

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 1242, Approved and Ordered DEC 11 2004

[Signature]
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Cut Control Regulation, B.C. Reg. 360/96, is repealed and the attached Cut Control Regulation is made.

[Signature]
Minister of Forests

[Signature]
Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Forest Act, R.S.B.C. 1996, c. 157, ss. 75.2 (4) (b), 74.21 (4) (b), 75.91 (2) (b), 151 (1) and (1.1) (c) and 151.5.

Other (specify): oic 1455/96

1545/2004/11

CUT CONTROL REGULATION

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Definitions

- 1 In this regulation, “**Act**” means the *Forest Act*.

Division 1 – Penalty for Excess Harvest

Excess harvesting penalty for short term licences, forestry licences to cut and community salvage licences

- 2 (1) In this section, “**licence**” means a licence as defined in sections 75.2 (1) and 75.21 (1) of the Act.
- (2) For the purposes of sections 75.2 (4) (b) and 75.21 (4) (b) of the Act, the prescribed rate is
- (a) the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable in respect of that timber, for the portion of the volume of timber harvested in excess of the applicable limit under section 75.2 (2) or (2.1) or 75.21 (2) of the Act that is less than or equal to 10% of the total volume of timber authorized for harvest over the term of the licence, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable in respect of that timber, for the portion of the volume of timber harvested in excess of the applicable limit under section 75.2 (2) or (2.1) or 75.21 (2) of the Act that exceeds 10% of the total volume of timber authorized for harvest over the term of the licence.

Excess harvesting penalty for replaceable licences

- 3 (1) In this section, “**licence**” means a licence, as defined in section 75.4 of the Act, a forest licence, as defined in section 75.5 of the Act, a timber sale licence, as defined in section 75.5 of the Act or a woodlot licence, as defined in section 75.5 of the Act.
- (2) For the purposes of section 75.91 (2) (b) of the Act, the prescribed rate for a licence that is replaceable is twice the average stumpage rate that was applicable to timber

harvested under the licence during the last year in which stumpage was payable in respect of that timber.

Excess harvesting penalty for non-replaceable licences

- 4 (1) In this section, **“licence”** means a licence, as defined in section 75.4 of the Act, a forest licence, as defined in section 75.5 of the Act, a timber sale licence, as defined in section 75.5 of the Act or a woodlot licence, as defined in section 75.5 of the Act.
- (2) For the purposes of section 75.91 (2) (b) of the Act, the prescribed rate for a licence that provides that a replacement for it must not be offered is
- (a) the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable in respect of that timber, for the portion of the volume of timber harvested in excess of the applicable limit under section 75.91 (1) of the Act that is less than or equal to 10% of the total volume of timber authorized for harvest over the term of the licence, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable in respect of that timber, for the portion of the volume of timber harvested in excess of the applicable limit under section 75.91 (1) of the Act that exceeds 10% of the total volume of timber authorized for harvest over the term of the licence.

Division 2 – Adapting Cut Control Provisions Respecting Conversion of Timber Sale Licences

Definitions

- 5 In this Division:
- “cut control period”** means “cut control period” defined in section 75.1 of the Act;
 - “volume of timber harvested”** means volume of timber harvested as defined in section 75.1 of the Act.

Transitional cut control requirements – sections 24.2 and 24.6 of the Act

- 6 (1) In this section:
- “final cut control period of a pre-existing licence”** means the cut control period that is deemed to end on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered;
 - “forest licence”**, when used in relation to a pre-existing licence, means a forest licence
 - (a) resulting from a conversion of a pre-existing licence under section 24.2 of the Act, or
 - (b) entered into as a result of a surrender of a pre-existing licence under section 24.6 of the Act;
 - “pre-existing licence”** means a pre-existing licence, as defined in section 24.1 of the Act, that
 - (a) is converted by section 24.2 of the Act, or
 - (b) surrendered under section 24.6 of the Act;
 - “undercut carry forward”** means a volume of timber that was the subject of an approval for the final cut control period of a pre-existing licence under

- (a) section 67 (4) of the Act, before its repeal, or
 - (b) section 75.94 (2) or (4) of the Act.
- (2) On the conversion or surrender of a pre-existing licence,
- (a) the cut control period of the pre-existing licence is deemed to end on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered,
 - (b) the first cut control period for the forest licence begins on January 1 of the year of the conversion or surrender, and
 - (c) the volume of timber harvested that was charged to the pre-existing licence during the calendar year in which the pre-existing licence is converted or surrendered must be charged to the first cut control period of the forest licence.
- (3) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds the sum of the allowable annual cuts for that period that are authorized for the licence, the excess volume must be treated as being timber harvested under the first cut control period of the forest licence.
- (4) If the volume of timber harvested during the final cut control period of a pre-existing licence is less than the sum of the allowable annual cuts for that period that are authorized for the licence,
- (a) the holder of the forest licence may harvest a volume of timber not exceeding the difference in the first cut control period of the forest licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the forest licence.
- (5) An undercut carry forward for a pre-existing licence
- (a) is approved for harvesting in the first cut control period of the forest licence, except for any portion of the volume that was harvested under the pre-existing licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, is deemed not to be charged to the forest licence.
- (6) In subsection (7), “**final sum of allowable annual cuts**” means the sum of the allowable annual cuts that would have been authorized under a pre-existing licence if
- (a) the final cut control period for the pre-existing licence had a term of 5 years, and
 - (b) during that period the allowable annual cuts for the pre-existing licence remained the same.
- (7) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds 120% of the final sum of allowable annual cuts, the holder of the pre-existing licence must pay to the government the penalty determined under subsection (8).
- (8) The penalty under subsection (7) is the product of
- (a) the volume of timber harvested that exceeds 120% of the final sum of allowable annual cuts, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the pre-existing licence during the last year in which stumpage was payable in respect of that timber.

- (9) A penalty under this section is in addition to stumpage payable or another penalty under the Act or another enactment.

Transitional cut control requirements – sections 24.3 and 24.4 of the Act

- 7 (1) In this section:

“**final cut control period of a pre-existing licence**” means the cut control period ending on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered;

“**forest licence**”, when used in relation to a pre-existing licence, means a forest licence that is amended under section 24.3 or 24.4 of the Act;

“**pre-existing licence**” means a pre-existing licence, as defined in section 24.1 of the Act, that is surrendered under section 24.3 or 24.4 of the Act;

“**undercut carry forward**” means a volume of timber that was the subject of an approval for the final cut control period of a pre-existing licence under

- (a) section 67 (4) of the Act, before the repeal of that section, or
- (b) section 75.94 (2) or (4) of the Act.

- (2) On the conversion or surrender of a pre-existing licence,

- (a) the cut control period of the pre-existing licence is deemed to end on December 31st of the year preceding the calendar year in which the pre-existing licence is surrendered, and
- (b) the volume of timber harvested that was charged to the pre-existing licence during the calendar year in which the pre-existing licence is surrendered must be charged to the cut control period, that is in effect at the time of the surrender, of the forest licence.

- (3) If the volume of timber harvested during the final cut control period of the pre-existing licence exceeds the sum of the allowable annual cuts for that period that are authorized for the licence, the excess volume must be treated as being timber harvested under the cut control period, that is in effect at the time of surrender, of the forest licence.

- (4) If the volume of timber harvested during the final cut control period of a pre-existing licence is less than the sum of the allowable annual cuts for that period that are authorized for the licence,

- (a) the holder of the forest licence may harvest a volume of timber not exceeding the difference in the cut control period, that is in effect at the time of the surrender, of the forest licence, and
- (b) for the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the forest licence.

- (5) An undercut carry forward for a pre-existing licence

- (a) is approved for harvesting in the cut control period, that is in effect at the time of the surrender, of the forest licence, except for any portion of the volume that was harvested under the pre-existing licence, and
- (b) for the purposes of the definition of “volume of timber harvested”, is deemed not to be charged to the forest licence.

- (6) In subsection (7), “**final sum of allowable annual cuts**” means the sum of the allowable annual cuts that would have been authorized under a pre-existing licence if
 - (a) the final cut control period for the pre-existing licence had a term of 5 years, and
 - (b) during that period the allowable annual cut for the pre-existing licence remained the same.
- (7) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds 120% of the final sum of allowable annual cuts, the holder of the pre-existing licence must pay to the government the penalty determined under subsection (8).
- (8) The penalty under the subsection (7) is the product of
 - (a) the volume of timber harvested that exceeds 120% of the final sum of allowable annual cuts, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the pre-existing licence during the last year in which stumpage was payable in respect of that timber.
- (9) A penalty under this section is in addition to stumpage payable or another penalty under the Act or another enactment.

Transitional cut control requirements – section 24.5 of the Act

- 8 (1) In this section:
- “**final cut control period of the pre-existing licence**” means the cut control period ending on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered;
 - “**pre-existing licence**” means a pre-existing licence, as defined in section 24.1 of the Act, that is surrendered under section 24.5 of the Act;
 - “**undercut carry forward**” means a volume of timber that was the subject of an approval for the final cut control period of a pre-existing licence under
 - (a) section 67 (4) of the Act, before its repeal, or
 - (b) section 75.94 (2) or (4) of the Act;
 - “**woodlot licence**”, when used in relation to a pre-existing licence, means a woodlot licence that is amended by section 24.5 of the Act.
- (2) On the conversion or surrender of a pre-existing licence,
- (a) the cut control period of the pre-existing licence is deemed to end on December 31st of the year preceding the calendar year in which the pre-existing licence is surrendered, and
 - (b) the volume of timber harvested that was charged to the pre-existing licence during the calendar year in which the pre-existing licence is surrendered must be charged to the cut control period, that is in effect at the time of the surrender, of the woodlot licence.
- (3) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds the sum of the allowable annual cuts for that period that are authorized for the licence, the excess volume must be treated as being timber

harvested under the cut control period, that is in effect at the time of surrender, of the woodlot licence.

- (4) If the volume of timber harvested during the final cut control period of a pre-existing licence is less than the sum of the allowable annual cuts for that period that are authorized for the licence,
 - (a) the holder of the woodlot licence may harvest a volume of timber not exceeding the difference in the cut control period, that is in effect at the time of surrender, of the woodlot licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the woodlot licence.
- (5) An undercut carry forward for a pre-existing licence
 - (a) is approved for harvesting in the cut control period, that is in effect at the time of surrender, of the woodlot licence, except for any portion of the volume that was harvested under the pre-existing licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, is deemed not to be charged to the woodlot licence.
- (6) In subsection (7), “**final sum of allowable annual cuts**” means the sum of the allowable annual cuts that would have been authorized under a pre-existing licence if
 - (a) the final cut control period for the pre-existing licence had a term of 5 years, and
 - (b) during that period the allowable annual cut for the pre-existing licence remained the same.
- (7) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds 120% of the final sum of allowable annual cuts, the holder of the pre-existing licence must pay to the government the penalty determined under the subsection (8).
- (8) The penalty under the subsection (7) is the product of
 - (a) the volume of timber harvested that exceeds 120% of the final sum of allowable annual cut, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the pre-existing licence during the last year in which stumpage was payable in respect of that timber.
- (9) A penalty under this section is in addition to stumpage payable or another penalty under the Act or another enactment.

Transitional cut control requirements – section 24.7 of the Act

- 9 (1) In this section:

“**final cut control period of a pre-existing licence**” means the cut control period ending on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered;

“**pre-existing licence**” means a pre-existing licence, as defined in section 24.1 of the Act, that is surrendered under section 24.7 of the Act;

“**undercut carry forward**” means a volume of timber that was the subject of an approval for the final cut control period of a pre-existing licence under

- (a) section 67 (4) of the Act, before its repeal, or
- (b) section 75.94 (2) or (4) of the Act;

“**woodlot licence**”, when used in relation to a pre-existing licence, means a woodlot licence that is entered into under section 24.7 of the Act.

- (2) On the conversion or surrender of a pre-existing licence,
 - (a) the cut control period of the pre-existing licence is deemed to end on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered,
 - (b) the first cut control period for the woodlot licence begins on January 1 of the year of the conversion or surrender, and
 - (c) the volume of timber harvested that was charged to the pre-existing licence during the calendar year in which the pre-existing licence is converted or surrendered must be charged to the first cut control period of the woodlot licence.
- (3) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds the sum of the allowable annual cuts for that period that are authorized for the licence, the excess volume must be treated as being timber harvested under the first cut control period of the woodlot licence.
- (4) If the volume of timber harvested during the final cut control period of a pre-existing licence is less than the sum of the allowable annual cuts for that period that are authorized for the licence,
 - (a) the holder of the woodlot licence may harvest a volume of timber not exceeding the difference in the first cut control period of the woodlot licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the woodlot licence.
- (5) An undercut carry forward for a pre-existing licence
 - (a) is approved for harvesting in the first cut control period of the woodlot licence, except for any portion of the volume that was harvested under the pre-existing licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, is deemed not to be charged to the woodlot licence.
- (6) In subsection (7), “**final sum of allowable annual cuts**” means the sum of the allowable annual cuts that would have been authorized under a pre-existing licence if
 - (a) the final cut control period for the pre-existing licence had a term of 5 years, and
 - (b) during that period the allowable annual cut for the pre-existing licence remained the same.
- (7) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds 120% of the final sum of allowable annual cuts, the holder of the pre-existing licence must pay to the government the penalty determined under subsection (8).
- (8) The penalty under subsection (7) is the product of

- (a) the volume of timber harvested that exceeds 120% of the final sum of allowable annual cuts, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the pre-existing licence during the last year in which stumpage was payable in respect of that timber.
- (9) A penalty under this section is in addition to stumpage payable or another penalty under the Act or another enactment.

Transitional cut control requirements – sections 24.8 and 24.9 of the Act

10 (1) In this section:

“**final cut control period of the pre-existing licence**” means the cut control period ending on December 31st of the year preceding the calendar year in which the pre-existing licence is converted or surrendered;

“**forestry licence to cut**”, when used in relation to a pre-existing licence, means a forestry licence to cut that is entered into under section 24.8 or 24.9 of the Act;

“**pre-existing licence**” means a pre-existing licence, as defined in section 24.1 of the Act, that

- (a) is surrendered under section 24.8 of the Act, or
- (b) converted under section 24.9 of the Act;

“**undercut carry forward**” means a volume of timber that was the subject of an approval for the final cut control period of a pre-existing licence under

- (a) section 67 (4) of the Act, before its repeal, or
- (b) section 75.94 (2) or (4) of the Act.

(2) On the conversion or surrender of a pre-existing licence,

(a) the cut control period of

- (i) the pre-existing licence that is surrendered under section 24.8 of the Act ends on December 31st of the year preceding the calendar year in which the pre-existing licence is surrendered, and
- (ii) the pre-existing licence that is converted under section 24.9 of the Act ends on December 31, 2004,

(b) the first cut control period for the forestry licence to cut begins on January 1 of the year of the conversion or surrender, and

(c) the volume of timber harvested that was charged to the pre-existing licence during the calendar year in which the pre-existing licence is converted or surrendered must be treated as being timber harvested under the forestry licence to cut.

(3) If the volume of timber harvested for the final cut control period of a pre-existing licence exceeds the sum of the allowable annual cuts for that period that are authorized for the licence, the excess volume must be treated as being timber harvested under the forestry licence to cut.

(4) If the volume of timber harvested during the final cut control period of a pre-existing licence is less than the sum of the allowable annual cuts for that period that are authorized for the licence,

- (a) the holder of the forestry licence to cut may harvest a volume of timber not exceeding the difference during the term of the forestry licence to cut, and

- (b) for the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the forestry licence to cut.
- (5) An undercut carry forward for a pre-existing licence
 - (a) is approved for harvesting during the term of the forestry licence to cut, except for any portion of the volume that was harvested under the pre-existing licence, and
 - (b) for the purposes of the definition of “volume of timber harvested”, the undercut carry forward is deemed not to be charged to the forestry licence to cut.
- (6) In subsection (8), “**final sum of allowable annual cuts**” means the sum of the allowable annual cuts that would have been authorized under a pre-existing licence if
 - (a) the final cut control period for the pre-existing licence had a term of 5 years, and
 - (b) during that period the allowable annual cut for the pre-existing licence remained the same.
- (7) If the volume of timber harvested during the final cut control period of a pre-existing licence exceeds 120% of the final sum of allowable annual cuts, the holder of the pre-existing licence must pay to the government the penalty determined under the subsection (9).
- (8) The penalty under subsection (7) is the product of
 - (a) the volume of timber harvested that exceeds 120% of the final sum of allowable annual cuts, and
 - (b) twice the average stumpage rate that was applicable to timber harvested under the pre-existing licence during the last year in which stumpage was payable in respect of that timber.
- (9) A penalty under this section is in addition to stumpage payable or another penalty under the Act or another enactment.