
Directive No. 97-20 **Date** September 23, 1997

Subject **Continuing Contraventions of Reforestation Obligations**

Purpose To maintain a fair, consistent and equitable system of penalty application.

To improve compliance with existing legislation by making requirements and consequences clear and consistent.

Policy A contravention of legislated requirements and obligations will result in the offender being assessed a monetary penalty. These penalties may be applied for each instance of contravention. Some sections of legislation involve continuing penalties, where although nothing has changed to affect the status of a contravention, each month or year (depending on the section) that the contravention remains outstanding is in fact a new offence.

For the purpose of public disclosure of assessed penalties, as required under Section 56 of the Forests Act, these continuing contraventions will be treated as individual offences. They will however only be investigated once, at the time of the initial offence. An invoice will be issued for each new month the contravention remains outstanding. Each disposition holder is responsible for tracking and reporting any contraventions that may occur. The Crown will not advise disposition holders of impending penalties until the penalty assessment is issued.

Enforcement activities will proceed according to those described in the “Framework for LFD Enforcement Action”.

Procedure One example of a continuing offence is Section 141.1(1) of the Timber Management Regulation. This section requires a disposition holder to carry out any reforestation needed to ensure that certain legislated stocking standards are met. The holder is given two years following the end of the year of the area's harvest to complete such operations. If, at the end of that two year period, the necessary work has not been completed, the holder is in contravention of this section and may be assessed a penalty, as established in Schedule 2 of the Timber Management Regulation. For each month beyond that two year period that the operator fails to meet the requirements, a new contravention occurs.

The offender will be invoiced for each occurrence. The total owing on the invoice will include interest on any outstanding assessments. The holder in the above example will be invoiced for each month the requirements of Section 141.1(1) are not met, including any applicable interest charges. A new offence will be registered on the penalty disclosure list for each contravention.

Any penalty in the legislation that is applied on a monthly or annual basis is to be considered a continuing offence. Other examples in the Timber Management Regulation are:

- **Section 123** - Failure to complete reforestation within 2 years of harvest.

- **Section 132(3)** - Late treatment as committed to in a declaration of reforestation commitments.
- **Section 132(4)** - Late treatment of inadequately stocked reforestation areas.
- **Section 142, 142.1(1) & (3)** - Late reforestation retreatment.

Late Submission of Surveys and Reports

The application of the above continuing offences differs with that for the late submission of silviculture surveys or reports required by Sections 132(1), 132(5), 141.6, 141.7, 141.8, & 142.1(2) of the Timber Management Regulation. These are not recurring penalties. Penalties relating to these sections are assessed retroactively based on the date the survey or report is actually submitted. For example, if a report was due April 30, 1996, but not received until November 10, 1996, the penalty would be assessed as follows:

For the period up to November 1, 1996	= \$13.49
November 1 to November 10 (\$0.10/day)	= \$ 1.00
TOTAL	= \$14.49 plus interest

If the report in the above example was not received until May 30, 1997, the penalty would be assessed as follows:

For the period up to April 30, 1997	= \$17.30
May 1 to May 30 (\$0.02/day)	= \$ 0.60
TOTAL	= \$17.90 plus interest

Authorities

Section 52(1) of the Forests Act - a person who contravenes the Act or Regulation is liable to a penalty.

Section 53 of the Forests Act - penalties must be paid within 30 days of being served with a notice of contravention.

Section 56 of the Forests Act - the Minister must disclose the identity of a person who has contravened the Act or Regulation once notice of their contravention has been served.

Schedule 2 of the Timber Management Regulation - establishes the penalties for contravention of the Regulation.

Cross - Reference

- LFD Directive 97-21 "**Public Disclosure of Penalties**"
- "**Framework for LFD Enforcement Action**"

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