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Forest Act

**ADVERTISING, DEPOSITS AND
DISPOSITION REGULATION**

[includes amendments up to B. C. Reg. 44/99]

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Interpretation

1 In this regulation:

"**Act**" means the *Forest Act*;

"**agreement**" means a forest licence, timber sale licence, timber licence, tree farm licence, pulpwood agreement, woodlot licence, licence to cut or Christmas tree permit entered into under the Act;

"**licensee**" means a person who enters into an agreement, other than a Christmas tree permit, with the Crown;

"**permittee**" means a person who enters into an agreement with the Crown in the form of a Christmas tree permit.

[am. B.C. Reg. 147/83, s. 2.]

Advertising

Timber sale licence and forest licence

2 An advertisement inviting applications for a forest licence or a timber sale licence shall,

(a) where

(i) the total volume of timber to be authorized for harvesting under the licence is less than 2 000 m³, or

(ii) the timber must be removed expeditiously because it is in imminent danger of being damaged, destroyed or otherwise lost,

be published at least once, a minimum of 5 days before the date of sale, in at least one newspaper circulating in or near the area proposed for the licence,

(b) where the total volume of timber to be authorized for harvesting under the licence is 2 000 m³ or more, but less than 15 000 m³, be published

(i) in at least one issue of the Gazette, and

(ii) at least once, within a period of 3 consecutive weeks following the date of the publication in the Gazette, in at least one newspaper circulating in or near the area proposed for the licence,

(c) where the total volume of timber to be authorized for harvesting under the licence is 15 000 m³ or more, but

less than 100 000 m³, be published

(i) in at least one issue of the Gazette, and

(ii) at least once every 2 weeks, within a period of 4 consecutive weeks following the date of publication in the Gazette, in at least one newspaper circulating in or near the area proposed for the licence, or

(d) where the total volume of timber to be authorized for harvesting under the licence is 100 000 m³ or more, be published

(i) in at least one issue of the Gazette, and

(ii) at least once every 2 weeks, within a period of 8 consecutive weeks following the date of the publication in the Gazette, in at least one newspaper circulating in or near the area proposed for the licence.

[en. B.C. Reg. 328/89, s. 1.]

Tree farm licence or pulpwood agreement

3 An advertisement inviting applications for a tree farm licence or pulpwood agreement

(a) shall be published

(i) in at least one issue of the Gazette, and

(ii) in at least one newspaper circulating in or near the area proposed for the licence or the agreement, as the case may be, with at least one advertisement in every second week within the period of 8 consecutive weeks from the date of the publication in the Gazette,

(b) shall be broadcast at least once every second week within a period of 8 consecutive weeks on a radio or television station received in or near the area proposed for the licence or the agreement, as the case may be, and

(c) shall include

(i) an informal description of the land proposed for the licence or agreement,

(ii) the place and a date, at least 4 months following the publication in the Gazette for the public hearing required under section 33 (4) or 40 (5) of the Act, as the case may be, and

(iii) a name of a place in the forest region where persons are able to obtain details of the proposed licence or agreement, as the case may be.

[am. B.C. Regs. 147/83, s. 4; 393/97, App. s. 1 (a).]

Woodlot licence

4 An advertisement inviting applications for a woodlot licence

(a) shall be published

(i) in at least one issue of the Gazette, and

(ii) in at least one newspaper circulating in or near the area proposed for the licence, at least once every 2 weeks within a period of 4 consecutive weeks following the date of publication in the Gazette, and

(b) shall include

(i) an informal description of the land proposed for the licence, and

(ii) the name of a place in the forest region or forest district where persons can obtain details of the proposed licence.

[am. B.C. Regs. 147/83, s. 5; 328/89, s. 2.]

Publication of notice

5 (1) Notice of

(a) an offer of a forest licence made under section 15 (1),

- (b) a surrender of one or more timber sale licences made under section 17 (1),
- (c) an offer of a timber licence made under section 28 (2),
- (d) an offer of a tree farm licence made under section 36 (1),
- (e) an offer of a pulpwood agreement made under section 42 (1), or
- (f) an offer of a woodlot licence made under section 46 (1)

of the Act must be published not later than 6 weeks after the offer or surrender, as the case may be, in the Gazette and in at least one issue of at least one newspaper circulating in or near the area of the agreement.

(2) A notice published under subsection (1) shall

- (a) identify the person who made the surrender or to whom the offer was made,
- (b) describe informally the land and timber subject to the agreement surrendered or offered, and
- (c) describe the term of the agreement offered, or to be entered into, pursuant to the surrender.

[am. B.C. Regs. 147/83, s. 6; 393/97, App. s. 1 (b).]

Deposits

Deposits

6 (1) Where, under Part 3 of the Act, an application is made for an agreement, other than a Christmas tree permit, the application shall include

(a) in cash or by certified cheque an amount that equals one year's rent for the agreement as calculated according to the Act, and

(b) in cash, by certified cheque or by other security acceptable to the minister, a deposit that equals the amount calculated under section 7, according to the information available at the time of the application.

(1.1) Notwithstanding subsection (1), where an application is made for an agreement in the form of a timber sale licence to which section 7 (1) (c) applies, the application may be without a deposit or may include part or all of the deposit amount required under subsection (1) (b) of this section, as specified by the regional manager or the district manager.

(2) Where an error occurs in the calculation of the stumpage or deposit under subsection (1) or (1.1), the regional manager or the district manager may allow additional time for the deposit to be brought up to the proper amount.

(3) The successful applicant for a timber sale licence to which section 7 (1) (c) applies shall pay, on demand, prior to the execution of the agreement, any amount by which the deposit calculated under section 7 (1) (c) exceeds the amount of deposit paid under subsection (1) or (1.1).

(3.1) Where all or part of the deposit is used by the Crown during the term of a timber sale licence, the successful applicant shall, on demand, make a further payment to maintain the deposit in the amount determined by this section.

(4) Where

(a) an offer of a replacement for an agreement, other than a Christmas tree permit, entered into under the Act or the former Act is accepted, or

(b) an agreement, other than a Christmas tree permit, entered into under the former Act is surrendered for replacement,

the person who accepts the offer or surrenders the agreement

(c) shall maintain on deposit with the Crown an amount equal to one year's rent for the replacement agreement plus a deposit for that agreement calculated in accordance with section 7, and

(d) where the amounts required to be maintained on deposit by paragraph (c) exceed the like amounts on deposit with the Crown in respect of the agreement being replaced, shall pay the Crown the difference on demand.

(5) An application for any agreement referred to in section 12 of the Act or for an offer or surrender of an agreement, other than a Christmas tree permit, that relates to

(a) the construction or operation of a timber processing facility or other improvement, or

(b) land on which is situated the personal property owned by a person other than the applicant or a person accepting the offer or surrendering the agreement or the Crown,

shall include in cash, by certified cheque or by other security acceptable to the minister a deposit that equals the amount specified in the invitation for application or the offer or surrender, as the case may be.

[en. B.C. Reg. 147/83, s. 7; am. B.C. Regs. 328/89, s. 3; 393/97, App., s. 1 (c).]

Deposits — transitional

6.1 Despite section 6, if the holder of a timber sale licence to which section 7 (1) (c) applies pays a deposit before March 31, 1999 that exceeds \$75 000, the deposit may be reduced to \$75 000.

[en. B.C. Reg. 44/99, s. 1.]

Amount of deposit

7 (1) The deposit referred to in section 6 (1) to (4) shall be

(a) for a tree farm licence, 10¢/m³ of the allowable annual cut,

(b) for a timber sale licence entered into under section 24 (2) of the Act, 20¢/m³ of the allowable annual cut,

(c) for a timber sale licence, other than a timber sale licence referred to in paragraph (b), an amount determined by the regional or district manager that is

(i) not less than the sum of 10% of the first \$100 000 of stumpage plus 5% of the next \$400 000 of stumpage plus 2% of the remaining total estimated stumpage value tendered, and

(ii) not more than the lesser of the following:

(A) 50% of the total estimated stumpage value tendered;

(B) \$75 000.

(d) for a forest licence, 15¢/m³ of the allowable annual cut, and

(e) for a woodlot licence, \$200.

(2) Where under subsection (1) (c) (i) the minimum amount of deposit is less than \$500, the deposit required shall be

(i) zero, or

(ii) an amount not less than \$500,

determined by the regional manager or the district manager.

[en. B.C. Reg. 147/83, s. 7; am. B.C. Regs. 328/89, s. 4; 393/97, App., s. 1 (d); 44/99, s. 2.]

Disposition of an Amount Paid under Section 6

Refund, forfeiture, etc.

8 (1) Where an application for an agreement is not approved, the money paid under section 6 in respect of the application may be refunded under section 16 of the *Financial Administration Act*.

(2) Where an application for an agreement is approved, but the applicant fails or refuses to enter into the agreement,

(a) the money paid under section 6 in respect of the application is forfeited to the Crown, and

(b) the applicant, if a small business forest enterprise, shall be disqualified under section 78 (1) (d) and (e) of the Act.

(3) Where a licensee fails or refuses to comply with the terms and conditions of an agreement and the licence is cancelled,

(a) the deposit is forfeited to the Crown, and

(b) the licensee, if a small business forest enterprise, shall be disqualified under section 78 (1) (d) and (e) of the Act.

[en. B.C. Reg. 147/83, s. 7; am. B.C. Regs. 328/89, s. 5; 393/97, App., s. 1 (e) & (f).]

[Provisions of the *Forest Act*, R.S.B.C. 1996, c. 157, relevant to the enactment of this regulation: section 151 (1)]