



General Policy Eligibility and Restrictions

NAME OF GENERAL POLICY: Eligibility and Restrictions


APPLICATION: All Crown land sales and tenures.

ISSUANCE: Assistant Deputy Minister
Tenures, Competitiveness and Innovation

IMPLEMENTATION: Ministry of Forests, Lands and Natural Resource
Operations

REFERENCES: *Cremation, Interment and Funeral Services Act* (Ch. 35,
R.S.B.C. 2004)
Land Act (Ch. 245, R.S.B.C, 1996)
Ministry of Lands, Parks and Housing Act (Ch. 307,
R.S.B.C, 1996)

**RELATIONSHIP TO
PREVIOUS GENERAL
POLICY:** This procedure replaces the previous Eligibility and
Restrictions Policy in effect July 24, 2004



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Tenures, Competitiveness and Innovation
Ministry of Forests, Lands and Natural
Resource Operations

MAY 26 2011

Date:

EFFECTIVE DATE: June 1, 2011
AMENDMENT NO:

FILE:

APPROVED AMENDMENTS:		
Effective date	Briefing note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011
February 2, 2015	BN 212293	Removal of section 3.1 to reflect Community and Institutional Use change to allow leases for historic cemeteries.
September 22, 2015	BN 217947	Land Act Reform phase 1 changes

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1. PURPOSE

General eligibility for Crown land application for tenures and sales is established under the *Land Act* or the *Ministry of Lands, Parks and Housing Act*. Specific land use eligibility requirements may be set by policy, see individual land operational policies for details.

The *Land Act* also sets out restrictions for Crown land tenure and sale as per this Procedure.

2. APPLICANT/PURCHASER ELIGIBILITY

2.1 Sales

Crown land sales made through marketing activities under the *Ministry of Lands, Parks and Housing Act*, are open to all individuals and corporations, regardless of citizenship.

Sales made through land use programs under the *Land Act*, either following an individual application or as a result of a planned disposition processes, are subject to the requirements of the *Land Act* as well as the specific eligibility requirements of the relevant land use program. The *Land Act* restricts Crown grants to Canadian citizens and permanent residents over the age of 19. As well, corporations and associations may apply for Crown Grants (see below).

2.2 Tenures

Applicants for new Land Act tenures, tenure assignment, or tenure replacement must be:

- Canadian citizens or permanent residents 19 years of age or older; or,
- corporations which are incorporated or registered in British Columbia. Corporations also include registered partnerships, cooperatives, and non-profit societies which are formed under the relevant Provincial statutes;
- First Nations can apply through Band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a Band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required;
- In the case of aquatic land, non-Canadians can apply for *Land Act* tenure if they own the adjacent upland (companies must still be incorporated or registered in B.C.). This provision applies to applications for commercial as well as private purposes.

Specific land programs can include more restrictive eligibility requirements. Where additional eligibility requirements are set, these will be clearly explained and justified in the relevant land use policy.

2.2.1 Tenure expansions

The applicant is required to be utilizing the original tenure efficiently and effectively, as per the requirements of the relevant land use program and the terms and conditions of the tenure document, in order to apply for an expansion.

2.2.2 Multiple (*Land Act*) Tenure Holders

Where an applicant currently holds or has held any other form of *Land Act* tenure, licence or permit, and where one or more such tenure, licence or permit is not in good standing, the Authorizing Agency has the right to refuse a *Land Act* application, assignment or replacement.

3. RESTRICTIONS ON SALE/TENURE

Undeveloped Provincial Crown land is generally available by sale or tenure, subject to eligibility requirements and the conditions below. However, some types of Crown land are restricted from general disposition.

- Order-in-Council 467/1982 precludes issuance of tenures other than temporary licences for all unsurveyed islands and islets lying south of the 51st parallel and east of the 129th meridian, and all unencumbered and unalienated islands, less than 64.75 ha in size, within the coastal tidal waters lying north of the 51st parallel, without the approval of Cabinet.
- Aquatic Crown land (land below the natural high water mark of lakes, streams and other waterbodies) is restricted from sale, except by Cabinet approval (*Land Act* section 18).
- Crown land suitable for quarrying is also restricted from sale, except by order of the Minister (*Land Act* section 19).
- Waste disposal sites: Dispositions to local government are preferably by SCG, with a restrictive covenant limiting the use to waste disposal purposes.
- Waste collection sites: Lease or licence tenure is preferred

3.1 Crown Land for Cemetery Sites

Crown land for cemeteries is disposed of by Sponsored Crown Grant only. Only applications from public sector agencies, local governments will be accepted.

- Note: For local not for profit, community groups wishing to manage their historic, community, rural cemetery a lease is available for nominal rent. Consumer Protection BC issues Certificates of Public Interest if the cemetery is intended for use.