

[Legal Notice No. 88]

**THE FORESTS AND TIMBER UTILISATION (FELLING LICENCES)
REGULATIONS 2005**

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SCHEDULE

THE FOREST RESOURCES AND TIMBER UTILISATION ACT
(Cap. 40)

THE FOREST RESOURCES AND TIMBER UTILISATION (FELLING LICENCES) REGULATIONS 2005

I, DAVID HOLOSIVI, the Minister of Forestry, Environment and Conservation, in exercise of the powers conferred on me by section 44 of the Forest Resources and Timber Utilisation Act, make the following regulations.

Dated the thirty-first day of August, 2005.

DAVID HOLOSIVI
Minister for Forestry, Environment and Conservation

[Legal Notice No. 89]

FOREST RESOURCES AND TIMBER UTILISATION (FELLING LICENCES) REGULATIONS 2005

PART 1 - PRELIMINARY

Citation

1. These regulations may be cited as the Forest Resources and Timber Utilisation (Felling Licences) Regulations 2005.

Interpretation

2. (1) In these Regulations, unless the contrary intention appears -

“approved timber rights agreement” means an agreement for the sale of timber rights in customary land, in accordance with Form 4 in the Schedule to the Forest Resources and Timber Utilisation (Prescribed Forms) Regulations, signed and approved in accordance with Part III of the Act;

“felling licence” means a licence granted under section 5 of the Act,

“gully” means a watercourse in which water flows for less than 6 months in a year;

“licensee” means a person to whom the Commissioner of Forest Resources grants a felling licence;

Act No. 7 of 1997) "relevant provincial government", in relation to an area, means the Provincial Executive, within the meaning of section 19 of the Provincial Government Act 1997, with jurisdiction over the land;

"stream" means a watercourse in which water flows for at least 6 months in a year

(2) A reference in these regulations to a form is a reference to a form so identified in the Schedule.

PART 2 - FORMS

- form of application or felling licence
- form of felling licence
- form of release from performance bond
3. An application for a felling licence shall be in accordance with Form A.
 4. A felling licence shall be in accordance with Form B.
 5. A release from performance bond shall be in accordance with Form C.

PART 3 - PROCEDURES FOR ISSUE OF FELLING LICENCES

procedures set out in this Part

6. (1) A person shall apply for and be issued a felling licence in accordance with the procedures set out in this Part.

(2) If a person wants a licence to fell timber on, and remove it from, customary land, the person shall comply with the procedures set out in this Part after he has an approved timber rights agreement.

form of application

7. A person shall apply for a felling licence by making an application to the Commissioner of Forest Resources that -

- (a) is in accordance with Form A;
- (b) is accompanied by the prescribed fee; and
- (c) specifies or is accompanied by the following documentation:
 - (i) evidence in writing that the applicant has complied with the law in Solomon Islands relating to foreign investment;
 - (ii) if the applicant is a corporation, a certified copy of the certificate of incorporation and a list of the names of the directors and manager;
 - (iii) if the land on which the applicant intends to conduct felling operations is customary land, Forms 1, 2 and 3, and the approved timber rights agreement, completed in accordance with Part III of the Act;

(iv) if the land on which the applicant intends to conduct felling operations is registered land -

(Cap. 133)

- (A) a certified copy of the certificate of title relating to the land;
- (B) the agreement between the applicant and the owner of the land allowing the applicant to conduct felling operations on the land; and
- (C) a grant of profit under section 181 of the Land and Titles Act granted by the owner of the land in favour of the applicant;

(Cap. 133)

- (v) if the land on which the applicant intends to conduct felling operations is public land, the written consent of the Commissioner within the meaning of the Land and Titles Act to the conduct of felling operations on the land by the applicant;
- (vi) a map issued by the Department of Lands and Survey, or a good quality certified copy of such a map, of a scale of 1:50,000 or larger, on which the boundaries of the land on which the applicant intends to conduct felling operations are marked in red;
- (vii) a written certificate certifying that the applicant agrees to -
 - (A) comply with the logging methods and post-logging land-use plans as specified by the Commissioner of Forest Resources;
 - (B) provide logging plans specifying infrastructure facilities as specified by the Commissioner of Forest Resources;
 - (C) undertake reforestation plans with respect to the growth of forest plants, and their maintenance, as specified by the Commissioner of Forest Resources; and
 - (D) take measures for conserving catchment areas of rivers, preventing soil erosion and preserving the environment, tambu places and sites of historical importance as specified by the Commissioner of Forest Resources;
- (viii) a written statement specifying the time after being issued the felling licence within which the applicant expects to be able to commence felling operations;

- (ix) a letter from a bank that the applicant is in a position to enter into a performance bond of \$250,000 on being issued the licence.

Acceptance or
rejection of
application

8. (1) The Commissioner of Forest Resources shall, as soon as practicable after receiving an application under regulation 7, assess the application and determine whether it specifies or is accompanied by all the information required under that regulation.

(2) If the Commissioner of Forest Resources is not satisfied that an application specifies or is accompanied by all the information required under regulation 7, he may request the applicant to provide additional information, or to amend the information provided, so that the application complies with that regulation.

(3) The applicant shall comply with the Commissioner of Forest Resources' request under subregulation (2).

(4) As soon as practicable after the Commissioner of Forest Resources has received the application and the additional or amended information requested under subregulation (2) (if any), the Commissioner of Forest Resources shall consider the application and determine whether to, subject to section 5(1) and (2) of the Act -

- (a) accept the application and grant the licence; or
(b) reject the application.

Issue of licence

9. If the Commissioner of Forest Resources accepts an application and grants the licence, the Commissioner of Forest Resources shall issue the licence to the applicant on payment by the applicant of the annual licence fee prescribed in the Forest Resources and Timber Utilisation (Fees) Regulations.

PART 4 - CONDITIONS OF FELLING LICENCE

Conditions to
which felling
licences may
be subject

10. The following conditions are conditions to which a felling licence may be subject
- (a) that the term of the licence is 5 years;
- (b) that the licensee shall pay the prescribed annual fee (if any) on being granted the felling licence and then on the date in each year that is the anniversary of the date the licence was granted;

- (c) that the licensee shall carry out his operations under the licence only within the area of land to which the licence applies, the boundaries of which are marked in red on the map issued by the Department of Lands and Survey, or the good quality certified copy of such a map, of the scale 1:50,000 or larger attached to the licence;
- (d) that any disputes relating to the ownership, boundaries and use of the land, or a part of the land, to which the licence applies shall be determined in accordance with the law of Solomon Islands;
- (e) that the licensee shall conduct his operations under the licence in a manner that complies with the approved timber rights agreement, the conditions of the licence, the Act and subsidiary legislation made under the Act;
- (f) that the licensee shall conduct his operations under the licence in a manner that complies with The Revised Solomon Islands Code of Logging Practice, May 2002 published by the Ministry of Forests, Environment and Conservation;
- (g) that the licensee shall act in accordance with the agreement he certifies on his application for the grant of the licence;
- (h) that, before commencing carrying out any operations under the licence, the licensee shall enter into, and give the Commissioner of Forest Resources a copy of, a performance bond of \$250,000 that shall -
 - (i) be in the form of a bank guarantee or equivalent instrument acceptable to the Central Bank of Solomon Islands; and
 - (ii) provide security for -
 - (A) payment of taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts that may be payable by him as licensee to the Government or the relevant provincial government under this Act or a provincial ordinance; and
 - (B) payments arising from a contravention of the conditions of the licence, the Act and subsidiary legislation made under the Act; and

- (iii) be enforced by the Commissioner of Forest Resources against the issuing bank, insurance company or other authority if the licensee fails to pay a sum secured by it;
- (i) that the licensee shall maintain the performance bond until he receives from the Commissioner of Forest Resources a written release from the performance bond in accordance with Form C;
- (j) that the licensee shall pay all taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts as they fall due and payable by him as licensee to the Government or the relevant provincial government under the Act or a provincial ordinance;
- (k) subject to paragraphs (l) and (m), that the volume of logs felled under the licence in a year shall not exceed the volume of logs specified by the Commissioner of Forest Resources as the maximum volume that may be felled under the licence during the year;
- (l) that, if the maximum volume of logs that may be felled in a year is not felled, the licensee may carry forward into the remaining years of the term of the licence the volume of logs not felled;
- (m) that logs that are 30 cm or more, but not more than 49 cm, in diameter and less than 6 metres long shall not be included in the volume of logs felled referred to in paragraphs (k) and (l) if the licensee makes every endeavour to find a market for, and sell, those logs;
- (n) that the licensee shall not carry out felling operations under the licensee's felling licence in a year during the term of the licence unless he has prepared, in accordance with the code of logging practice, an annual harvesting plan for the year and the Commissioner of Forest Resources has approved the plan;
- (o) that the licensee shall not commence felling operations in a coupe unless he has prepared, in accordance with the code of logging practice, a coupe plan for the coupe and the forest officer authorized to do so has approved the coupe plan;
- (p) that the licensee shall comply with the directions (if any) given to him by the Commissioner of Forest Resources for the purpose of good silviculture, including the minimum girth of trees for seed bearing or regeneration;

- (q) that the licensee shall take all necessary steps to prevent pollution of the ground, and any pond, river, stream or water source, including the following:
 - (i) ensuring all oil, fuel, chemicals and other pollutants are stored in secure containers and safeguards are in place to prevent accidental contamination of any water or soil;
 - (ii) not allowing refuse, rubbish, sewage, oil, fuel or other pollutants to be discharged into any pond, river, stream or water source;
- (r) that the licensee shall comply with the River Waters Act (Cap 135), and subsidiary legislation made under that Act, and shall ensure that all his officers and employees are aware of their obligations under that Act;
- (s) that the licensee shall ensure that the working practices carried out under the licence are safe and shall comply with all relevant laws, including the Act and subsidiary legislation made under the Act, the Safety at Work Act (Cap 74) and any directions given from time to time by the Commissioner of Labour for the prevention of accidents and securing safe working conditions for his officers and employees;
- (t) that the licensee shall ensure that all trees felled under the licence are felled so as to minimize waste and produce the maximum volume of merchantable timber;
- (u) that the licensee shall remove all logs from where they are harvested to storage areas within 3 months after felling the timber, but in any case as soon as is necessary, to prevent damage to the timber by decay, insects, fungus or disease;
- (v) that the licensee shall at all times allow the Commissioner of Forest Resources or a forest officer access without notice to all and any areas of the licensee's operations including any vehicles, facilities, equipment or premises, for the purposes of ascertaining whether or not the licensee is contravening the license, the Act or subsidiary legislation made under the Act;
- (w) that the licensee shall at all times allow the Commissioner of Forest Resources or a forest officer access to any timber obtained under the license for the purpose of inspecting the timber and for ascertaining the following:

- (i) the volume, species and grade of the timber;
 - (ii) whether there has been any degradation of the timber since it was felled;
 - (iii) whether the timber is timber felled under the licence;
 - (iv) whether the timber is of suitable quality for the purpose for which it is to be used;
- (x) The licensee shall keep true and proper records of his operations carried out under his felling licence, which shall include -
- (i) a record of the species of timber felled, sawn, sold or exported,
 - (ii) a record of the areas where timber is felled and a record showing which timber is taken from which area;
 - (iii) a record of the volume of timber felled, sawn, sold or exported;
 - (iv) a record of the value of timber sold or exported;
 - (v) copies of all documentation for exporting of logs and sawn timber;
 - (vi) copies of all documentation required for importing machinery used by the licensee;
 - (vii) the royalties payable and paid to the owner of land;
 - (viii) reforestation activities carried out;
 - (ix) conservation and rehabilitation activities carried out;
 - (x) the amount of duty payable on exported timber and, of that amount, the amount of duty paid and the amount of duty remitted;

- (xi) a copy of each annual plan and coupe plan approved in accordance with regulation 12;
 - (xii) a copy of his application for his felling licence and all accompanying documents; and
 - (xiii) a copy of his felling licence;
- (y) that the licensee shall have respect for and interfere as little as possible with the rights of the owner of the land and any other person who has an interest in or a right to carry out activities on, the land on which the licence has effect (which, if the land is customary land, includes hunting, fishing and collecting, felling and taking away trees or other materials for domestic or traditional purposes);
- (z) that the licensee shall take all reasonable steps to ensure that his officers and employees are respectful to and observant of local customs and will not enter cultural areas, such as tambu areas and garden and village areas;
- (za) that the licensee shall not transfer, assign or dispose of the licence but may, with the Commissioner of Forest Resource's approval in writing, enter into a subcontracting arrangement for the carrying out of operations under the licence;
- (zb) that if the licensee is required to be authorised under or comply with an Act other than the Forest Resources and Timber Utilisation Act (Cap 40) or a provincial ordinance for conducting the felling operations authorised by the licence, the licensee shall maintain that authorization and shall not contravene that Act or provincial ordinance;
- (zc) that the licensee may, at any time, surrender the licence by giving to the Commissioner of Forest Resources 6 months notice in writing of his intention to surrender the licence;
- (zd) that, on the expiry, surrender or cancellation of the licence, the licensee remains liable for -

- (i) an act or omission done, caused or permitted or made by him as the licensee prior to the expiry, surrender or cancellation;
 - (ii) a liability incurred by him as the licensee under this Act prior to the expiry, surrender or cancellation; and
 - (iii) complying with the requirements relating to completing his operations and departing from the land to which the licence applied and to being released from his performance bond;
- (zc) that, if the licence is about to expire or has been cancelled, or the licensee is about to cease operations under his licence, the licensee shall complete his operations in a manner that is satisfactory to the Commissioner of Forest Resources or a forest officer authorized for that purpose by the Commissioner of Forest Resources, and in particular shall have -
- (i) rectified, to the satisfaction of an inspector under the River Waters Act (Cap 135), any damage to a pond, river, stream or watercourse caused by carrying out operations under the licence;
 - (ii) cleared all ponds, rivers, streams and watercourses of obstructions, dams and temporary culverts caused or constructed when carrying out operations under the licence;
 - (iii) dammed and drained all skidding tracks on slopes;
 - (iv) ripped, to broken up soil compaction, all yarding and working areas on the land subject to the licence and spread topsoil evenly back across the disturbed areas;
 - (v) removed, and satisfactorily disposed of, all oil, chemical and similar pollutants and rubbish from the land subject to the licence applied;
 - (vi) restored all quarries, pits and gravel extraction areas on the land subject to the licence to a safe and environmentally acceptable condition;

- (vii) filled or drained areas of stagnant water created by operations on the land subject to the license;
 - (viii) carried out a thorough final maintenance of all roads and bridges on the land subject to the licence and left materials for future repairs and maintenance in accordance with the approved timber rights agreement; and
 - (ix) paid all taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts that payable to the Government or the relevant provincial government by him as licensee under this Act or a provincial ordinance.
- (zf) that any buildings, structure or apparatus erected or placed by the licensee on the land subject to the licence shall, on the expiry of 12 months after the licensee ceases operations under the licence (for whatever reason), become the property of the owner of the land.

PART 5 - FELLING OPERATIONS

Definitions

11. In this Part -

“buffer” means an area referred to in regulation 13(1);

“code of logging practice” means the document known as “The Revised Solomon Islands Code of Logging Practice” dated May 2002 and published by the Ministry of Forests, Environment and Conservation;

“landing” means an area where logs are stored before being transported to a log pond;

“log pond” means an area that is the main storage area for storing logs awaiting transport;

“roadline” means the total area from forest edge to forest edge of a road and cleared area alongside the road;

“whoa boy” means a water bar or cross drain.

Harvest planning

12. (1) A licensee, or a person acting for or on behalf of a licensee, shall not carry out felling operations under the licensee's felling licence in a year during the term of the licence unless the licensee has prepared, in accordance with the code of logging practice, an annual harvesting plan for the year and the Commissioner of Forest Resources has approved the plan.

(2) A licensee, or a person acting for or on behalf of a licensee, shall not commence felling operations in a coupe unless the licensee has prepared, in accordance with the code of logging practice, a coupe plan for the coupe and the forest officer authorized to do so has approved the coupe plan.

(3) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Areas where
felling not
permitted

13. (1) Subject to subregulation (2), a licensee, or a person acting for or on behalf of a licensee, shall not carry out felling operations under the licensee's felling licence in, or allow timber felled under the licence to fall inside, any of the following areas:

- (a) a State Forest or a Forest Reserve;
- (b) areas that have ecological or scientific importance, including outer reef and lagoon islands, swamps, wetlands and mangroves vital for the protection of important marine resources;
- (c) areas which are 400 meters above sea level, unless approved by the Commissioner of Forest Resources;
- (d) areas within 30 meters from a tambu area;
- (e) areas within 30 meters from a garden of an owner of the land;
- (f) areas within 100 meters from village;
- (g) subject to paragraph (h), areas within 100 meters from the ocean, a lagoon or a lake;
- (h) areas within 50 meters from a log pond;
- (i) areas where there is a landslip, including the area where the soil that slipped lies;

- (j) areas within 50 meters from the bed of a stream that is 10 meters or more wide;
- (k) areas within 25 meters from the bed of a stream that is less than 10 meters wide;
- (l) areas within 10 meters from a gully; and
- (m) in any other area identified by the owner or owners of the land in the approved timber rights agreement as an area where they do not want felling to occur.

(2) A licensee, or a person acting for or on behalf of the licensee, may carry out felling operations under the licensee's licence in an area referred to in subregulation (1) if he has the approval to do so of the Commissioner of Forest Resources or a forest officer authorized to do so by the Commissioner of Forest Resources.

- (3) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Roads

14. (1) A licensee, or a person acting for or on behalf of the licensee, shall construct roads in a manner that complies with the following:

- (a) the survey line along which a road shall be constructed shall be marked out in accordance with the following guidelines:
 - (i) the cleared edge of the road shall be located at least 40 meters from the edge of a buffer;
 - (ii) the road shall not pass over a buffer;
 - (iii) there shall be as few watercourse crossings as possible;
 - (iv) the road shall be located on high ground;
 - (v) the survey line shall avoid side slopes that need side cutting or benching and balance cut and fill;
- (b) the maximum area that shall be cleared for a roadline is 40 meters;

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- (c) a road shall be constructed with adequate drainage to avoid erosion, including by using the following drainage systems to prevent water running onto the road and drain water off the road;
 - (i) table or V drains;
 - (ii) drain turnouts;
 - (iii) cross fall from the center of the road to the edge of the road;
 - (iv) culverts for moving water across the road;
 - (d) drains shall be constructed so that -
 - (i) they do not run directly into watercourses or onto landings;
 - (ii) they run onto forested areas; and
 - (iii) where possible, they run onto flat areas;
 - (e) the road surface shall be compacted with rollers, trucks and any other heavy equipment that is available.
- (2) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

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Landings

15. (1) A licensee, or a person acting for or on behalf of a licensee, shall construct landings in a manner that complies with the following:

- (a) the cleared edge of a landing shall be located at least 40 meters from the edge of a buffer;
- (b) a landing shall not be constructed on a buffer;
- (c) a landing shall be located on high ground;
- (d) a landing shall be sloped or constructed with adequate drainage to avoid erosion so that the water runs into forested areas or onto a road;
- (e) the surface of a landing shall be compacted with rollers, trucks and any other heavy equipment that is available;
- (f) the (maximum) for a landing is 40 meters by 40 meters;
- (g) a roadside landing shall be measured from the road edge it is contiguous to;

- (h) the maximum area that shall be cleared for a landing is 1,600 square meters and for a roadside landing 80 meters wide by 30 meters long;
- (i) there shall not be more than 5 landings constructed for each 100 hectares of forested land subject to the licence.

(2) When a licensee, or person acting for or on behalf of a licensee, completes operations on a landing he must do the following:

- (a) remove from the landing and adjacent forested land any excess bark or waste;
- (b) rip the surface of the landing to a depth of at least 60 centimeters;
- (c) after ripping the surface in accordance with paragraph (b), return topsoil removed during construction of the landing and spread evenly across the ripped surface of the landing;
- (d) ensure that the landing is effectively drained;
- (e) replant the whole or part of it as required by the forest officer who inspects the landing.

(3) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Buffers

not - 16. (1) A licensee, or person acting for or on behalf of a licensee, shall

- (a) fell timber in a buffer;
- (b) allow timber felled outside a buffer to fall inside the buffer;
- (c) subject to paragraph (d), operate skidding machinery within a buffer;
- (d) skid timber within a buffer unless using a temporary crossing within the buffer that complies with regulation 17; or
- (e) conduct any operations within a buffer on the request of the owner of the land unless approved by the Commissioner of Forest Resources or a forest officer authorized to give approval by the Commissioner of Forest Resources.

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- (2) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Temporary
Crossings

17. (1) A licensee, or person acting for or on behalf of a licensee, shall not construct or use a temporary crossing unless the crossing has been identified on a coupe harvesting plan and marked out on the ground.

(2) A licensee, or person acting for or on behalf of a licensee, shall construct a temporary crossing in a manner that complies with the following:

- (a) temporary crossings shall be located in the flattest location possible;
- (b) temporary crossings should be constructed with logs or piped logs;
- (c) temporary crossings that are constructed with logs shall not be covered with soil.

(3) When a temporary crossing that is constructed with logs is no longer being used, the licensee shall remove the logs.

- (4) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

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Skidding

18. (1) A licensee, or person acting for or on behalf of a licensee, shall carry out skidding operations under the licensee's licence in a manner that complies with the following:

- (a) the width of the skid blade shall be not more than 4.5 meters wide;
- (b) roading blades shall not be used as skid blades in forested areas;
- (c) subject to paragraph (d), a skid track shall be 5.5 meters or less wide;
- (d) if side cutting is required, the area disturbed by the skidder shall be not more than 7 meters wide;
- (e) the skidder shall travel back and forth on the same skid track;

- (f) if skidding on a slope that is less than 12 degrees, the skidding must be done with the blade raised;
- (g) if skidding on a slope that is 12 degrees or more, the skid blade may be used but its use should be kept to a minimum.
- (2) When a licensee, or person acting for or on behalf of a licensee, has finished using a skid track he must -
 - (a) if the skid track is on a slope that is less than 10 degrees, construct at least one whoa boy every 40 meters along the skid track; or
 - (b) if the skid track is on a slope that is 10 degrees or more, construct at least one whoa boy every 20 meters along the skid track.
- (3) In addition to complying with subregulation (2), the licensee shall construct a whoa boy where there is any change in slope along the skid track.
- (4) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Avoiding wasting
timber

19. (1) A licensee, or person acting for or on behalf of a licensee, shall conduct operations under the licensee's licence in a manner that maximizes log value and avoids wastage of timber, including by -

- (a) directionally felling trees to minimise crown and truck breakage;
- (b) directionally felling trees so they are in position for easy skidding;
- (c) directionally felling trees into the same gap to minimise canopy opening;
- (d) keeping stumps as low as possible;
- (e) ensuring log ends are cut straight, not at an angle;
- (f) trimming side branches and buttresses; and
- (g) maximising the highest value log length before the tree is cross cut.

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(2) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Weather
restrictions

20. (1) A licensee, or person acting for or on behalf of a licensee, shall not carry on felling operations in weather conditions that increase the risk of personal injury occurring and the level of damage to soil, water and forest resources to more than the usual risk or level of damage expected for well planned harvest operations.

(2) Examples of weather conditions when operations when operations shall cease are when -

- (a) the wind strength prevents accurate directional falling of timber;
- (b) the ground becomes too slippery for chainsaw operators to move easily and quickly;
- (c) water flows along any length of a skid track;
- (d) water lies on the surface of a landing; and
- (e) a truck is not able to move along a road without the assistance of other machines.

(3) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Decommissioning
log ponds

21. (1) When a licensee, or person acting for or on behalf of a licensee, completes operations in a log pond he must do the following:

- (a) remove from the log pond and adjacent forested land any excess bark or waste;
- (b) rip the surface of the log pond to a depth of at least 60 centimeters;
- (c) after ripping the surface in accordance with paragraph (b), return topsoil removed during construction of the log pond and spread evenly across the ripped surface of the log pond;

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- (d) ensure that the log pond is effectively drained;
- (e) replant the whole or part of the log pond as required by the forest officer who inspects the landing;
- (2) A person who contravenes this regulation commits an offence.

Penalty: \$100 or imprisonment for 3 months.

Inspection of records of licensee

22. The licensee shall, at all reasonable times, allow the Commissioner of Forest Resources, or a forest officer authorized to do so by the Commissioner of Forest Resources, access to inspect, and make available for inspection by the Commissioner of Forest Resources or forest officer, the licensee's books, records and accounts relating to transactions relating to his felling operations.

[Legal Notice No. 90]

SCHEDULE

Regulation 2(2)

FORM A

Forest Resources and Timber Utilisation Act
(Cap. 40)

Forest Resources and Timber Utilisation (Felling Licences) Regulations 2005
(Section 44, regulation 3)

APPLICATION FOR GRANT OF FELLING LICENCE

To the Commissioner of Forest Resources
you to the following details.

I apply for a felling licence and refer

Name:

Address: *(specify postal address also if not the same)*

Telephone number:

Fax number:

Description of land where applicant intending to carry out felling operations:

In accordance with regulation 7(c) of the Forest Resources and Timber Utilisation (Felling Licences) Regulations, I attach the following documents:

Official Use
only - tick
if document
attached

- (1) Evidence in writing that the applicant has complied with the law relating to foreign investment.
- (2) If the applicant is a corporation, a certified copy of the certificate of incorporation and a list of the names of the directors and manager.
- (3) If the land on which the applicant intends to conduct felling operations is customary land -
- (a) Form 1 prescribed under the Forest Resources and Timber Utilisation (Prescribed Forms) Regulations:
- (b) Form 2 prescribed under the Forest Resources and Timber Utilisation (Prescribed Forms) Regulations;
- (c) Form 3 prescribed under the Forest Resources and Timber Utilisation (Prescribed Forms) Regulations, and
- (d) the approved timber rights agreement required under Part III of the Act.
- (4) If the land on which the applicant intends to conduct felling operations is registered land -
- (a) a certified copy of the certificate of title relating to the land.
- (b) the agreement between the applicant and the owner of the land allowing the applicant to conduct felling operations on the land; and
- (c) a grant of profit under section 181 of the Land and Titles Act granted by the owner of the land in favour of the applicant;
- (5) If the land on which the applicant intends to conduct felling operations is public land, the written consent of the Commissioner within the meaning of the Land and Titles Act to the conduct of felling operations on the land by the applicant.

(6) A map issued by the Department of Lands and Survey, or a good quality certified copy of such a map, of a scale of 1:50,000 or larger, on which the boundaries of the land on which the applicant intends to conduct felling operations are marked in red.

(7) A written statement specifying the time after being issued the licence within which the applicant expects to be able to commence felling operations.

(8) A letter from a bank that the applicant is in a position to enter into a performance bond of \$250,000 on being issued with the licence.

In accordance with regulation 7(c) of the Forest Resources and Timber Utilisation (Felling Licences) Regulations, I, the applicant, certify that I agree to -

- (1) comply with the logging methods and post-logging land-use plans as specified by the Commissioner of Forest Resources;
- (2) provide logging plans specifying infrastructure facilities as specified by the Commissioner of Forest Resources;
- (3) undertake reforestation plans with respect to the growth of forest plants, and their maintenance, as specified by the Commissioner of Forest Resources; and
- (4) take measures for conserving catchment areas of rivers, preventing soil erosion and preserving environment, tambu places and sites of historical importance as specified by the Commissioner of Forest Resources.

Signed by applicant:

Dated:

[Legal Notice No. 91]

FORM B

Forest Resources and Timber Utilisation Act
(Cap. 40)

Forest Resources and Timber Utilisation (Felling Licences) Regulations 2005

(Section 44, regulation 4)

FELLING LICENCE

Licence No.

Licensee: (name and address)

Date licence takes effect:

Date licence expires:

Description of land licence applies to: (including province and locality where land is located)

Time after issue of licence within which licensee to commence operations:

Conditions of licence:

- (1) The term of the licence is 5 years.
- (2) The licensee shall pay the prescribed annual fee (if any) on being granted the felling licence and then on the date in each year that is the anniversary of the date the licence was granted.
- (3) The licensee shall carry out his operations under the licence only within the area of land to which the licence applies, the boundaries of which are marked in red on the map issued by the Department of Lands and Survey, or the good quality certified copy of such a map, of the scale 1:50,000 or larger attached to the licence.
- (4) Any disputes relating to the ownership, boundaries or use of the land, or a part of the land, to which the licence applies shall be determined in accordance with the law of Solomon Islands.
- (5) The licensee shall conduct his operations under the licence in a manner that complies with the approved timber rights agreement, the conditions of the licence, the Act and subsidiary legislation made under the Act.
- (6) The licensee shall conduct his operations under the licence in a manner that complies with the The Revised Solomon Islands Code of Logging Practice, May 2002 published by the Ministry of Forests, Environment and Conservation.
- (7) The licensee shall act in accordance with the agreement he certifies on his application for the grant of the licence;

- (8) Before commencing carrying out any operations under the licence, the licensee shall enter into, and give to the Commissioner of Forest Resources a copy of, a performance bond of \$250,000 that shall -
- (a) be in the form of a bank guarantee or equivalent instrument acceptable to the Central Bank of Solomon Islands; and
 - (b) provide security for -
 - (i) payment of taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts that may be payable by him as licensee to the Government or the relevant provincial government under this Act or a provincial ordinance; and
 - (ii) payments arising from a contravention of the conditions of the licence, the Act and subsidiary legislation made under the Act; and
 - (c) be enforced by the Commissioner of Forest Resources against the issuing bank, insurance company or other authority if the licensee fails to pay a sum secured by it.
- (9) The licensee shall maintain the performance bond until he receives from the Commissioner of Forest Resources a written release from the performance bond in accordance with Form C.
- (10) The licensee shall pay all taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts as they fall due and payable by him as licensee to the Government or the relevant provincial government under the Forest Resources and Timber Utilisation Act or a provincial ordinance.
- (11) Subject to conditions (12) and (13), the volume of logs felled under the licence in a year shall not exceed the volume of logs specified by the Commissioner of Forest Resources as the maximum volume that may be felled under the licence during the year.
- (12) If the maximum volume of logs that may be felled in a year is not felled, the licensee may carry forward into the remaining years of the term of the licence the volume of logs not felled.

- (13) Logs that are 30 cm or more, but not more than 49 cm, in diameter and less than 6 metres long shall not be included in the volume of logs felled referred to in conditions (11) and (12) if the licensee makes every endeavour to find a market for, and sell, those logs.
- (14) The licensee shall not carry out felling operations under the licensee's felling licence in a year during the term of the licence unless he has prepared, in accordance with the code of logging practice, an annual harvesting plan for the year and the Commissioner of Forest Resources has approved the plan.
- (15) The Licensee shall not commence felling operations in a coupe unless he has prepared, in accordance with the code of logging practice, a coupe plan for the coupe and the forest officer authorized to do so has approved the coupe plan.
- (16) The licensee shall comply with the directions (if any) given to him by the Commissioner of Forest Resources for the purpose of good silviculture, including the minimum girth of trees for seed bearing or regeneration.
- (17) The licensee shall take all necessary steps to prevent pollution of the ground, and any pond, river, stream or water source, including the following:
 - (a) ensuring all oil, fuel, chemicals and other pollutants are stored in secure containers and safeguards are in place to prevent accidental contamination of any water or soil;
 - (b) not allowing refuse, rubbish, sewage, oil, fuel or other pollutants to be discharged into any pond, river, stream or water source.
- (18) The licensee shall comply with the River Waters Act (Cap 135), and subsidiary legislation made under that Act, and shall ensure that all his officers and employees are aware of their obligation under that Act.
- (19) The licensee shall ensure that the working practices carried out under the licence are safe and shall comply with all relevant laws, including the Act and subsidiary legislation made under the Act, the Safety at Work Act (Cap. 74) and any directions given from time to time by the Commissioner of Labour for the prevention of accidents and securing safe working conditions for his officers and employees.
- (20) The licensee shall ensure that all trees felled under the licence are felled so as to minimize waste and produce the maximum volumes of merchantable timber.

- (21) The licensee shall remove all logs from where they are harvested to storage areas within 3 months after felling the timber, but in any case as soon as is necessary, to prevent damage to the timber by decay, insects, fungus or disease.
- (22) The licensee shall at all times allow the Commissioner of Forest Resources or a forest officer access without notice to all and any areas of the licensee's operations including any vehicles, facilities, equipment or premises, for the purposes of ascertaining whether or not the licensee is contravening the licence, the Act or subsidiary legislation made under the Act.
- (23) The licensee shall at all times allow the Commissioner of Forest Resources or a forest officer access to any timber obtained under the licence for the purpose of inspecting the timber and for ascertaining the following:
 - (a) the volume, species and grade of the timber;
 - (b) whether there has been any degradation of the timber since it was felled;
 - (c) whether the timber is timber felled under the licence;
 - (d) whether the timber is of suitable quality for the purpose for which it is to be used.
- (24) The licensee shall keep true and proper records, of his operations carried out under his felling licence, which shall include -
 - (a) a record of the species of timber felled, sawn, sold or exported;
 - (b) a record of the areas where timber is felled and a record showing which timber is taken from which area;
 - (c) a record of the volume of timber felled, sawn, sold or exported;
 - (d) a record of the value of timber sold or exported;
 - (e) copies of all documentation for exporting of logs and sawn timber;
 - (f) copies of all documentation required for importing machinery used by the licensee;
 - (g) the royalties payable and paid to the owner of land;
 - (h) reforestation activities carried out;

- (i) conservation and rehabilitation activities carried out;
 - (j) the amount of duty payable on exported timber and, of that amount, the amount of duty paid and the amount of duty remitted;
 - (k) a copy of each annual plan and coupe plan approved in accordance with regulations 12;
 - (l) a copy of his application for his felling licence and all accompanying documents; and
 - (m) a copy of his felling licence.
- (25) The licensee shall have respect for and interfere as little as possible with the rights of the owner of the land and any other person who has an interest in or a right to carry out activities on, the land on which the licence has effect (which, if the land is customary land, includes hunting, fishing and collecting, felling and taking away trees or other materials for domestic or traditional purposes).
- (26) The licensee shall take all reasonable steps to ensure that his officers and employees are respectful to and observant of local customs and will not enter cultural areas, such as tambu areas and garden and village areas.
- (27) The licensee shall not transfer, assign or dispose of the licence but may, with the Commissioner of Forest Resource's approval in writing, enter into a subcontracting arrangement for the carrying out of operations under the licence.
- (28) If the licensee is required to be authorized under or comply with an Act other than the Forest Resources and Timber Utilisation Act (Cap. 40) or a provincial ordinance for conducting the felling operations authorized by the licence, the licensee shall maintain that authorization and shall not contravene that Act or provincial ordinance.
- (29) The licensee may, at any time, surrender the licence by giving to the Commissioner of Forest Resources 6 months notice in writing of his intention to surrender the licence.
- (30) On the expiry, surrender or cancellation of the licence, the licensee remains liable for -

- (a) an act or omission done, caused or permitted or made by him as the licensee prior to the expiry, surrener or cancellation;
 - (b) a liability incurred by him as the licensee under this Act prior to the expiry, surrender or cancellation; and
 - (c) complying with the requirements relating to competing his operations and departing from the land to which the licence applied and to being released from the performance bond.
- (31) If the licence is about to expire or has been cancelled, or the licensee is about to cease operations under his licence, the licensee shall complete his operations in a manner that is satisfactory to the Commissioner of Forest Resources or a forest officer authorized for that purpose by the Commissioner of Forest Resources, and in particular shall have -
- (a) rectified, to the satisfaction of an inspector under the River Waters Act (Cap. 135), any damage to a pond, river, stream or water source caused by carrying out operations under the licence;
 - (b) cleared all ponds, rivers, streams and watercourses of obstructions, dams and temporary culverts caused or constructed when carrying out operations under the licence;
 - (c) dammed and drained all skidding tracks on slopes;
 - (d) ripped, to broken up soil compaction, all yarding and working areas on the land subject to the licence and spread topsoil evenly back across the disturbed areas;
 - (e) removed, and satisfactorily disposed of, all oil, chemical and similar pollutants and rubbish from the land subject to the licence;
 - (f) restored all quarries, pits and gravel extraction areas on the land subject to the licence applied to a safe and environmentally acceptable condition;
 - (g) filled or drained areas of stagnant water created by operations on the land subject to the licence;

- (h) carried out a thorough final maintenance of all roads and bridges on the land subject to the licence and left materials for future repairs and maintenance in accordance with the approved timber rights agreement; and
 - (i) paid all taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts that payable to the Government or the relevant provincial government by him as licensee under this Act or a provincial ordinance.
- (31) Any building, structure or apparatus erected or placed by the licensee on the land subject to the licence shall, on the expiry of 12 months after the licensee ceases operations under the licence (for whatever reason), become the property of the owner of the land.

Any other conditions:

Signed:
Commissioner of Forest Resources

Dated:

Attach a map issued by the Department of Lands and Survey, or a good quality certified copy of such a map, of scale 1:50,000 or larger, with the boundaries of the area of land to which the licence applies marked in red.

[Legal Notice No. 92]

FORM C

Forest Resources and Timber Utilisation Act
(Cap. 40)

Forest Resources and Timber Utilisation (Felling Licences) Regulations 2005

(Section 44, regulation 5)

RELEASE FROM PERFORMANCE BOND

....., the licensee under Licence No. has completed operations under the licence and we, the undersigned, have inspected the land that was subject to the licence and have established that the licensee has -

- (1) rectified, to the satisfaction of an inspector under the River Waters Act (Cap 135), any damage to a pond, river, stream or water source caused by carrying out operations under the licence;
- (2) cleared all ponds, rivers, streams and watercourses of obstructions, dams and temporary culverts caused or constructed when carrying out operations under the licence;
- (3) dammed and drained all skidding tracks on slopes;
- (4) ripped, to broken up soil compaction, all yarding and working areas on the land subject to the licence and spread topsoil evenly back across the disturbed areas;
- (5) removed, and satisfactorily disposed of, all oil, chemical and similar pollutants and rubbish from the land subject to the licence;
- (6) restored all quarries, pits and gravel extraction areas on the land subject to the licence applied to a safe and environmentally acceptable conditions;
- (7) filled or drained areas of stagnant water created by operations on the land subject to the licence;
- (8) carried out a thorough final maintenance of all roads and bridges on the land subject to the licence and left materials for future repairs and maintenance in accordance with the approved timber rights agreement; and
- (9) paid all taxes, duties, levies, fees, royalties, rent, compensation and other charges or amounts that payable to the Government or the relevant provincial government by him as licensee under this Act or a provincial ordinance.

Signed and dated by owner of land or authorized representative of owner of land and forest officer who carried out inspection:

.....
(Owner of land or representative)

.....
(Forest Officer)

.....
(Date)

.....
(Date)

Being satisfied that (name of licensee) has satisfactorily completed his operations under Licence No:, I release the licensee from his performance bond.

Signed:
(Commissioner of Forest Resources)

Date: