



## Abolition of lease duty on forestry rights

In the Budget presented to Parliament on June 30, 1994 it was stated that lease duty on forestry rights would be abolished for those forestry rights executed on or after July 1, 1994. Conveyance duty, which is the other type of stamp duty, remains unchanged. The cutoff is based on the execution date and not on the date of stamping, which under Section 50 of the Stamp and Cheque Duties Act 1971 may be up to three months after execution.

The levying of lease duty on forestry rights had been causing discontent in the industry. IRD levied lease duty on forestry rights under Section 8(c) of the Act which extends the usual definition of a lease to include a forestry right. It is this section which will be repealed to abolish lease duty on forestry rights.

The rate of lease duty is set by Section 26 of the Act. IRD generally interpreted Section 26 to mean that forestry rights should be levied lease duty at 40 cents per \$100, although in some cases IRD interpreted it to mean the rate was \$1 per \$100. Lease duty was levied on the maximum revenue the landowner received from the forestry right in any one year of its term. When the forestry right involved revenue sharing, this meant lease duty was levied on the maximum share of harvest revenue the landowner received in any one year. When the forestry right was presented to IRD for stamping, this amount was estimated and used to calculate lease duty which then had to be paid immediately.

There were several problems with IRD's approach in the case of revenue-sharing forestry rights. Firstly, harvest revenue often occurs decades into the future, and so any estimate of it had a high uncertainty. Secondly, IRD made no attempt to adjust the estimate to a present value to take account of the typically long time interval before harvest. Thirdly, the lease duty had to be paid immediately, rather than when the harvest revenue is received. Finally, any correction to the lease duty paid had to wait until harvest time, which typically meant a delay of decades. In addition, there were reports that IRD levied lease duty inconsistently. Usually the rate applied was 40 cents per \$100 but there have been reports of a rate of \$1 per \$100 and also of lease duty not being charged at all.

The amendment required to abolish

lease duty on forestry rights is contained in the Finance Bill (No 2) which was introduced into Parliament on July 14, 1994 by the Minister of Finance and has been referred to the Government Administration Select Committee. The deadline for submissions to the Government Administration Select Committee is August 19, 1994.

IRD has said all forestry rights executed on or after July 1, 1994 and presented for stamping before the legislation is passed will be held until it has been

passed. However, if the instrument is required sooner, then lease duty and conveyance duty will be calculated according to the unamended legislation and the instrument released when the duty is paid. Once the amendment has been passed the lease duty will be refunded upon application. Enquiries about transitional arrangements should be directed to the nearest Duties office of IRD.

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## The tenure of Crown pastoral land

The Commissioner of Crown Lands has released a discussion paper on issues and options for reviewing the tenure of Crown pastoral lands in the South Island high country. This issue has been on Governments' agendas at various times since 1982, with little progress having been made. However, the current Minister of Lands seems committed to action.

There are 341 Crown pastoral leases covering 2.45 million hectares, nearly 10% of New Zealand's total land area. They are granted under Section 66 of the Land Act 1948, issued for 33 years, and have a perpetual right of renewal. Lessees have no right to the soil or to use the land for any other purpose than pastoral farming, unless the authority to do so is obtained from the Commissioner of Crown Lands.

The basic objectives of tenure review are to provide a more appropriate management regime for land with high nature conservation, public recreation or historic values, while permitting the remaining land to be freeholded or, if it is "at risk land", managed under more appropriate constraints.

The Commissioner's paper discusses six options for tenure review:

1. Total resumption of all leases to the Crown estate.
2. The status-quo – a continuation of current pastoral leasehold arrangements or similar.

3. Freeholding only that pastoral leasehold land which is demonstrably suitable for sustainable production or use, with the balance being assigned to the conservation estate.
4. Freeholding only that pastoral leasehold land which is demonstrably suitable for sustainable production or use, with the balance being assigned to either:
  - a special lease under Section 67 of the Land Act (or an updated equivalent)
  - the conservation estate.
5. Freeholding all pastoral leasehold land, including land considered to be "fragile" or "at risk" from a sustainable land management perspective, except areas of high conservation or public recreation value which would be assigned to the conservation estate.
6. Freeholding all land currently held under pastoral lease.

Clearly options 1 and 6 are extreme and would not meet the basic objectives of tenure reform.

From initial reactions it appears that there are mixed views among the current leaseholders regarding tenure reform. An apparent fear is that what will start as a voluntary process may become mandatory once a significant proportion of leaseholders have opted for tenure review.

**John Novis**