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Forest Act
ADVERTISING, DEPOSITS, DISPOSITION
AND EXTENSION REGULATION

Note: Check the Cumulative Regulation Bulletin 2014
for any non-consolidated amendments to this regulation that may be in effect.

[includes amendments up to B.C. Reg. 73/2013, February 28, 2013]

Point in Time

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Definitions

1 In this regulation:

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

"**forest licence**" means a forest licence that is not a BC timber sales agreement;

"**forestry licence to cut**" means a forestry licence to cut other than one entered into under section 47.6 (3) of the Act;

"**ministry**" means the ministry of the minister.

[en. B.C. Reg. 381/2008, Sch. B, s. 1; am. B.C. Reg. 157/2012, Sch. 1, s. 1.]

Part 1 — Advertising

Forest licence

2 An advertisement inviting applications for a forest licence must be published by posting the advertisement on a publicly accessible website maintained by or on behalf of the ministry, in accordance with the following:

(a) if

(i) the total volume of timber to be authorized for harvesting under the licence is equal to or less than 25 000 m³, or

(ii) the timber must be removed expeditiously because it is in imminent danger of being damaged, destroyed or otherwise lost, for a minimum of 2 weeks immediately before the date of sale;

(b) if the total volume of timber to be authorized for harvesting under the licence is greater than 25 000 m³ and equal to or less than 100 000 m³, for a minimum of 4 weeks immediately before the date of sale;

(c) if the total volume of timber to be authorized for harvesting under the licence is greater than 100 000 m³, for a minimum of 8 weeks immediately before the date of sale.

[en. B.C. Reg. 294/2007, s. 1; am. B.C. Reg. 157/2012, Sch. 1, s. 2.]

Repealed

2.1 Repealed. [B.C. Reg. 381/2008, Sch. B, s. 2.]

Tree farm licence

3 An advertisement inviting applications for a tree farm licence

(a) must be published

(i) by posting the advertisement on a publicly accessible website maintained by or on behalf of the ministry for a minimum of 8 weeks immediately before the date of sale, and

(ii) in at least one newspaper circulating in or near the area proposed for the licence with at least one advertisement in every second week within the period of 8 consecutive weeks from the date of publication on the website, and

(b) Repealed. [B.C. Reg. 294/2007, s. 2 (a).]

(c) if the minister receives a request, or decides on the minister's own

initiative, to convene a public hearing under section 33 (2) of the Act, must include the place and a date that is at least 4 months after the date the notice is first published under paragraph (a) (i) for the public hearing.

[am. B.C. Regs. 294/2007, s. 2; 133/2011, Sch. s. 1; 157/2012, Sch. 1, s. 3.]

Community forest agreement

- 4** An advertisement inviting applications for a community forest agreement must be published by posting the advertisement on a publicly accessible website maintained by or on behalf of the ministry for a minimum of 4 weeks immediately before the date of sale.

[en. B.C. Reg. 157/2012, Sch. 1, s. 4.]

Community salvage licence

- 5** An advertisement inviting applications for a community salvage licence must be published by posting the advertisement on a publicly accessible website maintained by or on behalf of the ministry for a minimum of 4 weeks immediately before the date of sale.

[en. B.C. Reg. 157/2012, Sch. 1, s. 4.]

Woodlot licence

- 6** An advertisement inviting applications for a woodlot licence must be published by posting the advertisement on a publicly accessible website maintained by or on behalf of the ministry for a minimum of 4 weeks immediately before the date of sale.

[en. B.C. Reg. 157/2012, Sch. 1, s. 4.]

Fibre supply licence to cut

- 6.1** An advertisement inviting applications for a fibre supply licence to cut must be published by posting the advertisement on a publicly accessible website maintained by or on behalf of the ministry for a minimum of 4 weeks immediately before the date of sale.

[en. B.C. Reg. 157/2012, Sch. 1, s. 4.]

Publication of offer or intent to offer replacement licence

- 7** (1) Notice of

- (a) an intent to offer a forest licence under section 15 (1.1) of the Act or an offer of a forest licence made under section 15 (1.2) of the Act,
- (b) an offer of a timber licence made under section 28 (2) of the Act,
- (c) an intent to offer a tree farm licence under section 36 (1.1) of the Act or an offer of a tree farm licence made under section 36 (1.2) of the Act,
- (c.1) an offer of a community forest agreement made under section 43.4 (7) of the Act, or
- (d) an offer of a woodlot licence made under section 46 (1) of the Act

must be published by posting on a publicly accessible website maintained by or on behalf of the ministry not later than 6 weeks after the offer or intent to offer, as the case may be, is made.

- (2) A notice published under subsection (1) must

- (a) identify the person to whom the offer or intent to offer was made,

- (b) describe informally the land and timber that is subject to the licence offered or intended to be offered,
- (c) describe the term of the licence offered or intended to be offered, and
- (d) be published for a minimum of 7 days.

[am. B.C. Regs. 294/2007, s. 6; 318/2012.]

Part 2 — Deposits

Deposits

8 (0.1) In this section, "**applicant**" means a person or legal entity

- (a) to which the minister offers an agreement referred to in section 12 of the Act other than through a competitive process, or
- (b) that applies for an agreement referred to in section 12 of the Act in a competitive process.

(1) An applicant for a forest licence, timber licence, tree farm licence, community salvage licence, woodlot licence, first nations woodland licence, forestry licence to cut or fibre supply licence to cut must pay,

- (a) in the case of a competitive process, at the time of application,
 - (i) an amount that equals one year's annual rent for the licence, calculated in accordance with the Act, which amount, in the case of the successful applicant, must be applied for the first year's annual rent for that licence, and
 - (ii) a deposit that equals the amount calculated under section 9, according to the information available at the time of the application, which amount, in the case of the successful applicant, is to be held by the government as security for performance as described in section 151 (11) of the Act, and
- (b) if the minister offers the agreement without a competitive process, before the agreement is entered into, a deposit that equals the amount calculated under section 9, according to the information available at the time of the application, to be held by the government as security for performance as described in section 151 (11) of the Act.

(2) If

- (a) an offer of a replacement for a forest licence, timber licence, tree farm licence, woodlot licence or first nations woodland licence is made, or
- (b) a forest licence, timber licence, tree farm licence, woodlot licence or first nations woodland licence is surrendered for replacement,

the person who accepts the offer or surrenders the licence

- (c) must maintain with the government a deposit for that licence calculated in accordance with section 9, and
- (d) if the amounts required to be maintained on deposit by paragraph (c) exceed the like amounts on deposit with the government in respect of the

licence being replaced, must pay the government the difference on demand.

(3) An application for a forest licence, timber licence, tree farm licence or woodlot licence or for an offer or surrender of one 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

(i) the applicant,

(ii) a person accepting the offer or surrendering the agreement, or

(iii) the government,

must include a deposit in the amount specified in the invitation for application or the offer or surrender, as the case may be.

(4) A payment required under this section must be made, in Canadian funds,

(a) in cash,

(b) by cheque certified by a savings institution,

(c) by money order issued by

(i) a savings institution, or

(ii) the Canada Post Corporation, or

(d) by bank draft issued by a savings institution.

(5) Despite subsection (4), a deposit required under subsection (1) (a) (ii) or (b), (2) or (3) may be provided by irrevocable letter of credit, in Canadian funds, issued by a savings institution.

[am. B.C. Regs. 294/2007, s. 7; 157/2012, Sch. 1, s. 5; 73/2013, s. 1.]

Amount of deposit

9 (1) The deposit referred to in section 8 (1) or (2) is

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

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

(c) for a community salvage licence, \$1 500,

(d) for a woodlot licence, \$1 000,

(e) for a forestry licence to cut entered into under

(i) section 24.8 or 24.9 of the Act, 20¢/m³ of the total licence volume, and

(ii) section 47.3 of the Act, 20¢/m³ of the total licence volume,

(iii) Repealed. [B.C. Reg. 157/2012, Sch. 1, s. 6 (a).]

(f) for a forestry licence to cut under section 47.6 (2.11), (4) or (4.1) of the Act, an amount determined by the minister,

(g) for a fibre supply licence to cut, an amount not less than \$7 500 determined by the minister, and

(h) for a first nations woodland licence, 10¢/m³ of the allowable annual cut.

- (2) The deposit referred to in section 8 (1) or (2) for a forestry licence to cut entered into under section 47.6 (2) of the Act is
- (a) if the licence is not competitively awarded,
 - (i) subject to subparagraph (ii), the amount determined by the minister that is the sum of 10% of the first \$100 000 of the total estimated stumpage value plus 5% of the remaining total estimated stumpage value, and
 - (ii) if the amount determined under subparagraph (i) is less than \$500, either \$500 or zero, as determined by the minister, and
 - (b) if the licence is competitively awarded, an amount determined by the minister.
- (3) If, during the term of a licence referred to in subsection (1) (g), the minister determines that the amount of security required under that paragraph in respect of the licence is insufficient to ensure performance of an obligation under the licence, the Act, the *Forest and Range Practices Act* or the *Wildfire Act*, the minister may increase the amount required under that subsection to an amount the minister considers sufficient for that purpose.
- (4) Despite section 8 (1) (b) and subsection (1) (h) of this section, if the first nations woodland licence is awarded to a first nation that has entered into an agreement described in section 43.54 (2) of the Act that authorizes the government to retain as security amounts otherwise payable to the first nation, no deposit is required under section 8 (1) (b).

[am. B.C. Regs. 66/2006; 294/2007, s. 8; 381/2008, Sch. B, s. 2; 133/2011, Sch. ss. 3 to 5; 157/2012, Sch. 1, s. 6; 73/2013, s. 2.]

Repealed

10–11 Repealed. [B.C. Reg. 381/2008, Sch. B, s. 2.]

Amount of deposit for competitively awarded forestry licence to cut

- 11.1** (1) Before entering into a forestry licence to cut under section 47.6 (2) of the Act that is competitively awarded, the successful applicant for the licence must pay the government, on demand, the difference between the deposit provided under section 9 (2) (b) and an amount calculated in accordance with section 9 (2) (a).
- (2) The amount required under subsection (1) must be provided by a method referred to in section 8 (4) or (5).

[en. B.C. Reg. 294/2007, s. 9; am. B.C. Regs. 133/2011, Sch. s. 6; 157/2012, Sch. 1, s. 7; 73/2013, s. 3.]

Part 3 — Disposition of Deposits

Refund if application not approved or conditionally approved

- 12** (1) If an application for a forest licence, timber licence, tree farm licence, community salvage licence, woodlot licence, forestry licence to cut or fibre supply licence to cut is not approved, the amount paid under section 8 (1) or (3) in respect of the application must be refunded or, if a deposit was provided by irrevocable letter of credit, the irrevocable letter

of credit must be returned.

(2) If

(a) an application for a forest licence, timber licence, tree farm licence, community salvage licence, woodlot licence, forestry licence to cut or fibre supply licence to cut is approved subject to a condition, and

(b) the minister is satisfied that there is no need for a deposit,

the deposit provided under section 8 (1) (a) (ii) or (b) or (3) in respect of the application must be refunded or, if the deposit was provided by irrevocable letter of credit, the irrevocable letter of credit must be returned.

[en. B.C. Reg. 73/2013, s. 4.]

Forfeiture of deposit for not entering into agreement

- 13** (1) If an application for a forest licence, timber licence, tree farm licence, community salvage licence, woodlot licence, forestry licence to cut or fibre supply licence to cut is approved or conditionally approved but the applicant does not enter into the licence, the money paid or irrevocable letter of credit provided under section 8 in respect of the application is forfeited to the government.
- (2) At the request of an applicant who did not enter into the licence, the minister may relieve the applicant from the forfeiture imposed under subsection (1) if the minister is satisfied that the applicant did not enter into the licence as the result of
- (a) an event that
 - (i) is not related to financial circumstances of the applicant,
 - (ii) is beyond the control of the applicant, and
 - (iii) would, if the licence were entered into, prevent the licence obligations from being carried out, or
 - (b) a mistake made by the government which would make the licence voidable.
- (3) A request referred to in subsection (2) must
- (a) be submitted within 30 days after the date the requesting person is notified of the forfeiture under subsection (1),
 - (b) be signed by, or on behalf of, the requesting person, and
 - (c) specify the reasons for the request.

[am. B.C. Regs. 381/2008, Sch. B, s. 4; 157/2012, Sch. 1, s. 8; 73/2013, s. 5.]

Refund if obligations fulfilled or substantially fulfilled

- 14** (1) A deposit paid under section 8 (1) (a) (ii) or (b) by a method described in section 8 (4) may be refunded
- (a) in full, if the minister is satisfied that the licensee has fulfilled its obligations under or in respect of the licence, or
 - (b) in part, if the minister is satisfied that the licensee has substantially fulfilled its obligations under or in respect of the licence.
- (2) If a deposit is provided under section 8 (1) (a) (ii) or (b) by irrevocable letter of credit

and the minister is satisfied that the licensee has fulfilled its obligations under or in respect of the licence, the irrevocable letter of credit may be returned.

- (3) If a deposit is provided under section 8 (1) (a) (ii) or (b) by irrevocable letter of credit and the minister is satisfied that the licensee has substantially fulfilled its obligations under or in respect of the licence, the minister may do one of the following:

- (a) if provided for in the irrevocable letter of credit, draw from the irrevocable letter of credit the amount the minister considers appropriate to address obligations that are not fulfilled;
- (b) draw the full amount from the irrevocable letter of credit and refund to the licensee the amount the minister considers is not needed to address obligations that are not fulfilled.

[en. B.C. Reg. 157/2012, Sch. 1, s. 9; am. B.C. Reg. 73/2013, s. 6.]

Forfeiture of deposit for non-compliance with licences

- 15** (1) The minister must realize a deposit provided in respect of a licence referred to in section 8 (1) if

- (a) the minister is satisfied that the licensee did not comply with the licence, and
- (b) the licence is cancelled or expires.

- (2) The minister must dispose of the amount realized from the deposit, first, under the terms of the licence, and then as to any amount remaining,

- (a) 50% of the original deposit, or all of the balance remaining if the balance is less than 50%, to the government, and
- (b) the remainder to the licensee, unless the minister is satisfied that some or all of the remainder should be retained by the government after consideration of the following:

- (i) whether the licensee owes money to the government that may be set-off under the *Financial Administration Act*;
- (ii) an estimate of the direct and indirect costs to the government resulting from the licensee's non-compliance with the licence including but not limited to
 - (A) foregone stumpage, and
 - (B) costs that are or will be incurred by the government in the ordinary course of business because of the non-compliance;
- (iii) any other information that the minister considers to be relevant.

- (3) Despite subsections (1) and (2), the minister may waive the requirement to realize a deposit under this section or may realize a different amount than determined under subsection (2) if satisfied that the non-compliance was the result of an event that

- (a) is not related to financial circumstances of the licensee,
- (b) is beyond the control of the licensee, and
- (c) prevents the licence obligations from being carried out.

[am. B.C. Regs. 133/2011, Sch. ss. 3 and 8; 157/2012, Sch. 1, s. 10; 73/2013, s. 7.]

Repealed

16 Repealed. [B.C. Reg. 381/2008, Sch. B, s. 6.]

Part 4 — Extensions

Repealed

17 Repealed. [B.C. Reg. 381/2008, Sch. B, s. 6.]

Extension of cutting permits

- 18 (1) An application to extend the term of a cutting permit must be in a form required by the district manager.
- (2) Before an extension of a cutting permit is approved, the applicant is required to pay to the government a fee equal to the amount calculated according to the following formula:

the total stumpage rate
in effect at time of
cutting permit issuance

X

the total net cruise volume at the time of cutting permit
issuance or, in the absence of the total net cruise volume,
an estimation of the total volume

X 5%

- (3) If the holder of a cutting permit harvested timber under the cutting permit before applying to extend the term of the cutting permit under subsection (1), the fee payable under subsection (2) is reduced, to a maximum of 90%, by the percentage derived from the following formula:

the volume of timber harvested under a
cutting permit on or before the date of application
as determined by the district manager

_____ x 100%

the total net cruise volume at the time of cutting
permit issuance or, in the absence of the total net
cruise volume, an estimation of the total volume

[am. B.C. Reg. 255/2007, s. (b).]

Note: this regulation repeals B.C. Reg. 277/2004.

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