



# **Compensation under the *Forestry Revitalization Act***

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# Framework for Compensation

## Compensation will be for:

- market value of the reduction in Crown timber harvesting rights as of March 31, 2003;
- the un-amortized cost (value) of improvements rendered useless as a direct result of the reduction in Crown timber harvesting rights.

# **Compensation: Practically Speaking**

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**Compensation is for the value of the reduced harvesting rights.**

**Compensation will be based upon:**

- the potential profit of the reduced harvest; or**
- the incremental cost of having to buy logs on the open market.**

# Definitions

**Market value:** highest price obtained between willing and knowledgeable buyers and sellers in an open and unrestricted market.

**Improvements:** Roads, bridges, dry land sorts, camps and planning and engineering costs directly associated with the physical assets.

**Un-amortized cost of improvements:** original documented cost of improvement less the amount of amortization recognized under the stumpage appraisal system.

# Valuation Methods

## 1. Comparable sales/transactions:

- bona fide arms length transactions of stand alone reasonably comparable Crown timber harvesting rights
- based on generally accepted principles of appraisal.

# Valuation Methods

## 2. Income Method:

- based on the discounted cash flow (DCF) model;
- assumption is reduced volume was harvested and sold, or purchased on an open and unrestricted market for logs;
- time-frame is the unexpired term of the licence.

# Discounted Cash Flow Example: Major Elements

- Projected annual harvest volume times:
- Weighted average log price =
- Annual revenue, less:
- Average logging cost, less:
- Average billed stumpage =
- Net residual, times:
- Discount rate (WACC) = discounted annual cash flow: summed =
- Cumulative DCF = Market Value



# Compensation for Improvements Example

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Documented cost of improvement:  
\$500,000

Less amortization per stumpage  
appraisal system: (\$200,000)

Equals Allowable Compensation:  
\$300,000



# **Heads of Compensation Implications**

- 1. Perceived impacts on the profitability of processing facilities (e.g. pulp mills, sawmills) caused by reduced wood flow.**

**Compensation limited to market value of lost harvesting rights.**

# **Heads of Compensation Implications**

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**2. Pre-taking losses associated with lost harvesting rights.**

**Compensation limited to market value of lost harvesting rights and improvements.**

# **Heads of Compensation Implications**

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## **3. Timber / chip supply contracts.**

**Compensation limited to market value of lost harvesting rights.**

# **Heads of Compensation Implications**

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## **4. Changes to timber profile.**

**Compensation limited to the market value of lost harvesting rights at March 31, 2003, and excludes any impact associated with a change in the timber profile being harvested.**

# **Heads of Compensation Implications**

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**5. Planning and engineering costs not directly associated with the listed physical improvements.**

**Outside the definition of improvements.**

# Heads of Compensation Implications

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**6. Soft costs (e.g. development) not directly associated with an approved cutting permit.**

**Not directly related to the value of harvesting rights.**

# **Heads of Compensation Implications**

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## **7. Increased operating costs.**

**Outside the definition of harvesting rights  
and improvements.**



# **Heads of Compensation Implications**

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**8. Increased amortization rates.**

**Outside the definition improvements.**

# **Heads of Compensation Implications**

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**9. Costs associated with the U.S. lumber  
countervail.**

**Outside defined heads of compensation.**

# Compensation Process

- 1. Issuance of a Ministerial Order**
- 2. Licensee initiates a claim for compensation to the Minister**
- 3. Information Gathering & Negotiation:**  
Ministry and licensee negotiate about the combined impact on harvesting rights and improvements.  
Licensee may be required to provide information to support claim.
- 4. Compensation agreed upon & issued.**

# **Dispute Resolution & Interest**

## **Dispute resolution:**

**If the amount of compensation cannot be agreed upon, arbitration will be conducted based on the valuation methods specified in the regulation.**

## **Interest on compensation payable:**

**Simple interest under the Court Order Interest Act, pre-judgement rate from March 31, 2003, to date of settlement, post-judgement rate from date of settlement to date of payment.**

2003 Legislative Session: 4th Session, 37th Parliament  
THIRD READING

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The following electronic version is for informational purposes only.  
The printed version remains the official version.

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Certified correct as passed Third Reading on the 31st day of March, 2003  
Ian D. Izard, Law Clerk

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HONOURABLE MICHAEL DE JONG  
MINISTER OF FORESTS

BILL 28 – 2003

FORESTRY REVITALIZATION ACT

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

**Definitions**

1 (1) In this Act:

**"group of licences"** means 2 or more licences that

(a) are listed in an item of the Schedule under a group name assigned to them in Column 1 of that item, and

(b) are each identified by licence number in Column 2 of that item;

**"licence"** means a licence that is replaceable under the *Forest Act* and is a

(a) forest licence,

(b) tree farm licence, or

(c) timber sale licence;

**"timber licence"** means a timber licence

(a) that describes an area of Crown land that is not in a tree farm licence area, and

(b) is held by a person who is the holder of a licence in a group of licences;

**"ungrouped licence"** means a licence that is

(a) mentioned in an item of the Schedule separately from other licences, and

(b) identified by licence number in Column 2 of that item

but does not include a licence in a group of licences.

(2) Words and expressions used in this Act but not defined in subsection (1) or in a regulation under section 13 (2) (a) have the same meanings as in the *Forest Act*.

#### **Harvesting rights reduced for timber licences and certain replaceable licences**

2 (1) The allowable annual cut of an ungrouped licence identified in an item of the Schedule is reduced by the amount specified in Column 3 of that item.

(2) Each area of Crown land described in a timber licence is reduced by 20%.

(3) The total of the allowable annual cuts of the licences in a group of licences listed in an item of the Schedule is reduced by the amount specified in Column 3 of that item opposite the group name, assigned in Column 1, under which the licences are listed.

#### **Minister's orders**

3 (1) By order in writing, the minister must

(a) attribute a reduction in area under section 2 (2) in equal or unequal portions, specified in the order, to one or more of the timber licences held by a licensee that is the holder of one or more licences in a group of licences, and

(b) specify, for each of the timber licences referred to in paragraph (a) of this section, the part of the area of Crown land described in the timber licence that remains after

(i) the reduction made by section 2 (2), and

(ii) the attribution under paragraph (a) of this subsection.

(2) By order in writing, the minister must attribute a reduction of allowable annual cut under section 2 (3) in equal or unequal portions, specified in the order, to one or more of the licences in a group of licences.

(3) The allowable annual cut of a licence to which the minister attributes all or part of a reduction made under section 2 (3) is reduced by the amount attributed by the order to that licence.

(4) By order in writing, the minister must specify, for each tree farm licence in a group of licences, the area of Crown land in the tree farm licence area that remains after the reduction made by subsection (3).

(5) A minister's order that must be made under this section

(a) may be made at any time within 3 years after the coming into force of section 2,

(b) may differ for different timber, places or transactions or for different licences or timber licences, and

(c) when made

(i) is deemed to have come into force on the date this section comes into force, and

(ii) is retroactive to the extent necessary to give it effect on and after that date.

(6) Written notice of an order under this section must be delivered to the holder of a

(a) licence, or

(b) timber licence

that is affected by the order.

#### **Provision of information**

4 (1) The minister, by written notice, may require the holder of an ungrouped licence, a timber licence or a licence in a group of licences, at the holder's expense, to provide information that the minister considers necessary for the purposes of the orders referred to in section 3.



(2) At the time and in the form and manner required by the minister, the holder of an ungrouped licence, a timber licence or a licence in a group of licences must provide the required information to the minister.

(3) A holder of an ungrouped licence, a timber licence or a licence in a group of licences who contravenes subsection (2) commits an offence.

#### **Deemed amendments to affected timber licences and other licences**

5 (1) An ungrouped licence referred to in section 2 (1) is deemed amended to reflect the reduction under section 2 (1).

(2) A timber licence referred to in section 2 (2) is deemed amended to reflect the minister's order under section 3 (1).

(3) A licence referred to in section 2 (3) is deemed amended to reflect the minister's orders under section 3 (3) and (4).

#### **Compensation**

6 (1) Each holder of an ungrouped licence is entitled to compensation from the government for a reduction under section 2 (1) of the allowable annual cut of the ungrouped licence, in an amount equal to the value of the harvesting rights taken by means of the reduction, which value must be determined under the regulations, for the unexpired portion of the term of the licence.

(2) Each holder of a timber licence is entitled to compensation from the government in respect of the part, if any, of a reduction in the area of Crown land described in the timber licence that is made under section 2 (2) and that is attributed under section 3 (1) to that licence in an amount equal to the value of the harvesting rights taken by means of the reduction, which value must be determined under the regulations.

(3) Each holder of a licence in a group of licences is entitled to compensation from the government in respect of the part, if any, of a reduction of the allowable annual cut of the licence that is made under section 2 (3) and that is attributed under section 3 (2) to that licence, in an amount equal to the value of the harvesting rights taken by means of the reduction, which value must be determined under the regulations, for the unexpired portion of the term of the licence.

(4) In addition to the compensation to which the holder of an ungrouped licence, a timber licence or a licence in a group of licences is entitled under subsection (1), (2) or (3), the holder is entitled to compensation from the government in an amount equal to the value, determined under the regulations, of improvements made to Crown land that

(a) are, or have been, authorized by the government,

(b) are not improvements to which section 174 of the *Forest Practices Code of British Columbia Act* applies, and

(c) are not, or have not been, paid for by the government under the *Forest Act* or the former

Act as defined in the *Forest Act*.

(5) An entitlement to compensation under this section vests in the holder to which it applies on the date this section comes into force.

(6) A dispute between the minister and the holder of an ungrouped licence, a timber licence or a licence in a group of licences as to the amount of the compensation to which the holder is entitled under this section must be submitted to arbitration under the *Commercial Arbitration Act*.

(7) Unless the holder of an ungrouped licence, a timber licence or a licence in a group of licences, in a notice delivered to the minister, elects arbitration before a single arbitrator, an arbitration referred to in subsection (6) is before 3 arbitrators.

#### **Limit on compensation**

7 (1) In this section, "**compensation**" includes damages.

(2) The compensation to which the holder of an ungrouped licence, of a timber licence or of a licence in a group of licences, is entitled under section 6 is limited to the amount of compensation determined in relation to that licence under this Act.

(3) No action lies, and an action or other proceeding must not be brought or continued, against the government for compensation

(a) arising out of this Act,

(b) because of any of the things specified in or under this Act, or

(c) because of any of the things specified in or under this Act in combination with any or all of the other things specified in or under this Act,

in an amount that exceeds the amount limited under subsection (2).

(4) The *Expropriation Act* does not apply to a reduction under section 2 or 3 of this Act or to anything done by or under a minister's order referred to in section 3 of this Act.

#### **Act to be given effect**

8 (1) This Act must be applied to and must be given effect in every action or other proceeding whether commenced before, on or after the date this Act receives Royal Assent.

(2) This Act must not be construed as lacking effect, whether retroactive or otherwise, in relation to any matter because it makes no specific reference to that matter.

#### **Appropriation for compensation**

9 In the 2002-2003 fiscal year of the government, the minister is authorized to pay not more than \$200 million out of the consolidated revenue fund for the purpose of providing compensation to

which holders of ungrouped licences, of timber licences or of licences in a group of licences are entitled under section 6.

#### **BC Forestry Revitalization Trust**

**10 (1)** In this section, "BC Forestry Revitalization Trust" refers to the trust

(a) that has been created under that name by the deed of trust, dated for reference as of March 17, 2003, between Her Majesty the Queen in Right of the Province of British Columbia, as represented by the minister, and the Bank of Nova Scotia Trust Company, the initial trustee, which deed of trust sets out the terms and conditions of the BC Forestry Revitalization Trust, and

(b) the purpose of which, under Part 2 of the deed of trust, is to mitigate adverse financial impacts suffered by any eligible person, as described in the deed of trust, as a result of restructuring of the forestry sector and forestry operations within British Columbia, arising out of reductions under the *Forestry Revitalization Act* of harvesting rights available to licensees under the *Forest Act*.

(2) A true copy of the BC Forestry Revitalization Trust must be kept on file, and made available for public inspection without charge, in each regional office of the ministry.

(3) For the purposes of section 24 of the *Perpetuity Act*, the BC Forestry Revitalization Trust is a trust for a specific noncharitable purpose that creates no enforceable equitable interest in a specific person.

(4) In the 2002-2003 fiscal year of the government, the minister must pay \$75 million out of the consolidated revenue fund to the BC Forestry Revitalization Trust.

#### **Balanced Budget and Ministerial Accountability Act**

**11** For the purposes of sections 5 (1) and 6 (1) of the *Balanced Budget and Ministerial Accountability Act* in relation to the Minister of Forests for the 2002-2003 fiscal year, the estimated amount under section 6 (1) of that Act is the sum of the amounts appropriated

(a) for the operating expenses for which that minister is responsible in the main estimates for that fiscal year, and

(b) under sections 9 and 10 (4) of this Act.

#### **Clarification of scheduled items**

**12** The Lieutenant Governor in Council, by regulation, may amend the Schedule to correct, as necessary, the names of licensees itemized in Column 1 and the licence numbers itemized in Column 2.

#### **Regulations**

**13 (1)** The Lieutenant Governor in Council may make regulations referred to in section 41 of the

*Interpretation Act.*

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations

- (a) defining a word or expression not otherwise defined in this Act, and
- (b) for the purposes of section 6, prescribing respecting value, including but not limited to
  - (i) determining value and defining the components that comprise value,
  - (ii) prescribing methods of evaluation for use in determining value,
  - (iii) prescribing factors to be taken into account in an evaluation,
  - (iv) defining the role of evaluators in a determination of value and prescribing qualifications for evaluators that are prerequisite to their participation in the determination of value, and
  - (v) prescribing requirements for the selection of
    - (A) the arbitrators in an arbitration before 3 arbitrators, or
    - (B) the arbitrator in an arbitration before a single arbitrator.

(3) A regulation made under this Act may

- (a) be made applicable generally or to a specific person, entity, thing or transaction, or class of persons, entities, things or transactions,
- (b) for the purpose of the regulation, define classes of timber licence holders and of licence holders, other persons or entities,
- (c) for the purpose of the regulation, define classes of things or transactions, and
- (d) provide differently for different persons, entities, things or transactions, or for different classes of persons, entities, things or transactions.

(4) In making a regulation under this Act, the Lieutenant Governor in Council may

- (a) delegate a matter to a person, and
- (b) confer a discretion on a person.

**Schedule**

	Column 1	Column 2	Column 3 Allowable
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Item	Licensees	Licence Number	Annual Cut (cubic metres)
1	<b>Abitibi-Consolidated Company of Canada</b>	A15385	183 125
2	<b>Ainsworth Lumber Co. Ltd.</b>	A18700	2 964
3	<b>Apollo Forest Products Ltd.</b>	A18156	4 186
4	<b>Buffalo Head Forest Products Ltd.</b>	A16884	22 928
5	<b>CANFOR GROUP</b>		1 556 012
	Canadian Forest Products Ltd.	A19208	
	Canadian Forest Products Ltd.	A19213	
	Canadian Forest Products Ltd.	A19223	
	Canadian Forest Products Ltd.	A19233	
	Canadian Forest Products Ltd.	A16824	
	Canadian Forest Products Ltd.	A16828	
	Canadian Forest Products Ltd.	A18151	
	Canadian Forest Products Ltd.	A18154	
	Canadian Forest Products Ltd.	A18165	
	Canadian Forest Products Ltd.	A18167	
	Canadian Forest Products Ltd.	A20009	
	Canadian Forest Products Ltd.	A40873	
	Canadian Forest Products Ltd.	TFL30	
	Canadian Forest Products Ltd.	TFL48	
	Canadian Forest Products Ltd.	TFL37	
6	<b>Carrier Lumber Ltd.</b>	A18158	13 257
7	<b>DOMAN GROUP</b>		685 216
	Doman Industries Limited	A16845	
	Doman-Western Lumber Ltd.	A16847	
	Doman-Western Lumber Ltd.	A19205	
	Doman-Western Lumber Ltd.	A19216	
	Doman-Western Lumber Ltd.	A19228	
	Doman-Western Lumber Ltd.	A19231	
	Western Forest Products Limited	A19240	
	Doman-Western Lumber Ltd.	TFL19	
	Western Forest Products Limited	TFL25	
	Western Forest Products Limited	TFL6	

8	<b>DUNKLEY GROUP</b>		2 297
	Dunkley Lumber Ltd.	A19981	
	Dunkley Lumber Ltd.	TFL53	
9	<b>FEDERATED COOPERATIVES GROUP</b>		30 652
	Federated Co-operatives Limited	A18670	
	Federated Co-operatives Limited	A18680	
	Federated Co-operatives Limited	TFL33	
10	<b>GORMAN BROS. LUMBER GROUP</b>		43 723
	Wood River Forest Inc.	A17644	
	Gorman Bros. Lumber Ltd.	A18671	
	Gorman Bros. Lumber Ltd.	A20173	
	Downie Street Sawmills Ltd.	A31102	
11	<b>HUSBY FOREST PRODUCTS GROUP</b>		6 109
	Husby Forest Products Ltd.	A16869	
	Sitkana Timber Ltd.	A16871	
12	<b>INTERFOR GROUP</b>		579 038
	International Forest Products Limited	A16841	
	International Forest Products Limited	A16850	
	International Forest Products Limited	A19203	
	International Forest Products Limited	A19209	
	International Forest Products Limited	A19220	
	International Forest Products Limited	A19232	
	International Forest Products Limited	A19235	
	International Forest Products Limited	A19238	
	International Forest Products Limited	A18693	
	International Forest Products Limited	TFL10	
	International Forest Products Limited	TFL38	
	International Forest Products Limited	TFL45	
	International Forest Products Limited	TFL54	
13	<b>LIGNUM GROUP</b>		46 972
	Lignum Limited	A20003	
	Lignum Limited	A20018	
14	<b>LOUISIANA PACIFIC GROUP</b>		73 678

	LP Engineered Wood Products Ltd.	A17645	
	LP Engineered Wood Products Ltd.	A18669	
	LP Engineered Wood Products Ltd.	TFL55	
15	<b>NEW SKEENA FOREST PRODUCTS GROUP</b>		337 612
	New Skeena Forest Products Inc.	A16829	
	New Skeena Forest Products Inc.	A16831	
	Kitwanga Lumber Co. Ltd.	A16833	
	New Skeena Forest Products Inc.	A16835	
	Orenda Logging Ltd.	A16883	
	New Skeena Forest Products Inc.	TFL1	
16	<b>POPE &amp; TALBOT GROUP</b>		199 299
	Pope & Talbot Ltd.	A18969	
	Pope & Talbot Ltd.	A20207	
	Pope & Talbot Ltd.	TFL23	
	Pope & Talbot Ltd.	TFL8	
17	<b>RIVERSIDE GROUP</b>		383 982
	Riverside Forest Products Limited	A18667	
	Riverside Forest Products Limited	A18689	
	Riverside Forest Products Limited	A18697	
	Riverside Forest Products Limited	A19993	
	RFP Timber Ltd.	A20015	
	RFP Timber Ltd.	A20016	
	Riverside Forest Products Limited	A20019	
	Riverside Forest Products Limited	A20170	
	Riverside Forest Products Limited	A20191	
	Riverside Forest Products Limited	TFL49	
18	<b>ROBERT STEWART HOLDINGS GROUP</b>		143 362
	L. & M. Lumber Ltd.	A16821	
	L. & M. Lumber Ltd.	A17842	
	Lakeland Mills Ltd.	A18163	
	The Pas Lumber Company Ltd.	A18171	
19	<b>SLOCAN GROUP</b>		813 612
	Slocan Forest Products Ltd.	A15384	



	Slocan Forest Products Ltd.	A15430	
	Tackama Forest Products Ltd.	A17007	
	Plateau Forest Products Ltd.	A18157	
	Slocan Forest Products Ltd.	A18688	
	Slocan Forest Products Ltd.	A18979	
	Slocan Forest Products Ltd.	A20011	
	Slocan Forest Products Ltd.	A20192	
	Slocan Forest Products Ltd.	A30176	
	Slocan Forest Products Ltd.	TFL18	
	Slocan Forest Products Ltd.	TFL03	
20	<b>STUART LAKE LUMBER Co. LTD.</b>	A18169	495
21	<b>TEAL CEDAR PRODUCTS GROUP</b>		48 078
	Teal Cedar Products Ltd.	A18699	
	Teal Cedar Products Ltd.	A19201	
22	<b>TEMBEC GROUP</b>		189 310
	Tembec Industries Inc.	A18978	
	Tembec Industries Inc.	A19040	
	Tembec Industries Inc.	A20212	
	Tembec Industries Inc.	TFL14	
23	<b>TIMBERWEST GROUP</b>		201 344
	TFL Forest Ltd.	A16870	
	TFL Forest Ltd.	A20913	
	TFL Forest Ltd.	A29159	
	TFL Forest Ltd.	TFL46	
	TFL Forest Ltd.	TFL47	
24	<b>TOLKO GROUP</b>		258 983
	Tolko Industries Ltd.	A18672	
	Tolko Industries Ltd.	A18686	
	Gilbert Smith Forest Products Ltd.	A18692	
	Tolko Industries Ltd.	A18696	
	Tolko Industries Ltd.	A20010	
25	<b>WELDWOOD GROUP</b>		417 402
	Babine Forest Products Limited	A16823	

	Babine Timber Limited	A16825	
	Weldwood of Canada Limited	A18172	
	Weldwood of Canada Limited	A20001	
	Weldwood of Canada Limited	A20013	
	Weldwood of Canada Limited	A20017	
	Weldwood of Canada Limited	TFL5	
26	<b>WEST FRASER GROUP</b>		857 934
	West Fraser Mills Ltd.	A13840	
	West Fraser Mills Ltd.	A16826	
	West Fraser Mills Ltd.	A16827	
	West Fraser Mills Ltd.	A16830	
	West Fraser Mills Ltd.	A16882	
	West Fraser Mills Ltd.	A16885	
	West Fraser Mills Ltd.	A18162	
	West Fraser Mills Ltd.	A18690	
	West Fraser Mills Ltd.	A20002	
	West Fraser Mills Ltd.	A20005	
	West Fraser Mills Ltd.	A20020	
	West Fraser Mills Ltd.	A20021	
	West Fraser Mills Ltd.	TFL41	
	West Fraser Mills Ltd.	TFL52	
27	<b>WEYERHAEUSER GROUP</b>		1 200 694
	Weyerhaeuser Company Limited	A19225	
	Weyerhaeuser Company Limited	A19244	
	Weyerhaeuser Company Limited	A18674	
	Weyerhaeuser Company Limited	A18694	
	Weyerhaeuser Company Limited	A18698	
	Weyerhaeuser Company Limited	A18970	
	Weyerhaeuser Company Limited	TFL15	
	Weyerhaeuser Company Limited	TFL35	
	Weyerhaeuser Company Limited	TFL39	
	Weyerhaeuser Company Limited	TFL44	

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