

Subject FORFEITURE ACQUISITIONS		Policy PL 7.01.02	
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued May 7, 2004	
Replaces Directive Title Same	Number Same	Dated October 17, 2003	Page 1 of 4

1.0 DEFINITIONS

In this policy,

“land” means land as defined in section 1 of the Provincial Land Tax Act;

“MNDM means the Ministry of Northern Development and Mines;

“MNR” means the Ministry of Natural Resources;

“MOF” means the Ministry of Finance;

“unorganized territory” means territory not in a municipally incorporated area (also known as “unincorporated territory”).

2.0 INTRODUCTION

The Crown as represented by the Minister of Natural Resources acquires land as a result of forfeiture for the non-payment of the following taxes:

- Local Roads Board Tax
- Mining Land Tax
- Provincial Land Tax

Note: The Crown is not responsible for the payment of taxes that were owing at the time of forfeiture.

MNR may acquire, by transfer, lands forfeited under the Business Corporations Act upon the cancellation of the corporation’s charter. Application for such lands is made to the Office of the Public Guardian and Trustee. Where mining lands as defined under the Mining Act are forfeited under the Business Corporations Act the surface and mining rights are escheat to the Crown (per Section 2 , Escheats Act, R.S.O. 1990) and may be disposed of under the Public Lands Act and the Mining Act. Any improvements on such lands are to be disposed of as per Section 53 of the Mining Act.

2.1 **Local Roads Board Taxes**

Pursuant to section 35(3) of the Local Roads Board Act (LRBA), the secretary-treasurer of a local roads board may submit a certificate to the Minister of Natural Resources certifying that the taxes on the subject property(s) are in arrears as per the Act. Upon receipt of the certificate the Minister/his or her delegate may declare the lands forfeit to the Crown. Refer to Procedure PL 7.01.02 - Land Tax Forfeitures for direction regarding the processing of certificates received under the Local Roads Board Act.

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2.2 Mining Land Tax

Under section 189(1) of the Mining Act, certain lands are subject to the payment of Mining Land Tax. Non-payment of the Mining Land Tax may result in forfeiture under the Mining Act. This Act is administered by the Ministry of Northern Development and Mines. Where surface rights are subject to the payment of municipal taxes or Provincial Land Tax, only the mining rights are subject to forfeiture.

Refer to Procedure PL 4.11.05 - Disposition of Forfeited Lands (including regrants and cancellations) for direction regarding the management of lands forfeited under the Mining Act.

The *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the land forfeited upon registration of a certificate of forfeiture in the land registry office (authority subsection 197(6), MA.).

2.3 Provincial Land Tax

The Provincial Land Tax Act (PLTA) was first proclaimed into law in 1924. The Act was originally created to ensure that all property on a fair assessment should bear its proportionate share of taxation.

The Act was formerly administered by the Department of Lands and Forests, later the Ministry of Natural Resources. Since 1978 the MOF has been entirely responsible for the administration of the Provincial Land Tax Act. This includes the following: property assessment, the collection of tax; the forfeiture decision; and, the decision to revoke forfeitures made in error. The MNR is responsible for screening properties that are liable to forfeiture as to whether the Crown is willing to accept said properties, and the disposition and management of forfeited lands.

Under section 3 of the PLTA, Provincial Land Tax is assessed on all patented land in unorganized territory in the province, subject to certain exemptions (e.g. land owned by the province). The Act provides that upon non-payment of the tax for a specified period, the lands can be forfeit to the Crown. Upon forfeiture the lands are vested in the Crown and may be disposed of under the Public Lands Act and the Mining Act.

It was not until 1936 that the first forfeitures were registered under Act. In the early years of this process the Act did not direct that the forfeited parcel be closed. The result has been that many parcels remain open to this day, in the name of His/Her Majesty in right of Ontario or similar wording. Upon discovery, such parcels should be closed as per the process described in section 3.2 of Procedure 7.02.01 - Forfeiture Acquisitions. Since 1963 this is no longer an issue. The *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the land forfeited upon registration of a certificate of forfeiture in the land registry office (authority subsection 33(8), PLTA.) and the parcel is closed.

Section 43 of the Public Lands Act provides for the regranting of forfeited lands. Refer to PL 4.11.05 - Disposition of Forfeited Lands (including Regrants and Cancellations).

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3.0 PROGRAM DIRECTION

3.1 Application

This policy applies to all lands subject to taxation under the Local Roads Board Act, Mining Act, and Provincial Land Tax Act and the forfeiture provisions of said Acts.

3.2 Guiding Principle

As a Ministry of the Ontario government the MNR will represent the public interest in the screening of properties liable to forfeiture, and the management of forfeited lands. MNDM shares this responsibility with regard to mining lands.

3.3 Goal

To ensure that land forfeited to the Crown result in enhancements to the public land base, with no environmental, legal or administrative liabilities to the Crown.

3.4 Objectives and Strategies

A) To ensure appropriate MNR input into the forfeiture process.

From time to time MNR's input into the land forfeiture process will be triggered by the following mechanisms:

- under the Local Roads Board Act by a Certificate of Unpaid Taxes/Penalties/Costs submitted to MNR with a request for a Forfeiture Declaration
- under the Mining Act by receipt of copies of the "advertised list" [see also MNDM Policy Directive "Forfeiture For Non Payment Of Taxes: Patents Policy": LP 402-2 (http://www.mndm.gov.on.ca/MNDM/MINES/LANDS/policies/default_e.asp)]; and
- under the Provincial Land Tax Act, by circulation of listings of caution properties provided to MNR by MOF;

MNR's input into the forfeiture process will include a thorough consideration by Area Teams, including site inspections where appropriate to determine the compatibility of the property(s) with MNR program objectives (e.g. non-tax revenue, forest management), and an assessment of potential liabilities (e.g. mine hazards, fuel tanks and the presence of contaminants).

B) To ensure lands forfeited under the Provincial Land Tax Act, Local Roads Board Act and the Mining Act are added to the managed land base.

Lands forfeited under following taxes may be managed as any other public lands:

- Local Roads Board Tax (authority - subsection 35(3), Local Roads Board Act)
- Mining Lands Tax (authority - subsection 197(3), Mining Act)
- Provincial Land Tax (authority - subsection 33(4), Provincial Land Tax Act)

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B) To ensure lands forfeited under the Provincial Land Tax Act, Local Roads Board Act and the Mining Act are added to the managed land base. (Cont'd)

Where forfeiture occurs, Area Supervisor's are responsible to ensure that control maps and resource inventories are updated. Any unauthorized occupation of forfeited land will be remedied as per PL 3.03.02 - Unauthorized Occupations - Control and Removal

4.0 REFERENCES

4.1 Statutory References

- Local Roads Board Act, RSO, 1990, subsection 35(3)
- Mining Act, RSO, 1990, subsection 189(1), 197(3) and (6)
- Provincial Land Tax Act, RSO, 1990, sections 3, 33(4) and (8)
- Public Lands Act, section 43, RSO, 1990.

4.2 Directive Cross References

- PL 3.02.02 (POL & PRO) Unauthorized Occupations - Control and Removal
- PL 4.11.05 (PRO) Disposition of Forfeited Lands (including Re-grants and Cancellations)
- PL 7.01.02 (PRO) Forfeiture Acquisitions