



Department  
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Development



## A GUIDE TO THE PROCEDURES FOR ACCESSING SMALL-SCALE TIMBER RIGHTS (TIMBER UTILIZATION CONTRACTS) IN GHANA



*Compiled By:*

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*In Collaboration With*

**THE TIMBER RIGHTS ADMINISTRATION UNIT (FORESTRY COMMISSION, GHANA)**

*&*

*Client Earth, Ghana*

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## ***List of Acronyms***

FC	Forestry Commission
FGMC	Forest Governance Markets and Climate
GhLAS	Ghana Legality Assurance System
KWC	Kumasi Wood Cluster
LI	Legal Instrument
MLNR	Ministry of Lands and Natural Resources
NDF	Nature and Development Foundation
SRA	Social Responsibility Agreement
SSNIT	Social Security National Insurance Trust
TRAU	Timber Rights Administration Unit
TREC	Timber Rights Evaluation Committee
TRMLLR	Timber Resources Management and Legality Licensing Regulation
TUC	Timber Utilization Contract
VAT	Value Added Tax

## ***Acknowledgements***

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## ***Introduction & Background***

The trend of domestic timber supply has evolved over the years. In 2017, reported 15% of lumber on the domestic market were sourced from sawmills. In 2020, the proportion from sawmills had increased to 50%. The demand for timber on the domestic market is also increasing, currently estimated at 720,406 cubic meters. Thus, a significant increase in consumption of sawmill timber on the domestic market. There are two categories of timber suppliers to the domestic market. They are large scale and small-scale suppliers. The small-suppliers use mobile milling equipment and have a workforce of up to 50 employees.

Currently, timber supply is provided under Timber Utilization Contracts (TUC) regulated by the Timber Resource Management and Legality Licensing Regulations 2017 (LI 2254). Hitherto, small scale operators sourced their timber mainly in outside forest reserve areas using salvage permits, special permits, third party arrangements with TUC holders. Of these, it is only the salvage permit that is acceptable under the LI 2254. Large scale and small-scale suppliers' access to commercial timber is provided by means of TUCs which are granted through a competitive bidding process. However, small-scale suppliers lack the financial and logistical capacity to compete for contracts as against their large-scale counterparts. To address this unfair situation, forest based Civil Society Organizations in Ghana lobbied for a legal provision of small-scale TUCs covering forests that

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<sup>1</sup> Marfo et al, 2017

<sup>2</sup> Obeng et al, 2020

<sup>3</sup> Zormelo, 2019 (unpublished)

do not qualify for a conventional TUC to be allocated to small-scale millers to ensure their easy access to raw materials. The LI 2254 sets out provisions for qualification, submission of application and selection of offers for small scale timber rights. It also provides for terms and conditions of the contract.

To date, the procedures for accessing Small-Scale Timber Rights in a form of Timber Utilization Contracts (TUCs) are included in the Timber Resource Management and Legality Licensing Regulations 2017 (LI 2254). However, the law is written in a language that may be technical and not easy to be followed by many small-scale millers to understand and apply. Hence the need to write the procedure in a simplified and reader-friendly manner for use by potential small-scale millers.

This procedure has been developed as part of a set activities under the Forest Governance Markets and Climate (FGMC). The project is being implemented by Nature Development Foundation (NDF) in partnership with Kumasi Wood Cluster Association (KWC) and two Liberian partners. The procedures have been developed by KWC in close consultation with the Timber Rights Administration Unit (TRAU) of the Forestry Commission of Ghana and Client Earth, Ghana.

### ***Arrangement of the Guide***

- The components of the procedures for the award of small-scale timber rights is shown in a glance in Figure 1.
- The sections of the law describing the components of the procedure are shown in info boxes
- Explanation Notes to the Guide

### ***ADMINISTRATIVE DOCUMENTS TO KEEP***

To qualify for a small-scale TUC, the documents listed below are the key administrative documents that must be presented:

1. Company Registration;
2. Receipt of full payment of any forest levies;
3. Income tax, VAT and SSNIT clearance certificates;
4. Proof of timber rights and other logging permits previously held by the applicant;
5. List of staff showing qualifications and competence of the timber operations staff of the applicant;
6. Proof of membership of a recognised Timber Trade Association;
7. Copy of labour certificate;
8. Proof of financial capability;
9. Proposal of a Social Responsibility Agreement (SRA) with local communities;
10. Proposal for the payment of a one-off timber rights fee based on the tree stocking of the area.



# Components of Small-Scale timber rights – Application Process

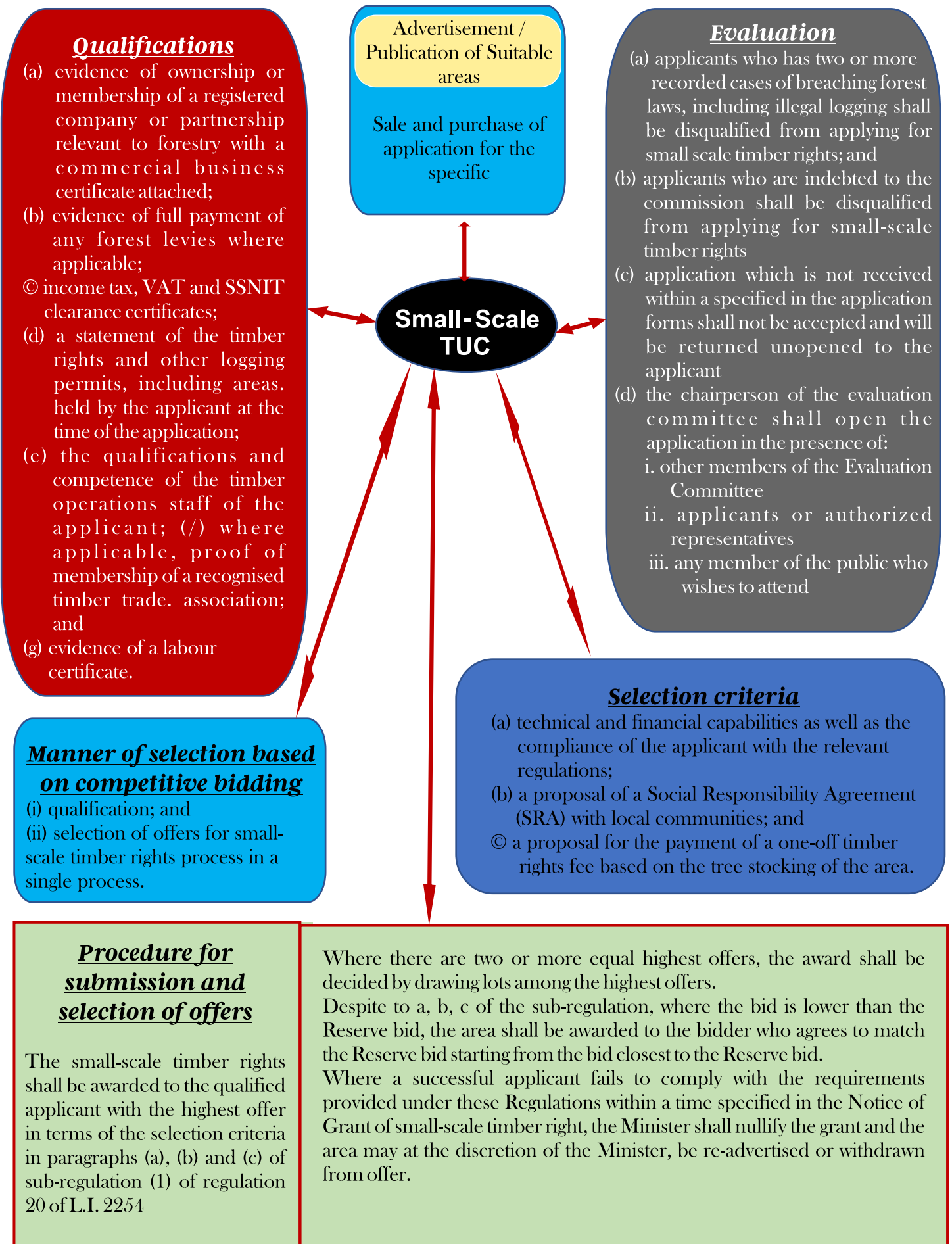


Figure 1: Small Scale TUC Procedures at a glance

# ELABORATION OF THE APPLICATION PROCESS

## **Info Box 1: Identification of areas suitable for small-scale TUC allocation Section 10 of TRMLLR, 2017 (L.I. 2254 )**

**Identification of areas suitable for Small-Scale TUCs are based on inventory of forest resources in two ways as well as their subsequent recommendations by the Chief Executive of the Forestry Commission (FC) for the grant of the Small-Scale TUCs.**

a) Forest Reserves/ Public Land: Areas within production forest reserves or on public land which do not qualify for a full cycle harvest rotation because the timber on those lands are insufficient for long term viable timber operations. They must however be due for harvesting according to the harvesting schedule.

In this case, the Chief Executive of the FC may recommend that;

- The specified time needed for harvesting timber in a small-scale TUC shall not exceed two years;
- The area identified for a small-scale TUC within forest reserves shall not exceed six (6) km<sup>2</sup> or cover more than five compartments; and
- A production forest reserve shall not be fragmented for the purpose of granting small-scale timber rights;

b) Off-reserves: Areas within an off-reserve where the tree stocking per unit area is very low and will not qualify for a large-scale TUC. In this case, the Chief Executive of the FC may recommend that;

- the specified time needed for harvesting timber in small-scale TUC shall not exceed two years;
- the area identified for a small-scale timber right within off forest reserves shall not exceed six (6) km<sup>2</sup>; and

In addition, the consent of rights holders of the land is required before a TUC can be granted.

## **Info Box 2: Manner of Selection and Allocation-Section 18 of TRMLLR, 2017 ( L.I. 2254 )**

*'An applicant who seeks the grant of a small-scale timber right shall submit with the offer of that applicant information which proves the qualification of that applicant.'*

The allocation of small-scale timber rights

- Shall be based on a competitive bidding procedure through;
  - qualification; and
  - a single process for selection of offers.

## **Info Box 3: Qualification Requirements - Section 19 of TRMLLR, 2017 (LI. 2254**

**Application for the grant of a small-scale TUC with evidence of the following attached:**

1. Certificate of ownership or membership of a registered company or partnership relevant to forestry.
2. Full payment of any applicable forest levies.
3. Clearance certificates for the following:
  - Income tax
  - Value Added Tax (VAT)
  - Social Security and National Insurance Trust (SSNIT)
4. A statement of the timber rights and other logging permits, including areas held by the applicant at the time of the application;
5. The qualifications and competence of the timber operations staff of the applicant; where applicable,
6. Membership of a recognized timber trade association; and
7. A labour Certificate.

**Info Box 4: Evaluation - Section 19 of TRMLLR, 2017 (L.I. 2254)**

Upon submission of the information above (Info Box 3), an evaluation is conducted by the Timber Rights Evaluation Committee (TREC). Applicants shall be disqualified from applying for small-scale timber rights if they fall in the following groups;

- o Those who have two or more recorded cases of breaching forest laws, including illegal logging; and
- o Applicants who are indebted to the Forestry Commission (FC).

**Info Box 5: Selection Criteria - Section 20 of TRMLLR, 2017 (LI 2254)**

"The winner of the small-scale timber right shall give an undertaking to assist communities and inhabitants of the communities whose land area encompasses the forest from which the timber is to be harvested, with amenities, services or benefits, and the cost of the agreed amenities, services, or benefits shall be five percent (5%) of the value of stumpage fee from the timber that is harvested'.

***A small-scale timber right shall be awarded to an applicant who satisfies the following criteria:***

1. possession of requisite technical and financial capabilities as well as compliance of the applicant with the relevant regulations,
2. a proposal of a Social Responsibility Agreement (SRA) with local communities. SRA is undertaken to assist communities and their inhabitants with amenities, services or benefits whose cost shall be 5% of the value of stumpage fee from the timber that will be harvested; and
3. a proposal for the payment of a one-off timber rights fee based on the tree stocking of the area

**Info Box 6: Procedure for Submission and Selection of Offers for Small-Scale Timber Rights—Section 21 of TRMLLR, 2017 (LI 2254)**

Once the Evaluation Committee considers that it is appropriate to grant small-scale timber rights in an identified area, they shall cause to be published advertisements for applicants to apply for the grant of small-scale timber rights in respect of the areas specified in the advertisement as follows;

- on the website of the FC, and
- in at least two (2) daily newspapers with national circulation.

As part of the advertisement, the Chief Executive of the FC shall ensure that specific and relevant information based on the timber inventory for each area proposed for grant of small-scale timber rights

are provided as follows:

- a timber harvest schedule for the area;
- the amount of Performance Bond to be posted by the person to whom small scale timber rights to the area may be granted;
- the amount of timber rights fee due for the grant of a small -scale timber right;
- any management requirements and restrictions specific to the contract;
- the time and place at which the offers will be opened; and
- any other information relevant to the grant and exercise of the small-scale timber rights

### ***Explanation/ Clarification Notes to the Guide***

1. An applicant who qualifies for the grant of a small scale timber right may submit an offer for a small-scale timber right, but the addition of that area to the total area under timber rights held by that applicant must not exceed the upper limit for the scale of operations of that applicant as provided for under section 6A of the Timber Resource Management (Amendment) Act, 2002 (Act, 617).
2. An applicant who wishes to submit an offer for small-scale timber rights for an area, must purchase an application form specified in the First Schedule to prove the qualification of the applicant.
3. The form referred to in sub-regulation (4) of the TRMLLR, 2017 - LI. 2254 shall provide instructions necessary for submitting an offer.
4. An applicant shall pay a non-refundable fee to be determined by the Forestry Commission.
5. Each applicant shall deliver the offer of that applicant in a sealed envelope at the time and place and in accordance with instructions set out in the application forms.
6. The cover of the envelope shall be clearly marked "OFFER"
7. The Evaluation Committee shall convene at the time and place specified in the advertisement and the secretary to the Evaluation Committee shall record each application received by the Committee.
8. The Evaluation Committee shall not accept any application that is not received within the period specified in the advertisement and shall return the application unopened to the applicant.
9. The chairperson of the Evaluation Committee shall open the application in the presence of;
  - (a) the other members of the Evaluation Committee;
  - (b) the applicant or the authorised representative of the applicant; and
  - (c) any member of the public who wishes to attend.
10. The small-scale timber rights shall be awarded to the qualified applicant with the highest offer in terms of the selection criteria in paragraphs (a), (b) and (c) of sub-regulation (1) of regulation 20.
11. Where there are two or more equal highest offers, the award shall be decided by drawing lots among the highest offers.
12. The secretary of the Evaluation Committee shall prepare minutes of the proceedings that shall include;
  - (a) a summary of the applications received, indicating the name of each applicant;
  - (b) the proposal for social responsibility agreements; and (c) the recommendation of the highest offer to the Commission for the grant of small-scale timber rights.
13. The Minister may, on the basis of the recommendation made by the Commission, issue a Notice of Grant of small-scale timber right.
14. The Notice of Grant shall specify activities to be completed by the winner to the satisfaction of the Chief Executive before the right is granted.
15. The activities referred to in sub-regulation (16) the TRMLLR, 2017 - LI. 2254 include
  - (a) the posting of a Performance Bond as provided for under sub-regulation (2)(b) of this regulation;
  - (b) the conclusion of a Social Responsibility Agreement with local communities;
  - (c) the completion of the planning activities specified in the relevant Manual of Procedures; and
  - (d) the payment of the one-off timber rights fee of the contract.
16. The successful applicant shall give an undertaking to assist communities and inhabitants of the timber utilisation areas with amenities, services or benefits, and the cost of the agreed amenities, services, or benefits proposed by the applicant shall be five percent of the value of stumpage fee from the timber that is harvested.
17. Where a successful applicant fails to comply with the requirements provided under these Regulations within a time specified in the Notice of Grant of small-scale timber right, the Minister shall nullify the grant and the area may at the discretion of the Minister be re-advertised or withdrawn from offer.





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**Kumasi Wood Cluster** *The booklet was compiled by the Kumasi Wood Cluster Association (KWC) with information support and from the Forestry Commission of Ghana and Taylor Crabbe Initiative reviewed the draft booklet.*



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