

TIMBER RESOURCE MANAGEMENT AND LEGALITY LICENSING REGULATIONS, 2017 (L.I. 2254)

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TIMBER RESOURCE MANAGEMENT AND LEGALITY LICENSING REGULATIONS, 2017

IN exercise of the power conferred on the Minister responsible for Forestry by section 18 of the Timber Resource Management Act, 1998 (Act 547) and on the recommendations of the Forestry Commission these Regulations are made this 28th day of July 2017.

Identification of Land Suitable for Grant of Large-Scale Timber Rights

Purpose of Regulations

1. (1) The purpose of these Regulations is to
 - (a) regulate the identification of land suitable for the grant of timber rights,
 - (b) regulate the terms and conditions for small and large scale timber rights, .
 - (c) regulate other sources of timber, and
 - (d) provide for a legality licensing scheme.

Inventory of timber

2. (1) The Forestry Commission shall identify lands suitable for grant of large-scale timber utilisation contracts.

(2) Subject to section 4 of the Act, the Chief Executive of the Commission shall, for the purpose of identifying lands under sub regulation (1),

(a) cause to be prepared inventories of forests and timber on public lands, existing forest reserves, stool lands and any other lands as the Chief Executive may determine; and

(b) issue directives to the District Forest Officers as the Chief Executive may determine to submit a general report on timber on public lands, forest reserves, stool lands and any other land as the Chief Executive may direct, in their respective districts at the times that the Chief Executive may direct.

(3) The inventories shall be prepared by the District Forest Officers of the Commission in consultation with the District Chief Executives of the areas of the lands concerned.

(4) Where upon the completion of an exercise under sub regulations (2) and (3), the Chief Executive is satisfied that the inventories justify the grant of timber rights in respect of a land, the Chief Executive shall

(a) direct the District Forest Officer of the district concerned to conduct a detailed field inspection of the land; and

(b) inform the relevant District Chief Executive of the directives given to the District Forest Officer to conduct the inspection.

(5) The directives given to a District Forest Officer under sub regulation (4) does not apply to private land or stool land unless the owners of the land have been informed of the inspection.

(6) Where the Chief Executive finds that by reason of insufficient timber for long term viable timber operations, an area does not qualify for full cycle harvest rotation, the Chief Executive may recommend the allocation of timber resources through small scale timber rights under regulations 18 to 21 or through replacement allocations in accordance with regulation 25.

Field inspection

3. (1) Where the District Forest Officer receives a directive to conduct a field inspection from the Chief Executive, the District Forest Officer shall in consultation with the District Chief Executive constitute a team of inspectors made up of

(a) two members of the District Assembly of the area of the land nominated by the District Assembly;

(b) a representative of the Traditional Council of the area of the land nominated by the Traditional Council;

(c) the District Forest Officer; and

(d) two other persons who are owners of the land or their nominated representatives at least one of whom is a farmer who farms on the land concerned.

(2) The District Chief Executive shall help identify the owners and farmers of land identified for field inspection within the district.

(3) The team shall conduct the field inspection to determine the suitability of the land for the grant of timber rights and shall estimate

(a) the quality, quantity and value of timber on the land; and

(b) any special peculiarities of the land.

(4) The District Forest Officer shall, upon the conclusion of the field inspection, submit a report on the inspection to the Chief Executive through the Regional Forest Officer.

(5) The Chief Executive may include in the report, written comments that the Chief Executive considers necessary.

(6) The report of the team shall include

(a) the boundaries, specifications, and any peculiarities of the land including rivers, roads and bridges; and

(b) topographic maps and plans of the area inspected.

(7) Where upon the receipt and consideration of a report of an inspection team, the Chief Executive is satisfied that the area concerned should be proposed for the grant of timber rights, the Chief Executive shall

(a) notify, in writing, the District Chief Executive concerned; and

(b) direct the District Forest Officer concerned to notify the people of the area of the land of the proposal to grant timber rights in respect of timber on the land by posting the

proposed grant on the notice boards of the District Forest Office and the District Assembly.

Procedure in Relation to Lands Other than Public Land and Existing Forest Reserves

Publication to obtain consent

4. (1) Where the land identified and proposed by the Chief Executive as suitable for the grant of timber rights is not public land or forest reserve, the District Forest Officer in whose district the land is situated shall, with the assistance of the District Chief Executive, seek the written consent and agreement of the owners of the land for inspection.

(2) For the purpose of bringing the proposal referred to in sub regulation (1) to the notice of persons who own the land, the District Forest Officer shall post notices at

(a) the offices of the District Assembly, Traditional Council and Unit area in whose area of authority the land identified is situated; and

(b) at the District Forest Office stating

(i) the particulars and limits of the area identified;

(ii) that the land is being considered for the grant of timber rights; and

(iii) that any person who owns the land or has an interest in the land may notify the District Forest Officer within twenty-one days of the date of the posting of the notices of the interest of that person in the land.

(3) A person who claims ownership or other interest in the land shall inform the District Forest Officer in writing or orally of the interest notices.

(4) The District Forest Officer shall reduce the oral information referred to in sub regulation (3) into writing.

Consent of owner

5. Where before the expiry of the twenty-one-day period specified in the notice for owners to notify the District Forest Officer of their interest in a land, an owner

(a) gives notification of the interest of that owner; and

(b) consents in writing to the land being subjected to the grant of timber rights and there are no conflicting claims, the District Forest Officer shall

(c) accept the written consent and submit a copy to the District Chief Executive of the area; and

(d) submit a report including the written consent of the owner through the Regional Forest Officer to the Chief Executive.

Objection by owner of land and conflicting interest

6. (1) Where a person who claims ownership or other interest in the land objects to the grant of timber rights on the land, or a conflicting claim of interest is made in respect of ownership, the matter shall be referred by the District Forest Officer to an ad hoc committee consisting of

(a) a representative of the Administrator of Stool Lands;

(b) two representatives of the District Assembly in whose jurisdiction the land is situated nominated by the District Assembly; and

(c) a representative of the Traditional Council of the area of the land in issue nominated by the Traditional Council.

(2) The chairperson of the ad hoc committee shall be the representative of the Traditional Council on that committee.

(3) A person shall not be a member of the ad hoc committee if that person has an interest in the land in issue.

(4) The ad hoc committee shall

(a) hear and consider all statements and information that may be offered in support of the objection or claim;

(b) conduct its proceedings in an informal manner; and

(c) be guided by the rules of natural justice.

(5) The ad hoc committee shall

(a) submit its report to the District Forest Officer within fourteen days of the composition of the ad hoc committee; and

(b) state in the report whether the objection or claim is reasonable, and make the recommendations that the ad hoc committee considers necessary on any conflicting claims including the payment of compensation where required.

(6) The District Forest Officer shall on receipt of the report of the ad hoc committee, within fourteen days, submit a copy of the report to the District Chief Executive for information.

(7) The District Forest Officer shall on receipt of the report of the ad hoc committee, within fourteen days, forward the report and the comments and recommendations that the District Forest Officer considers necessary to the Regional Forest Officer for the appropriate action.

Report of District Forest Officer to the Regional Forest Officer

7. A final report from the District Forest Officer to the Regional Forest Officer in respect of any identified land shall state

(a) the survey and boundary specifications and any peculiarities of the area including rivers, roads and bridges;

(b) topographic maps and plans;

(c) the consent of the owners and how the consent was obtained;

(d) objection and grounds of objection where applicable; and

(e) the resolution of any conflicting interest.

Report of Regional Forest Officer to Chief Executive

8. (1) The Regional Forest Officer shall, on receipt of the report from the District Forest Officer, verify the maps, plans and contents of the report.

(2) Where the Regional Forest Officer is satisfied with the accuracy of the report, the Regional Forest Officer shall submit the report together with any written comments and recommendations that the Regional Forest Officer considers necessary to the Chief Executive.

(3) Where the Regional Forest Officer is not satisfied with the accuracy of the report, the Regional Forest Officer shall not recommend the area and shall state reasons for not recommending the area to the Chief Executive.

(4) Where a report submitted to the Chief Executive indicates conflicting claims to the identified land or a refusal to consent by the owners, timber utilisation contracts shall not be granted in respect of the land unless the conflict or refusal is first settled and a written consent obtained.

(5) Except in respect of forest reserves and public lands, a stool land or private land shall not be given out under a timber utilisation contract without the written consent of the owners.

(i) the specified time needed for harvesting timber in small scale timber utilisation contracts shall not exceed two years;

(ii) the area identified for a small-scale timber right within off forest reserves shall not exceed six km; and

(iii) the consent of rights holders in accordance with regulations 4, 5, 6 and 7 is required.

Field inspection for small scale timber rights

11. (1) The Chief Executive shall give directives for the conduct of field inspections.
- (2) The Chief Executive shall direct the District Forest Officer to constitute in consultation with the Regional Forest Officer, a team of inspectors to conduct an assessment of the extent of the area, stocking and peculiarities of the land.
- (3) The team of inspectors shall include
 - (a) the Assistant District Manager of the area;
 - (b) the Range Supervisor responsible for the reserve;
 - (c) a Cartographer nominated by the Regional Manager of the area; and
 - (d) two other persons who are owners of the land or the nominated representatives of the owners.
- (4) Where upon the receipt and consideration of a report of an inspection team, the Chief Executive is satisfied that the area concerned should be proposed for the grant of small-scale timber rights, the Chief Executive shall
 - (a) notify the District Chief Executive concerned of the proposed grant; and
 - (b) direct the District Forest Officer concerned to notify the people of the area of the land of the proposal to grant timber rights in respect of that land.
- (5) The inspection team shall conduct the field inspection to determine
 - (a) the need to grant the small-scale timber rights, and
 - (b) the suitability of the land, and estimate
 - (i) the quality, quantity and value of timber on the land; and
 - (ii) any special peculiarities of the land.
- (6) Upon the conclusion of the field inspection, a report on the inspection shall be submitted by the District Forest Officer through the Regional Forest Officer to the Chief Executive.
- (7) The Regional Forest Officer may include any comments that the Regional Forest Officer considers necessary in the report and submit the report to the Chief Executive.
- (8) The report of the team shall include
 - (a) observations of the team with respect to
 - (i) the need to grant a small-scale timber right and the number of other small-scale timber rights already granted and identified in that forest reserve; and

(ii) confirmation of stocking levels that are inadequate for viable long-term timber operations;

(b) the boundaries, specifications, and the peculiarities of the land including rivers, roads and bridges; and

(c) topographic maps and plans of the inspected area.

(9) Where upon the receipt and consideration of the report of an inspection team, the Chief Executive is satisfied that the area concerned should be proposed for the grant of small-scale timber rights, the Chief Executive shall notify the District Chief Executive concerned.

(10) For the purposes of lands identified in paragraph (b) of sub regulation (1) of regulation 10, the Chief Executive shall direct the District Forest Officer to constitute, in consultation with the Regional Forest Officer a team of inspectors.

(11) The District Forest Officer shall notify, in writing, the following persons of the planned field inspection at least ten days ahead of the inspection for their participation:

(a) two members of the District Assembly of the district concerned nominated by the District Assembly;

(b) a representative of the Traditional Council of the area of the land nominated by the

(c) the District Forest Officer; and

(d) two other persons who are owners of the land or the nominated representatives of the owners of the land at least one of whom is a farmer who farms on the land concerned.

(12) The Commission shall inform members of the public of the planned field inspection ten days before the inspection to allow members of the public to participate as observers.

(13) For the purpose of the notification required under sub regulation (11), the District Forest Officer shall post notices at the offices of the Forest District, District Assembly, Traditional Council and Unit area in whose area of authority the land identified is situated.

(14) The inspection team shall conduct the field inspection to determine

(a) the need to grant the small-scale timber rights;

(b) the suitability of the land and estimate,

(i) the quality, quantity and value of timber on the land; and

(ii) any special peculiarities of the land.

(15) Upon the conclusion of the field inspection, a report on the inspection shall be submitted by the District Forest Officer through the Regional Forest Officer to the Chief Executive.

(16) The Regional Forest Officer may include any comments that the Regional Forest Officer considers necessary in the report and submit the report to the Chief Executive.

(17) The report of the team shall include

(a) observations of the team with respect to

(i) the need to grant a small-scale timber right and the number of other small-scale timber rights already granted and identified in that area; and

(ii) confirmation of stocking levels that are inadequate for viable long-term timber operations;

(b) the boundaries, specifications, and the peculiarities of the land including rivers, roads and bridges; and

(c) topographic maps and plans of the inspected area.

(18) Where upon the receipt and consideration of the report of the inspection team, the Chief Executive is satisfied that the district concerned should be proposed for the grant of small-scale timber rights, the Chief Executive shall notify the District Chief Executive concerned.

Procedure in Relation to Large Scale Timber Rights

Application for large scale timber utilisation contracts

12. (1) The allocation of large-scale timber rights shall be

(a) based on a competitive procedure; and

(b) conducted serially through two stages, namely, a pre-qualification process and a bidding process for timber rights.

(2) Only pre-qualified applicants shall be eligible for invitation to apply for a bid.

Pre-qualification application forms

13. (1) An applicant seeking pre-qualification for the grant of large-scale timber rights shall obtain an application form as specified in the First Schedule from the Commission upon payment of the fee that the Minister in consultation with the Commission may determine.

(2) On completion of an application form, the applicant shall submit the application to the Chief Executive who shall forward the application to the Timber Rights Evaluation Committee for consideration.

(3) Information provided by an applicant shall be treated as confidential.

Pre-qualification requirements

14. (1) Without limiting subsection (3) of section 3 of the Act, the applicant shall submit with the application, the following information that the Commission may request:

(a) evidence of ownership or membership of a registered company or partnership relevant to forestry with a commercial business certificate attached;

(b) evidence of full payment of the requisite forest levies;

(c) income tax, value added tax and social security clearance certificates;

(d) where applicable, evidence of value-added processing to maximize income;

(e) a statement of all timber rights and other logging permits, including areas, held by the applicant at the time of the application;

(f) the qualifications and competence of the timber operations staff of the applicant;

(g) where applicable, proof of membership of a recognised timber trade association; and

(h) evidence of a labour certificate.

(2) For the purpose of paragraph (f) of sub regulation (1), the manager of the timber operations of the applicant shall be; i professional forester.

Evaluation

15. (1) The Evaluation Committee shall evaluate the applications to determine those pre-qualified for the grant of large-scale timber rights.

(2) The Evaluation Committee shall in its evaluation take into account the completeness and substance of the information submitted by each applicant and may make use of official records to verify the past compliance of an applicant with any laws or regulations relating to the timber industry.

(3) The Evaluation Committee shall

(a) stamp as "PRE-QUALIFIED" applications that meet the requirements;

(b) stamp as "DISQUALIFIED" applications that fail to meet the requirements; and

(c) notify all applicants in writing of the

(i) decision of the Committee, and

(ii) reasons for the decision,

within five days of the decision.

(4) An applicant who is disqualified may rectify any shortcomings as stated in the notification of the Evaluation Committee and re-apply for pre-qualification within fourteen days of receipt of the notification.

(5) Despite sub regulation (4), the Evaluation Committee may bar re-application by an applicant whom the Evaluation Committee has disqualified on the grounds of previous gross violation of laws or regulations relating to the timber industry.

(6) A list of pre-qualified companies shall be posted on the website of the Commission.

(7) The Commission shall, upon the request of a person, provide the list of prequalified companies.

Bidding

16. (1) Where the Evaluation Committee considers that it is appropriate to grant large scale timber rights in an identified area, the Evaluation Committee shall cause to be published

(a) in the Lands Concession Bulletin,

(b) on the Forestry Commission website, and

(c) in at least two daily newspapers with national circulation, an advertisement inviting pre-qualified applicants to bid for the grant of timber rights in respect of areas specified in the advertisement.

(2) For each area proposed for grant of large-scale timber rights, the Chief Executive shall, on the basis of the timber inventory and other relevant information, specify

(a) a timber harvest schedule for the area;

(b) the amount of Performance Bond to be posted by the person to whom timber rights to the area may be granted;

(c) the amount of a Reserve Bid below which the grant of timber rights for the area may not be made;

(d) any management requirements and restrictions specific to the contract;

(e) the time and place at which the bids will be opened; and

(f) any other information relevant to the grant and exercise of the timber rights.

(3) Information provided in respect of Reserved Bids shall be kept confidential.

(4) Despite sub regulation (3), other information provided to the Evaluation Committee may be used to prepare a prospectus of information about the area to which the advertisement relates and this shall be available to prospective applicants.

(5) A pre-qualified applicant may apply for large scale timber rights in an area, provided the addition of that area to the total area under timber rights held by that applicant does not exceed the upper limit for the scale of operations of that applicant as provided for under section 6A of the Act. 'I

(6) A pre-qualified applicant who intends to apply for large scale timber rights for an area shall

(a) purchase bidding forms which shall provide instructions necessary for completing the bid and a prospectus specific to that area from the Commission; and

(b) pay a non-refundable fee to be determined by the Minister in consultation with the Commission.

(7) The applicant shall deliver the application in a sealed envelope at the time and place and in accordance with instructions set out in the application forms.

Evaluation of applications

17. (1) The Evaluation Committee shall convene at the time and place specified in the application forms.

(2) The secretary to the Evaluation Committee shall record each application received by the Evaluation Committee.

(3) The Evaluation Committee shall not accept an application which is not received within the period specified in the application forms.

(4) Where an application referred to under sub regulation (3) is submitted to the Evaluation Committee, the secretary shall return the application unopened to the applicant.

(5) The chairperson of the Evaluation Committee shall open the applications in the presence of the

(a) other members of the Evaluation Committee;

(b) applicants or the authorised representatives of the applicants; and

(c) any member of the public who wishes to attend.

(6) The large-scale timber rights covering the area subject to application shall be awarded to the applicant who

(a) proves sufficient technical and financial capabilities as well as the regulatory compliance; and

(b) offers to pay the highest timber rights fee.

(7) Despite sub regulation (6), where the bid is lower than the Reserve Bid, the area shall be awarded to the bidder who agrees to match the Reserve Bid starting from the bid closest to the Reserve Bid.

(8) Where there are two or more equal highest bids, the area shall be awarded to the applicant from amongst the equal highest applicants who proves most technical and financial capabilities as well as regulatory compliance.

(9) The secretary to the Evaluation Committee shall prepare minutes of the proceedings that shall include a summary of the bids, indicating

(a) the name of each bidder,

(b) the corresponding amount bid, and

(c) the recommendation of the highest bidder for the large-scale grant of timber rights.

(10) The Minister shall, on the basis of the recommendation of the Evaluation Committee, issue a Notice of Grant of timber rights which shall specify activities that shall be completed by the winner to the satisfaction of the Chief Executive before the right is granted.

(11) The activities referred to under sub regulation (10) include

(a) the posting of Performance Bond as provided under paragraph (b) of sub regulation (2) of regulation 16;

(b) the conclusion of a Social Responsibility Agreement with local communities;

(c) the completion of all planning activities as specified in the relevant Manual of Procedures; and

(d) the payment of a one-off timber rights fee based on the highest bid.

(12) The winner of the bid shall give an undertaking to assist communities and inhabitants of the communities whose land area encompasses the forest from which the timber is to be harvested, with amenities, services or benefits, and the cost of the agreed amenities, services, or benefits shall be the value of five percent of the value of stump-age fee from the timber that is harvested.

(13) Where a winner of a bid fails to comply with the requirements provided under these Regulations within the time specified in the Notice of Grant of timber right, the Minister shall nullify the grant.

(14) Where the grant of timber rights is nullified for failure of the winner to comply with the requirements, the area may at the discretion of the Minister be re-advertised or withdrawn from offer.

Procedure in Relation to Small Scale Timber Rights

Manner of selection for small scale timber utilisation contracts

18. The allocation of small-scale timber rights

- (a) shall be based on a competitive procedure; and
- (b) shall include
 - (i) qualification; and
 - (ii) selection of offers for small scale timber rights process in a single process.

Qualification requirements

19. (1) An applicant who seeks the grant of a small-scale timber right shall submit with the offer of that applicant, information which proves the qualification of that applicant.

(2) The information shall include

- (a) evidence of ownership or membership of a registered company or partnership relevant to forestry with a commercial business certificate attached;
- (b) evidence of full payment of any forest levies where applicable;
- (c) income tax, value added tax and social security clearance certificates;
- (d) a statement of the timber rights and other logging permits, including areas, held by the applicant at the time of the application;
- (e) the qualifications and competence of the timber operations staff of the applicant;
- (f) where applicable, proof of membership of a recognised timber trade association; and
- (g) evidence of a labour certificate.

(3) The Evaluation Committee shall verify the following criteria during the selection procedure for small scale timber rights:

- (a) applicants who have two or more recorded cases of breaching forest laws, including illegal logging shall be disqualified from applying for small scale timber rights; and
- (b) applicants who are indebted to the Commission shall be disqualified from applying for small scale timber rights.

(4) For the purpose of paragraph (e) of sub regulation(1), the manager of the timber operations of the applicant shall be a professional forester.

Selection criteria

20. (1) A small scale timber right shall be awarded based on the following criteria:

(a) technical and financial capabilities as well as the compliance of the applicant with the relevant regulations;

(b) a proposal of a Social Responsibility Agreement with local communities; and

(c) a proposal for the payment of a one-off timber rights fee based on the tree stocking of the area.

(2) The winner of the small scale timber right shall give an under- taking to assist communities and inhabitants of the communities whose land area encompasses the forest from which the timber is to be harvested, with amenities, services or benefits, and the cost of the agreed amenities, services, or benefits shall be five percent of the value of stumpage fee from the timber that is harvested.

Procedure for submission and selection of offers for small scale timber rights

21. (1) Where the Evaluation Committee considers that it is appropriate to grant small scale timber rights in an identified area, the Evaluation Committee shall cause to be published,

(a) on the website of the Commission, and

(b) in at least two daily newspapers with national circulation, an advertisement inviting applicants to apply for the grant of small-scale timber rights in respect of areas specified in the advertisement.

(2) For each area proposed for grant of small-scale timber rights, the Chief Executive shall, on the basis of the timber inventory and other relevant information, specify

(a) a timber harvest schedule for the area;

(b) the amount of Performance Bond to be posted by the person to whom small scale timber rights to the area may be granted;

(c) the amount of timber rights fee due for the grant of a small-scale timber right;

(d) any management requirements and restrictions specific to the contract;

(e) the time and place at which the offers will be opened; and

(f) any other information relevant to the grant and exercise of the small-scale timber rights.

(3) An applicant who qualifies for the grant of a small scale timber right may submit an offer for a small scale timber right, but the addition of that area to the total area under timber rights held by that applicant shall not exceed the upper limit for the scale of operations of that applicant as provided for under section 6A of the Act.

(4) An applicant who wishes to submit an offer for small scale timber rights for an area, shall purchase an application form specified in the First Schedule to prove the qualification of the applicant.

(5) The form referred to in sub regulation (4) shall provide instructions necessary for submitting an offer.

(6) An applicant shall pay a non-refundable fee to be determined by the Commission.

(7) Each applicant shall deliver the offer of that applicant in a sealed envelope at the time and place and in accordance with instructions set out in the application forms.

(8) The cover of the envelope shall be clearly marked "OFFER".

(9) The Evaluation Committee shall convene at the time and place specified in the advertisement and the secretary to the Evaluation Committee shall record each application received by the Committee.

(10) The Evaluation Committee shall not accept any application that is not received within the period specified in the advertisement and shall return the application unopened to the applicant.

(11) The chairperson of the Evaluation Committee shall open the application in the presence of

(a) the other members of the Evaluation Committee;

(b) the applicant or the authorised representative of the applicant; and

(c) any member of the public who wishes to attend.

(12) The small-scale timber rights shall be awarded to the qualified applicant with the highest offer in terms of the selection criteria in paragraphs (a), (b) and (c) of sub regulation (1) of regulation 20.

(13) Where there are two or more equal highest offers, the award shall be decided by drawing lots among the highest offers.

(14) The secretary of the Evaluation Committee shall prepare minutes of the proceedings that shall include

(a) a summary of the applications received, indicating the name of each applicant;

(b) the proposal for social responsibility agreements; and

(c) the recommendation of the highest offer to the Commission for the grant of small-scale timber rights.

(15) The Minister may, on the basis of the recommendation made by the Commission, issue a Notice of Grant of small-scale timber right.

(16) The Notice of Grant shall specify activities to be completed by the winner to the satisfaction of the Chief Executive before the right is granted.

(17) The activities referred to in sub regulation (16) include

(a) the posting of a Performance Bond as provided for under sub regulation (2)(b) of this regulation;

(b) the conclusion of a Social Responsibility Agreement with local communities;

(c) the completion of the planning activities specified in the relevant Manual of Procedures; and

(d) the payment of the one-off timber rights fee of the contract.

(18) The successful applicant shall give an undertaking to assist communities and inhabitants of the timber utilisation areas with amenities, services or benefits, and the cost of the agreed amenities, services, or benefits proposed by the applicant shall be five percent of the value of stumpage fee from the timber that is harvested.

(19) Where a successful applicant fails to comply with the requirements provided under these Regulations within a time specified in the Notice of Grant of small scale timber right, the Minister shall nullify the grant and the area may at the discretion of the Minister be re-advertised or withdrawn from offer.

Terms and Conditions of Timber Utilisation Contract

Terms and conditions of contracts and monitoring function of District Forest Officer

22. (1) A large- or small-scale timber utilisation contract, entered into for the purposes of subsection (2) of section 7 of the Act shall be on the advice of the Attorney-General.

(2) A large- or small-scale timber utilisation contract shall provide for the terms and conditions, including

(a) the size and limits of the contract area;

(b) the period of operation of the contract;

(c) an undertaking by the holder of the timber right, among others

(i) to pay a one-off timber rights fee;

(ii) to maintain a Performance Bond in the amount specified;

(iii) to implement activities approved by the Chief Executive subject to periodic review as required under section 8 of the Act;

(iv) to supply the information that the Commission may request for the purpose of monitoring the activities of the timber right holder, including annual and other reports;

(v) to provide social facilities and amenities for the inhabitants of the contract area in accordance with the relevant Social Responsibility Agreement; and

(vi) to maintain the insurance coverage as is necessary to protect the Commission and the agents of the Commission,

(d) acknowledgement of periodic review and audit of the operations by the Commission and the agents of the Commission;

(e) specification of grounds for suspension, termination and surrender by the timber right holder of the Performance Bond;

(f) specification of a requirement for the holder to have at all times in respect of the operations a manager who shall be a professional forester; and

(g) an undertaking by the Minister to maintain intact the boundaries of the contract area.

(3) Despite paragraph (g) of sub regulation (2), the Minister may in the national interest reduce the size of the area and the reduction shall be accompanied with a corresponding reduction in the timber right fee and the Performance Bond.

(4) The Minister shall communicate in writing to the timber right holder the reason for so acting in the national interest.

(5) The District Forest Officer of an area in respect of which a timber utilisation contract has been entered, shall

(a) regularly monitor the activities of the holders of timber rights to harvest timber within the district; and

(b) report to the Chief Executive any non-compliance with the terms of the relevant timber right contract.

(6) The Chief Executive shall, at intervals of not more than five years, assign an independent organisation to undertake an audit of the activities of each holder of timber right to harvest timber and report any irregularities detected.

(7) The Chief Executive may upon receiving a report from a District Forest Officer or the audit organisation referred to in subregulation (6), which indicates that damage to any asset, including timber, within a timber right area has occurred, require the holder of the timber right to surrender the portion of the Performance Bond as is necessary to compensate the owners for the loss in value to the asset.

Non-renewability of timber rights

23. A timber utilisation contract is not renewable.

Records inspection

24. (1) An official inspector of the Commission may at a reasonable time and upon production of the authority of that inspector to a timber contractor, processor or seller, enter a contract area for timber operations or any other area that the Minister may direct, to inspect the records of the timber contractor, processor or seller to

(a) verify the ownership and source of any timber product in the contract area; and
(b) ensure that timber produced, processed or sold in the contract area is in accordance with the provisions of the Act and these Regulations.

(2) A timber contractor, processor or seller shall not obstruct an official inspector of the Commission in the exercise of the duties of that official inspector.

(3) A timber contractor, processor or seller who contravenes sub regulation (2) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Terms and conditions of replacement allocation contract

25. Where a replacement allocation contract is awarded, the terms and conditions of the original timber utilisation contract shall apply to the replacement allocation contract.

Social responsibility agreement

26. (1) The holder of a timber right shall negotiate a social responsibility agreement with communities in and around the contract area at the value of five per cent of the stumpage fee.

(2) A social responsibility agreement shall take into account the terms in the Social Responsibility Agreement Guidelines and Code of Conduct.

Sources of Timber other than Timber Rights

Timber utilisation permit

27. (1) The Chief Executive may, on an application by a District Assembly, Town Committee, a rural community group or a non-governmental organisation and subject to the conditions that the Commission may determine, issue a timber utilisation permit.

(2) A timber utilisation permit shall be issued exclusively for harvesting a specified number of trees in an area that is not subject to a timber utilisation contract.

(3) Timber harvested or converted to lumber under a permit issued under this regulation shall be used only for social or community purposes and shall not be sold or otherwise exchanged.

Salvage and disposal of abandoned timber product

28. (1) The Chief Executive or a public officer authorised by the Commission as an inspection officer may seize and dispose of any marked or unmarked abandoned timber.

(2) An inspection officer who seizes abandoned timber shall label the timber and report the seizure to the nearest office of the Commission within twenty-four hours of the seizure for investigation.

(3) An officer of the Commission shall not dispose of timber seized under sub regulation (2) unless fourteen days' notice of the intention to sell has been given in the locality where the timber was seized by posting the notice at the District Office of the Commission and at the District Assembly of the locality.

(4) Where the owner of seized timber is not identified within the period specified in sub regulation (3), the timber shall be sold and the proceeds of the sale shall be deposited in an account that the Minister in consultation with the Commission may determine.

(5) The proceeds of the sale referred to in sub regulation (4), shall be used to support community activities beneficial to forest and timber conservation and to defray expenses of timber resource management.

(6) The Chief Executive may, for the purpose of disposal of seized timber under this regulation, permit the removal of the timber by a logger or timber processing company registered with the Commission.

(7) The sale of seized timber shall only be made after notice to the Police Service.

Salvage of timber product

29. (1) The Chief Executive may, upon application and subject to the approval of the Commission, issue a permit for the salvage of trees from an area of land undergoing development as in the case of road construction, expansion of human settlement or cultivation of farms.

(2) A permit issued under sub regulation (1) is subject to the terms and conditions specified in the permit.

(3) The Commission shall issue a field inspection report to confirm the planned development, the necessity to salvage timber and the quantity of trees to be affected.

(4) A permit shall not be issued under sub regulation (1) in respect of land which is subject to a timber utilisation contract.

(5) The holder of a salvage permit shall negotiate a social responsibility agreement with the affected communities at a value of five percent of the stumpage fee.

Disposal of residue of logs

30. Where a timber contractor ceases operations or the operations of a timber contractor lapses, the Commission may dispose of

(a) any remaining timber or logs left over from the operations; and

(b) off cuts and branches as raw wood material for the benefit of the inhabitants of the contract area.

Legality Licensing

Scope of Legality Licensing

31. Legality Licensing applies to timber products specified in the Second and Third Schedules which are

(a) harvested within the country;

(b) imported into the country;

(c) destined for distribution and sale on the domestic market; or

(d) destined for export from the country.

Establishment and Functions of the Timber Validation Committee

Establishment of Timber Validation Committee

32. There is established by these Regulations a Timber Validation Committee.

Functions of the Committee

33. The Committee shall

(a) monitor and ensure that the division or department of the Commission responsible for verification and validation of applications for licences performs its functions in a credible,

transparent and independent manner;

(b) establish measures to ensure that the processes of verification and validation under these Regulations are not interfered with;

(c) settle complaints made in respect of the division or department of the Commission responsible for verification and validation of applications for licences and in respect of the verification and validation process undertaken under regulation 41;

(d) report every six months to the Minister on the activities of the Committee; and

(e) make recommendations to the Minister regarding the implementation of these Regulations.

Membership and tenure of office of members of the Committee

34. (1) The Committee consists of

(a) a chairperson nominated by the Minister, acting on the advice of the Commission;

(b) the Chief Executive of the Commission;

(c) one representative not below the rank of a Director or the equivalent of the rank of a Director from

(i) the Customs Division of the Ghana Revenue Authority nominated by the Commissioner- General;

(ii) the Ministry responsible for Lands and Natural Resources nominated by the Minister; and

(iii) the Ghana Police Service nominated by the Inspector- General of Police;

(d) one representative from the Judiciary nominated by the Chief Justice;

(e) one representative of the Trades Union Congress nominated by the Trades Union Congress;

(f) one representative from non-governmental organisations active in the forest sector nominated by the non-governmental organisations;

(g) one representative from the timber industry nominated by registered timber associations;

(h) one representative from the National House of Chiefs nominated by the National House of Chiefs; and

(i) the Director of the division or department of the Commission responsible for verification and validation of applications for licences.

(2) The members of the Committee shall be appointed by the Minister.

(3) A member of the Committee, other than the Chief Executive and the Director of the division or department of the Commission responsible for verification and validation of shall hold office for a period of not more than four years and is eligible for re appointment, but a member shall not be appointed for more than two terms.

(4) A member of the Committee, other than the Chief Executive, may at any time resign from office in writing addressed to the Minister.

(5) A member of the Committee, other than the Chief Executive and the Director of the division or department of the Commission responsible for verification and validation of applications for licences, who is absent from three consecutive meetings without sufficient cause ceases to be a member of the Committee.

(6) The Minister may, by letter addressed to a member, revoke the appointment of that member and shall state the reason for the revocation of the appointment.

(7) Where a member of the Committee is for sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in a declaration of a vacancy.

(8) Where there is a vacancy.

(a) under sub regulation (4), (5), (6) or regulation 36 (2),

(b) as a result of a declaration under sub regulation (7), or

(c) by reason of the death of a member,

the Minister shall appoint another person to fill the vacancy.

Meetings of the Committee

35. The Committee shall regulate the manner and procedure of its meetings.

Disclosure of interest

36. (1) A member of the Committee who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Committee in respect of that matter.

(2) A member ceases to be a member of the Committee, if that member has an interest in a matter before the Committee and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the Committee in respect of the matter.

Operational budget and allowances

37. (1) The operational budget of the Committee shall be approved by the Minister in consultation with the Minister responsible for Finance. (2) Members of the Committee shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

General Provisions on Licences

Requirement for licence

38. (1) A person shall not

(a) export from the country, or

(b) distribute for sale on the domestic market,

a timber product without a licence issued by the Commission.

(2) A person who contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Application for licence

39. (1) A person who intends to export a timber product from the country or distribute a timber product for sale on the domestic market shall apply in writing to the Commission.

(2) The application shall be made in the format determined by the Commission.

(3) An application for a licence may be made to cover

(a) the shipment of a timber product destined for export from the country; and

(b) the consignment of a timber product harvested within the country or a timber product destined for sale on the domestic market.

(4) An application shall be accompanied with the documentation required by the Commission.

(5) An applicant shall submit the application with the administrative and processing fee prescribed by the Commission under the Fees and Charges (Miscellaneous Provisions) Act, 2009 (Act 793).

Conditions for licence

40. (1) A licence under these Regulations shall only be granted if

(a) the timber product obtained from the country and destined for export from the country or for distribution for sale on the domestic market has been legally produced; and

(b) the timber product destined for export from the country does not include a timber product imported into the country from a third country

(i) in a form in which the laws of that third country prohibit for export; or

(ii) which is produced in contravention of the laws of the country where the trees were harvested.

(2) A timber product is legally produced if the product has been checked in accordance with the wood tracking system prescribed by the Commission, and conforms to the definition, principles, standards, and criteria set out in the Third Schedule.

(3) The Commission may require an applicant for a licence to satisfy any other condition or furnish the Commission with additional documentation or information that the Commission considers necessary to determine the application.

Process for application

41. (1) The Commission shall, within three days of the receipt of a completed application, acknowledge receipt and forward one copy of the application to the division or department of the Commission responsible for verification and validation of applications for licences to verify and validate the application.

(2) For the purpose of processing an application for a licence made under regulation 39, the division or department of the Commission responsible for verification and validation of applications for licences

shall, within fourteen days of the receipt of an application, verify and validate the application.

(3) Where the division or department is of the opinion that the applicant has

(a) paid the prescribed fee; and

(b) met the requirements of the verification and validation

process in respect of the application,

the division or department shall submit in writing a report to the Commission for consideration together with recommendations on the verification and validation process.

(4) For the purpose of this regulation, the verification and validation of an application includes the conduct of processes

(a) to confirm the legality of a timber product as specified in the Third Schedule; and

(b) in accordance with the criteria prescribed by the Commission.

Grant of licence

42. (1) The Commission shall, within seven days of the receipt of a report from the division or department of the Commission responsible for verification and validation of applications for licences, make a decision based on the recommendations.

(2) Where after consideration of the report, the Commission is of the opinion that

(a) the consignment of a timber product meets the required legal standards for export from the country or for distribution for sale on the domestic market, and

(b) verification of the process chain of timber products destined for export from the country or for distribution for sale on the domestic market has been completed, the Commission may grant a licence to the applicant.

(3) The Commission shall, within thirty days of receipt of the report, inform the applicant in writing of its decision.

(4) A licence granted by the Commission is subject to the conditions specified in the licence.

(5) Where the Commission refuses to grant a licence, the Commission shall communicate in writing the reason for the refusal to grant the licence.

(6) For the purpose of this regulation, the "process chain of timber products" includes

(a) the processes involved from when a timber product is harvested through to when the timber product is ready for export or for sale on the domestic market; and

(b) the wood tracking system prescribed by the Commission.

Non-transferability of licence

43. (1) A person granted a licence under these Regulations shall not transfer that licence to another person.

(2) A person who transfers a licence contrary to sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Validity and duration of licence

44.(1) A licence is valid from the date that the licence is granted. (2) The period of validity of a licence shall not exceed

(a) twenty-one days for timber products destined for export from the country; or

(b) thirty days for timber products for distribution or sale on the domestic market.

(3) Despite sub regulation (2), the Commission may extend the period for the validity of a licence to a period not exceeding the period specified in paragraphs (a) and (b).

(4) The Commission shall validate the extension of a licence by a letter indicating that the licence has been extended, the period of the extension and the expiry date of the licence.

(5) The use of a licence shall not affect any requirements under an enactment with respect to the movement of goods within, into or out of the country.

(6) On the expiration of a licence, the licensee or a representative of the licensee shall return that licence to the Commission.

Suspension and cancellation of licence

45. (1) The Commission may suspend or cancel a licence, where the Commission is satisfied that the licensee

(a) is not complying with or has not complied with any of the terms or conditions of the licence;

(b) has contravened any of the provisions of these Regulations or any other relevant enactment; or

(c) no longer meets the requirements for which the licence was granted.

(2) The Commission shall not suspend a licence under sub regulation (1) unless the Commission has

(a) given the licensee at least seven days' written notice of the decision to suspend the licence and specified in the notice the defect, omission or breach that has caused the dissatisfaction of the Commission; and

(b) requested the licensee to remedy the defect, omission or breach within fourteen days from the date of receipt of the written notice.

(3) Where the licensee fails to take the necessary action to remedy the defect, omission or breach, the Commission shall cancel the licence and notify the licensee in writing.

(4) The suspension or cancellation of a licence is effective from the day that the applicant is informed of the decision of the Commission to suspend or cancel the licence.

Review of decision by Committee

46. (1) A person aggrieved by a decision of the division or department of the Commission responsible for the verification and validation of licences may, within seven days of being informed of the decision, submit a complaint in writing to the Committee for a review of the decision.

(2) The Committee shall

(a) determine its own procedure for review; and

(b) invite the applicant to appear before it and give the applicant a hearing.

(3) An applicant invited to appear before the Committee may

(a) be represented by a lawyer of the applicant's choice; and

(b) call an expert witness or any other witness of the applicant's choice.

(4) The Committee shall

(a) within seven days after the receipt of the complaint, inform the applicant in writing of its decision and the reason for the decision; and

(b) submit in writing a report of its findings with reasons to the Minister.

(5) The Minister shall, within seven days of receipt of the report, make a decision and communicate the decision to the aggrieved person.

(6) Where

(a) a person is dissatisfied with the decision of the Minister; or

(b) twenty-one days have expired without a decision being made and communicated by the Minister

that person may pursue the matter in Court.

Forms of licences

47. (1) For the purposes of these Regulations, the Commission may grant a paper-based licence or an electronic licence.

(2) A licence granted under this regulation shall provide information on the timber product in respect of which the licence is granted.

Paper-based licence

48. (1) A paper-based licence issued by the Commission shall

- (a) be in the form set out in the Fourth Schedule;
- (b) be of the standard A4 paper size;
- (c) have a watermark indicating the logo of the Commission embossed on the paper;
- (d) have the seal of the Commission embossed on the paper; and
- (e) be completed in manuscript, typescript or by computerised means.

(2) The Commission shall stamp each paper-based licence that the Commission issues.

(3) The Commission shall use any tamper-proof method to record the quantity of paper-based licences the Commission grants in order to prevent the insertion of figures or references.

(4) The Commission shall furnish an applicant who obtains a paper-based licence with four copies of the licence.

Electronic licence

49.(1) A licence may be issued and processed electronically.

(2) The Commission shall establish electronic systems for the issue, transmission and receipt of electronic licences before the licences are issued.

Lost, stolen or destroyed licence

50. (1) In the event of the loss, theft or destruction of an original licence granted under these Regulations or a copy of that licence, the licensee or the representative of the licensee shall, within fourteen days of the loss, theft or destruction apply to the Commission for a replacement of the licence on the basis of the document in the possession of the licensee or the representative.

(2) An application for a replacement of a licence shall be accompanied with a police report.

(3) The Commission shall, within fourteen days of receipt of the request from the licensee or the representative of the licensee, issue the licensee or the representative of the licensee with a replacement licence.

(4) A replacement licence shall contain the licence number and the information and entries appearing on the original licence.

(5) A replacement licence shall bear the endorsement "Replacement Licence".

(6) If a replacement licence is lost, stolen or destroyed, no further replacement licence shall be issued.

(7) Where a lost or stolen licence is retrieved, the finder of the retrieved licence shall return the licence to the Commission.

(8) A person who contravenes sub regulation (7) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Validation and alteration of licences

51. (1) The Commission shall validate each copy of a licence or replacement licence.

(2) A licence shall not contain any erasure or alteration.

Procedure Relating to Timber Operations

Inspection and investigation by Committee

52. (1) Where the Committee considers that an inspection or investigation is necessary to prevent an abuse or manipulation of the verification and validation process, the Committee may authorise a person to carry out an inspection or conduct an investigation into any matter related to the verification and validation process required for the grant of a licence.

(2) An authorised person may, subject to sub regulation (3),

(a) at any reasonable time, enter the premises of a person concerned with or affected by a verification or validation process;

(b) require an officer, employee, agent or any other person who is the subject of a verification or validation process to produce any book, record, accounts or other document;

(c) search premises for any book, record, accounts or other document;

(d) examine and make extracts from any book, record, accounts or other document of the person concerned with or affected by the verification or validation process;

(e) undertake field trips to inspect and examine timber logs and timber products which are related to the verification or validation process;

(f) remove any book, record, accounts or other document of the person who is the subject of the inspection or investigation and keep them for as long as is necessary to examine them, but the authorised person shall give a receipt for the book, record, accounts or other document removed; or

(g) require an officer, employee or agent of the person who is the subject of inspection or investigation to

(i) explain an entry in the book, -record, accounts or document; or

(ii) provide the authorised person with information concerning the management or activities of the person who is the subject of the inspection or investigation.

(3) The powers of entry and search under paragraphs (a) and (c) of sub regulation (2) shall only be exercised with the consent of the person who is the subject of the inspection or investigation or the person in charge of the premises.

(4) The authorised officer may collaborate with a police officer where there are reasonable grounds to believe that it is necessary to exercise the powers under paragraphs (a) and (c) of sub regulation (2) for the prevention, investigation or detection of an offence or to obtain evidence relating to an offence.

(5) A person shall not without just cause, hinder or obstruct an authorised person in the exercise of a function under this regulation.

(6) A person who contravenes sub regulation (5) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Procedure on completion of inspection or investigation

53.

(1) An authorised person shall

(a) make a written report on the inspection and investigation and forward a copy of the report to the Committee, and

(b) send a summary of the findings and recommendations to the person who is the subject of the inspection or investigation.

(2) The Committee, if satisfied that there has been misconduct in or abuse of the verification and validation process, shall inform the person who is the subject of the inspection or investigation in writing and annul the steps taken in the process or take steps that it considers appropriate in the circumstances.

(3) The Committee shall give a person who is the subject of the inspection or investigation, adequate opportunity to make representations to the Committee in relation to the matter before taking any

decision,

(4) The Committee shall, after completion of the inspection or investigation, communicate in writing to the Commission the outcome of the inspection or investigation and the decision made on it.

Mingling of timber

54. (1) A person shall not mingle a timber product for which a licence has not been obtained with a timber product for which a licence has been obtained for the purpose of export from Ghana or for sale on the domestic market.

(2) A person who contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Logging Manual

55. (1) The Forestry Commission may issue a Logging Manual under these Regulations.

(2) The Logging Manual shall be

(a) a code of practice for timber utilisation contract operations; and

(b) subject to periodic revision.

Harvesting plan

56. The harvesting plan for timber operations in a contract area shall be drawn up in accordance with the Logging Manual and shall describe the nature of the timber operations with explanatory maps.

Approved period for timber operations and transport of forest produce

57. (1) A person shall not carry out timber operations or transport any timber product from a contract area except between the hours of 6 a.m. and 6 p.m. on a working day.

(2) Despite sub regulation (1), a person may carry out timber operations or transport a timber product from a contract area outside the prescribed time if that person obtains written authorisation to carry out timber operations or transport a timber product from a contract area from the Commission.

(3) An authorisation under sub regulation (2) is subject to the conditions as the Commission may determine.

Timber produce inspection officer

58. The Chief Executive may assign an official inspector to conduct special surveillance against illegal timber operations.

Marking and numbering of trees, logs and timber products

59. (1) The Commission shall supervise and ensure that any tree to be felled and other timber produced from the tree is marked and numbered in accordance with the Logging Manual.

(2) An inspection officer assigned to inspect the marking or numbering of trees, stumps, timber and other timber products, may enter any mill yard, warehouse or lumber market or may, at any check point seize trees or timber products that are not properly marked, numbered or supported with authentic documents.

(3) A person found in possession of any timber product that is not properly marked or numbered or without the requisite documentation commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Timber Stumpage Fees and Contract Area Rent

Stumpage fee

60. (1) The holder of a timber utilisation contract who harvests timber shall pay stumpage fee which shall be calculated in accordance with the formula specified in the Fifth Schedule.

(2) For the purposes of these Regulations, stumpage fee represents royalties which provide a basic return to the landowner and contributes to the cost of forest management and timber regulation.

(3) The stumpage rate shall be determined by the Minister in consultation with the Commission and the Administrator of Stool Lands, having regard to the market demand and inventory levels of timber species.

(4) An officer who

(a) falsely calculates stumpage fees, or

(b) assists a contractor to under-declare tree volumes used in the calculation of stumpage fees

commits an offence and is liable on summary conviction to

(c) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(d) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations and is liable to be dismissed from the public service.

Measurement of timber

61. (1) A District Forest Officer shall, within forty-eight hours of the felling of a tree, take a measurement of the volume of the timber.

(2) The District Forest Officer shall on completion of the measurement taken under sub regulation (1), issue a tree information form determined by the Commission stating the measurement of the timber.

(3) A person shall not lift timber from its stump unless a measurement of the stump has been taken and the District Forest Officer has calculated the stumpage fee payable in accordance with the formula specified in the Fifth Schedule.

(4) A District Forest Officer who declares a false measurement of timber in contravention of sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

(5) A person who contravenes sub regulation (3) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units. and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Conveyance certificate

62. (1) A person shall not transfer or move timber from a forest area unless that person has obtained for the transfer or movement of the timber, a timber conveyance certificate.

(2) A conveyance certificate shall not be issued for lumber produced by chain saw.

(3) A timber contractor who seeks to transfer or move timber from a forest area shall apply to the Commission in writing for a conveyance certificate.

(4) A conveyance certificate shall be issued by an officer of the Commission of a rank not below a Senior Range Supervisor.

(5) A person who contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Payment of stumpage fee

63. (1) A person who harvests timber under a timber utilisation contract shall pay the stumpage fee in respect of the harvested timber within thirty days of billing, after which interest shall be paid on the outstanding amount payable at the prevailing Bank of Ghana rate.

(2) The District Forest Officer shall furnish the Regional Stool Lands Officer with copies of bills payable in respect of stumpage fees.

(3) Where a fee under sub regulation (1) is payable in respect of stool land, the fee shall be collected by the Administrator of Stool Lands and that fee shall be deposited in the relevant stool lands account.

Payment for timber management services

64. (1) The Minister shall in consultation with the Commission and the Administrator of Stool Lands in respect of stool land, determine the fee payable for timber management services.

(2) The Commission shall distribute revenue derived from timber on private land in the proportions agreed on by the Commission and owner of the land.

Payment of rent for contract area

65. The holder of a timber utilisation contract shall pay rent in respect of the contract area as set out in the Sixth Schedule to

(a) the Administrator of Stool Lands in the case of stool lands; and

(b) to the owner of the land in any other case.

Registration and Use of Chainsaws

Requirement to register chainsaw

66. (1) A person shall not use a chainsaw for felling timber unless the chainsaw has been registered in accordance with regulations 67 and 68.

(2) A person who contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Registration of chainsaw by District Assembly

67. (1) A person who owns a chain saw shall apply to the District Assembly in which that person resides, to register the chainsaw.

(2) An application for registration of a chainsaw shall be made within fourteen days of the acquisition of the chainsaw as set out in the Seventh Schedule.

(3) An officer of the District Assembly shall on receipt of an application under sub regulation (2),

(a) inspect the chainsaw, and

(b) ensure that the condition of the chainsaw meets the relevant requirement for use of the chainsaw.

(4) Where the officer of the District Assembly is satisfied with the condition of the chainsaw that officer shall register the chainsaw and issue a licence in respect of the registered chainsaw to the owner.

(5) A licence issued under subregulation (4) is valid for one year and may be renewed.

(6) An applicant shall pay the fee for the issue or renewal of a licence as prescribed by the Fees and Charges (Miscellaneous Provisions) Act, 2009 (Act 793).

(7) A person who, being the owner of a chainsaw, contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment, of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Registration of chainsaw at District Forest Office

68. (1) A person who registers a chainsaw at a District Assembly shall also register that chainsaw at the District Forest Office where the chainsaw is to be used to fell trees.

(2) An application for registration of a chainsaw at a District Forest Office shall be preceded by a registration at the District Assembly in accordance with regulation 67.

(3) An application for registration of a chainsaw at a District Forest Office shall be as set out in the Seventh Schedule.

(4) An officer of the District Forest Office shall on receipt of an application under subregulation (3)

(a) inspect the chainsaw, and

(b) ensure that the condition of the chainsaw meets the relevant requirement for use of the chainsaw.

(5) Where the District Officer is satisfied with the condition of the chainsaw that officer shall allocate a registration number to the registered chainsaw.

(6) A fee is not payable for the registration of a chainsaw at a District Forest Office.

(7) A person who, being the owner of a chainsaw, contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Timber registration number

69. A District Forestry Officer shall allocate a timber registration number to a registered chainsaw.

Prohibition of use of chainsaw to convert timber into lumber for sale

70. (1) A person shall not use a chainsaw whether registered or unregistered, to convert timber into lumber or other forest products for sale, exchange or any other commercial purpose.

(2) A person shall not sell a timber product to which sub regulation (1) applies.

(3) A person who contravenes sub regulation (1) or (2) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Requirement of chainsaw user to mark stump

71. (1) Where a person uses a chainsaw to fell a tree, that person shall mark the stump of the tree with the timber registration number of that person.

(2) Where more than one tree is felled, marking shall be made serially.

(3) A person who contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

Prohibition of use of unregistered chainsaw

72. (1) A landowner shall not permit a person to use an unregistered chainsaw to fell a tree or saw timber on the land of that landowner.

(2) A landowner who contravenes sub regulation (1) commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and.

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

(3) Where a person fells a tree or saws timber with an unregistered chainsaw, the Commission may, in addition to the penalty imposed under sub regulation (2), apply to a Court for an order for the confiscation and sale by the Republic, of the chainsaw, tree or timber product.

Supply to domestic market

73. The Minister in consultation with the Commission may by publication in

(a) the Lands and Commercial Bulletin; and

(b) the mass media,

direct the holder of a timber utilisation contract on the supply of timber products into the domestic market with a specified volume, dimension or species.

Restricted timber species

74. (1) A person shall not fell the species of timber specified in the Eighth Schedule except under a restricted species permit issued by the Commission with the approval of the Minister.

(2) A person who contravenes sub regulation (1) commits an offence.

General offences and penalties

75. (1) A person who contravenes a provision of these Regulations, for which a penalty is not provided, commits an offence and is liable on summary conviction to

(a) a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than two years or to both; and

(b) a fine of not less than one thousand penalty units for a second or continued offence under these Regulations.

(2) Where an offence is committed under these Regulations by a body corporate or a partnership or a firm, a director or senior officer of that body corporate or partnership or any person concerned with the management of the firm shall be deemed to have committed the offence.

(3) A person shall not be convicted of an offence under sub regulation (2) if it is proved that

(a) due diligence was exercised to prevent the commission of the offence; and

(b) the offence was committed without the knowledge, consent or connivance of that person.

Miscellaneous Provisions

Public access to information on forest resource management

76. (1) The Commission shall make information on the management of forest resources available on its website and on request.

(2) Information on the website shall include

(a) a list of preregistered timber companies,

(b) a list of companies with valid property marks,

(c) a list of large-scale timber utilisation contracts including

(i) the names of the timber utilisation contract holders,

(ii) the location for performance of the contract,

(iii) size of the contract,

(iv) duration of the contract,

(v) the required payments under social responsibility agreements,

(vi) the status of account on payment of fees;

(d) a list of small-scale timber utilisation contracts including

(i) the names of small-scale timber utilisation contract holders,

- (ii) the location for performance of the contract,
 - (iii) size of the contract,
 - (iv) duration of the small-scale timber utilisation contract,
 - (v) the required payments under social responsibility agreements,
 - (vi) the status of account on the payment of fees;
- (e) a list of salvage permits including
- (i) the names of the salvage permit holders,
 - (ii) the location of the contract,
 - (iii) size of the contract,
 - (iv) duration of the salvage permit,
 - (v) the required payments under social responsibility agreements,
 - (vi) the status of account on the payment of fees;
- (f) a list of certificates of purchase including
- (i) the names of the purchase certificate holders,
 - (ii) the date of public sale, and
 - (iii) the quantity and price of timber acquired.
- (3) The Commission shall make any other additional information on the management of forest resources available on request.
- (4) The additional information referred to in sub regulation (3) shall include
- (a) forest reserve management plans, strategic plans, operational plans, timber operational specifications, harvesting schedules and District Forestry development plans,
 - (b) national forest maps delineating the timber utilisation contract areas, and
 - (c) any other relevant forest management information.
- (5) A person requesting for information under sub regulation (1), (2) or (3) shall apply in writing to the Commission.
- (6) The Commission shall respond to the request in writing within fourteen days of receipt of the request.

Transitional provisions

77. (1) A timber contractor who holds a lease, contract, licence or any other permit other than a timber utilisation contract or other legal source for harvesting natural timber under these Regulations, shall, within six months, apply to the Commission for a conversion of the lease, contract, licence or permit into a timber utilisation contract.

(2) The Commission may convert into a large-scale timber utilisation contract, a lease, contract, licence or permit or a combination of the lease, contract, licence or permit taking into consideration the area and duration of the original lease, contract, licence or permit.

(3) Where the area and duration of the original lease, contract, licence or permit does not qualify for a large scale timber utilisation contract but qualifies for the allocation of a small scale timber right, the Commission shall convert the original lease, licence or permit into a small scale timber utilisation contract.

(4) The Commission shall ensure that the terms and conditions referred to in regulation 22 are included in a large- and small-scale timber utilisation contract which is awarded to a timber contractor as a result of a conversion.

(5) Where a timber rights fee has not been paid under the original permit, lease or other type of contract, the conversion process shall include the payment of a one-off timber rights fee.

(6) Where a social responsibility agreement was not in place under the original permit, lease or other type of contract, a social responsibility agreement at a value of five percent of the stumpage fee shall be negotiated by the timber contractor with the affected communities as part of the conversion process.

(7) An application for conversion shall be in conformity with the limitation on the duration and area of the timber rights specified in section 6A of the Act.

Interpretation

78. In these Regulations, unless the context otherwise requires,

"applicant" means a person who applies for

- (a) timber rights,
- (b) other sources of timber,
- (c) chainsaw registration, or
- (d) a legality licence

under these Regulations;

"authorised person" means a person authorised by the Committee under sub regulation (1) of regulation 52;

"Chief Executive" means the Chief Executive of the Commission appointed under section 12 of the Forestry Commission Act, 1999 (Act 571);

"Commission" means the Forestry Commission established under section 1 of the Forestry Commission Act, 1999 (Act 571);

"Committee" means the Timber Validation Committee established under regulation 32;

"contract area" means an area of land in respect of which a timber utilisation contract has been granted;

"District Forest Officer" means the District Forest Manager or an authorised representative of the District Forest Manager;

"domestic market" means the Ghanaian market for the sale and export of timber products;

"Evaluation Committee" means the Timber Rights Evaluation Committee established under section 5 of the Timber Resource Management Act, 1998 (Act 547);

"forest district" means a geographical landscape delineated within a given political region by the Forestry Commission for the purposes of local administration and sustainable management of forest resources within that landscape;

"full cycle harvest rotation" means the number of years specified for one round of management interventions in a unit of a production forest beginning from the time of regeneration to the time of maturity and harvesting;

"harvest" means to fell, cut, convert, collect or otherwise dispose of timber from land or a water body;

"legality licence" means the licence issued for the trade in timber in regulation 38 after compliance with the legality matrix;

"legality licensing" means the process for ascertaining compliance with the legality matrix for the purpose of the issuance of a legality licence;

"legality matrix" means a summary of relevant laws and regulations governing the forest sector and the grid for the compliance for the issuance of a legality licence;

"licence" means a licence granted by the Commission for the purpose of these Regulations;

"licensee" means the holder of a licence granted by the Commission;

"logger" means a harvester of timber;

"official Inspector" means a person appointed by the Commission to audit or conduct, an inspection of the activity of a timber logging company;

"mingling of timber" means to mix legal and illegal timber in a consignment for export or for sale on the domestic market;

"paper-based licence" means a licence granted by the Commission under regulation 48;

"production forest reserve" means an area in a forest reserve where controlled logging activities are permitted;

"professional forester" means a person who holds a university degree in forestry or a technical diploma of a level acceptable to the Ghana Institute of Professional Foresters;

"Regional Forest Officer" means the Regional Forest Manager or an authorised representative of the Regional Forest Manager;

"restricted species permit" means a permit issued under regulation 74 for the regulation of the felling of a species of timber specified in the Eighth Schedule;

"Social Responsibility Agreement Guidelines and Code of Conduct" means the set of documents approved by the Commission outlining the legal basis, procedures and monitoring mechanisms' for ensuring the proper negotiation and implementation of Social Responsibility Agreements;

"special surveillance" means any surveillance other than the normal surveillance activities of the Commission to investigate reported, illegal timber operations within the scope of authority;

"stumpage fee" means the rate used to calculate stumpage fees in accordance with regulation 60 which is determined by the Minister in consultation with the Commission and the Administrator of Stool Lands, having regard to the market demand and the inventory on levels of timber species;

"timber contractor" means a person who holds a timber right in the form of a large- or small-scale timber utilisation contract or other source of timber;

"timber product" means a product which is subject to a timber utilisation contract granted under the Timber Resource Management Act, 1998 (Act 547) or any permit granted under an enactment for the logging or sale of timber of the class descriptions set out in the Second Schedule;

"verification and validation process" includes the processes required to be carried out to ascertain the legality of a timber product of the specifications indicated in the Eighth Schedule and meet the criteria prescribed by the Commission; and

"wood tracking system" includes a chain of processes that relate to the monitoring and reporting system used by the Commission to ensure that a timber product of the class

description specified in the Second Schedule meet the criteria required by the Commission.

Revocations and savings

79. (1) The following Regulations are revoked:

- (a) Timber Resources Management Regulations, 1998 (L.I. 1649);
- (b) Timber Resources Management (Amendment) Regulations, 2003 (L.I.1721); and
- (c) Timber Resources Management (Legality Licensing) Regulations, 2012 (L.I. 2184).

(2) Despite the revocation of the Regulations specified in subregulation (1), any lawful acts done under the revoked Regulations shall continue to have effect until reviewed, cancelled or terminated.