

NATIONAL ASSEMBLY

FIRST SESSION

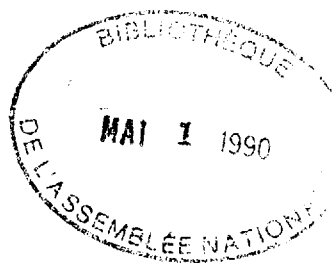
THIRTY-FOURTH LEGISLATURE

Bill 44

An Act to amend the Forest Act

Introduction

Introduced by
Mr Albert Côté
Minister for Forests



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EXPLANATORY NOTES

The object of this bill is to amend the Forest Act (R.S.Q., chapter F-4.1) in order, among other things, to promote the utilization of sources of supply other than those available in public forests. To that end, it allows the Minister to reduce or limit, for a particular year, the volumes of round timber allocated under timber supply and forest management agreements.

The bill provides, in addition, that the dues payable by an agreement holder are those that are prescribed by the Minister solely on the basis of the volume of timber harvested under a management permit and thus removes the possibility for the agreement holder to harvest any unharvested volume in a subsequent year. The bill specifies, moreover, that the timber that may be harvested under a management permit remains in the public domain until delivered to the destination indicated in the permit.

As to forest protection, the Minister will be authorized to recognize organizations responsible for protecting the forest from damage by insects and cryptogamic diseases. The method of operation and responsibilities of these organizations will be similar to those of existing fire protection organizations.

Furthermore, the bill authorizes the reimbursement of real estate taxes to forest producers who carry out development work pursuant to a silviculture prescription approved by a forest engineer and allows the producer to spread the reimbursement of allowable expenses over subsequent years.

The bill defines the scope of the power to seize timber in the course of an inspection on land in the public domain whenever a provision of the Act or of the regulations has been contravened.

Finally, the bill introduces concordance amendments and a transitional provision which concerns the persons to whom the Minister is to forward a timber supply and forest management agreement proposal before 1 April 1990.

Bill 44

An Act to amend the Forest Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 8 of the Forest Act (R.S.Q., chapter F-4.1) is amended by adding, at the end, the words “and delivered to the destination indicated in the permit, unless the prescribed dues are paid in full.”

2. Section 9 of the said Act is amended by striking out the words “allocation or” in the second line of the first paragraph.

3. Section 43 of the said Act is amended by replacing the words “and shavings” in the second line of paragraph 2 by the words “, shavings and recyclable wood fibres,”.

4. The said Act is amended by inserting, after section 46, the following section:

“46.1 The Minister may, for a particular year, reduce or limit the volumes of round timber allocated by agreement, if he is of the opinion that such a measure is required to promote the utilization of the sources of supply contemplated in paragraph 2 of section 43.

Where he does so, the Minister may, on or before 1 March preceding the particular year, determine the percentage of the reduction applicable to the aggregate of the agreement holders or limit the volume of round timber to be harvested to the volumes specified by the agreement holders in the annual management plans.”

5. Section 50 of the said Act is amended

(1) by replacing the words “under section 77 or under section 79 or 81” in the second and third lines of the first paragraph by the words

“as provided in section 77 or in circumstances described in the second paragraph, in section 79 or in section 81”;

(2) by replacing the second paragraph by the following paragraph:

“Where an area used in calculating the allowable annual cut is deleted from the forest management unit as a result of the application of another Act for reasons of public interest or to take account of an amendment to the land use plan prepared under Division III of Chapter II of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1), the Minister shall, if forest production is sufficient, substitute an equivalent area for the deleted area.”

6. Section 53 of the said Act is amended by striking out the second paragraph.

7. The said Act is amended by inserting, after section 53, the following section:

“53.1 Where the Minister enters into a timber supply and forest management agreement in respect of a forest management unit that includes an area where at least another agreement is currently in force, the periods covered by the general plan and five-year plan must coincide with those of the general plan and five-year plan of the other agreement holder or holders.”

8. Section 54 of the said Act is amended by striking out the words “or prepared” in the last line.

9. Section 66 of the said Act is amended by replacing the figure “68” at the end by the figure “92.1”.

10. Section 71 of the said Act is replaced by the following section:

“71. The agreement holder shall pay the dues prescribed by the Minister on the basis of the volume of timber harvested under the forest management permit.

The dues are equal to the amount obtained by multiplying the volume of harvested timber by the applicable unit rate.”

11. The said Act is amended by inserting, after section 73, the following sections:

“73.1 The dues that an agreement holder is required to pay are payable in cash or by way of silvicultural treatments.

Silvicultural treatments admitted as payment of dues are treatments applied to attain the annual yield in accordance with section 60 and accepted by the Minister following the presentation of the annual report prescribed by section 70.

“73.2 An agreement holder may prepare and submit to the Minister, in the form and tenor determined by regulation of the Government, a periodic silvicultural treatment progress report approved by a forest engineer. No progress report shall be submitted to the Minister until 30 days after the date of the last report.

On receipt of a periodic report, the Minister may grant a provisional credit, for a value corresponding to the value of the silvicultural treatments which have been carried out, applicable to the payment of the prescribed dues.

Following the presentation of the annual report, provisional credits shall be adjusted, if need be, to ensure that they correspond to the value of the silvicultural treatments accepted by the Minister in accordance with section 73.1.

“73.3 The value of the silvicultural treatments referred to in the second paragraph of section 73.1 shall be fixed by the Minister according to the rules of calculation determined by regulation of the Government.”

12. Section 77 of the said Act is amended

(1) by replacing the words “or timber” in the second line of paragraph 2 by the words “or recyclable wood fibres or of timber”;

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

“However, where, after the final discontinuance of his timber driving activities, an agreement holder salvages, from watercourses, stocks of timber harvested in forests in the public domain, the Minister cannot, for this cause, revise the annual volume allocated under his agreement that is not covered by a forest management permit.”

13. The said Act is amended by inserting, after section 81, the following section:

“81.1 The Minister may also revise the volume allocated under the agreement where there is a change in the requirements of the

agreement holder's wood processing plant as a result of the final discontinuance of part of the operations of the plant."

14. Section 82 of the said Act is amended by replacing the word and figures "53, 55 or 61" at the end of subparagraph 3 of the first paragraph by the figure "61".

15. Sections 88, 89, 89.1, 90 and 91 of the said Act are repealed.

16. Section 121 of the said Act is amended

(1) by replacing the words "having priority" in the fifth line of subparagraph 1 of the second paragraph by the word "envisaged";

(2) by replacing the words "in the case of an industrial enterprise" in the first line of subparagraph 2 of the second paragraph by the words "if the person is the owner of a private woodlot of at least 800 hectares in a single block".

17. The said Act is amended by inserting, after section 123, the following section:

"123.1 Any forest development work not included in the management plan but required under a silviculture prescription approved by a forest engineer may also be admitted for the purposes of a reimbursement of real estate taxes on the conditions prescribed in paragraph 3 of section 123.

If the work performed within the last fiscal year and reported to the Minister represents an amount of expenses greater than the amount of real estate taxes to be reimbursed, the excess amount of expenses may be admitted for the reimbursement of real estate taxes in the three subsequent years, in accordance with section 123."

18. Section 125 of the said Act is amended

(1) by replacing the words "a forest protection organization" in the third line of the first paragraph by the words "an organization for the protection of the forest against fire";

(2) by replacing the words "timber supply and forest management agreement holders and private woodlot owners" in the second and third lines of the first paragraph by the words "the holders of timber supply and forest management agreements and of owners of private woodlots".

19. The said Act is amended by replacing Division I of Chapter II of Title III by the following division:

“DIVISION I

“PROTECTION PLANS

“146. The Minister may certify an organization composed of the holders of timber supply and forest management agreements and of owners of private woodlots as an organization for the protection of the forest against destructive insects and cryptogamic diseases for a forest area defined as he determines.

The organization shall be responsible for the preparation and implementation of plans for the protection of the forest against such insects and diseases.

“147. In order to be certified by the Minister, the organization must transmit to him, for his approval, its by-laws on the assessment of its members and the financing of its operations and an organization plan for the preparation and implementation of the plans for the protection of the forest against destructive insects and cryptogamic diseases.

The organization plan must contain information, in particular, on the number of members in the organization, the equipment at its disposal and the means it intends to use to implement the protection plans. The organization plan must be kept up to date until the Minister requires a new plan.

If the organization fails to comply with this section, the Minister shall establish the method of protection of the forest he considers appropriate at the expense of the organization or of each of its members.

“147.1 Every timber supply and forest management agreement holder shall be a member of the forest protection organization certified by the Minister for the territory that includes his forest management unit.

The Minister becomes *ex officio* a member of every forest protection organization he certifies.

“147.2 The Minister may refuse to issue a forest management permit if the agreement holder fails to join the forest protection organization or if he fails to pay the assessment fixed by the organization.

“147.3 Where an infestation of destructive insects or a cryptogamic disease occurs or is about to occur in a forest in the public domain, the Minister shall request the forest protection organization to prepare a protection plan for the territory defined.

The protection plan shall be prepared in consultation with the timber supply and forest management agreement holders and with the private woodlot owners who have joined the protection organization.

The protection plan shall be approved by the Minister and implemented by the forest protection organization.

“147.4 In the territory approved by the Minister, the protection organization shall assume the expenses incurred to implement the plans for the protection of the forest against destructive insects and cryptogamic diseases.

The expenses shall be reimbursed in whole or in part by the Minister, upon the production of vouchers, at the rate determined by regulation of the Government.

“147.5 Where the Minister is of the opinion that an infestation of destructive insects or a cryptogamic disease affecting a private woodlot threatens to spread to a neighbouring forest in the public domain and could result in major economic losses, he shall require a protection plan from the forest protection organization for the territory concerned and shall see that it is implemented.

The Minister may claim reimbursement of the cost of the measures from the owner of a private woodlot where he caused the protection plan to be implemented.

[[**“147.6** The sums required for the payment of expenses related to the implementation of protection plans under section 147.4 and, as the case may be, under section 147.5 shall be paid out of the appropriations granted annually by Parliament.

However, sums required for the payment of expenses resulting from unforeseen and urgent measures shall be paid out of the consolidated revenue fund to the extent determined by the Government, if the balance of appropriations is insufficient.”]]

20. Section 170.1 of the said Act is amended by striking out the figure “, 88” in the sixth line of the third paragraph.

21. Section 172 of the said Act is amended

(1) by replacing the figure “89.1” in the second line of paragraph 3.1 by the figure “73.2”;

(2) by replacing the words “plan contemplated in section 146” in the second and third lines of paragraph 11 by the words “plans contemplated in section 147.4”.

22. Section 187 of the said Act is amended by replacing the words “without a permit” at the end by the words “in contravention of a provision of this Act or the regulations”.

23. Section 233 of the said Act is amended

(1) by replacing the word “organization” in the second line of the first paragraph by the word “organizations”;

(2) by replacing the word “organization” in the second line of the second paragraph by the word “organizations”;

(3) by replacing the word “organization” in the third line of the second paragraph by the word “organizations”.

24. The said Act is amended by inserting, after section 236, the following section:

“236.0.1 Notwithstanding section 236, this chapter continues to have effect until the expiry of the thirty-day period provided for in the third paragraph of section 229, in respect of any person to whom the Minister has sent a timber supply and forest agreement proposal in accordance with the said section.

Moreover, this chapter shall continue to have effect, in respect of any person referred to in section 219 or 221 with whom the Minister has entered into an agreement, until the effective date of the agreement if the date is subsequent to 1 April 1990.”

25. Section 239 of the said Act is amended by striking out the figures “, 88, 89” in the first line.

26. Section 239.1 of the said Act is amended by striking out the figures “, 88, 89” in the second line of the first paragraph.

27. Any clause in a timber supply and forest management agreement entered into by the Minister before 1 April 1990 or in a proposal made to a person entitled to such an agreement under section 229, which authorizes the agreement holder to harvest, within the five

subsequent years, a volume of round timber not harvested in a previous year, is without effect.

28. Section 10 has effect from 1 April 1990.

29. This Act comes into force on *(insert here the date of assent to this Act)*.