

**LANDOWNERS' ADVOCACY AND LEGAL SUPPORT UNIT
(LALSU)**

Public Solicitor's Office



Solomon Islands Government

**The Timber Rights Acquisition Process
for Landowners**



WHO OWNS THE TREES?

The trees on customary land are owned by the customary landowners.

WHAT IS TIMBER?

When trees are cut down, the wood is called timber.

WHAT IS LOGGING?

Logging is when somebody cuts down a tree, or takes timber away from any land, for the purpose of selling it.

Logging is illegal in the Solomon Islands unless you have a **Logging Licence** from the Commissioner of Forest Resources under the Forestry and Timber Rights Utilisation Act.

Logging is also illegal in the Solomon Islands if the logging company has not done an Environmental Impact Assessment, and obtained a development consent from the Ministry of Environment.

WHO IS A LICENSEE?

The Licensee is the person who has the Logging Licence. The Licensee could be anyone, but it is usually someone from the Solomon Islands.

WHAT ARE TIMBER RIGHTS?

Timber rights are the rights to log trees, and to do other activities on land related to logging.

WHAT IS THE TIMBER RIGHTS ACQUISITION PROCESS?

If someone wants to log trees on customary land, they must go through the timber rights acquisition process under the Forestry and Timber Rights Utilisation Act. This means they must negotiate with the landowners, and make a **Standard Logging Agreement** with the landowners.

The Applicant in the timber rights acquisition process will be the same person as the Licensee. Nobody can get a Logging Licence unless they already have a Standard Logging Agreement.

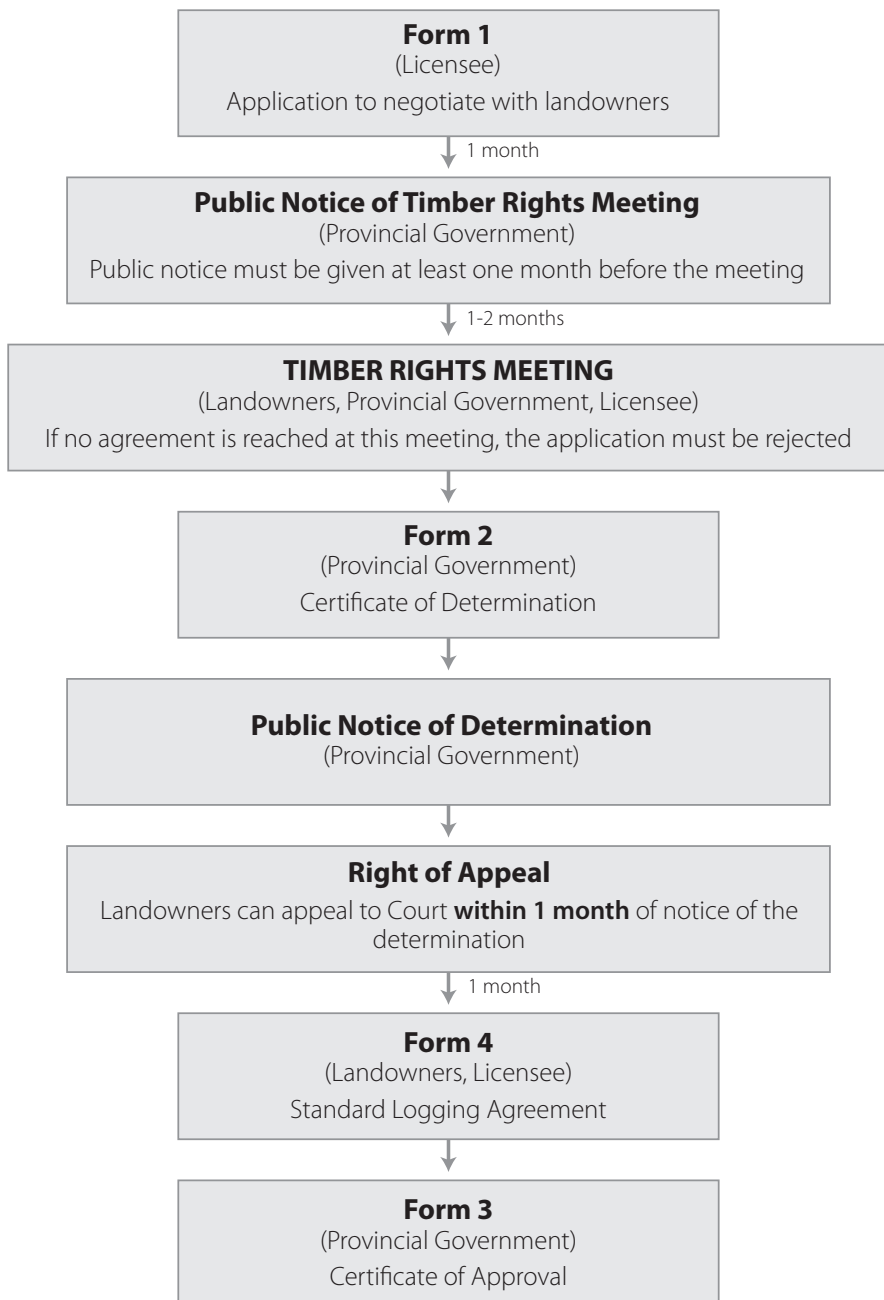
WHAT IS A LOGGING COMPANY?

A Logging Company is the company that actually logs the trees on customary land.

The Logging Company could be anyone, but it is usually a foreign-owned company.

The Licensee often makes an agreement with the Logging Company called a **Technology and Management Agreement**. This means that the Logging Company works for the Licensee.

TIMBER RIGHTS ACQUISITION PROCESS



THE TIMBER RIGHTS ACQUISITION PROCESS

Form 1 Application

The Applicant (Licensee) has to apply to the Commissioner of Forests for consent to negotiate with the Provincial Government and the customary landowners. This is the Form 1 Application.

Public Notice of Timber Rights Meeting

The Provincial Government must set a date for a Timber Rights Meeting within one month of receiving the Form 1 Application from the Applicant (Licensee).

The Provincial Government must give public notice of the Timber Rights Meeting at least one month before the Timber Rights Meeting.

The Timber Rights Meeting is the only formal opportunity for the customary landowners to be consulted, so it is very important that public notice is given properly. Notice should be given effectively, so that all affected landowners are aware of the Timber Rights Meeting.

Timber Rights Meeting

The Provincial Government must hold a Timber Rights Meeting within three months of receiving the Form 1 Application (but no earlier than two months after). It should include the following people:

- Provincial Government member
- the Applicant (ie the Licensee)
- the customary landowners
- any other community members who wish to object
- a provincial government forestry officer

At the meeting, the following issues must be discussed:

- Whether the landowners wish to negotiate with the Applicant (Licensee) in the first place
- Whether the people who say they can allow logging on the land are legally allowed to represent the landowners
- The types of timber rights the Applicant (Licensee) will be given
- What share of the profits the landowners will receive
- The role of the Provincial Government in the logging operation

Any agreement reached at the Timber Rights Meeting **must be written down** and given to the Commissioner of Forest Resources. As landowners, you should ask for a copy of that agreement.

The agreement must include details of how the profit will be shared, and how much involvement the Provincial Government is going to have in the logging operation.

Form 2 Certificate of Determination

After the meeting, the Provincial Government must make a determination and issue a **Form 2 Certificate** about what was agreed at the Timber Rights Meeting.

The Form 2 Certificate will contain the names of the people who are legally allowed to represent the landowners. It must also attach a good quality map with the area to be logged clearly marked.

What if no agreement is reached at the Timber Rights Meeting?

If no agreement has been reached at the Timber Rights Meeting, then the Provincial Government **must** recommend to the Commissioner of Forest Resources that the application be rejected, and the application **must** be rejected.

Therefore, it is very important to write down what agreement, if any, is reached at the Timber Rights Meeting.

Public Notice

The Provincial Government must give public notice of its determination with the outcomes of the Timber Rights Meeting. The notice should inform people that there is a right to appeal to the Customary Land Appeals Court and, if possible, include a map of the land to be logged. It is very important that public notice is given effectively, because you may wish to appeal the determination of the Provincial Government.

Right of Appeal

If you are not happy with the determination of the Provincial Government, you can appeal to the Court **within one month** of the date of the public notice of the determination.

Form 4 Standard Logging Agreement

If there is no appeal, or the Licensee wins any appeal, the Licensee must make a **Form 4 Standard Logging Agreement** with the landowners and pay a stamp duty. The Form 4 Agreement must specify how the profits are to be shared, and how the Provincial Government is to be involved in the logging operation.

The Form 4 Standard Logging Agreement must be signed by the landowners identified in Form 2.

Form 3 Certificate Approval

If the Commissioner approves the Form 4 Standard Logging Agreement, he will recommend that the Provincial Government issue a Form 3 Certificate Approval.

The Provincial Government can only issue a Form 3 Certificate Approval if it has checked that the Form 4 Standard Logging Agreement has been signed by everyone named in the Form 2 Certificate.

Logging Licence

Once the Applicant has gone through the proper process described above, they can apply for a Logging Licence from the Commissioner of Forest Resources.

Environmental Assessment

The Applicant also needs to obtain a development consent from the Ministry of Environment before they can do any logging in the Solomon Islands.

Technology and Management Agreement

Often, the Licensee will make a Technology and Management Agreement with a Logging Company. This means the Logging Company works for the Licensee.

The Logging Company logs the trees and sells the timber for the Licensee.

QUESTIONS FOR LANDOWNERS...

- Are the people who say they represent the landowners really allowed to speak on your behalf?
- Were you given proper notice of the Timber Rights Meeting before it happened?
- Did the proper representatives of the landowners attend the Timber Rights Meeting?
- Was an agreement reached at the Timber Rights Meeting on all the issues?
- Were you given proper notice of the Provincial Government's determination?
- Is the Form 4 agreement signed by the landowners named in Form 2?
- Has the logging company obtained a development consent from the Ministry of Environment?

If the answer to any of these questions is "NO " you should seek legal advice.

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Photo by Rob Jones