

## **Key Messages**

### ***Amendments to the Forest Act – April 11, 2019***

- **We are making changes to the Forest Act to give government more oversight of the forest sector.**
- **We want all British Columbians to benefit from the forest industry, large and small, First Nations, workers and communities.**
- **And that's what these changes do - support a vibrant and diverse forest sector by allowing for more opportunities for participation of First Nations and others.**
- **The previous legislation governing the disposition of crown tenures limited government's influence.**
- **Government had little say on the trading and selling of tenure, and therefore how much tenure is held by an individual firm – and that narrowed the horizons of the B.C. forest sector.**
- **Forest companies will now need approval from government before they dispose of or transfer a tenure agreement to another party.**
- **To approve the transfer, we will first want to understand how it will help the people of British Columbia and encourage diversity in B.C.'s forest sector.**
- **We want to restore public trust and we want more say in how forest tenures are transferred between parties.**

## **Forest Act - Questions and Answers – April 2019**

### **What are you announcing today?**

We are making changes to the Forest Act to give government more oversight of the forest sector, support reconciliation with First Nations and improve public trust.

### **Why are the changes necessary?**

Changes will ensure the public interest is considered before tenure transfers by major licensees can proceed.

### **What problem are you trying to fix?**

We're trying to create a more level playing field for all forest sector operators. For example, through the disposition of Crown tenures, major players in the industry have transferred licences between companies (and each other) with little input from government or the public. As a result, they now control the market to the extent that smaller operators - like communities and First Nations, cannot compete.

### **Will giving government more oversight fix that?**

That's our goal. We want more say in how forest tenures are transferred between parties. The proposed changes to the Forest Act will mean forest companies will now require ministerial approval before they transfer a timber licence. To approve the transfer, we will first want to understand how the transfer will help the people of B.C.

### **How is that actually described in the legislation?**

Under the proposed amendments, government will be able to ensure that:

- public interest is considered in the disposition of Forest Act agreements and in changes of control in relation to corporate agreement holders
- dispositions and changes of control do not result in the further concentration within the forestry sector
- government is provided with the tools to increase opportunities for First Nations and others to participate in the forestry sector.

### **How are you defining “public interest”?**

“Public interest” refers to the broad range of interests, in addition to the potential impact of a disposition on the fibre market, that the minister may consider when determining if a disposition must not be approved.

The word ‘public’ is intended to indicate all relevant interests outside of those of the proponents of the licence disposition, which would be the private interests involved. This begins with ensuring that provincial policies and objectives are met, and that an informed consideration of any potential impacts to the rights and title of First Nations has been completed.

The use of the term “public interest” is an assertion by government, supported by the purpose and function of the Ministry under the *Ministry of Forest and Range*, that the allocation of harvesting rights held under agreements issued and transferred through the *Forest Act* must provide a benefit to all British Columbians.

### **What is the difference between a disposition and a change of control?**

A disposition is the transfer of the ownership of a forest licence or agreement through any means. A change in control is when the control of a corporation that is a holder of an agreement changes, such as being purchased outright or a change in who holds the majority of controlling shares, which effectively changes the ownership of the licence agreement.

### **Why didn’t you consult with First Nations?**

Given the sensitive nature of the amendments, no external consultations were undertaken. First Nations will likely benefit from the changes. The new “public

interest” test will ensure that concerns that First Nations and the public may have can be better addressed. Currently, First Nations are only required to be notified of a tenure transfer.

**Why didn't you consult with industry?**

Given the sensitive nature of the amendments, no external consultations were undertaken.

**How will these amendments impact the forest industry? Will this result in more costs/expense to Industry?**

There will be some administrative costs, which are offset by the public interest in ensuring good management of public resources.

**What would have been different if these amendments were in place at the time of the Canfor/West Fraser Houston/Quesnel swap?**

Given the transfers would have increased the concentration levels above the threshold in each of the “fibre distribution zones”, the Minister could have required that part or all of the tenures be transferred to independent third parties.

However, the Minister does not have the authority to require a mill to remain open.

**What exactly will forest companies be required to do now that they didn't have to do before?**

All agreement holders will be required to seek government approval of dispositions; as opposed to providing notice of an intended an intended disposition to government.

All agreement holders intending a disposition or who have experienced a change of control will be required to provide information necessary to assessing whether the transaction is in the public interest and is not detrimental to competition in the marketing of fibre in B.C.

**What kinds of conditions could be imposed on a disposition?**

Conditions could include that a corporation is required to dispose of another agreement to an arm's length person or corporation prior to gaining ownership of a new agreement, or disposing of a portion of an agreement through the use of a subdivision and subsequent transfer. This would be to allow an agreement transfer to occur, but ensuring that the transfer improved or maintained market conditions.

**Will these changes to the Forest Act affect the B.C. forest economy?**

The forest sector is a key component of B.C.'s economy. These amendments will help support a vibrant and diverse forest sector by allowing more opportunities for participation of First Nations and others and by preventing the further concentration of harvesting rights by a few major industrial players.

**How do the proposed amendments address the concerns of Indigenous nations in B.C.?**

Preventing corporations that already hold a significant proportion of harvesting rights from obtaining more will enable new opportunities for First Nations and other smaller industry players to obtain agreements.

Also, by requiring statutory decisions respecting dispositions and changes of control, there will be more opportunity for First Nation engagement.

More tools include the Minister's approval must be received before the tenure can be transferred and the Minister must consider if the transfer would be in the interests of the people of B.C.

**How do these changes impact community forest agreements, woodlots, or First Nations Woodland Licences?**

The requirements for the transfer of these licences have not changed, other than situations where the transfer occurs to an affiliated corporation and a notice to government must be issued.

The market tests continue to apply only to Pulpwood Agreements, Forest Licences, and Tree Farm Licences.

**Information requirements**

**It sounds like you'll be asking for more information from forest companies. Is that accurate?**

Government policies should be rooted through evidence-based analysis. The absence of good information on BC forest industry processing costs and returns hampers the government in assessing policy changes, industry competitiveness, and industry concerns about overly costly regulation.

**How will more information about what forest companies are doing or planning to do help government?**

The forest sector in British Columbia is experiencing noteworthy changes as it contends with timber supply declines, softwood lumber litigation, evolving market conditions and additional demands for fibre from new industries and new products. The information is required to support the market pricing of Crown timber and economic analysis to develop and monitor forest policies.

**How will these changes give the public more confidence in how B.C.'s forests are managed?**

A transfer can only occur when the transaction is in the public interest and is not detrimental to competition in the marketing of fibre in B.C. The changes will

prevent corporations that already hold a significant proportion of harvesting rights from obtaining more control over harvesting in B.C. and will provide new opportunities for smaller industry plays and First Nations.

**When will the amendments come into force?**

If the bill receives Royal Assent, the changes take effect 4:00 p.m. the day before first reading. Any proposed tenure transfers or changes of control received DATE will be considered under the new provisions. Any disposition or changes of control that occur before that day will fall under the existing *Forest Act* provisions.