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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 84

## An Act to amend the Forest Act

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### Introduction

Introduced by  
Mr Albert Côté  
Minister for Forests

ALL 1988

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Québec Official Publisher  
1988

## EXPLANATORY NOTES

*The object of this bill is to amend the Forest Act (R.S.Q., chapter F-4.1). The amendments pertain mainly to the management of forests on public lands, the allocation by the Minister of volumes of timber, the development of private forests, seizures made following an inspection or a search.*

*With respect to the management of forests in the public domain, the bill introduces certain provisions designed to empower the Minister to allocate to several agreement holders, on the same forest area, timber volumes of the same species and intended for the same use or to reserve a volume of timber for industrial projects. Where several agreements are carried out on the same forest area, the agreement holders must designate one holder who will be responsible for the carrying out of the forest management activities. The bill also proposes to make the general plans and the five-year plans relating to the forest management activities, prepared under a timber supply and forest management agreement, available for examination by the public before they are approved by the Minister.*

*The bill also provides that any person will be entitled to obtain a licence to cultivate maple trees and operate a sugar bush. The holder of that licence will be required to make an annual report of his activities to the Minister. The harvest of firewood for the exclusive use of an outfitting operation, a controlled zone or a wildlife sanctuary will be permitted. In addition, the holder of a management permit will be required to inform any third person to whom he entrusts the realization of work authorized by his permit of the requirements attached to the performance of activities under his permit, and the third person will be required to comply with the requirements.*

*Title II, which now governs the development of private forests, will henceforth apply also to forests situated on lands held as owner by native landholding corporations where such forests are used for forest production.*

*The bill also provides that the Minister will be authorized to refuse the issue of a management permit to any holder of a timber supply and forest management agreement, or of a permit issued under section 230 or 232, who fails to join the forest protection organization referred to in Title III, or who fails to pay his assessments to the organization.*

*As regards the seizure of timber cut without a permit in forests of the public domain, the bill provides that any timber cut without a permit will be seized in the course of an inspection if found on public lands. If the seizure is justified on the ground of a contravention of a prescription contained in a management permit or if timber is to be seized on lands other than public lands, a search warrant will be required.*

*Finally, to facilitate the administration of the Act, provisions are made to alleviate some of the administrative requirements concerning disbursements to be made by the Minister under the Act.*



# Bill 84

## An Act to amend the Forest Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 9 of the Forest Act (R.S.Q., chapter F-4.1) is amended

(1) by replacing the words “an immovable real right in favour of the public domain” in the second line of the first paragraph by the words “a movable real right in favour of the Crown”;

(2) by inserting, after the word “paid” in the second line of the second paragraph, the words “; it may be seized and sold as if it were part of the public domain”.

**2.** Section 10 of the said Act is amended by inserting, at the end, the following paragraph:

“(7) for the occasional harvest of timber not allocated under a timber supply and forest management agreement.”

**3.** The said Act is amended by inserting, after section 11, the following section:

**“11.1** The harvest of firewood for the exclusive use of an outfitting operation, a controlled zone or a wildlife sanctuary within the meaning of Divisions II, III and IV of Chapter IV of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) shall be regarded as the harvest of firewood for domestic purposes.

Every application under the first paragraph must be filed by the person responsible for the management of the outfitting operation, of

the controlled zone or of the wildlife sanctuary. It must be accompanied with a statement attesting that the harvest of firewood is intended for the exclusive use of an outfitting operation, a controlled zone or a wildlife sanctuary.

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

**4.** Section 12 of the said Act is repealed.

**5.** Section 13 of the said Act is amended

(1) by replacing the introductory phrase by the following: "The Minister may issue a sugar bush management permit to every person who applies therefor in writing and furnishes";

(2) by striking out paragraph 1;

(3) by inserting, at the end of paragraph 2, the following words: "including, in particular, the area and tapping capacity of the sugar bush;"

**6.** Sections 15 and 16 of the said Act are repealed.

**7.** The said Act is amended by inserting, after section 16, the following sections:

**"16.1** The holder shall prepare and submit to the Minister a report of his activities in the form, at the time and with the content determined by regulation of the Government.

**"16.2** A permit holder who operates a sugar bush for acericultural purposes is entitled to the renewal of his permit if he meets the following requirements:

(1) he complies with the prescriptions of the permit;

(2) he has submitted his report of activities to the Minister;

(3) he has operated his sugar bush at 70 % or more of its tapping capacity during the last year.

In the case of a new operator, the percentage provided in subparagraph 3 shall be 50 %."

**8.** Section 17 of the said Act is replaced by the following sections:

**“17.** On renewing a permit the Minister may, at the request of the holder, increase the area of the territory covered by the permit, if the holder meets the following requirements:

(1) he has operated the sugar bush at 90 % or more of its tapping capacity for at least two years;

(2) he has completed the construction of the roads and buildings as described and located in his application.

**“17.1** A permit holder must, within three years of the date on which he obtained the permit, operate any part of the sugar bush added to the territory covered by his permit at 90 % or more of its tapping capacity.

If the permit holder does not meet that requirement, the Minister shall remove, from the part added to the sugar bush, that part which corresponds to the unused tapping capacity.

**“17.2** The Minister may, for public utility purposes, refuse to renew a sugar bush management permit.”

**9.** Section 23 of the said Act is amended by adding the following paragraph:

“Where the permit authorizes its holder to carry out forest management work in a forest management unit covered by a timber supply and forest management agreement, the Minister must beforehand have consulted the agreement holder concerned.”

**10.** The said Act is amended by inserting, after section 24, the following subdivision:

*“§ 7.—Occasional harvest of unallocated timber*

**“24.1** In any forest management unit, the Minister may issue to a person who applies therefor, on the conditions he determines and with the authorization of the Government, a forest management permit for the occasional harvest of timber not allocated under a timber supply and forest management agreement, for experimental or research purposes or in view of ensuring the execution of a guaranty of auxiliary timber supply, where he is of opinion that such harvest will promote the growth of stands in the forest area concerned.

**“24.2** The Minister shall issue the permit only to a person who has entered into an agreement with the holder of any agreement

currently in force in the forest management unit, in respect of the carrying out of the required forest management activities.

Notwithstanding the first paragraph, in the case of the execution of a guaranty of auxiliary timber supply, the Minister may, in the absence of an agreement, fix the terms and conditions applicable to the carrying out of the forest management activities, and issue the management permit.

**“24.3** The holder of a management permit shall pay the dues prescribed by the Minister for the harvest of timber; the dues shall correspond to the product obtained by multiplying the harvested volume by the unit rate established under section 72.”

**11.** The said Act is amended by inserting, after section 26, the following section:

**“26.1** Where the holder of a management permit entrusts the carrying out of work authorized under his forest management permit to a third person, he must inform that person of the requirements of this Act and the regulations thereunder and of the prescriptions of the management permit relating to the forest management activities to be carried out.

The third person must comply with such requirements.”

**12.** Section 28 of the said Act is replaced by the following sections:

**“28.** No person may operate a machine used for a forest management activity on the bed of a lake or watercourse, except for the purpose of erecting a bridge or a culvert or completing bridging work duly authorized under section 22 of the Environment Quality Act (R.S.Q., chapter Q-2).

**“28.1** No person may dump earth, slash, oil, chemical products or other contaminants of the same nature contemplated in the Environment Quality Act into a lake or watercourse in carrying on a forest management activity.”

**13.** Section 30 of the said Act is amended by inserting the words “or improve” after the word “construct” in the first line.

**14.** Section 31 of the said Act is amended

(1) by inserting the words “or improve” after the word “construct” in the first line of the first paragraph;



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

“A forest road is a road constructed or used on land in the public domain in view of forest management activities under this Act.”

**15.** Section 32 of the said Act is amended by replacing the words “Chapter III of this Title” in the third line by the words “this Act”.

**16.** Section 33 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Notwithstanding the first paragraph, the Minister may, for reasons of public interest, limit or prohibit access to a forest road.”

**17.** Section 49 of the said Act is amended by adding, at the end, the following paragraph:

“Notwithstanding the first paragraph, where the Minister is of opinion that the distribution of timber according to quality, the distribution of stands according to classes based on age or the volume of timber to be allocated does not permit the delimitation of separate forest management units, he may allocate in the same forest area, volumes of timber of the same species intended for the same use to several agreement holders.”

**18.** Section 53 of the said Act is amended

(1) by replacing the words “and at the time” in the second line of the first paragraph by the words “, at the time and with the content”;

(2) by replacing the words “at the time and in the form” in the first and second lines of the second paragraph by the words “in the form, at the time and with the content”.

**19.** Section 54 of the said Act is amended by replacing the words “and at the time” in the second line by the words “, at the time and with the content”.

**20.** Section 55 of the said Act is replaced by the following sections:

**“55.** Where several agreements are carried out in the same forest area, the agreement holders shall come to an agreement as to the orderly integration of the forest management activities, the costs incurred therefor and the cost of transportation of the timber.

**“55.1** The rules governing the integration of forest management activities must be set out in the general, annual and five-year plans of each agreement holder.

For the purposes of the preparation and submission of the annual management plan, the agreement shall designate an agreement holder responsible for the carrying out of forest management activities in each part of the common area identified in the annual management plan. The agreement shall also indicate the proportion of the prescribed dues that each agreement holder intends to pay by way of silvicultural treatments.

Failing an agreement, the Minister shall cause a plan to be prepared for the common area setting forth the rules governing the integration of forest management activities in those common areas, and shall designate the person responsible for the carrying out of those activities. The plan shall form part of the general, annual and five-year plans of each agreement holder.

**“55.2** The agreement holders shall also come to an agreement on a procedure for the arbitration of disputes. This agreement must be set out in the annual forest management plan.

Whenever a dispute occurs, the agreement holders must reach an agreement; if they fail to reach an agreement, the arbitration procedure provided in the Code of Civil Procedure (R.S.Q., chapter C-25) applies.”

**21.** Section 56 of the said Act is repealed.

**22.** Section 58 of the said Act is amended by replacing the words “and at the time” in the second line by the words “, at the time and with the content”.

**23.** The said Act is amended by inserting, after section 58, the following section:

**“58.1** The Minister shall make the general plan and the five-year plan available for examination by the public for a period of thirty days.”

**24.** Section 60 of the said Act is replaced by the following section:

**“60.** Every agreement shall include an undertaking by the agreement holder

(1) to carry out every year at his own expense, in the forest management unit, all silvicultural treatments necessary for the attainment of the annual yield indicated in the agreement, in accordance with the annual forest management plan and the standards of forest management applicable under section 171;

(2) to evaluate the silvicultural treatments he has carried out, in terms of their quality and quantity.”

**25.** Section 66 of the said Act is amended by inserting the words “of such species or groups of species as may be” after the word “timber” in the third line.

**26.** Section 68 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The authorization shall be granted by means of a forest management permit. Such a permit shall not be granted unless

(1) the agreement referred to in the first paragraph has been entered into for a term of not less than one year;

(2) the holder of a wood processing plant operating permit has notified the Minister, by written notice, of the existence of the agreement within fifteen days of its signing;

(3) the holder of the operating permit is unable to obtain timber from a source of supply comparable to the source which has failed him.”

**27.** Section 69 of the said Act is amended by replacing the words “who obtains authorization under section 68” in the first and second lines by the words “to whom the Minister issues a management permit pursuant to section 68”.

**28.** Section 70 of the said Act is replaced by the following section:

**“70.** At the end of each year, every agreement holder shall prepare and submit to the Minister, in the form, at the time and with the content determined by regulation of the Government, a report approved by a forest engineer on the forest management activities carried out in the year and on the evaluation of the quality and quantity of silvicultural treatments applied in the same period.

The report shall indicate, in particular, the proportion of the silvicultural treatments stipulated in the annual forest management plan which have been effectively applied during the year.”

**29.** Section 72 of the said Act is amended by inserting the words “and quality of timber” after the words “group of species” in the first line.

**30.** Section 77 of the said Act is amended

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

“(2) changes in the availability of timber from private woodlots, of wood chips, sawdust, shavings or timber from outside Québec;”;

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

“(5) the forest management activities carried out in the last five years.”

**31.** Section 79 of the said Act is amended

(1) by replacing the words “for such period” in the fourth and fifth lines of the first paragraph by the words “, notwithstanding sections 25, 27 and 171, for such period and on such conditions”;

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

“The Minister may, for the implementation of a special plan, grant to any agreement holder who applies therefor in writing, financial assistance which may be in the form of a credit on the dues payable by the agreement holder under this Act.”;

(3) by adding, after the third paragraph, the following paragraph:

“This section also applies to ensure wood salvage in a forest area required for a hydroelectric development and designated for that purpose by order of the Government.”

**32.** Section 82 of the said Act is amended by inserting, after subparagraph 3 of the first paragraph, the following subparagraph:

“(4) if the agreement holder fails to comply with the obligations set out in sections 41 and 166.”

**33.** Section 89 of the said Act is amended by replacing the second paragraph by the following paragraphs:

“Silvicultural treatments shall be admitted as payment of prescribed dues if the treatments are applied to attain the annual yield in accordance with section 60 and if they are accepted by the Minister

following the presentation of the annual report prescribed under section 70.”

**34.** The said Act is amended by inserting, after section 89, the following section:

**“89.1** The person referred to in section 89 may prepare and submit to the Minister, in the form and with the content determined by regulation of the Government, a silvicultural treatment progress report approved by a forest engineer. The report shall not be submitted to the Minister until 30 days have elapsed since the date of the last report.

On the presentation of that 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, the credit shall be adjusted, if need be, to ensure that it corresponds to the value of the silvicultural treatments accepted by the Minister in accordance with section 89.”

**35.** The second paragraph of section 92 of the said Act is repealed.

**36.** Section 94 of the said Act is amended by replacing the words “slash hardwood and cull promotes the growth of mixed and hardwood stands” in the second and third lines by the words “slash and cull promotes the growth of stands”.

**37.** The said Act is amended by inserting, after section 95, the following division:

### “DIVISION III

#### “GUARANTY OF AUXILIARY TIMBER SUPPLY

**“95.1** The Minister may, if forest production is sufficient, enter into an agreement guaranteeing an auxiliary timber supply, on the conditions and for the time fixed by the Government, with the holder of a wood processing plant operating permit who does not hold a timber supply and forest management agreement in respect of that plant.

An agreement for auxiliary timber supply shall not be entered into except to promote the establishment and expansion of a wood processing plant.

**“95.2** By an agreement guaranteeing auxiliary timber supply, the Minister, on the conditions and for the time fixed by the Government, makes an undertaking, where necessary, to provide an auxiliary timber supply where a timber supplier with whom the holder of a wood processing plant operating permit is bound by a long-term agreement has defaulted.

**“95.3** The Minister shall provide the auxiliary timber supply, pursuant to his obligation under an agreement, out of the timber harvested in public forest reserves or in accordance with section 24.1 if the defaulting supplier is not a timber supply and forest management agreement holder.

The Minister is required to fulfil the obligation mentioned above only when he is unable to suggest to the agreement holder another available source of supply comparable to the defaulting supplier.

**“95.4** Where, under an agreement guaranteeing auxiliary timber supply, a permit holder is entitled to obtain an auxiliary supply of timber harvested in public forest reserves, the Minister shall sell to him, in preference to any other purchaser, the volume of timber which is deficient, on the terms and conditions stipulated in the agreement.”

**38.** Section 97 of the said Act is amended

(1) by replacing the figure “101” in the second line by the figure “95.4”;

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

“The Minister may, with the authorization of the Government,

(1) determine classes of bidders;

(2) limit the sale to the holders of wood processing plant operating permits of a particular region;

(3) limit the number of bidders;

(4) fix the minimum price of a sale.

This section does not apply to timber harvested under a management contract in an experimental forest, a forest educative centre, a research forest or a forest station.”

**39.** Sections 98 to 101 of the said Act are repealed.

**40.** Section 106 of the said Act is replaced by the following section:

**“106.** The contractor shall pay the dues prescribed by the Minister for the harvest of timber; the dues shall correspond to the product obtained by multiplying the harvested volume by the unit rate established under section 72.

Notwithstanding the first paragraph, the Government may, by regulation, fix the dues or determine another rule of calculation to enable the Minister to fix the dues.”

**41.** Section 108 of the said Act is amended by adding the words “, notwithstanding sections 25, 27 and 171” at the end of the second paragraph.

**42.** Section 113 of the said Act is amended by replacing the words “determined by the Government” in the first and second lines by the words “he determines”.

**43.** Section 114 of the said Act is amended by adding, at the end, the following paragraph:

“Where the research activities relate to the standards of forest management prescribed by the Government under section 171, the contract may provide for a departure from the standards.”

**44.** The second paragraph of section 115 of the said Act is repealed.

**45.** The said Act is amended by inserting, after the heading of Title II, the following section:

**“117.1** This Title applies to private forests and to forests situated on lands held and owned by a native landholding corporation and whose intended use is forest production.”

**46.** Sections 118 and 119 of the said Act are replaced by the following sections:

**“118.** The Minister may prepare or promote the preparation of plans and programs to facilitate the gathering of inventory data, the calculation of the allowable annual cut and the development of forests. For such purposes, he may, on the conditions he determines, grant financial assistance therefor:

- (1) to a forest producer certified by the Minister;
- (2) to an organization providing services which qualify for financial assistance to certified producers only;
- (3) to a group of organizations referred to in paragraph 2.

**“119.** The Minister shall promote reforestation through

- (1) the gathering of forest seeds;
- (2) the maintenance and development of nurseries;
- (3) the distribution of plants;
- (4) the planting of trees;
- (5) the lending of machinery;
- (6) any other measure of the same nature.

The Minister may, in addition, ensure the distribution of plants not intended for ornamentation, resale or the production of Christmas trees, to any person or organization making a request therefor.”

**47.** Section 121 of the said Act is replaced by the following section:

**“121.** To qualify as a forest producer a person shall

(1) own a forest area of not less than 4 hectares in a single block, or be the lessee of such an area of land in the public domain, on which the main income is derived from acericulture or from the production of ligneous matter or Christmas trees;

(2) register any forest area meeting the conditions set out in subparagraph 1 of the first paragraph for which he claims a reimbursement of real estate taxes or for which he applies for financial assistance under section 118, and any modification relating to its content or effecting a change in it.

The person shall also, in respect of a registered forested area, undertake to comply with

(1) a simple management plan, prepared and signed by a forest engineer, which specifies the identity of the forest producer, the location of the forest area and its description, and sets out the objectives of the forest producer and the forest development work having priority;



(2) in the case of an industrial enterprise, a general forest management plan and a five-year forest management plan prepared and signed by a forest engineer and approved by the Minister.”

**48.** Sections 123 and 124 of the said Act are replaced by the following sections:

**“123.** To obtain a reimbursement of real estates taxes under the Act respecting municipal taxation (R.S.Q., chapter F-2.1), a person shall

(1) meet the requirements set out in section 121;

(2) apply therefor in writing each year;

(3) produce, with the application, a report containing a statement of the forest development work having priority, referred to in section 121, that has been performed within the last fiscal year and representing an amount of expenses equal to or greater than the amount of real estate taxes to be reimbursed.

**“124.** The following organization and person may be certified as forest producers, obtain a certificate to that effect and be granted financial assistance under this Title:

(1) an organization which assumes the management of a research forest in a public forest reserve in accordance with section 113;

(2) a person who has entered into a management contract within the meaning of section 102.”

**49.** The said Act is amended by inserting, after section 127, the following sections:

**“127.1** The Minister may refuse to issue a forest management permit if the holder of a timber supply and forest management agreement fails to join the forest protection organization or if he fails to pay the assessment fixed by the organization.

**“127.2** The Minister may refuse to certify the owner of a private forest of not less than 800 hectares as a forest producer, or revoke the certificate issued to that effect, if he refuses to join the forest protection organization or if he fails to pay the assessment fixed by the organization.”

**[[50.** Section 128 of the said Act is amended by adding, at the end, the following paragraph:

“The expenses referred to in the second paragraph shall be paid out of the consolidated revenue fund.”]]

**51.** Section 155 of the said Act is amended by replacing the words “and at the time” in the third line by the words “, at the time and with the content”.

**52.** Section 163 of the said Act is amended

(1) by replacing the words “authorization to construct” in the first line by the words “the authorization referred to in section 162”;

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

“The authorization shall be valid for a maximum period of one year.”

**53.** Section 168 of the said Act is amended by adding, after the word “form” in the second line of the first paragraph, the words “, at the time and with the content”.

**54.** The said Act is amended by inserting, after section 170, the following section:

**“170.1** The Minister may enter into an agreement with any person who plans to construct a wood processing plant or anticipates an increase in the timber consumption capacity of a wood processing plant, whereby he undertakes to reserve for that person, for a period of six months, a volume of standing timber in forests forming part of the public domain.

The Minister may enter into such an agreement where he is of opinion that the timber supply sources are sufficient and forest production is respected. The volume of timber reserved under the agreement shall be determined by taking into account, in particular, the criteria set out in section 43.

The agreement shall entail, for that person, the obligation to pay the dues prescribed by the Minister. The dues shall correspond to 20 % of the product obtained by multiplying the volume of standing timber reserved by the unit rate established under section 72. Where the plan is carried out, the dues shall be deductible from the amount of the dues prescribed under sections 5, 71, 73, 88 and 234, and according to the time limits fixed therein, from the date of issue of the plant permit, in the case of the construction of a plant, or when the expansion work is completed.

The agreement may be renewed on the same terms and conditions until a plant permit is issued or until the expiry of the fifth six-month period, whichever occurs first."

**55.** Section 172 of the said Act is amended

(1) by inserting, after paragraph 3, the following paragraph:

"(3.1) prescribe the form and content of the silvicultural treatment progress report submitted to the Minister under section 89.1;"

(2) by inserting, after paragraph 5, the following paragraph:

"(5.1) prescribe the form and content of the progress report to be submitted to the Minister by the holder of a sugar bush management permit for acericultural purposes, and the time at which the report must be submitted;"

(3) by inserting the words "and content" after the word "form" in the first line of paragraph 7;

(4) by adding, at the end of paragraph 10, the words "or determine another rule of calculation to enable the Minister to fix the dues;"

(5) by inserting the words "and content" after the word "form" in the first line of paragraph 15;

(6) by replacing the words "of the register he must keep pursuant to section 168", in the third and fourth lines of paragraph 17 by the words "and content of the register he must keep pursuant to section 168, and the time at which the register must be transmitted";

(7) by replacing paragraph 18 by the following paragraph:

"(18) define the work contemplated in section 218 and prescribe the method of calculating the residual value of the work;"

**56.** Section 173 of the said Act is replaced by the following section:

**"173.** The following persons are guilty of an offence:

(1) every person who, without a permit, cuts, removes, carries away or harvests timber or taps a maple tree on lands in the public domain;

(2) every permit holder or the third person to whom he entrusts the carrying out of the work authorized by his permit who, in contravention of a prescription of the permit, cuts, removes, carries away or harvests timber or taps a maple tree on lands in the public domain.

The offender is liable to a maximum fine of \$50 and, for each subsequent offence within two years, to a maximum fine of \$100, for each tree in respect of which an offence was committed.

In addition, the judge who imposes a fine may, on the conditions he determines, order the offender to reforest the site."

**57.** Section 175 of the said Act is amended by inserting the word and figure "or 28.1" after the figure "28" in the first line of the first paragraph.

**58.** The said Act is amended by inserting, after section 175, the following section:

**"175.1** Every person who produces a report under section 70 which contains any statement which he knows to be false or misleading is liable, in addition to costs, to a maximum fine of \$10 000.

Any penal proceedings in respect of the offence is prescribed by one year from the date evidence sufficient to justify such proceedings comes to the knowledge of the Minister. Proof of the date of knowledge shall be established by the filing of a certificate produced by the Minister."

**59.** The said Act is amended by inserting, after section 184, the following section:

**"184.1** Every person who contravenes section 206 is liable, in addition to costs, to a maximum fine of \$1 000."

**60.** The said Act is amended by replacing Chapter II of Title VI by the following:

**“CHAPTER II**

**“SEIZURE**

**“DIVISION I**

**“INSPECTION**

**“187.** Any department employee designated by the Minister may, when making an inspection on lands in the public domain, seize any timber that has been cut and to which this Act applies, if he has reasonable cause to believe that the timber was cut without a permit.

**“188.** The employee may, in addition, seize any timber mixed with the timber he believes to have been cut without a permit, where it is impossible or very difficult to distinguish one from the other.

**“189.** The employee who seizes timber under section 187 shall draw up a minute setting out, in particular,

- (1) the grounds for the seizure;
- (2) the place where the timber was seized;
- (3) the date and time of the seizure;
- (4) the quantity and the description of the timber seized;
- (5) the name of the person from whom the timber is seized or of the person responsible for the premises, or an indication of the fact that there was no one on the premises;
- (6) any information permitting to identify the persons who may have an interest in the timber;
- (7) the name and capacity of the seizer.

**“190.** The employee shall remit a duplicate of the minute to the person from whom the timber has been seized or to the person responsible for the premises, as the case may be; if there is no one on the premises, the employee shall leave, in a conspicuous place on the premises where the timber was seized, a notice stating that a seizure has been made and indicating the place where the duplicate of the minute of the seizure has been filed.

**“191.** The employee shall have custody of the timber seized; where it is introduced as evidence, the clerk of the court shall have custody of it.

The person having custody of the timber seized may detain it or see to it that it is detained in a manner that will ensure its preservation.

**“192.** Where the timber is susceptible of rapid deterioration or depreciation, a judge may authorize the sale of the timber on an application by the employee.

One clear day's notice of the application shall be served on the person from whom the timber has been seized and on the persons who claim to be entitled to the seized timber.

The sale shall be made by a representative authorized by the Minister on the terms and conditions determined by the judge. The proceeds of the sale shall be deposited with the Ministère des Finances in accordance with the Deposit Act (R.S.Q., chapter D-5).

**“193.** The seized timber may be detained for 90 days from the date of the seizure unless proceedings are instituted, except in the cases provided for in sections 195 and 196.

**“194.** On an application by a person who claims to be entitled to the seized timber, or to the proceeds of its sale, a judge shall order that the timber or proceeds be released to the applicant if he is convinced that the person is entitled thereto and that the course of justice will not be hindered by the release.

A five clear days' notice shall be served on the employee or, as the case may be, on the prosecutor, on the defendant and, if he is not the applicant, on the person from whom the timber has been seized.

The release order shall be executory at the expiry of a thirty-day period, unless the period is waived by the parties.

**“195.** The timber seized, or the proceeds of its sale, shall be released to the person from whom the timber has been seized or to a person entitled thereto

(1) as soon as the employee has ascertained that, in his opinion, no offence has been committed under this Act or the regulations thereunder;

(2) as soon as the employee is notified that no proceedings will be instituted in relation to the seized timber or that the timber will not be introduced as evidence;

- (3) at the expiry of the detention period;
- (4) when a release order becomes executory.

**“196.** If the owner or possessor of the timber seized is unknown or cannot be found, the timber seized, or the proceeds of its sale, shall be confiscated 90 days after the day of the seizure and shall subsequently be disposed of according to the Minister’s instructions.

## “DIVISION II

### “SEARCH

**“197.** Any employee of the department designated by the Minister may make a search in accordance with the Summary Convictions Act (R.S.Q., chapter P-15), in order to seize any timber to which this Act applies.

The employee may, in addition, seize any timber mixed with the timber that is the subject of the search, where it is impossible or very difficult to distinguish one from the other.

**“198.** Where he makes a seizure, the employee shall draw up a minute indicating, in addition to the information prescribed in section 189, the number of the search warrant or the reasons for which the seizure was made without a warrant.

The employee shall remit a duplicate of the minute to the person from whom the timber has been seized or to the person responsible for the premises as the case may be; if no one is on the premises, the employee shall fill forthwith a duplicate in the office of the clerk of the Court of Québec of the judicial district in which the search was made.

**“199.** Where a search is made while no one is on the premises, the person making the search shall leave, in a conspicuous place, a notice stating that a search has been made.

Where timber has been seized, the notice shall also indicate the clerk’s office where the duplicate of the minute of the seizure will be filed and the place where information on the place of detention of the timber can be obtained.

**“200.** Every employee who has executed a search warrant or, if the warrant was not executed, the person who applied for its issue, shall make a report thereof in writing.

The report shall be remitted with the warrant and, if a seizure has been made, with the minute of the seizure, to a judge having

competence to issue a search warrant in the judicial district in which the warrant has been issued.

The report shall be remitted within fifteen days of the expiry of the period fixed for the execution of the warrant, unless an extension is granted by the judge who issued it.

**“201.** Every employee who makes a search without a warrant shall make a report forthwith to a judge having competence to issue a search warrant in the judicial district in which the search was made.

The employee shall, in that case, remit to the judge a declaration, in writing and under oath, in which he states the reasons for which he decided to make a search at such place, the thing searched for therein and, where that is the case, the exigent circumstances which prevented him from applying for a warrant, or the name of the person who consented to the search and the manner in which the consent was given.

Where timber has been seized, the person who made the seizure shall also remit to the judge the minute of the seizure, either on making a report of the search or within fifteen days of the seizure, unless the judge grants an extension.

**“202.** Sections 191 to 196, adapted as required, apply to this division.

**“203.** A judge imposing a penalty for an offence under this Act or the regulations may, on an application, where a seizure has been made under section 187 or 197, order that the timber seized be confiscated.

The Minister shall prescribe the manner in which the timber confiscated under this section is to be disposed of.

**“204.** The employee shall, without delay, forward a report in writing to the Minister of any seizure made by him in the course of an inspection or search.

**“205.** No person may use or remove the timber seized in the course of an inspection or search, or allow it to be removed, except with the authorization of the employee.

**“206.** Any judge having competence to issue a search warrant in the judicial district where the search or seizure is to be made or in the district where the offence has been committed is competent to exercise the powers conferred on a judge by this chapter.”



**61.** Section 207 of the said Act is amended by inserting the words "or part of any river" after the word "river" in the second line of the first paragraph.

**62.** Section 226 of the said Act is amended by adding, at the end, the following paragraph:

"Notwithstanding section 95.1, the operator shall also be eligible for a timber supply and forest management agreement."

**63.** Section 233 of the said Act is replaced by the following section:

**"233.** The holder of a permit issued under sections 230 to 232 must join the certified forest protection organization in his territory and comply with the standards of forest management prescribed pursuant to section 171.

The Minister may refuse to issue the permit if the holder fails to join the forest protection organization or fails to pay the assessment fixed by the organization."

**64.** The said Act is amended by inserting, after the heading of Title IX, the following section:

**"236.1** This Act applies to every forest management activity carried out in forests of the public domain, notwithstanding the provisions of the first paragraph of section 42 of the Interpretation Act (R.S.Q., chapter I-16) and any other rule of law providing for similar immunity."

**65.** The said Act is amended by inserting, after section 239, the following section:

**"239.1** The Minister may grant a credit on the amount of dues payable yearly under section 5, 71, 88, 89 or 234 by the holder of a management permit who exports softwood lumber subject to export duties.

The credit shall be granted to the extent and for the period determined by the Government in such a manner as to take into account any increase in dues having effect on or after 1 April 1987.

This section applies from 1 April 1987 to 1 April 1988."

**66.** Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended in paragraph o

(1) by inserting the words “the holder of a timber supply and forest management agreement entered into under the Forest Act (R.S.Q., chapter F-4.1),” after the word “means” in the first line;

(2) by replacing the words “the Forest Act (R.S.Q., chapter F-4.1)” in the third line, by the words “the said Act”.

**67.** Section 55 of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1) is amended by inserting the words “or improve” after the word “construct” in the first line.

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