partner's jurisdiction, this provides evidence the risk of trading in illegally harvested timber is being managed. This is relevant for people importing timber or timber products into New Zealand, who need to show the harvest laws have been met in the country where the timber was harvested.



### **We want your feedback on assumptions we can make about relevant harvest laws:**

- Do you agree with these assumptions? Why or why not?
- Are there any other assumptions you think we can make?



## 3.4 Relevant harvest laws

### Relevant laws in New Zealand

Legal harvest requirements for timber grown and processed in New Zealand apply to regulated timber. Regulated timber means the roots, stump, logs, branches, and leaves from:

- exotic species of New Zealand timber, unless excluded by regulations; and
- indigenous species of New Zealand timber only when it has been specified in regulations.

Timber from indigenous species will only be covered by the legal harvest assurance system if it is specified as regulated timber in the regulations (see section 4). However, a person trading in indigenous timber that is not included in regulations may voluntarily register for legal harvest assurance. Traded timber from indigenous species remains subject to Part 3A of the Forests Act 1949.

MPI may identify relevant harvest laws in New Zealand to make it easier for people to know what information they need to collect and pass on through the supply chain. Relevant laws may include:

- Acts, regulations, and common law coming from the Courts.
- tikanga, indigenous laws, traditions, customs and land tenure systems relevant to harvest. To ensure consistency, any relevant law of this type should apply across all of New Zealand.
- requirements from international agreements only if they have been incorporated into New Zealand's domestic law, for example, by an Act of Parliament (New Zealand has signed up to a number of international agreements that may relate to harvest).



### We want your feedback about what laws you think are relevant to legal harvest in New Zealand:

- What statutory laws/Acts and regulations do you think are relevant?
- What common law/law from the Courts do you think is relevant?
- What tikanga or other customary law do you think are relevant?
- If you export, what information about legal compliance are you being asked for, and by whom, when you are exporting timber or timber products?
- Are there any other matters you think should be included in deciding if timber or timber products are legally harvested in New Zealand?





### Relevant harvest laws for products coming into New Zealand

Relevant legal harvest laws also apply to people importing specified timber products.

Specified timber product means any timber, or any product made from or containing timber, that is identified by regulations (see section 4).

MPI may identify the harvest laws of the overseas countries that imports are coming from. Notices may make it easier for importers to understand what is relevant and create systems that focus on those laws.

If a notice is used to identify relevant laws for harvest for products coming into New Zealand, then the laws will need to be identified for each overseas country we import from. We cannot create new laws that the importer needs to comply

with in the country the timber is harvested, we can only recognise existing laws. Existing laws include indigenous and customary laws incorporated into the nation state's laws.

The laws that are identified should cover similar matters to those that are recognised for timber harvested in New Zealand. While the name of the law will be different, it should control similar risks, for example, health and safety or environmental effects.

Where a country has signed up to an international agreement, this will only be relevant if the country has also made it part of their domestic law. For example, any obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or Convention on the Protection and Promotion of the Diversity of Cultural Expressions.



### We want your feedback on what harvest laws are relevant for countries other than New Zealand:

- What checks are you already doing to make sure you aren't importing illegally harvested timber or timber products?
- Which countries do you import from? Do you know where to get information about harvest laws in the countries you import from?
- Do you think a notice should be made to identify relevant laws for any countries New Zealand trades with? If so, which countries and which laws should be identified?
- Are there any other matters you think should be included in deciding if timber or timber products are legally harvested in countries other than New Zealand?



# 4 Regulated timber and specified timber products

## 4.1 Introduction

The legal harvest assurance system regulates the **conduct of people dealing in** regulated timber and specified timber products.

Regulated timber means the roots, stump, logs, branches, and leaves from:

- exotic species of New Zealand timber, unless excluded by regulations; and
- indigenous species of New Zealand timber only when it has been specified in regulations.

Specified timber product means any timber, or any product made from or containing timber, that is identified by regulations.

The intention is to identify regulated timber and specified timber products that are at the highest risk of losing market access and/or being illegally sourced. Specifying the scope of products makes it easier for people to identify whether they will need to register in the legal harvest system.

## 4.2 What are we trying to achieve by identifying regulated timber and specified timber products?

By identifying regulated timber and specified timber products, we are trying to:

- adopt a simple way to identify goods that may be at risk of containing illegally harvested timber, as a way to identify the people that will need to register in the legal harvest system;
- only regulate people trading in the identified products that are at highest risk of losing market access and/or being illegally sourced.

## 4.3 Assumptions

We have made the following assumptions about identifying regulated timber and specified timber products:

- Indigenous timber and timber products do not need to be part of legal harvest because regulation under Part 3A of the Forests Act 1949 is sufficient to manage the risk of illegal harvest and ensure market access;
- People trading in timber or timber products from planted indigenous forests will voluntarily register for legal harvest assurance if they require proof of legal harvest for market access.

## 4.4 Regulated timber

People trading in regulated timber have obligations under the legal harvest system. This may be because they:

- are responsible for harvesting regulated timber and need to provide legal harvest information when supplying the timber to another person;
- are the first processor of regulated timber and need to register for legal harvest assurance;
- do either of these activities as an agent of another person.

Examples of businesses operating in the sector that may have these obligations include people buying logs, sawmills, pulp mills, wood chipping plants, or secondary processors that have voluntarily registered for legal harvest assurance.

To ensure regulation is proportionate to the risk of losing market access and/or timber being illegally sourced:

- exotic timber species should only be excluded from being regulated if there is a very low risk that it may be illegally sourced or lose market access by not being part of the legal harvest system.
- indigenous species should only be included if the risks of being illegally sourced or losing market access are not adequately dealt with by existing regulations (for example, sustainable forest management plans).



**We want your feedback on assumptions we can make about specified timber products and regulated timber products:**

- Do you agree with these assumptions? Why or why not?
- Are there any other assumptions you think we can make?



**We want your feedback on regulated timber:**

- Are there any indigenous species of New Zealand timber that should be included in legal harvest (be regulated timber)?
- Are there any exotic species that should be excluded from being regulated timber?



## 4.5 Specified timber products

People that are importing or exporting specified timber products are required to register for legal harvest assurance. This includes when the person is the importer or exporter of the specified timber product, or they are carrying out the activity as an agent of another person.

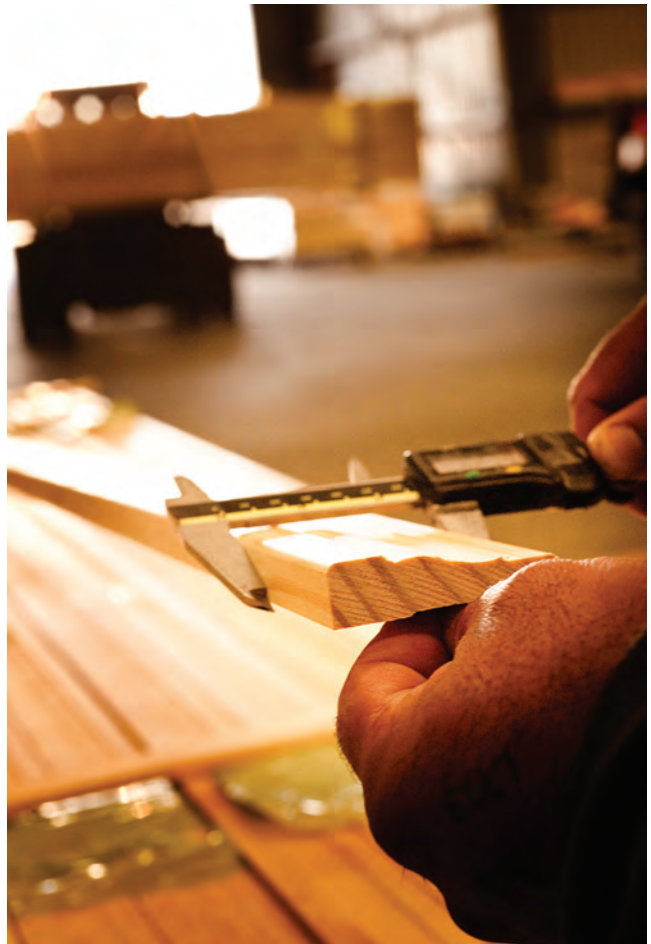
Specified timber products will be identified by a Tariff Code.<sup>6</sup> The Tariff Code is an internationally recognized numerical system created by the World Customs Organization (WCO). The Tariff Code helps international trade by making it easier to identify and categorize traded goods. A Tariff Code exists for every product involved in global commerce.

More information about the Tariff Code is available on the WCO website: [Nomenclature 2022 Edition – WCO website](#)

Identifying Tariff Codes makes it easier for people to identify whether they will need to register for legal harvest assurance.

When a Tariff Code is recognised for legal harvest, it will apply to both imports and domestic production for export using that Tariff Code. It may include products made entirely of timber, or where timber is a component of the product.

To ensure the number of people regulated is proportionate to the risks, Tariff Codes that contain timber that pose a very low risk of being illegally sourced, or of losing market access, may not need to be identified.



**We want your feedback on specified timber products. When answering these questions, you may choose to provide Tariff codes or general descriptions of products to help explain your views:**

- What products made from exotic species should legal harvest requirements apply to?
- What Tariff Codes should be included or excluded from legal harvest assurance?
- Are there any products made from indigenous species of New Zealand timber that should be included in legal harvest requirements. What Tariff Codes should be included?
- How should products with a timber component be identified in the system?
- What Tariff Codes, if any, could apply to products with a timber component that you think should be included in the legal harvest assurance system?

<sup>6</sup> The Tariff means the Harmonised System established by the International Convention on the Harmonised Commodity Description and Coding System in effect in New Zealand, as set out in the Tariff Act 1988.

# 5 Thresholds for registering for legal harvest assurance

## 5.1 Introduction

A threshold is the point at which something may occur. In legal harvest assurance, thresholds can be used to identify who should be regulated. Thresholds can be set so that low level activity will not require registration, or not require a person to provide legal harvest information.

Thresholds can be used to ensure trading that poses a low risk of being illegally sourced or losing market access is not included in the regulatory system.

## 5.2 What are we trying to achieve by setting thresholds?

By setting thresholds, we are trying to:

- take a proportionate approach to addressing the risk of illegal harvest while enabling legal trade;

- exclude only those people from registration who do not pose a risk to New Zealand's trading reputation and/or market access.

## 5.3 Assumptions

We have made the following assumptions about thresholds for registering for legal harvest assurance:

- Specified timber products are not a uniform class of products: they can vary from unprocessed logs through to highly processed products with non-timber elements.
- Thresholds that are proportionate to the risk are needed to enable businesses to grow and continue to operate, particularly small businesses.
- The cost of regulating all parties is disproportionate to the risk.



**We want your feedback on assumptions we can make about thresholds for trade before a person must comply with legal harvest requirements:**

- Do you agree with these assumptions? Why or why not?
- Are there any other assumptions you think we can make?





## 5.4 Setting thresholds

### Setting thresholds

Setting a threshold for trading in regulated timber and/or specified timber products will mean that people trading below that level will not need to comply with obligations relating to legal harvest assurance.

For example, if a person responsible for harvest only supplies a small amount of timber, below the threshold, they would not need to provide a legal harvest information statement with the timber. Similarly, if a person is importing or exporting below the threshold level, they would not need to register.

Thresholds may be set using volume, number or units, number of consignments, value, or any other measure.

Different measurements can be used for different types of products. For example, raw logs may be measured in volume, whereas manufactured products may be measured in unit numbers.

### Thresholds over time

Thresholds that are appropriate now may not be appropriate in the future. This could be because the risk of the timber being illegally harvested changes, or market access requirements change.

For example, if thresholds are set at a certain value measured in New Zealand Dollars, then changes in the market price and in exchange rates with overseas countries for imports and exports could create uncertainty about who has obligations for legal harvest assurance.



### We want your feedback on setting thresholds for registration:

- Should there be a threshold that needs to be met before a person needs to register for legal harvest assurance?
- What measure should be used to set thresholds?
- Should all thresholds be set by reference to the same measurement type, e.g. all thresholds be set by volume (or another measurement)?
- What information do you already collect about the amount of goods you are importing or exporting, e.g. volume, value, number of units, or other measurement? Do you provide this information to anyone? If so, who do you provide it to and how often?
- How often and when should thresholds be reviewed and change over time?



# 6 Due diligence systems for registered persons

## 6.1 Introduction

Due diligence systems are the Legal Harvest Amendment's core tool for eliminating or minimising the risk of trading in illegally harvested timber, or timber products coming from an illegally harvested source.

People that are required to register for legal harvest assurance must have a due diligence system in place. Once registered, they will need to use their due diligence system to effectively reduce the risk of dealing with timber or timber products that have not been legally harvested.

A due diligence system clearly defines in writing, the steps the person will use to reduce the risk of:

- dealing in any timber that results from the harvest of regulated timber; and is not legally harvested;
- importing or exporting any specified timber products that are, or include timber that is, not legally harvested.

The due diligence system within legal harvest assurance is important for people trading in:

- regulated timber – the system provides buyers with confidence that the regulated timber they are purchasing is legally sourced regardless of business size, and supports registered people to access overseas markets that require government assurance of legal harvest.
- specified timber products – the system reduces the risks that specified timber products are illegally harvested, reducing the risk of unfair competitive advantage from cheaper, illegally harvested timber.

## 6.2 What are we trying to achieve with due diligence systems?

By setting requirements for due diligence systems, we are trying to:

- minimise disruption to trade by giving registered people flexibility in how they determine the most effective means for minimising risk and verifying the legality of harvest for their specific business;
- empower registered people to identify all sources of timber they receive, and design a risk management system proportionate to the risks that the timber may be illegally sourced.

## 6.3 Assumptions

We have made the following assumptions about due diligence systems for registered people:

- Registered people will be able to accurately assess the risks associated with the legality of the harvest of their timber and/or specified timber products.
- Registered people will have information about legality of harvest available for their timber and specified timber products.
- The legal harvest statement (in New Zealand) or legal harvest information (from overseas countries where harvest happened for imports) will be passed along the supply chain.

## 6.4 Requirements of a due diligence system

People that are required to register for legal harvest assurance must have a due diligence system in place. Once registered, they will need to use their due diligence system to effectively eliminate or minimise the risk of dealing with timber or timber products that have not been legally harvested.

A due diligence system clearly defines in writing the steps the person will use to reduce the risk of:

- dealing in any timber that results from the harvest of regulated timber; and is not legally harvested;
- importing or exporting any specified timber products that are, or include timber that is, not legally harvested.

The government may make regulations setting requirements relevant to reducing these risks. Regulations can include requirements about:

- the information that a registered person must collect;
- when supporting evidence is required;
- collecting information on the kind, origin, and details of the regulated timber or specified timber products;
- collecting evidence of any contraventions of any harvest laws of the place or country of harvest;
- how to assess the completeness, accuracy, or reliability of the information collected;
- how to eliminate or mitigate a risk;



### We want your feedback on assumptions we can make about due diligence systems:

- Do you agree with these assumptions? Why or why not?
- Are there any other assumptions you think we can make?



- how a recognised certification scheme, or a certification given under it, may be used in a due diligence system;
- other methods to satisfy a due diligence requirement;
- keeping records.

The person's due diligence system may be based on a template, but the content must be specific to them and their business. MPI may approve a template for this purpose.<sup>7</sup>

#### Trading information required in a due diligence system

A due diligence system will need information about the types of regulated timber and specified timber products the registered person is trading.

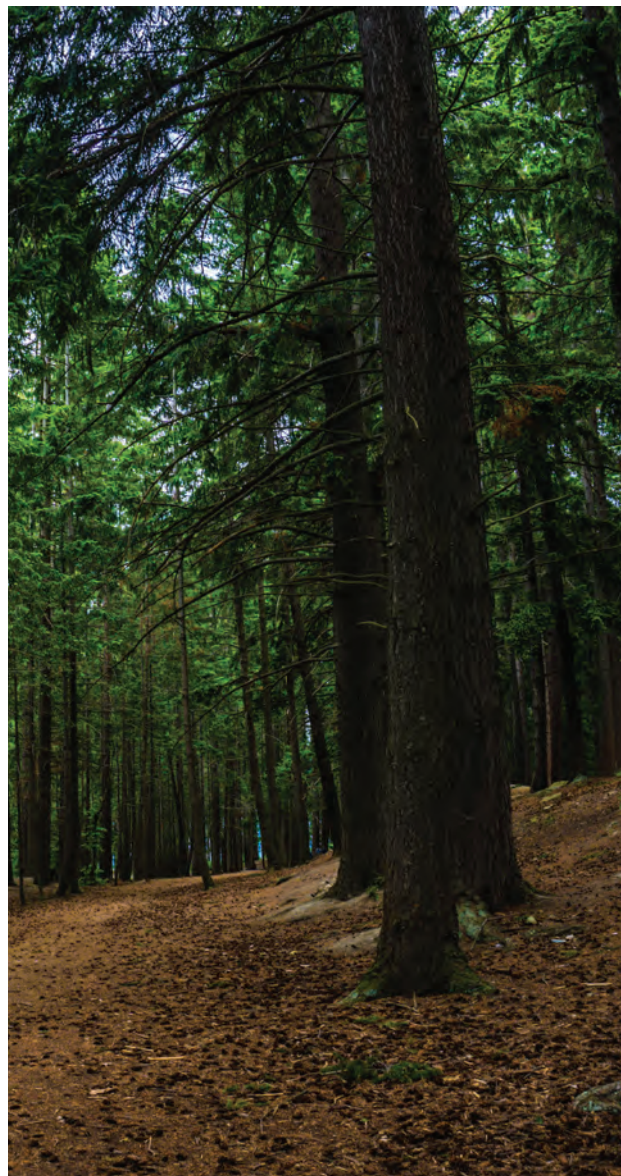
The level of detail in the information needs to be enough to identify legal harvest risks while still being practical to gather, process, and store.

The requirements will be the same for all legal harvest activities, but the information needed to meet the requirement may differ. For example, because the person responsible for harvest in New Zealand must supply legal harvest information with the timber but an importer may not receive the same information in the market they are importing from.

The Legal Harvest Amendment does not require chain of custody information to be provided when regulated timber or specified timber products are supplied. However, we are seeking your views on whether this could be made a requirement of a due diligence system by regulations.

#### Process information required in a due diligence system

A due diligence system will need to set out how the registered person will identify legal harvest risks, and reduce those risks. It could also include how the registered person will collect and store evidence.



#### We want your feedback on due diligence system requirements:

- What should the requirements of a due diligence system be?
- Should chain of custody information be required as part of a due diligence system?
- What matters should be required to demonstrate elimination or mitigation of the risks of dealing in illegally harvested timber?
- When should supporting evidence be required for demonstrating the size of the risk?
- When, and how often, should evidence be required to demonstrate the:
  - risk; and
  - risk mitigation?

<sup>7</sup> MPI may approve a template it creates, as well as templates created by third parties.

# 7 Exporter Statements and requirements

## 7.1 Introduction

Exporter Statements are a government assurance given by New Zealand to overseas countries that a registered person is complying with their legal harvest obligations and any export requirements. Exporter Statements may be issued to people registered for legal harvest for the purpose of:

- facilitating trade in legally harvested timber;
- facilitating trade in products wholly or partly made from legally harvested timber; and
- supporting access to overseas markets of specified timber products.

Each Exporter Statement will generally be valid for 12 months (unless stated otherwise).

The Exporter Statement must state that the registered person is complying with any export requirements specified by the Secretary. Exporter requirements must directly relate to ensuring that a specified timber product is, or is made of, timber that is legally harvested. Exporter requirements may include requirements set by the New Zealand Government, and/or those set by an overseas market.

Export requirements may relate to specified timber products and/or to classes of person, such as products exported or people exporting to a particular market with specific import requirements.

## 7.2 What are we trying to achieve by setting exporter requirements?

By setting exporter requirements and issuing Exporter Statements, we are trying to:

- facilitate trade in legally harvested timber by assisting exporters to meet market access requirements of overseas markets;
- provide importing countries with confidence that specified timber products have been produced from legally harvested timber;
- respond flexibly to changes in market access requirements.

## 7.3 Assumptions

We have made the following assumptions about Exporter Statements and requirements:

- Exporter Statements will replace the existing administrative arrangements for countries that require government assurance for market access.
- Exporters will be consulted on new requirements set by the New Zealand Government, but not for requirements set by overseas markets.
- Exporter Statements will meet the requirements of overseas countries to provide Government assurance of legal harvest.
- Exporter Statements will only be issued where Government assurance of legal harvest is required.



### We want your feedback on assumptions we can make about exporter requirements:

- Do you agree with these assumptions? Why or why not?
- Are there any other assumptions you think we can make?



## 7.4 Setting exporter requirements

Exporter requirements will differ between countries and specified timber products. Export requirements may be set to recognise existing laws in effect in New Zealand or overseas markets, as a mechanism to demonstrate legality of harvest. They cannot create new laws or obligations.



### We want your feedback on exporter requirements:

- What information are you being asked for to land your goods in an overseas market?
- What existing export requirements set by New Zealand should a person need to show compliance with before they can receive an Exporter Statement?
- What requirements set by overseas markets should a person need to show compliance with before they can receive an Exporter Statement?
  - Requirements from which countries?
  - What requirements?
- Who should be responsible for meeting export requirements?
- Do you think there is any other information needed to support access to overseas markets?
  - For each overseas market, what further information do you think is required to ensure market access?
- Should there be any exemptions from export requirements?









