

Forest Land Reserve Use Regulation

Contents

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1. Definitions
2. Land use
3. Local government comments and recommendations
4. Interest rates
5. Recapture charge and rates
6. Appeal fees
7. Application procedures
8. Requirements for a hearing
9. Referral under section 27 of the Act

Definitions

1. In this regulation:

"**Act**" means the *Forest Land Reserve Act*;

"**newspaper**" has the same meaning as in section 1 of the *Municipal Act*.

Land use

2. (1) The following uses are permitted under section 13 (2) (f) of the Act:

- (a) the construction and use of one single family dwelling for each lot, block or other area in which the land is held or into which the land is subdivided;
- (b) botanical forest products harvesting and use;
- (c) research and educational uses relating to any use permitted under the Act or this regulation if no building, structure or other improvement is constructed or installed on the land;
- (d) a portable sawmill if
 - (i) the area used by the portable sawmill, including log, product and waste storage areas, does not exceed one hectare,
 - (ii) the portable sawmill, including log, product and waste storage areas, does not occupy the site on which it is located for more than 5 years after the first occupation of the site, and
 - (iii) the owner or operator of the portable sawmill has filed with the commission a rehabilitation plan for the site that is satisfactory to the commission;
- (e) a use or occupation under a Crown grant of an interest in coal or a mineral, where "**mineral**" has the same meaning as in section 1 of the *Mineral Tenure Act*. (2) Except as provided in the Act, nothing in this section relieves a person from compliance with any other enactment or a decision or requirement of any applicable authority, commission or agency having jurisdiction.

Local government comments and recommendations

3. (1) Comments and recommendations made to the commission by a local government with respect to an application must be made on the form provided by the commission no later than 60 days after receipt by the local government of the referral of the application, except when a public meeting is held by the local government under section 20 (1) (c) of the Act, in which case the local government must provide its comments and recommendations to the commission no later than 90 days after receipt of the referral.

(2) A notice under section 20 (1) (b) of the Act must provide all of the following:

- (a) the legal description and civic address of the land subject to the application;
- (b) the name of the owner of the land;
- (c) a map or sketch showing the land in relation to surrounding lands, structures or buildings or other locally identifiable features such as roads, rivers, streams, creeks, lakes or watercourses;
- (d) the class of application and the intended use of the land;
- (e) the full name and address of the commission, with an invitation to submit comments concerning the application directly to the commission no later than 10 days after the date of the last publication.

Interest rates

4. (1) For the purpose of section 21 (2) of the Act, the rate of interest is the rate established from time to time by regulations made by Treasury Board under section 17 (1) of the *Financial Administration Act* for persons who owe or are liable to pay money to the government.

(2) For the purpose of section 24 (5) of the Act, the rate of interest is the rate established from time to time by regulations made by Treasury Board under section 24 (1) (c) of the *Financial Administration Act* for money owing by the government.

(3) Despite any provision of a regulation made by Treasury Board, interest under section 24 (5) of the Act accrues on a refund from the date of receipt by the commission of the recapture charge as originally determined.

Recapture charge and rates

5. (1) For the purpose of section 21 (4) (b) of the Act, a recapture charge is not payable in the following circumstances:

(a) an owner who is applying for the removal of private lands from the reserve is able to demonstrate, to the satisfaction of the commission, that the taxes paid in respect of the lands which are subject to the application for removal were, during the lesser of

(i) the period of time when those lands were classified as managed forest land, and

(ii) a period of 6 years, equal to or higher than the taxes that would have been paid if those lands had not been classified as managed forest land;

(b) the land has been expropriated by an expropriating authority under an enactment or expropriated by an authority having jurisdiction to take or expropriate land under an Act of Parliament, and the commission has approved the removal under section 18 of the Act;

(c) the removal under section 18 of the Act will not, in the opinion of the commission, result in a net loss of timber and other forest values, or there

are other factors which, in the opinion of the commission, will compensate or offset any loss of timber and other forest values;

(d) the land is a gift to Canada or British Columbia, or to a municipality, regional district or greater board, and the commission has approved the removal under section 18 of the Act. (2) For the purpose of section 24 (1) of the Act, the recapture rate "RR" is 6%.

(3) For the purpose of section 38 (3) of the Act, the recapture rate "RR" is the lesser of

(a) 1% for each year or part of a year that the lands in respect of which an application for removal from the reserve has been made were owned by the person who was the owner at the time the application was made, and

(b) 1% for each year or part of a year that the lands were classified under the *Assessment Act* as managed forest land.

Appeal fees

6. For the purpose of section 23 (3) of the Act, the fee payable for an appeal under section 23 (1) of the Act is the fee set out in section 9 of B.C. Reg. 799/74, the Assessment Act Regulations.

Application procedures

7. (1) For the purpose of section 26 of the Act, an application in the form provided by the commission must be completed in full by the owner or the owner's agent, and must be submitted to the commission together with any required attachments and the applicable fee set out in subsection (3).

(2) If the applicant is supplying information which the applicant believes may be confidential and non-disclosable under the *Freedom of Information and Protection of Privacy Act*, the applicant must clearly identify that information in the application.

(3) The fees payable in respect of an application to the commission are as follows:

(a) for permission under section 14 of the Act for a specifically permitted use of forest reserve land: \$150

(b) for permission under section 16 of the Act to subdivide private forest reserve land: \$550

(c) for an approval under section 18 of the Act for the removal of private land from the reserve: \$750 (4) A fee paid by a person under subsection (3) is non-refundable.

(5) If the commission considers it to be in the public interest, the commission may require an applicant to give notice that an application has been submitted by publishing a notice in a newspaper that is distributed at least weekly in the area where the land which is the subject of the application is located.

(6) The notice referred to in subsection (5) must be published at least once in each of the 2 weeks immediately following notification to the applicant of the requirement to give notice, and the notice must provide all of the following:

(a) the legal description and civic address of the land subject to the application;

(b) the name of the owner of the land;

(c) a map or sketch showing the land in relation to surrounding lands, structures or buildings or other locally identifiable features such as roads, rivers, streams, creeks, lakes or watercourses;

(d) the class of application and the intended use of the land;

(e) the full name and address of the commission, with an invitation to submit comments concerning the application directly to the commission no later than 10 days after the date of the last publication or, in the case of a notice posted under subsection (7), 10 days after the notice has been posted to the satisfaction of the commission. (7) The commission may require, in addition to or instead of the publication required under subsection (6), that the applicant post on the land that is the subject of the application, one or more signs containing all or part of the information set out in subsection (6).

(8) If publication or posting of the notice as required by subsection (5) or (7) is not practical, the notice may be given within the area referred to in subsection (5) by an alternative means acceptable to the commission.

(9) The applicant must, in all circumstances, provide evidence satisfactory to the commission that the notice required by the commission has been published, posted or given by an alternative means, as the case may be.

(10) If the commission considers it to be in the public interest, the commission may require, in addition to or instead of the publication required under subsection (5) or the posting required under subsection (7), that the applicant give, to any person the commission considers is affected by the application, written notice that the application has been submitted to the commission.

(11) The written notice required by subsection (10) must provide all of the information set out in subsection (6).

(12) The applicant must, in all circumstances, provide evidence satisfactory to the commission that the notice required by subsection (10) has been given.

Requirements for a hearing

8. (1) If, with respect to an application, the commission requires a hearing, the commission must give the applicant not less than 10 days written notice of the time, date and place of the hearing.

(2) The hearing required by subsection (1) may be held on less than 10 days notice if the applicant waives that requirement.

(3) The applicant may make representations at the hearing either personally or through counsel or an agent.

(4) If the commission proposes to conduct a public hearing or meeting regarding an application, the commission must, in addition to giving the applicant notice under subsection (1),

(a) give not less than 10 days written notice of the time, date and place of the hearing or meeting to a local government or local governments that it determines may be affected by the application, and

(b) publish a notice in a newspaper that is distributed at least weekly in the area where the land which is the subject of the application is located. (5)

The notice referred to in paragraph (4) (b) must

(a) be published at least once in each of the 2 weeks immediately preceding the date of the hearing or meeting,

(b) give the information set out in section 7 (6) (a) to (d), and

(c) give the time, date and place of the public hearing or meeting.

Referral under section 27 of the Act

9. Despite the failure of a local government, a first nation or an organization to provide information or comments respecting a referral under section 27 of the Act within any time limit set out in the referral, the commission may proceed with the application.

