

1985, chapter 14
CULLERS ACT

Bill 26

Introduced by Mr Jean-Pierre Jolivet, Minister for Forests

Introduced 26 March 1985

Passage in principle 2 May 1985

Passage 19 June 1985

Assented to 20 June 1985

Coming into force: by proclamation of the Government

— 1 September 1985: ss. 1 to 46

G.O., 1985, Part 2, p. 3735

Act replaced:

Cullers Act (R.S.Q., chapter M-12)





CHAPTER 14

Cullers Act

[Assented to 20 June 1985]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

SCOPE

- Application** **1.** This Act applies to every person who measures timber cut on public lands including cross cut trees, lopped trees, trees with no crown or trees reduced to chips.
- Public lands** **2.** No person other than a culler licensed under this Act may make measurements of timber cut on public lands.
- Measurements** The culler shall make the measurements in accordance with the standards adopted under the Lands and Forests Act (R.S.Q., chapter T-9).
- Private lands** **3.** This Act also applies to a culler licensed under this Act who makes measurements of timber cut on private land.
- Measurements** The culler shall make the measurements in accordance with the standards contained, where such is the case, in a contract relating to such timber.

DIVISION II

CULLERS' DUTIES AND POWERS

- Duties** **4.** A culler shall determine the quantity of timber cut on public lands or, as the case may be, on private land and carry out the necessary operations for that purpose.

Private land **5.** A culler may, in the performance of his duties, enter and pass over private land.

Identity card He shall, upon request, produce an identity card attesting to his office.

DIVISION III

BOARD OF EXAMINERS FOR CULLERS

Board of examiners **6.** The Government shall establish a board of examiners for cullers, consisting of three members, one of whom shall be the chief examiner.

Chief examiner The board shall be under the direction of the chief examiner.

Term of office **7.** The members of the board shall be appointed by the Government for a term of three years; two members shall be chosen from among the personnel of the public service and the third member among the persons recommended by the Professional Association of Licensed Cullers of the Province of Quebec.

Continuance in office **8.** The members of the board shall remain in office, notwithstanding the expiry of their term, until they are replaced or reappointed.

Absence **9.** If a member of the board is absent or prevented from acting, the minister responsible for the administration of this Act may, on the conditions he determines and in the manner provided in section 7, appoint a person to replace the member in the interim.

Salary, allowances, indemnities **10.** The Government shall fix, as the case may be, the salary, allowances, indemnities and other conditions of employment of the members of the board.

Appointment and remuneration **11.** The employees of the board shall be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Signature **12.** The signature of the chief examiner shall give effect to every document within the competence of the board.

Signature **13.** No deed, document or writing binds the board unless it is signed by the chief examiner.

Automatic device **14.** The Government may, by regulation published in the *Gazette officielle du Québec*, allow, on the conditions it determines, the signature to be affixed by means of an automatic device to the documents it determines.

Facsimile The Government may also allow a facsimile of the required signature to be engraved, lithographed or printed on documents it determines. The facsimile shall be authenticated by the countersignature of a person authorized by the chief examiner.

Authenticity **15.** Every document or copy of a document emanating from the board or its records, signed and certified true by the chief examiner, is authentic.

Duties **16.** The duties of the board are, in particular,

- (1) to develop a program of examinations and to hold examinations for persons wishing to obtain a culler's licence;
- (2) to issue licences to persons deemed capable of performing the duties of culler;
- (3) to hold examinations to verify, when it deems it expedient, the competence of holders of culler's licences;
- (4) to keep an up-to-date register of holders of culler's licences.

DIVISION IV

LICENCES

Licence **17.** No person may perform the duties of culler within the meaning of this Act without holding a licence issued by the board.

Eligibility **18.** The board shall issue a culler's licence to every person who

- (1) meets the prescribed conditions and pays the duties fixed by regulation of the Government;
- (2) successfully passes the examinations prepared by the board for obtaining a licence.

**Suspension
or
revocation** **19.** The board may suspend or revoke a licence if the holder

- (1) no longer meets the conditions prescribed by regulation of the Government for obtaining a licence;
- (2) fails an examination provided for in paragraph 3 of section 16;
- (3) is found guilty of an offence against this Act;
- (4) does not respect, when measuring timber cut on public lands, the measurement standards adopted under the Lands and Forests Act;

(5) does not respect, when measuring timber cut on private land, the measurement standards contained in a contract relating to that timber.

**Suspension
or
revocation** **20.** The board shall give the holder of a licence an opportunity to express his point of view before suspending or revoking his licence.

Effect **21.** Revocation or suspension of a licence has effect from the date of its service upon the holder of the licence.

Appeal **22.** A culler whose licence is suspended or revoked may appeal from the decision of the board to the Provincial Court.

Appeal **23.** The appeal shall be brought by a motion served on the board.

Motion The motion shall be filed in the office of the Provincial Court in the judicial district in which the appellant is domiciled or has his establishment within 30 days following receipt of the decision of the board by the appellant.

Record **24.** Upon service of the motion, the board shall transmit to the Provincial Court the record relating to the decision being appealed.

Hearing **25.** The appeal shall be heard and decided by preference.

Decision **26.** Subject to any additional proof that it may require, the court shall render its decision on the record transmitted to it by the board, after giving an opportunity to the parties to express their points of view.

**Execution
of decision** **27.** The appeal does not suspend execution of the decision of the board unless the court decides otherwise.

Decision **28.** No appeal lies from the decision of the Provincial Court.

**Rules of
practice** **29.** The Provincial Court may, in the manner prescribed in section 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), make the rules of practice judged necessary for the carrying out of this division.

DIVISION V

REGULATIONS

Powers **30.** The Government may, by regulation,
(1) determine the conditions for issuing a culler's licence;
(2) determine the form and content of a culler's licence;

(3) determine the form, content and conditions of issue of the identity card of a licence holder;

(4) prescribe the duties payable by a person who sits for an examination and those payable for the issue of a culler's licence or identity card or the issue of a duplicate thereof.

Rules **31.** The board may pass the rules necessary for its internal management and for the conduct of its business.

Publication The rules are subject to the approval of the Government and shall come into force on the date of their publication in the *Gazette officielle du Québec*.

Coming into force **32.** Every regulation made under this division shall come into force ten days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

DIVISION VI

PENAL PROVISIONS

Offence **33.** Every person who

(1) falsely leads to the belief, by his title or designation or otherwise, that he holds a culler's licence issued under this Act,

(2) performs the duties of culler within the meaning of this Act without holding the prescribed licence,

is guilty of an offence.

Fines **34.** Every person who contravenes a provision of section 33 is liable, in addition to costs, to a fine of not less than \$200 nor more than \$500.

Proceedings **35.** Proceedings are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

DIVISION VII

TRANSITIONAL AND FINAL PROVISIONS

c. M-12, replaced **36.** This Act replaces the Cullers Act (R.S.Q., chapter M-12).

Board of examiners **37.** The board of examiners for cullers established under the Cullers Act (R.S.Q., chapter M-12) is replaced by the board of examiners for cullers established under this Act.

- Pending cases Cases pending before the former board are continued and decided by the board established under this Act.
- Continuance in office **38.** Members of the board of examiners for cullers in office on 31 August 1985 shall remain in office until they are replaced or reappointed in the manner provided in section 7.
- Records **39.** The records and other documents of the board of examiners for cullers established under the Cullers Act (R.S.Q., chapter M-12) become the records and documents of the board of examiners for cullers established under this Act.
- Licence **40.** Every person holding a culler's licence issued under the Cullers Act (R.S.Q., chapter M-12) is considered to hold a licence issued under this Act.
- Regulations in force **41.** Every provision of a regulation, order in council or order passed under the Cullers Act (R.S.Q., chapter M-12) remains in force, to the extent that it is consistent with this Act, until it is repealed, replaced or amended by a regulation or an order passed under this Act.
- Reference **42.** A reference to the Cullers Act (R.S.Q., chapter M-12) or to any provision thereof is deemed to be a reference to this Act or to the equivalent provision of this Act.
- Sums required **43.** The sums required for the administration of this Act shall be taken, for the fiscal period 1985-86, out of the consolidated revenue fund to the extent determined by the Government.
- Minister responsible **44.** The Government shall appoint the minister responsible for the administration of this Act.
- Exception **45.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).
- Coming into force **46.** This Act comes into force on the date fixed by proclamation of the Government.