



NATIONAL ASSEMBLY

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THIRTY-FOURTH LEGISLATURE

Bill 108

An Act to amend the Forest Act and to repeal various legislative provisions

Introduction

**Introduced by
Mr Albert Côté
Minister of Forests**

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EXPLANATORY NOTES

The object of this bill is to amend the Forest Act with respect, in particular, to the standards for the protection of forest resources and the implementation of certain measures concerning timber supply and forest management agreements and some permits.

As regards standards for protection of forest resources, the bill introduces provisions to enable the Minister to establish standards of forest management that differ according to the characteristics of the forest in the territorial unit concerned or the project to be carried out. The bill also allows the Minister to order the suspension of a forest management activity not in conformity with the standards in force or with the prescriptions of the management permit.

As regards the performance of the activities set out in timber supply and forest management agreements, the bill provides that an agreement holder will in the future be permitted, with the authorization of the Minister, to harvest timber not allocated by his agreement that cannot be used in the wood processing plant operated by him, and send such timber to the holder of a wood processing plant operating permit. The bill also provides that an agreement holder must consult those interested parties who apply for a consultation with respect to the content of the general and five-year plans before the plans are approved by the Minister. As regards permits, the bill increases the period of validity of some permits to five years and grants the Minister a power of revocation for sugar bush management permits.

The bill amends the provisions applicable to management contracts, which will in the future be known as forest management contracts, by extending their scope and providing that local municipalities that are contractors will be exempt from the requirement to pay duties under their contracts. Finally, it specifies the scaling standards for timber harvested in forests in the public domain and contains transitional provisions.

ACT AMENDED BY THIS BILL:

- Forest Act (R.S.Q., chapter F-4.1).

ACTS REPEALED BY THIS BILL:

- Act respecting the sales price of pulpwood sold by farmers (R.S.Q., chapter P-25);
- Act respecting the forestry fund (1980, chapter 8).

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 4 of the Forest Act (R.S.Q., chapter F-4.1) is amended by adding, at the end, the words “, with the exception of a sugar bush management permit for acericultural purposes, which may be granted for a period of five years”.

2. Section 9 of the said Act, amended by section 586 of chapter 57 of the statutes of 1992, is again amended

(1) by replacing the words “harvested on forest land” in the third line of the first paragraph by the words “, even before it is harvested on forest land,”;

(2) by replacing the second and third paragraphs by the following paragraphs:

“The hypothec shall take effect at the time the timber is delivered to the destination indicated in the permit, and it shall rank from the time it is entered in the register of personal and movable real rights.

For the purposes of the publication of rights, the reference to the number of the common area mentioned in the forest management permit is deemed to be a sufficient description of the encumbered property; the issue of a forest management permit to the same agreement holder in respect of the same common area during each of the years following the year of issue of the first forest management permit is a continuance of the first permit, and the permit so issued each year is deemed to have existed continuously from the date of issue of the first permit.”

3. Section 10 of the said Act is amended by inserting the words “or commercial” after the word “domestic” in paragraph 1.

4. The said Act is amended by inserting, after section 11.1, the following section:

“11.2 The Minister may issue a forest management permit for the harvest of firewood for commercial purposes to every person who applies therefor in writing and operates an enterprise the activities of which include the preparation and sale of firewood for commercial purposes.

The permit authorizes its holder to harvest, in the contemplated territorial unit, the volume and species of timber determined by the Minister.

The permit shall be issued by the Minister if forest production is sufficient and so far as salvage of slash and cull promotes the growth of stands in a particular forest area.

Where the permit authorizes harvesting in a forest management unit covered by a timber supply and forest management agreement, the Minister must beforehand have consulted the agreement holder concerned.

Where applicable, the permit shall indicate any condition the Minister may prescribe.”

5. Section 16.2 of the said Act is amended

(1) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) he has operated his sugar bush at an average of 50 % or more of its tapping capacity during the last five years or, in the case of renewal of a first permit, during the last four years.”;

(2) by striking out the second paragraph.

6. The said Act is amended by inserting, after section 17.2, the following section:

“17.3 The Minister may revoke a sugar bush management permit

(1) if the holder has failed to pay the exigible dues;

(2) if the holder has not submitted a report of his activities to the Minister;

(3) if the holder has failed to comply with the regulatory provisions applicable to his forest management activities or with the prescriptions of his permit;

(4) if the holder has not cultivated and operated the sugar bush for at least three consecutive years.

In the cases described in subparagraphs 1 and 2 of the first paragraph, the Minister must give the permit holder in default a prior notice stating his intention to terminate the permit unless the holder remedies his default before the expiry of the time indicated in the notice."

7. The heading of Division III of Chapter II of Title I of the said Act is replaced by the following heading:

"FOREST CONSERVATION".

8. The said Act is amended by inserting, after section 25, the following sections:

"25.1 The Minister may make an order if he observes that the holder of a forest management permit fails to comply with the conditions set out in the permit or with the standards of forest management prescribed under this Act. The order shall require the offender, for the period and on the conditions established by the Minister, to suspend the carrying out of the forest management activity or, as the case may be, to submit to the conditions set out in the permit or to the legal or regulatory provisions in force.

The order must give reasons and shall take effect on the date on which it is served.

Where the person to whom the order applies refuses or neglects to comply with it, the Minister, in addition to any other recourse, may apply to the Superior Court for an injunction ordering the person to comply with the order.

"25.2 The Minister may, exceptionally and after consulting the departments concerned, prescribe, for a particular territorial unit, standards of forest management that differ from those fixed by regulation where the latter do not provide adequate protection of all the resources in that unit due to the characteristics of the forest in that unit and the nature of the project to be carried out.

“25.3 The Minister, when approving the five-year plan or the general plan, and after the consultation prescribed under section 58.2, may authorize the agreement holder to apply, in a particular territorial unit, standards of forest management that differ from those fixed by regulation where so justified by the characteristics of the forest in that unit and the nature of the project to be carried out.

Such standards must be the subject of prior consultation with the departments concerned.

“25.4 The provisions of sections 25.1 to 25.3 do not apply to the wildlife habitats referred to in Chapter IV.1 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1).”

9. Section 26 of the said Act is replaced by the following section:

“26. The holder of a forest management permit who harvests timber shall scale it according to the scaling standards prescribed by regulation of the Government. The scaling method selected must first be approved by the Minister.”

10. Section 46.1 of the said Act is amended by adding, at the end, the following paragraph:

“The third paragraph does not apply to agreement holders who hold an operating permit for a wood processing plant with an annual authorized timber consumption of 100 000 cubic metres or less.”

11. The said Act is amended by inserting, after section 58.1, the following sections:

“58.2 The agreement holder shall, during the period prescribed in section 58.1 and in accordance with the procedure established by the Minister, consult the persons or groups who applied therefor in the first 20 days of that period. The application for consultation must be made in writing, give reasons and state the interest of the applicant in the forest to which the plan applies.

The agreement holder shall send a document to the Minister setting out the comments received during the consultation and the action he intends to take in consequence.

The agreement holder shall, regardless of any application, consult the regional county municipality concerned.

“58.3 In the case of a dispute between an agreement holder and a person or group referred to in section 58.2, the Minister may appoint

a conciliator, who shall make recommendations to him within ten days following the appointment.”

12. Section 76 of the said Act is amended by inserting the words “pursuant to section 62” after the word “holder” in the second line of the first paragraph.

13. Section 82 of the said Act is amended by adding, after subparagraph 4 of the first paragraph, the following subparagraph:

“(5) if the wood processing plant operated by the agreement holder has not been in operation for one-and-a-half years.”

14. Section 86 of the said Act is amended by inserting the words “or up to the volume increased pursuant to section 92.0.1” after the word “agreement” in the fourth line of the first paragraph.

15. The said Act is amended by inserting, after section 92, the following sections:

“92.0.1 Where, for a particular year, an agreement holder does not harvest the full volume of timber allocated under his agreement, he may do so during the subsequent years preceding the end of the five-year period referred to in section 77 after having subtracted the volumes harvested in his forest management unit under section 92.1.

In all cases, the volume harvested by the agreement holder shall not exceed the volume allocated for the year during which harvesting takes place, increased by 15 %, and such an increase shall be authorized only when the agreement holder has harvested the full volume allocated to him for the current year.

“92.0.2 Where an agreement holder, to carry out the silvicultural treatments indicated in his forest management permit, must harvest timber of a species or group of species or timber destined for other uses that is not allocated to him by agreement, and where such timber cannot be used at the wood processing plant of an agreement holder whose agreement is carried out in the same common area, the Minister, on the conditions he determines, may authorize the agreement holder to harvest such timber and to send it to the holder of a wood processing plant operating permit.”

16. The said Act is amended by inserting, after section 96, the following section:

“96.1 Where substantial destruction has been caused to timber stands in a forest area by natural disasters, or where a forest area

is required for a hydroelectric development and designated for that purpose by order of the Government, the Minister shall prepare and administer a special forest management plan, notwithstanding sections 25, 27 and 171, for such period and on such conditions as he may determine, to ensure wood salvage.

Every contractor under a forest management contract referred to in section 102 who carries out a contract in the forest area shall comply with the special plan. Upon his failure to comply, the volume of timber allocated in the contract shall be reduced by the volume he is required to salvage under the special plan.

For the implementation of a special plan, the Minister may grant financial assistance to any contractor or any person to whom he entrusts the carrying out of forest management activities who applies therefor in writing. Such assistance may be in the form of a credit on the dues payable under this Act by such contractor or person."

17. Section 97 of the said Act is amended by inserting the word "forest" after the words "under a" in the first line of the third paragraph.

18. The heading of Division II of Chapter IV of Title I of the said Act is replaced by the following heading:

"FOREST MANAGEMENT CONTRACTS".

19. Section 102 of the said Act is replaced by the following section:

"102. The Minister may, on such conditions as he may determine, enter into a contract by which he entrusts a person with the management of forest areas to promote economic development."

20. Section 104 of the said Act is replaced by the following section:

"104. The contract shall stipulate, in particular,

(1) in cases where the contractor is a local municipality, the form, content and conditions of approval of the forest management plan, the form and content of the reports of activities to be provided and the use the contractor intends to make of the income generated by the carrying out of the activities provided for in the forest management plan;

(2) in other cases, the form, content and conditions of approval of the forest management plan, the form and content of the reports of activities to be provided, the destination of the harvested timber and the conditions governing the marketing of the harvested timber.

For the purposes of this division and section 124, the words “local municipality” do not include a local municipality referred to in section 8 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9).”

21. The French text of section 105 of the said Act is amended by replacing the words “de gestion” in the first line by the words “d’aménagement forestier”.

22. The said Act is amended by inserting, after section 105, the following section:

“**105.1** The provisions of sections 25.1 to 25.3 apply, adapted as required, to contractors under a forest management contract.”

23. Section 106 of the said Act is amended

(1) by replacing the word “method” in the second line of the second paragraph by the word “standards”;

(2) by adding, at the end, the following paragraphs:

“The dues payable by the contractor shall be paid in money or in silvicultural treatments in accordance with sections 73.1 to 73.3, adapted as required.

The provisions of this section do not apply in cases where the contractor is a local municipality.”

24. Section 114 of the said Act is amended by inserting the word “forest” after the word “the” in the third line of the first paragraph.

25. Section 119 of the said Act is repealed.

26. Section 124 of the said Act is amended

(1) by inserting the word “forest” after the words “into a” in the first line of paragraph 2;

(2) by adding, at the end of paragraph 2, the words “, with the exception of a local municipality”.

27. The said Act is amended by inserting, after section 124, the following section:

“124.1 The Minister may require a person to repay all or part of the financial assistance received under section 118 for development work in a forest area where, through that person’s act or omission, total or partial destruction of the work occurred in the five years following the granting of the financial assistance.”

28. Section 165 of the said Act is amended by replacing the words “one year” in the first line of the third paragraph by the words “five years”.

29. Section 171 of the said Act is amended by adding, at the end of the first paragraph, the following subparagraph:

“(9) the protection of forest regeneration.”

30. Section 172 of the said Act is amended by replacing paragraph 4 by the following paragraph:

“(4) establish the scaling standards for timber harvested in forests in the public domain, which include, in addition to the techniques for scaling and sampling cut timber, the place where scaling must take place, the time limits for scaling the timber and reporting to the Minister, the time limits for verifying scaling, the content of the applications and other forms provided by the Minister and the procedure for completing the forms and sending them to the Minister;”.

31. The said Act is amended by inserting, after section 175, the following sections:

“175.01 Every person who contravenes section 32 is liable to a fine of \$500 to \$10 000.

On finding a defendant guilty of an offence under that section, the judge may order him to restore the site at his own expense, within the time and on the conditions fixed by the judge.

Prior notice of the application for an order shall be given by the prosecutor to the defendant, except where the parties are in the presence of the judge.

“175.02 Every person who contravenes section 34 is liable to a fine of \$600 to \$6 000.”

32. Section 176 of the said Act is amended by replacing the figure “139” in the second line by the figure “140”.

33. Section 182 of the said Act is amended by striking out the figure “1,” in the second line, and by striking out the words “from the sixth day after the sending to the offender by an authorized representative of the Minister of a notice enjoining him to comply with the applicable rules” in the third, fourth and fifth lines.

34. Section 183 of the said Act is amended by replacing the words “a standard of forest management prescribed under paragraphs 2, 7 or 8 of section 171 or contravenes section 207” in the first, second and third lines by the words “section 28.2 or a standard of forest management prescribed under paragraph 1, 2, 7 or 8 of section 171”.

35. The said Act is amended by inserting, after section 183, the following section:

“183.1 Every person who contravenes a standard of forest management prescribed under paragraph 9 of section 171 is liable to a fine of \$10 to \$50 per hectare and, for a subsequent offence, to a fine of \$20 to \$100 per hectare.”

36. The said Act is amended by inserting, after section 184.1, the following section:

“184.2 Every person who hinders the work of a person designated under this Act who is acting in his official capacity commits an offence and is liable to a fine of \$100 to \$1 000.”

37. Section 207 of the said Act is renumbered 28.2.

38. Management contracts entered into under section 102 of the Forest Act as it read on (*insert here the date of the day preceding the day on which section 19 comes into force*) shall remain in force until they expire, and the contractors may, until that date, perform the activities authorized by such contracts, subject to this Act or the regulations thereunder.

39. The holder of a sugar bush management permit issued by the Minister before (*insert here the date of assent to this Act*) is entitled to renew his permit annually on the conditions prescribed in section 16.2 of the Forest Act as it read on (*insert here the date of the day preceding the day on which section 5 comes into force*), for a period of five years from the issue of the permit.

40. The following Acts are repealed:

(1) the Act respecting the sales price of pulpwood sold by farmers (R.S.Q., chapter P-25);

(2) the Act respecting the forestry fund (1980, chapter 8).

41. Section 586 of the Act respecting the implementation of the reform of the Civil Code (1992, chapter 57) is amended by striking out paragraphs 2 to 5.

42. This Act comes into force on (*insert here the date of assent to this Act*), with the exception of section 2, which will come into force on 1 January 1994.