

Subject Disposition of Crown Land to a Ministry Employee		Policy PL 4.11.06	
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued April 10, 2003	
Replaces Directive Title Same	Number PL 4.13.01	Dated February 21, 2000	Page 1 of 5

1.0 DEFINITIONS

In this policy,

"employee" means any person employed by the Government of Ontario in the Ministry of Natural Resources, whether on classified staff, probationary staff, unclassified staff, term staff, and any person holding an office in the Ministry;

"non-private use" means a use which is not a private use and includes commercial or industrial use (e.g. a commercial use is a non-private use);

"right, title or interest in public land" means the acquisition of a freehold estate, a leasehold estate or an easement but does not include interests less than estates (i.e., licenses of occupation or land use permits);

"spouse" means as defined in the Family Law Act.

2.0 INTRODUCTION

Section 39 of the Public Lands Act states:

(1) "No person holding an office in or under the Ministry and no person employed in or under the Ministry shall, directly or indirectly, purchase any right, title or interest in any public lands either in the person's own name or by the interposition of any other person or in the name of any other person in trust for the person without the approval of the Lieutenant Governor in Council."

(2) "Subsection (1) does not apply when a purchase is made of a right, title or interest in public lands for private use at a public auction or when the purchase is made for private use and the purchaser is selected by public draw.

With certain exceptions that are identified in section 3.5, approval of the Lieutenant Governor in Council is required, by Order in Council, when an employee seeks purchase a right, title or interest in public land.

3.0 PROGRAM DIRECTION

3.1 Application

This policy applies provincially to the disposition of a right, title or interest in public land that is under the jurisdiction of the Ministry of Natural Resources. In respect of the purchase of surplus acquired property, the Ontario Realty Corporation should be

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consulted for any restrictions on the purchase of surplus real property by government employees.

3.2 Guiding Principle

Special rules apply with respect to the purchase of a right, title or interest in public lands by an MNR employee.

3.3 Goal

To ensure that section 39 of the Public Lands Act is fully complied with when MNR employees seek a right, title or interest in public lands.

3.4 Policy Objectives and Strategies

- A) To identify Order in Council requirements and special rules that apply where an MNR employee is seeking to obtain a right, title or interest in public lands.

Order in Council requirements are imposed to ensure that MNR employees seeking to purchase a right, title or interest in public lands do not receive any preferential treatment, or benefit from special knowledge, by virtue of their employment or office in MNR.

Table A of this policy identifies Order in Council requirements and/or special rules that apply when the disposition of a right, title or interest in public land is being made to an MNR employee, unless the exceptions contained in section 3.5 (Exceptions) apply. The approval of the Lieutenant Governor in Council should not be assumed.

- B) To ensure that the approval of the Lieutenant Governor in Council is obtained before tenure for a right, title or interest in public lands is issued.

Except as provided in section 3.5 (Exceptions), the Area Supervisor is responsible to ensure that a requisition for a tenure document to convey a right, title or interest in public land is not submitted to the Crown Land Registry, without the approval from the Lieutenant Governor in Council for the employee to obtain the land.

See Procedure Directive PL 4.01.01 entitled "Obtaining Orders in Council" for details on obtaining an Order in Council under section 39 of the Public Lands Act.

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3.5 Exceptions

This policy does not apply if:

- a) An employee obtains a right, title or interest in public lands by will or inheritance. In this case there is no "purchase" of the right, title or interest, the employee is simply owning the right, title or interest of the deceased previous owner.
- b) The spouse of the employee, who is also not an employee, makes an application to purchase a right, title or interest in public land. In this case the following paragraph **must** be added to the application:

"I make this application on my own behalf. I am neither interposing for an employee (or officer) of the Ministry of Natural Resources, nor intend to hold the subject lands in trust for an employee (or officer) of the Ministry."
- c) An employee acquires a right, title or interest in public lands, when the public lands are disposed of for private use, by public auction or public draw. This acknowledges that the employee would not have any undue advantages in these types of dispositions.

4.0 CONFLICT OF INTEREST

Before seeking the approval of the Lieutenant Governor in Council, the applying employee should be reminded of Conflict of Interest Guidelines. The responsibility to disclose of a potential conflict of interest rests with the employee. For more information, consult the Ministry's Conflict of Interest and Post-Service Directive.

5.0 REFERENCES

5.1 Statutory References

- Public Lands Act, Section 39

5.2 Directive Cross References

- Conflict of Interest and Post-Service Directive
- PL 4.01.01 (PRO) Obtaining Orders in Council
- PL 4.02.01 (P&P) Application, Review and Land Disposition Process

TABLE A
Order in Council requirements and/or Special Rules

Acquisition Method	Order in Council Requirements/Special Restrictions or Rules
Assignment from another party	An Order in Council is required prior to consenting to the assignment of a sale, Crown lease or summer resort lease from one party to a Ministry employee.
First Come-First Served	<p>1. Where public lands are being disposed of on a first-come, first-served basis, without first having been offered to the public by tender, auction or draw, an employee's application shall not be accepted until one year has passed from the first date on which the lands were advertised as being available to the public. There must be ample evidence that the lands have been sufficiently advertised to the public. Approval of the Lieutenant Governor in Council must be obtained before the employee's application can be processed.</p> <p>NOTE: – Crown shoreline reserves, road allowances and title enlargements are not First Come - First Served dispositions. (See Restricted Offering).</p>
	<p>2. Following a public auction, draw or tender, where an undisposed lot remains, an employee may apply for the lot after a minimum waiting period of 60 days. During the 60-day period the lot must have been available to the public on a first come, first served basis. The application shall not be processed until the approval of the Lieutenant Governor in Council is obtained.</p>
MNR Advertisement	Where Crown land has also been offered through MNR Advertisement, and not on a first come, first serve basis (see PL 4.02.01 Sec. 4.1.6), no offers are accepted for 30 days, and all offers are irrevocable for 45 days from the date of offer. While this process is open and competitive, it is not at total "Arm's Length". As a result Offers to Purchase will not be accepted from a MNR employee until after an initial advertising of a minimum of 60 days. Any acceptance of an Offer to Purchase from a MNR employee must be conditional on being able to obtain an Order In Council. Only the deposit that accompanies the Offer to Purchase is required at the time of the request for the OIC being submitted. Once a request for OIC is being requested, the land should no longer be considered as available for disposition.
Public Auction for <u>Non-private Uses</u>	An Order in Council is required when disposing of a right, title or interest in public land to an MNR employee, for <u>non-private uses</u> .

Acquisition Method	Order in Council Requirements/Special Restrictions or Rules
Public Draw for <u>Non-private Uses</u>	An Order in Council is required when disposing of a right, title or interest in public land to an MNR employee, for <u>non-private uses</u> .
Public Tender	An Order in Council is required when disposing of a right, title or interest in public land to an MNR employee.
Realty Listing	<p>As a form of alternate service delivery, public lands are made available through the services of a private real estate broker. Under the listing agreement, no offer from any purchaser is to be accepted for a period of 30 days after the commencement of formal advertising. This process is considered to be open and competitive. The Ministry employee would not enjoy any benefit as a result of the position. As a result a Ministry employee can make an offer to purchase Crown land through the real estate broker, but that offer shall not be accepted until after the 30 day initial advertising period, and only if, at the expiration of that time, it is the highest offer.</p> <p>If and when accepted the acceptance must be conditional on the approval of the Lieutenant Governor in Council (by Order in Council) being obtained. Only the deposit required in accordance with Policy and Procedure Directives PL 4.02.01 need be collected with the application. The balance of the purchase price owing, plus GST, on the total purchase price/lease rent must be collected following the approval of the Lieutenant Governor in Council.</p>
Restricted Offering (i.e. shorelines reserves, road allowances, waterlot to riparian owner, title enlargement - leasehold to freehold)	There is no requirement to make the lands available to the public. However, the approval of the Lieutenant Governor in Council is required before the application is processed.
Upgrade of Tenure	Where an employee or officer has existing tenure to Crown land obtained without the authorization of an Order In Council (i.e. land use permit, license of occupation, or by inheritance, by auction or draw) and subsequently makes application to increase tenure to sale, lease or easement, the approval of the Lieutenant Governor in Council is required before the application is processed. There is no requirement to make the lands available to the public.

Note: Where the acceptance of an employee's application is conditional on approval from the Lieutenant Governor in Council, and that application will be accepted if the approval is granted, further applications for the same Crown land will not be considered.